



COMBINING MEDIATION AND ARBITRATION: PROCEDURAL SAFEGUARDS

Med-arb and judicial mediation share the appeal of providing disputing parties with the opportunity to come to their own agreement, while guaranteeing a decision if they cannot. There also can be great appeal, in terms of efficiency, in using the same person as both the mediator / settlement facilitator and the arbitrator/adjudicator. However, there is danger that using the same person will corrupt both the mediation and arbitration/adjudication phases. In particular, there are concerns regarding the potential for bias, denial of due process, and even coercion. This talk will discuss ethical and procedural safeguards currently in place in the courts of the U.S. and else where to address these concerns, as well as proposals for structural and procedural reform and regularized feedback and monitoring. The talk will then consider the application of these safeguards and proposals to arbitration.

15 MAR | 4 P.M. | SEMINAR ROOM 1



SPEAKER:

Nancy A. Welsh is Professor of Law and Director of the Dispute Resolution Program at Texas A&M University School of Law. In 2016-2017, she was Chair of the ABA Section of Dispute Resolution.

Professor Welsh is a leading scholar and teacher of dispute resolution and procedural law. She examines negotiation, mediation, arbitration, judicial settlement, and dispute resolution in U.S. and international contexts, focusing on self-determination, procedural justice, due process, and institutionalization dynamics. Professor Welsh has written more than 60 articles and chapters that have appeared in law reviews, professional publications and books and is co-author of DISPUTE RESOLUTION AND LAWYERS, 5TH ED. In 2006, she conducted research in the Netherlands as a Fulbright Scholar and taught at Tilburg University. She was named a Visiting Scholar of the Program on Negotiation at Harvard Law School and a Visiting Fellow of the Institute for Advanced Study at Indiana University-Bloomington.

Before joining the legal academy, Professor Welsh was the executive director of Mediation Center in Minnesota and practiced law with Leonard, Street and Deinard. In 1997, she was named a Leading Minnesota Attorney. In 2011, she received the Pennsylvania Council of Mediators' Most Valuable Peacemaker Award. She has advised state legislatures and federal and state agencies and courts regarding the institutionalization of dispute resolution, conducted empirical research, convened roundtables and symposia on various dispute resolution topics, and served as a mediator, facilitator and arbitrator. Professor Welsh presents nationally and internationally, conducts training, and teaches Civil Procedure, Mediation, and Dispute System Design Seminar. Before joining Texas A&M, she was Professor of Law and William Trickett Faculty Scholar at Penn State University, Dickinson School of Law, receiving the Teaching Excellence Award in 2010. She earned her B.A. magna cum laude from Allegheny College and her J.D. from Harvard Law School.

MODERATOR:



SHANTI ABRAHAM, is as an advocate and solicitor called to the bar in both Singapore and Kuala Lumpur. Her practice areas include corporate&commercial law, healthcare law, business advisory and dispute resolution, arbitration and mediation. She is an Arbitrator and Mediator with the AIAC and a Mediator both with the Malaysian Mediation Centre and Singapore Mediation Centre.

She has acted as Mediator Advisor as well as Mediator in several matters and regularly trains mediators, including the Brunei & Myanmar Judiciary as well as doctors, and other professionals. Shanti has completed the Program for Negotiation in Mediation & Negotiation and more recently Advanced Mediation (Mediating Complex Disputes) at Harvard Law School.

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