



AGGIE DISPUTE RESOLUTION PROGRAM

RECENT AND FORTHCOMING FACULTY SCHOLARSHIP



CYNTHIA ALKON

Books

With Andrea Schneider, *NEGOTIATING CRIME: PLEA BARGAINING, PROBLEM SOLVING, AND DISPUTE RESOLUTION IN THE CRIMINAL CONTEXT*, *forthcoming*, Carolina Academic Press.

Book Chapters

How to Negotiate with Constraints: Lessons from Plea Bargaining, *Forthcoming in Negotiator's Fieldbook*, 2nd Ed. (Honeyman & Schneider, eds, 2017).

Standing the test of time: Galanter's analysis of the "limits of legal change" as applied to the U.S. criminal justice system Comments on *Why the "Haves" Come out Ahead: Speculations on the Limits of Legal Change.* in *DISCUSSIONS IN DISPUTE RESOLUTION* (Schneider, Cole, & Hinshaw, eds) (forthcoming).

Plea Bargaining: An Example of Negotiating with Constraints, *NEGOTIATION DESK REFERENCE, VOL. I* (Honeyman & Schneider, eds, 2017).

Articles

Hard Bargaining in Plea Bargaining: When do Prosecutors Cross the Line? 17 *NEV. L.J.* 401 (2017).

Plea Bargain Negotiations: Defining Competence Beyond Lafler and Frye, 53 *AMERICAN CRIMINAL LAW REVIEW* (Georgetown University Law Center) 377 (Spring 2016).

An Overlooked Key to Reversing Mass Incarceration: Reforming the Law to Reduce Prosecutorial Power in Plea Bargaining, 15 *MARYLAND LAW JOURNAL OF RACE, RELIGION, GENDER & CLASS*, 191 (Fall 2015).

What's Law Got to Do With It? Plea Bargaining Reform after Lafler and Frye, 7 *YEAR BOOK ON ARBITRATION AND MEDIATION* (Penn State University School of Law) 1 (2015).



MICHAEL GREEN

Book Chapters

Framing the Debate to Show How Big Guys Insist that Little Guys Arbitrate as a Corporate Tool,” Chapter on Arbitration in DISCUSSIONS IN DISPUTE RESOLUTION (Andrea Schneider, Art Hinshaw & Sarah Cole, eds) (forthcoming)

Union Commitment to Racial Diversity, Chapter 27 in THE CAMBRIDGE HANDBOOK OF U.S. LABOR LAW: REVIVING AMERICAN LABOR FOR A 21ST CENTURY ECONOMY (Richard Bales & Charlotte Garden, eds) (forthcoming)

Negotiating While Black, Chapter 41 in THE NEGOTIATOR’S DESK REFERENCE, VOL. 1 (Eds. Chris Honeyman & Andrea Kupfer Schneider, eds., DRI Press 2017).

Employer-Provided Legal Services for Employment Claims, in BEYOND ELITE LAW: ACCESS TO CIVIL JUSTICE IN AMERICA (Samuel Estreicher & Joy Radice, eds, Cambridge University Press 2016).

STIFLING EMPLOYEE ACTIVITY WITH THE EEOC THROUGH RETALIATION FROM BROAD SEVERANCE AGREEMENT ENFORCEMENT, IN TITLE VII OF THE CIVIL RIGHTS ACT AFTER FIFTY YEARS: PROCEEDINGS OF THE NEW YORK UNIVERSITY SIXTY-SEVENTH ANNUAL CONFERENCE ON LABOR (Anne Lofaso Ed. LexisNexis 2015).

Articles

ADR and Access to Justice: Current Perspectives, OHIO STATE J. ON DISP. RESOL. (forthcoming 2018) (transcript of panel discussion at the 2018 Association of American Law Schools Annual Meeting held on January 4, 2018)

Developing Workplace Law Programming: A Labor of Love, 86 UMKC L.REV. 521 (2018) (Southeastern Association of Law Schools Symposium Seventieth Anniversary Story Essay)

Reconsidering Prejudice in Alternative Dispute Resolution for Black Work Matters, 70 SMU L. REV. 639 (2017).

The Audacity of Protecting Racist Speech Under the National Labor Relations Act, 2017 U. CHI. LEG. FORUM 235 (2017).

With Kyle Carney, *Can NFL Players Obtain Judicial Review of Arbitration Decisions on the Merits When a Typical Hourly Union Worker Cannot Obtain This Unusual Court Access?,* 20 NYU J. OF LEG. & PUB. POL’Y 403 (2017).

- Cited in *NFL Mgmt. Council v. NFL Players Assn.*, __ F.Supp.3d __, No. 17 Civ. 6761 (KPF), 2017 WL 4998198 (S.D.N.Y. Oct. 30, 2017) (Ezekiel Elliott NFL decision).

Just Another Black Boy from the South Side of Chicago: Overcoming Obstacles and Breaking Down Barriers to Improve Diversity in the Law Professoriate, 31 COLUM. J. OF GENDER & L. 135 (2015).

The NLRB as an Überagency for the Evolving Workplace, 64 EMORY L.J. 1621 (2015).

Unusual Unanimity and the Ongoing Debate on the Meaning of Words: The Labor and Employment Decisions from the Supreme Court's 2013-14 Term, 30 ABA J. OF LAB. & EMP. L. 175 (2015).

How the NLRB's Light Still Shines on Anti-Discrimination Law Fifty Years after Title VII, 14 NEV. L.J. 754 (2014).

Retaliatory Employment Arbitration, 35 UC BERK. J. OF EMP. & LAB. L. 201 (2014).

Blog Pieces

Worklaw Jotwell, The Journal of Things We Like (Lots), *Employer Catering to Discriminatory Harassment and Preferences by Influential Outsiders*, (March 20, 2018) (discussing Dallan F. Flake's *Employer Liability for Non-Employee Discrimination*).

Worklaw Jotwell, The Journal of Things We Like (Lots), *Protecting Unhappy Worker Outbursts From Discriminatory Treatment*, (February 15, 2017) (discussing Susan D. Carle's *Angry Employees: Revisiting Insubordination in Title VII Cases*).



GUILLERMO GARCIA

Books

INTERNATIONAL LAW ON THE EXPLOITATION OF TRANSBOUNDARY HYDROCARBON RESOURCES AND THE MEXICAN ENERGY REFORM (Tirant Lo Blanch, 2018) (in Spanish).

ANALYZING INTERNATIONAL ADJUDICATIVE BODIES UNDER REGIME THEORY: LESSONS FROM CONSTITUTIONAL COURTS (Lap Lambert Academic Publishing, 2014).

Articles

The Blurring of the Public/Private Distinction or the Collapse of a Category? The Story of Investment Arbitration, 18 NEV. L. J. __ (2018).

To Speak With One Voice The Political Effects Of Centralizing The International Legal Defense Of The State, ARIZONA JOURNAL OF INTERNATIONAL AND COMPARATIVE LAW, Vol. 34.3 (2017).

A New International Legal Regime for a New Reality in the War Against Drugs, 58 HARVARD INTERNATIONAL LAW JOURNAL ONLINE 39 (2017).

A Critical Approach to International Investment Law, the Hydrocarbons Industry and its Relation with Domestic Institutions, 57 HARV. INT'L. L. J. 476 (2016).

With Richard McLaughlin, *The 2012 Agreement on the Exploitation of Transboundary Hydrocarbon Resources in the Gulf of Mexico Confirmation of the Rule or Emergence of a New Practice?*, 37 HOUSTON J. OF INT'L LAW 681 (2015).

Energy Reform in Mexico: Lessons and Warnings from International Law, in HARVARD KENNEDY SCHOOL OF GOVERNMENT LATIN AMERICA POLICY JOURNAL, 3rd Ed. (2014).

With Juan Carlos Marin Gonzalez, *Problems Faced by Digital Evidence in U.S. Law*, REVISTA DE ESTUDIOS DE LA JUSTICIA, 0(21) (2014) doi:10.5354/0718-4735.2014.36325 (in Spanish).

Las Empresas y sus Derechos Humanos Según la Corte (“*The Human Rights of Companies According to the Supreme Court of Mexico*”), NEXOS, Online Political Science Magazine, Supreme Court of Justice Section (El Juego de la Corte), Mexico, April 14, 2014 (in Spanish).



CAROL PAULI

Articles

Enemy of the People: Negotiating News at the White House, OHIO ST. J. ON DISP. RESOL. (forthcoming)

Atrocity Speech Law: Addressing Hate that Does Harm, HUMAN RIGHTS Q. (forthcoming).

“Fake News,” No News, and the Needs of Local Communities, HOWARD L. J. (forthcoming).

Whole Other Story: Applying Narrative Mediation to the Immigration Beat, 18 CARDOZO J. OF CONF. RESOL. 23 (2016).

Transforming News: How Mediation Principles Can Depolarize Public Talk, 15 PEPPERDINE DISP. RESOL. L. J. 85 (2015).



PETER REILLY

Book Chapters

Machiavelli and the Bar: J.J. White as Negotiation Ethics Architect, in DISCUSSIONS IN DISPUTE RESOLUTION (Art Hinshaw, Sarah Cole & Andrea Schneider, eds.) (forthcoming)

Articles

Deferred Prosecution as Discretionary Injustice, 2017 UTAH L. REV. 389 (2017)

Should Companies Always Fess Up to Corruption? Why It Can Be Strategically Wise Not to Self-Report Violations of Anti-Corruption Laws, 42 CAYMAN FIN. REV. 78 (2016)

Incentivizing Corporate America to Eradicate Transnational Bribery Worldwide: Federal Transparency and Voluntary Disclosure under the Foreign Corrupt Practices Act, 67 FLORIDA L. REV. 1683 (2015)

Justice Deferred is Justice Denied: We Must End Our Failed Experiment in Deferring Corporate Criminal Prosecutions, 2015 BYU L. Rev. 307 (2015)

Book Review, *'The Foreign Corrupt Practices Act in a New Era,'* by Mike Koehler, 21 INT'L TRADE L. & REG. 65 (2015)

Negotiating Bribery: Toward Increased Transparency, Consistency, and Fairness in Pre-Trial Bargaining Under the Foreign Corrupt Practices Act, 10 HASTINGS BUS. L. J. 347 (2014)



NANCY A. WELSH

Books

With Leonard Riskin, Chris Guthrie, Richard Reuben, and Jennifer Robbennolt, *DISPUTE RESOLUTION AND LAWYERS*, 5th ed. (West Academic Press, 2014).

Book Chapters

Commentary on Lon Fuller's Mediation—Its Forms and Functions, in *DISCUSSIONS IN DISPUTE RESOLUTION* (Schneider, Cole, & Hinshaw, eds) (forthcoming).

With Louis Del Duca, *Interpretation and Application of the New York Convention in the United States,* in *THE RECOGNITION AND ENFORCEMENT OF FOREIGN ARBITRAL AWARDS--APPLICATION OF THE NEW YORK CONVENTION BY NATIONAL COURTS* 995 (George A. Bermann ed., 2017).

Perceptions of Fairness, in *THE NEGOTIATOR'S DESK REFERENCE*, Vol. 1 (Chris Honeyman and Andrea Kupfer Schneider, eds., 2017).

Articles

Do You Believe in Magic?: Self-Determination and Procedural Justice Meet Prejudice in Court-Connected Mediation, 70 SMU L. REV. 721 (2017)

- Recipient of 2018 “Outstanding Law Review Article Award” from the Texas Bar Foundation.

Class Action-Barring Mandatory Pre-Dispute Consumer Arbitration Clauses: An Example of (and Opportunity for) Dispute System Design, 13 ST. THOMAS L. REV. 381 (2017).

Magistrate Judges, Settlement and Procedural Justice, 16 NEV. L. J. 983 (2016).

With Andrea Kupfer Schneider and Kathryn Rimpfel, *Using the Theories of Exit, Voice, Loyalty and Procedural Justice to Reconceptualize Brazil's Rejection of Bilateral Investment Treaties,* 45 WASH. U. J. OF LAW & POL'Y 105 (2014).

With Louis Del Duca, *Recognition and Enforcement of Arbitration Agreements and Foreign Arbitral Awards: Application of the New York Convention in the United States*, 62 AM. J. OF COMP. LAW 69 (2014) (supplement).

With Andrea Schneider, *The Thoughtful Integration of Mediation into Bilateral Investment Arbitration*, 18 HARV. NEGOT. L. REV. 71 (2013).

- Abridged and updated in *Integrating Mediation Into Investor-State Arbitration*, TDM 1 (2014), www.transnational-dispute-management.com.