Alternatives
TO THE HIGH COST OF LITIGATION
The Newsletter of the International Institute for Conflict Prevention & Resolution
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Mediation Techniques

Pre-Session: Guidelines for Party Intake

BY UNYIME MORGAN

Mediators' Motto: To convene an effective mediation, numerous considerations contest for the mediator's attention during pre-sessions with parties and their legal representatives (if applicable). Mediators should be wary of discriminatory assessment and biases that exclude willing parties from mediation. Mediators can address this by emphasizing self-determination, accommodation, and inclusiveness—for instance, in the context of the 1990 American with Disabilities Act, designed to protect persons with disability—but not at the expense of an effective, qualitative, and fair mediation required by the 2005 U.S. Model Standards of Conduct for Mediators (available at https://bit.ly/3FXPR58).

* * *

Pre-session screening involves an intentional consideration of the required expertise, the facts of the dispute, and the parties involved to ensure that mediation is appropriate and can be fairly, safely, and seamlessly conducted for both parties. "Pre-mediation: What It Is and Why It's Important," *Herzing Blog/Kompass Blog* (July 20, 2022) (available at https://rb.gy/vanxum).

In court-annexed mediation, the court administration takes on the screening exercise to ensure only disputes that are fit for mediation get to the mediation room. The private or institutional mediator has to sieve through the facts of each dispute, parties, laws, and even logistic requirements for each session to ensure quality mediation. Pre-session can be carried out by the mediator or administrative personnel.

During pre-session, mediators distinctly establish initial contact with each of the parties and build relationships that can enhance the success of the mediation. Additionally, information gathered from pre-session, if used efficiently, can aid mediators' preparation for mediation sessions.

Some questions a mediator should answer during pre-session include: Is this dispute suitable for mediation? Am I competent to mediate? And do parties have the capacity to mediate?

Case Study: "Cheat," "pretender," "betrayer." Strings of piercing, abusive words punctuated by delivered and dodged blows unsettled the mediation room. Ripped documents, scattered suitcases, and torn articles of clothing testified to the intensity of the parties' fight. It seemed as if the worst was yet to come as one party furiously eyed the wooden chair and the other the decorative glass flower vase in a bid to vent their violent emotions and outdo each other's malicious intent.

The mediator obeyed her rattled mind's self-preserving instruction as she scurried to find shelter between the bookshelf and the wall. Trapped in her uneasy hiding place, she wondered if she should have gone after her

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The author is enlisted as a mediator with the Maryland Program for Mediator Excellence, a program of the Maryland Judiciary's Mediation and Conflict Resolution Office in Annapolis, Md. Her website is www.unyimem-organ-mediation.com. The author writes, "I acknowledge God's inspiration. This is my original work; contributions by other experts have been referenced."

CPR News

A Review of CPR's Awards with Details On the New 2025 Submission Period

The CPR Institute is now accepting nominees for its long-running academic awards program.

CPR's Annual Awards program (see www.cpradr.org/annual-awards) honors outstanding scholarship and practical achievement in the alternative dispute resolution field. Award criteria focus on scholarship that addresses the resolution, prevention or creative management of major disputes involving public or business institutions between corporations, between government and corporations, or among multiple parties.

A review committee comprises judges and lawyers from leading corporations, top law firms, and academic institutions across the U.S. Last year's 16-member awards review committee is listed at the link above.

In addition to the academic awards, CPR presents awards for contributions to diversifying the ADR world, to valued member partners, and for dispute prevention achievement. CPR also presents an award for ADR leadership in the name of the organization's founder, James F. Henry.

To submit nominees for this year's award program, please send materials to CPR from the publication period of November 2024-October 2025, by Friday, Nov. 21, 2025. Electronic file nominations, in PDF or MS Word formats, should be submitted via email to CPR's liaison for the awards, Helena Tavares Erickson, who is senior vice president and corporate secretary. Her email address is herickson@cpradr.org.

Please include a cover letter with the submission including name, address, telephone, and email address identifying the nominator. If nominating someone for an award, please supply the nominee's contact information as well. Nominations for the James F. Henry Award should set out how the nominee fulfills the criteria of leadership, innovation and sustaining commitment to the field.

While it is expected that submissions will be in the English language (or accompanied by a translation), CPR reserves the right to consider submissions not in English. CPR also reserves the right to submit outstanding candidates that have not been nominated. Articles first appearing in *Alternatives*, published by CPR, are not eligible.

This year's awards will be presented at a dinner at the CPR Annual Meeting, scheduled for Feb. 11-13, 2026, at Loews Coronado Bay Resort in San Diego. For information, www.cpradr.org/events/cpr-annual-meeting-2026.

* * *

Last year's award winners—presented at a Feb. 6 dinner at CPR's 2025 Annual Meeting, themed, "Calming the Waves: Managing Conflict with ADR," in Miami—included a book on arbitration, an article on mediation tactics for joint sessions and caucuses, and an article urging an exemption for discrimination claims for compulsory arbitration.

Reflecting on last year's awards, CPR Institute President and Chief Executive Officer Serena Lee said that the "recipients have produced

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Alternatives

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Editor:
Russ Bleemer

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CPR News Special

Welcome to September's Classes: Four Ways To Get 'Back to School on Dispute Management'

BY KATE VITASEK

It's back-to-school time for school and college-age kids. It's always one of my favorite times of year on because our University of Tennessee campus in Knoxville, Tenn., comes alive with excitement and energy.

I'd argue that everyone—no matter what their age—should adopt a back-to-school mantra and get excited about learning new things. I'd also argue that you should add dispute prevention to your learning list. This article shares four great ways to elevate your learning in dispute prevention.

1. Do a Book Club

Book clubs are experiencing a resurgence, with Eventbrite reporting a 350% increase in book club events in the past four years. But book clubs are not just for recreational readers; they are also an excellent way for people to come together to learn about and discuss new concepts that can benefit them in the workplace as well.

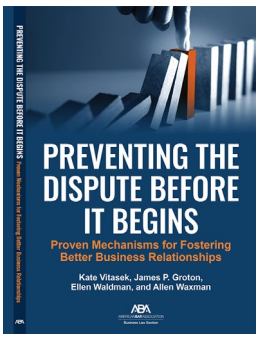
Meetup—a social networking platform that facilitates the organization of in-person groups and events based on shared interests–has an entire section devoted to "business book clubs."

Some companies are even sponsoring their own book clubs and encouraging employees to dig into new concepts in a deeper and more informal way. One of my favorite examples of a business book club involved Dell's Chief Procurement Officer, who challenged his team to read one of my books.

Team members were asked to read one chapter each week and discuss their insights on it. The result led to Dell piloting a Vested business model. (For information on the collaborative model, developed by the author, see www.vestedway.com/what-is-vested.)

I featured the Dell story in my September–October 2019 Harvard Business Review article co-authored with David Frydlinger and Oliver Hart, "A New Approach to Contracts: How to Build Better Long-Term Strategic Partnerships."

Book clubs do more than just get team members to learn about new concepts. They help build community, connection, and provide mental stimulation for team members to explore new concepts–a refreshing escape from our screen-dominated lives.



2. Take an MCLE

Let's face it: if you are a practicing attorney, you must obtain your continuing legal education hours. Why not enroll in an MCLE to learn more about dispute prevention?

The good news is that CPR has listened! In August, CPR launched a one-hour online webinar on the fundamentals of dispute prevention.

If you missed the August Dispute Prevention MCLE offering last month, CPR will be offering the program again this fall. Tickets for the CLE are free for CPR members, $49.00 for non-members and $39.00 for members of CPR's Panel of Distinguished Neutrals. Attendees will learn:

- How to clearly distinguish between dispute prevention and resolution.

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An Authors' Get Together!

Want to get a book club started in your organization? The American Bar Association offers bulk book buys of columnist Kate Vitasek's "Preventing the Dispute Before It Begins," co-authored with James P. Groton, Ellen Waldman, and Allen Waxman, and based in part on work the authors have done with *Alternatives*' publisher, the CPR Institute, which publishes *Alternatives*. Discounts range between 20% and 50% based on the quantity purchased. If you decide to host a book club, Vitasek or her co-authors will be happy to join your book club as a virtual guest. For more information on the book, including bulk orders, go to https://bit.ly/42cThcS. For a virtual book club visit email Vitasek at kvitasek@utk.edu.

Columnist Kate Vitasek is the author of this monthly *Alternatives* column, *Back to School on Dispute Management*. She is a Distinguished Fellow in the Global Supply Chain Institute at the Haslam College of Business at the University of Tennessee in Knoxville, Tenn. Her university webpage can be found at https://haslam.utk.edu/people/profile/kate-vitasek/. She is co-author of "Preventing the Dispute Before It Begins: Proven Mechanisms for Fostering Better Business Relationships," published in December by the American Bar Association (available at https://bit.ly/42cThcS).

The highlighted box is this month's focus on the Back to School on Dispute Management Continuum

CPR News Special

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- Uncover the high-stakes value of proactive dispute prevention—and what it can save your organization.
- Explore the Dispute Management Continuum—and identify where your current practices fall short. (See the graphic at the bottom of the previous page.)
- Be inspired by real-world case studies that demonstrate how effective dispute prevention drives long-term success.
- Learn a step-by-step framework for implementing dispute prevention mechanisms within your organization. Complete a Self-Assessment Benchmark.

In the "Preventing the Dispute Before it Begins" book, we profile 18 dispute prevention mechanisms. The CPR Institute and the University of Tennessee have teamed to create an easy-to-use self-assessment benchmarking survey. The survey will give you a snapshot of the maturity of your dispute prevention practices.

And for leaders who are curious, have your team members in your organization complete the self-assessment. Let me know if you want to do a company or team-level benchmark, and I will compile a report for you that summarizes the feedback from everyone on your team/in your organization. To take advantage of this, email me at kvitasek@utk.edu.

Completing the self-assessment is easy. Simply use this link to start the self-assessment: www.vestedway.com/assessments/dispute-prevention. It typically takes less than 15 minutes to complete, and you will receive your results back in under an hour.

3. Host a Masterclass Workshop for Your Organization

Ready to build real momentum on dispute prevention in your organization? Host a private Masterclass Workshop. Masterclass workshops are available in formats ranging from four hours to two full days and can be delivered virtually or in person.

Masterclass Workshops are designed to provide a work team with a deep dive into dispute prevention, and the content can be customized to best meet organizational needs. For example, let's examine a customized Masterclass Workshop that uses the CPR Institute's MCLE and a group self-assessment (discussed in No. 2 above).

The hybrid training uses a combination of virtual "off the shelf" CPR Institute member benefits from CLE training with "customized" in-person executive education training. The program spans four phases with each phase taking between one and four hours. See the figure below.

Phase 1 leverages the CPR Institute's one-hour "off-the-shelf" MCLE where team members joined the virtual MCLE training sessions The goal was to introduce the basic concepts of dispute prevention.

Phase 2 is timed to kick off after team members complete the one-hour CPR Institute's MCLE. Team members complete a short self-assessment where they "score" how well they are using each of the 18 dispute prevention mechanisms. CPR Institute/UT analyzes the results and shares the maturity of the organization with key stakeholders. This information feeds into Phase 3.

Phase 3 is where the company and the CPR/UT workshop facilitators collaborate to co-create a customized workshop agenda. The facilitators work with a select group to review the benchmarking survey results discussed above. The company's leaders then use the information from the benchmarking survey to identify which of the 18 dispute mechanisms are currently in use—and which are unknown to current team members. Key stakeholders then pick the mechanisms that they expect will provide the biggest value.

For example, if your company excels at using dispute prevention clauses in its contracts but lacks follow-through in areas like relational governance with key trading partners, the facilitators will develop a tailored Masterclass Workshop to emphasize the focus areas your company wants to emphasize.

Phase 4 kicks off with the team members diving into detailed case studies on the selected dispute prevention mechanisms the company selects. Team members are able to discuss how they can adopt these mechanisms for their organizations.

Combined, the four-phase program curates an interactive, high-impact and hands-on customized workshop that brings the theory of dispute prevention to life, showing team members how they can apply the concepts in practice.

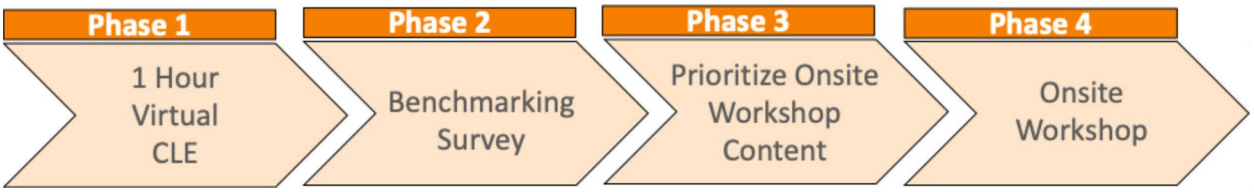
4. Collaborating with Universities

Our vision for the future is that law school professors begin to incorporate dispute prevention into their curriculum.

Why? Today's courses are shaping the next generation of lawyers. If law professors invest in dispute prevention as a next-generation skillset, the next generation of practitioners will bring the concepts to their future employers.

Some progressive law schools are already integrating various aspects of dispute prevention into their courses. For example, University of Chicago Law School Wilson-Dickinson Professor of Law Lisa Bernstein introduces formal relational contracting in both her contracts and business strategy course and her contracts class for LLM students. She has students read the *Harvard Business Review* article linked above, and then asks students to discuss whether including "Guiding Principles" and other aspects of relational contracting might have made some of the failed transactions the course covers more likely to succeed.

I am excited to partner with the University of Tennessee's law school, where I'll be doing a lunch-and-learn for UT law school faculty and



discussing ideas for bringing dispute prevention into the curriculum.

Are you a law school professor? I'd love to hear from you if you are interested in learning more about open-source resources and case studies that you can use in your courses.

The Time is Now

Jack Welch, former General Electric Co. CEO and management guru, believed that inertia is one of the worst threats to any organization. He said, "What I've learned since 1981…[is that] one of the big lessons is that change has no constituency. People like the status quo. They like the way it was."

One powerful way to shift that status quo mindset is by showing your team real-world examples of what's working elsewhere. It opens eyes, sparks creative thinking and builds momentum for doing things differently.

On behalf of my Preventing the Dispute Before It Begins co-authors, we encourage you to take a pause and go "Back to School on Dispute Management and Prevention"—even if it is just a short one-hour MCLE

* * *

Next month, Back to School on Dispute Management *columnist Kate Vitasek will explore contract clauses.*

Theory Meets Practice

Responsible Realism: How AI Is Shaping Legal Practice, Education, and Dispute Resolution

BY JOHN LANDE

This article synthesizes the views of eight legal scholars who examine how generative artificial intelligence is already reshaping legal practice, education, dispute resolution, and scholarship—and who argue that AI's influence is only likely to grow.

These scholars share a perspective of *responsible realism*—that professionals and institutions should use AI when it adds genuine value, while scrupulously preserving core values like competence, confidentiality, and independent judgment. They neither shun AI nor embrace it reflexively.

Avoiding both hype and panic, they assess what AI can and cannot do. They identify benefits such as broader access, greater efficiency, and support for learning—as well as risks including bias, de-skilling, and erosion of judgment.

The scholars emphasize that AI will inevitably influence how lawyers, neutrals, educators, students, and scholars work, think, and interact. They offer clear-eyed, practical guidance informed by technological fluency, institutional knowledge, pedagogical insight, and ethical awareness.

This article distills their main insights into a concise, usable framework. It highlights shared themes, differences in emphasis, and practical takeaways for individuals and institutions adapting to this evolving landscape.

The author, a longtime *Alternatives* contributor, presents this regular column, "Theory Meets Practice." He is Isidor Loeb Professor Emeritus at the University of Missouri School of Law's Center for the Study of Dispute Resolution in Columbia, Mo. Last year, he received the American Bar Association Section on Dispute Resolution's Award for Outstanding Scholarly Work. See https://bit.ly/3Tq5YuK. His biography page can be found at https://lande.missouri.edu.

A Responsible Realism Lens

This article highlights and synthesizes the perspectives of scholars in the following articles.

- John Bliss, "Teaching Law in the Age of Generative AI" *Jurimetrics* (Forthcoming), U. of Denver Legal Studies Research Paper (Jan. 2, 2024) (available at https://bit.ly/4eXuOMX).
- Kevin T. Frazier & Alan Z. Rozenshtein, "Large Language Scholarship: Generative AI in the Legal Academy," Minnesota Legal Studies Research Paper No. 25-26 (April 1, 2025) (available at https://bit.ly/3GJwGft).
- Nachman N. Gutowski, "Disclosing the Machine: Trends, Policies, and Considerations of Artificial Intelligence Use in Law Review Authorship (Feb. 12, 2025). *Jacksonville U. Law Rev.* (forthcoming) (available at https://bit.ly/45cY7bj).
- Nachman Gutowski & Jeremy W. Hurley, "Forging Ahead or Proceeding with Caution; Developing Policy for Generative Artificial Intelligence in Legal Education," 63(3) *U. of Louisville L. Rev.* 581 (2025) (available at https://bit.ly/4eKbqCV).
- John Lande, "When AI Comes to the Table: How Tech Tools Will Change ADR," 43 *Alternatives* 107 (July/August 2025) (available on Westlaw).
- John Lande, "How I Learned to Stop Worrying and Love the Bot: What I Learned About AI and What You Can Too," U. of Missouri School of Law Legal Studies Research Paper No. 2025-23 (May 14, 2025) (available at https://bit.ly/4nM7rd7).
- Andrew M. Perlman, "The Legal Ethics of Generative AI," (Suffolk University Law School Research Paper 24-17, *Suffolk U. L. Rev.* (forthcoming) (Feb. 22, 2024) (available at https://bit.ly/3GBQ1zq).
- Joseph Regalia, From Briefs to Bytes: How Generative AI is Transforming Legal Writing and Practice, *Tulsa L. Rev.* (forthcoming) (April 15, 2025) (available at https://bit.ly/3UYKypD).

Obviously, many other articles could have been included in this review, but this article is intended as a concise summary, not a comprehensive analysis of a burgeoning literature.

The scholars note that AI is evolving rapidly, with new tools and capabilities emerging constantly. As a result, any analysis of AI is

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Theory Meets Practice

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necessarily tentative. The AI of today won't be the AI of next year or five years from now, when tools will likely be far more sophisticated. The scholars ground their conclusions in current capabilities and trends, tempered by experience, institutional awareness, and caution. While details will evolve, the core insights are likely to remain relevant as individuals and institutions adapt to this transformative development.

AI's Wide Influence

The scholars portray a legal profession and academy already influenced by AI–and likely to be transformed further in the years ahead.

Legal and Dispute Resolution Practice. AI tools now appear in court systems, law offices, dispute resolution processes, and training programs, including integrated platforms for managing large caseloads.

Some tools assist lawyers and neutrals, while others help parties understand their options and participate more effectively in dispute resolution. Lawyers use AI tools to help perform a range of legal tasks including research, document review, drafting, risk assessment, prediction, negotiation, and dispute resolution.

AI tools also help in training, case management, dispute prevention, preparation, and resolution. They can increase efficiency, reduce costs, and promote informed decision-making.

Current ethical rules on lawyer competence already accommodate AI use. Lawyers are not only permitted to use these tools–they may soon be *required* to do so as reflected in ABA Formal Opinion 512. When they use AI tools, they must comply with applicable ethical rules.

Legal Education. AI is changing how some instructors teach and assess students' performance. Instructors use it to draft syllabi, PowerPoint slides, simulations, assignments, and exams.

For example, some faculty design AI-integrated assignments to build students' skills in judgment, reflection, and critique. They may use it to help grade students work or draft feedback. Students sometimes use AI tools for class preparation, research, writing, and simulation work. Some faculty remain uncertain about its role–or fear it could undermine learning.

Legal Scholarship. Scholars use AI tools to generate ideas, synthesize literature, draft and revise text, and check citations. These tools may boost productivity and open the field to new contributors.

AI is likely to change how legal scholarship is produced, evaluated, and valued. It may increase pressure to publish, encourage superficial work, and promote overreliance on machine-generated content.

Frazier & Rozenshtein argue that law schools are entering an era of "large language scholarship" in which AI will play a central role. They predict that disclosure requirements won't work because it will be too hard to identify AI's varied contributions—and that norms will shift to accept AI-assisted scholarship as part of routine scholarly workflow.

Get Real

The prospects: What artificial intelligence can and can't do for legal practice, education, and dispute resolution.

The adjustment: Professional leaders and practitioners should implement realistic strategies to promote responsible use of AI and avoid misuse.

The views: Our *Theory Meets Practice* columnist synthesizes the works of eight scholars that show AI already is reshaping legal practice, education, and dispute resolution–and its influence is likely to grow.

Shared Commitments

The scholars articulate a shared set of principles grounded in responsible realism. They recognize the inevitability of change, emphasize the importance of human judgment, highlight the need for AI literacy, and advocate for developing and updating clear institutional norms.

They stress that good human decision-making–not technological fixes or avoidance–is the key to managing risk. When used carefully, AI tools can enhance performance without displacing human judgment. Rather than banning AI or imposing blanket rules, they recommend strategies to strengthen AI skills, reinforce human oversight, and promote appropriate disclosure.

These themes point to a constructive path for helping lawyers, neutrals, educators, students, and scholars use AI to promote important professional values.

Accepting the Inevitability of AI's Impact. The scholars note that AI is already transforming legal practice, education, dispute resolution, and scholarship. Its use is expanding rapidly across law firms, legal tech companies, courts, law schools, and dispute resolution processes. New tools will be developed and adopted whether or not individuals and institutions are ready for them.

Preserving Human Judgment. Using AI appropriately requires new forms of intellectual discipline attuned to the ethical issues involved. AI should augment–not replace–human decision-making and responsibility. Humans should not just be "in the loop" but *in control*. AI can support efficiency, creativity, and clarity, but humans must be ultimately responsible for decisions about how AI outputs are used. Lawyers and other dispute resolution professionals must exercise sound professional judgment. Educators must guide students in using AI responsibly. Scholars must ensure that their work expresses their own ideas.

Developing AI literacy. Responsible AI use requires developing AI literacy–the ability to use these tools with skill and judgment. It includes asking effective questions and evaluating whether outputs are accurate and appropriate. Building AI literacy requires training, curiosity, experimentation, practice, and perseverance.

Recognizing Risks. People should understand what AI can and cannot do correctly. Its use comes with significant risks, including factual inaccuracies, hallucinations, bias, cognitive de-skilling, over-reliance, and erosion of trust. These risks threaten professional standards and academic integrity. AI literacy includes the ability to recognize and manage these risks appropriately.

Promoting Wise Policies. Institutional policies should recognize how people actually use AI, promote professional values, and avoid creating incentives for concealment or misuse. Policies should encourage responsible experimentation. Rigid or unrealistic rules can undermine trust and learning. Disclosure requirements may be appropriate in some settings but ineffective or problematic in others. Institutions should regularly revisit their policies as they gain experience and as AI tools evolve.

Differences in Emphasis And Approach

The scholars largely share a general perspective but differ in how they frame certain issues and what they emphasize. These differences reflect the varied settings, roles, and audiences that each scholar addresses. Recognizing these differences helps illuminate the complexity of the choices that legal institutions and professionals must make.

Skill Development. The scholars differ about when and how law students should be taught to use AI. The tension is between assuring that students build basic skills and preparing them to use the tools they will need in practice.

Surveying students and faculty, Bliss found a variety of views about when and how to incorporate AI into legal education. He discussed how faculty could use AI in various types of courses. Gutowski & Hurley expressed concern that premature reliance could undermine learning and that students may need time to develop foundational skills before using AI. They propose phasing in AI instruction, with careful attention to sequencing and context.

Disclosure and Transparency. Gutowski & Hurley describe various law school policies emphasizing the ethical and pedagogical value of transparency in disclosing AI use. Frazier & Rozenshtein argue that disclosure requirements for scholars are likely to be ineffective, unenforceable, and conceptually flawed. They contend that hybrid human-AI authorship is already widespread and difficult to detect–and that policing it would be both impractical and counterproductive. At some point in the foreseeable future, use of AI will be so routine that disclosure will be impractical and unhelpful.

Institutional Roles and Responsibilities. Some scholars focus on individual judgment and ethics, while others highlight the need for institutional leadership. Perlman emphasizes that lawyers have duties to understand and supervise AI tools under existing ethical rules. Bliss and Gutowski & Hurley call on law schools to develop clear policies to guide both faculty and students. Frazier & Rozenshtein suggest that law schools will need to reconsider hiring, evaluation, and scholarly norms in response to changes in how legal knowledge is produced through use of AI tools.

Tone and Urgency. All the scholars adopt a serious, thoughtful tone. Some write with more urgency or optimism than others. Lande, Perlman, and Regalia emphasize practical strategies and immediate action steps. Bliss and Gutowski & Hurley frame their work as exploratory and cautious, encouraging experimentation and reflection. Frazier & Rozenshtein write that AI has already altered the conditions of legal scholarship and that scholars must now adapt.

Practical Recommendations

The scholars offer practical recommendations for how practitioners, educators, students, and institutions can respond constructively to AI's development and use.

They agree on the need for intentional, values-based action tailored to specific roles and responsibilities. They recommend careful adaptation rather than wholesale adoption or resistance. They call for institutions and individuals to develop policies, practices, and skills that promote informed and ethical use of AI.

This section compiles the scholars' key recommendations. Although not every scholar addressed all the issues discussed below, these recommendations reflect a shared approach of responsible realism about AI.

Legal and Dispute Resolution Practice. Practitioners should develop basic AI literacy. This includes understanding the capabilities and limitations of available tools, staying current with emerging technologies, and learning to evaluate the quality and reliability of AI-generated outputs. They should supervise the use of AI in their work, including by their staff, and remain personally responsible for their professional judgments.

Lawyers should never substitute AI output for their professional judgment when advising clients. Lawyers may gain insights about risk from predictive analytics but they remain responsible for client-specific decisions about case strategy, negotiation, and legal representation generally.

To comply with ethical duties of confidentiality, practitioners should evaluate whether AI tools adequately protect client information. They should carefully assess risks to confidentiality from AI use and, in some cases, obtain client consent.

Legal Education. Some faculty feel unprepared to teach with or about AI, so some may resist engagement, especially without training or incentives. Law schools should develop flexible policies, recognizing that courses and faculty vary widely. Law schools should encourage faculty to learn about AI and design assignments that help students develop sound professional judgment. Successful AI use will require guidance, resources, collaboration, professional developmen—and patience.

Law schools should help students build professional identities that integrate AI thoughtfully without outsourcing the core skills of legal thinking. Faculty should teach that AI is a tool to promote professional client service, not a shortcut that avoids critical thinking. The goal is to build competence that students will need in practice, not to bypass the learning process.

Students should be required to practice using AI to promote their learning and deepen their understanding of legal materials. This includes experimenting with different prompts, comparing AI outputs with traditional research or writing, and reflecting on how to revise and improve AI-assisted work.

Academic integrity policies should be clear, specific, and realistic about how students actually use AI. Law schools and faculty should define appropriate and inappropriate uses, with examples tailored to different types of assignments. Students should be informed about and comply with institutional policies about transparency.

Faculty should re-examine their assessment and grading practices to promote meaningful learning, reinforce ethical standards, and reflect evolving expectations in legal education and practice. Faculty should consider

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Theory Meets Practice

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using AI to increase formative assessment of students' learning and performance.

Students at under-resourced schools and those without prior exposure to AI tools may fall behind peers with greater access and skills. Law schools should ensure that all students and faculty have access to AI tools, training, and support, and that policies do not deepen digital divides.

Scholarship. Scholars should treat AI as a tool that can assist but not replace the human work of scholarship. Scholars may use AI to brainstorm ideas, review literature, and generate or edit drafts. They remain responsible for the analysis, argument, and ultimate authorship.

Law schools should review expectations about what constitutes original contribution, and how to define accountability, attribution, and intellectual ownership. They should also review hiring, promotion, and publication metrics to reward thoughtful integration of AI while preserving intellectual rigor and human insight.

Institutions and Policymakers. Courts, bar associations, law schools, and employers should develop AI guidelines that reflect evolving practices and professional values. These guidelines should address competence, supervision, confidentiality, disclosure, and accountability. Institutions should also support research, dialogue, and pilot projects to explore how AI can improve legal services, reduce costs, and increase access, especially for underserved communities.

Adapting to AI With Integrity

The legal profession and academy are now at a pivotal point of major transition. AI is already changing how lawyers and neutrals practice, how students learn, and how scholars produce knowledge. These changes are almost certain to accelerate in the years ahead. This article highlights how attentive scholars analyze the likely future and suggest how to respond.

The scholars approach these developments with responsible realism. They are neither Pollyannas, cheerleading for a fantastic new world of AI, nor Cassandras, foretelling calamity. Instead, they examine the evidence, consider the risks, and identify ways to adapt to evolving conditions.

They do not agree on everything. But they agree that institutions, practitioners, and educators should use AI thoughtfully and ethically.

Their recommendations–to build competence, promote sound judgment, and develop practical policies–are grounded in values that have long guided the legal field. These values remain relevant even as the tools and tasks evolve.

Lawyers, educators, students, neutrals, and institutions will face challenges in using AI in the years ahead. Meeting those challenges will require reflection, experimentation, and humility. We should stay open to significant potential benefits – and alert to potential risks. A growing body of scholarship offers guidance grounded in careful analysis and shared purpose.

That is what responsible realism looks like.

Mediation Techniques

(continued from front page)
phone instead to get assistance for the embittered parties.

She distressfully recalled the facts of the dispute. Tom and Bill (fictitious characters) had been cordial and prosperous business partners for the past 27 years. The friendly business relationship was marred by suspicions of misappropriation and connivance with competitors.

She recalled that Tom, who initiated the mediation, had hinted to her that Bill was prone to violent outbursts and fights when he feels misunderstood. She should have considered that the parties' reaction could be outrageous and overwhelming. "Would the parties have been better off with other dispute resolution models?" she worried, "Are there precautions she missed while preparing for this mediation?"

Who Should Conduct Pre-Session? Courts have significant roles to play in pre-session meetings. Courts should assist parties and attorneys to understand and prepare for mediation. John Lande, "How Can Courts–Practically for Free–Help Parties Prepare for Mediation Sessions? University of Missouri School of Law Legal Studies Research Paper No. 2023-11, 2024 *J. of Disp. Res.* 82 (2024) (available at https://bit.ly/3HZk4RM).

In court-annexed mediation, court administrators and clerks perform the duty of assigning disputes to the court or the mediation room, considering the parties' preferences and the dispute's categorization. In private or other institutional settings, pre-session is usually conducted by the mediator, office clerks, or administrators. Pre-session may be conducted in separate caucuses or jointly, depending on the facts of the case and parties' preferences.

The term pre-session is favored over pre-mediation because activities carried out between the first contact and the main mediation session are important and should be considered the "initial phase" of mediation (when they occur). John Lande, "The Critical Importance of Pre-Session Preparation in Mediation," University of Missouri School of Law Legal Studies Research Paper No. 2022-15 (December 2022) (available at https://bit.ly/4eo9D6D).

While it may be convenient to employ the services of administrators for the collection of preliminary information required for mediation, it can be advantageous for the mediator to conduct pre-session. First, this serves as a great avenue to establish initial contact with the parties and build trust. Marco Imperiale and Myer J. Sankary, "Mediation Before the Mediation; The Important Role of a Pre-mediation Session," *mediate.com* (Oct. 25, 2022).

Second, the mediator's preliminary interaction with parties is likely to be more productive, revealing, and engaging than the form-filling information session that may occur between the office clerk and intended parties to mediation.

Pre-session is important for mediators to gain a basic understanding of the dispute; provide guidance on the mediation process, develop rapport and trust with the disputants and/or lawyers and adapt the mediation process to their case. Roselle Wissler and Art Hinshaw, "What the Early Stages of Mediation Look Like Today," 29 *ABA Dispute Resolution Magazine* 7 (January 2023) (available at https://bit.ly/3GgTmn6); Roderick Swaab, "Face First: Pre-Mediation

Caucus and Face in Employment Disputes," 22nd Annual IACM Conference (June 2009) (available at https://bit.ly/3I14xRo).

Checklist for Parties' Intake: Typically, most mediation organizations and private practices have a pre-designed intake form, refined over time to examine the suitability of the dispute for mediation and collect parties' information. Beyond the guidelines provided by the intake form, the mediator has to make other subtle decisions that may not necessarily be documented. The suggestions below are not exhaustive.

The intake form usually makes provision for the contact information of the parties, facts of the dispute, the initial deposit made, etc. Depending on the mediator's specialization, subject-specific questions would be asked to enable the mediator to decide the suitability of the dispute for mediation and the mediator's expertise for such a dispute resolution.

- *Parties' Contact Information.* The administrator or mediator should collect the necessary contact information of both parties to identify each party, issue invitations to mediate, invite witnesses, and call and email, especially if a party is absent or late for mediation. Parties' contact information can also be used to request additional information required for mediation, etc. Commonly collected information includes parties' full names, addresses, telephone numbers, email, gender, and alternate contact person. It is also practical to inquire about the parties' choice of persons whose participation in the mediation may be determinative in the resolution of issues presented by the parties. Examples of determinative participants include witnesses upon whose testimony the resolution of the conflict may depend. Another class of determinative participants are professionals or caregivers whose presence could enhance parties' participation and meet the legal requirement of accommodation. The mediator should request and obtain relevant contact information during pre-session to ease communication and plan schedules that accommodate all participants in the mediation. In addition to obtaining the contact information of parties and participants, mediators should keep handy the contact information of law enforcement officials to promptly refer emergencies that may arise from mediation sessions.
- *Is the Dispute Suitable for Mediation?* The question of suitability has a broad scope that spans the subject matter of the dispute, the parties' disposition, and generally the need to comply with regulatory requirements. Some of these issues would be considered. A party's narration of a dispute would typically generate significant facts to enable the mediator to determine the case's categorization. The case category is important to decide if the dispute can be mediated or not. Additionally, the mediator may decide at this point to accept or reject the case, depending on its alignment with specialization. Peculiar party traits may also be revealed. For instance, if the party initiating mediation discloses that the other party is prone to fighting and violence like in the case study above, this information should guide the mediator to accept or reject the case; refer to a more appropriate forum; appropriately plan for virtual sessions or caucus-only sessions; engage the service of law enforcement personnel if the mediator decides to take on the mediation, or make a report if the mediator suspects a threat to human life and property.
- *Has the Dispute Been Presented Before Any Other Dispute Resolution Forums?* It may be important to know whether the dispute has been pre-mediated or pre-litigated. No mediator wants to blindly plunge into a pre-tried, pre-mediated case, or, for example, a case that was reported to the police/law enforcement official without an update on the current status of the dispute. A pre-litigated dispute may have outstanding court orders that the mediator and parties should not overrule; a pre-mediated case may have resulted in a settlement agreement. A case that was reported to a law enforcement agency may still be subject to instructions issued by such an agency. For these reasons, disputes that have not been reported at first instance to the mediator may be very delicate, requiring prudence, caution, and diligence in their settlement.
- *Is the Mediator Capable of Mediating?* Having heard the facts of the dispute, the mediator is in a good place to determine the capability to mediate. Considerations regarding the mediator's capability include the mediator's expertise, neutrality, and physical and emotional stability to mediate. A mediator's expertise plays a significant role in determining the disputes a mediator should accept or decline. Furthermore, some issues are delicate and require training. An inexperienced mediator should get adequate training and experience before launching into family mediation, for instance. Many factors are taken into consideration in determining the mediator's capacity to facilitate mediation qualitatively. One of these factors is neutrality. Past, present, and foreseeable future dealings with a party can affect a mediator's neutrality. Interests dear to the mediator that conflict with the parties' interests may also negatively affect neutrality. Beyond the deficiencies that lack of expertise and partiality can inflict on a mediator's capability, the mediator should also be physically and emotionally fit for mediation.
- *Do Parties Have the Capacity to Mediate?* Parties' capacity to mediate often revolves around getting the decision-maker to the mediation table. Mediating with persons who cannot make decisions is usually time-wasting and unproductive. Second, information obtained at pre-session guides accommodation for parties, including disabled persons. Generally, factors that may affect legal capacity such as age, and mental and physical disability, would guide the mediator toward inquiries on the appropriate accommodation for quality mediation.

(continued on next page)

Pregaming the Mediation

The subject: Advance preparation.

The challenge: The need is obvious and long acknowledged by scholars and trainers, but the scope of pre-session remains vast. What would you add to this list?

The bigger challenge: This is sensitive. Getting ready while accommodating the participants and the law requires diligence and skill, not just a list.

Mediation Techniques

(continued from previous page)

With respect to an individual, Section 12102(1) of the 1990 American with Disabilities Act defines disability as a physical or mental impairment that substantially limits one or more major life activities of such individual; a record of such an impairment, or being regarded as having such an impairment.

Disabilities noticed by a mediator during pre-session can guide potential accommodations, modifications, or adjustments that would make possible the parties' capacity to comprehend, participate and exercise self-determination. Standard VI (A) 10 of the Model Standards of Conduct for Mediators (see link above). Mediators could ask the parties if there is anything they would need to enhance their participation during mediation sessions.

An open question on necessary pre-session disclosures can reveal a lot of underlying issues that might negatively affect the quality of the mediation. Such disclosures include disabilities that may affect mediation sessions and outcomes, necessary accommodations, pre-session attempts at resolution, historical and cultural dimensions of the conflict, etc. At the same time, the mediator must preserve the parties' mediation right to self-determination.

Finally, pre-sessions are great avenues to observe and obtain useful information regarding parties' emotional disposition, and the plan toward a successful mediation. Marco Imperiale & Myer J. Sankary, "Mediation Before the Mediation; The Important Role of a Pre-Mediation Session," *mediate.com* (Oct. 25, 2022) (available at https://bit.ly/449zyeH). For instance, in the case study above, the mediator disregarded information on the parties' emotional disposition, and that negligence resulted in a chaotic and unpleasant mediation session.

Inquiring about the parties' preference for virtual mediation given the facts of the case or caucusing separately would have given the mediation more chances for success. On the other hand, mediators should be cautious about assessments that may result in the exclusion of parties who want to mediate because of their incapacity.

In this regard, the ADA advocates for inclusiveness for persons with disability, and Section 12212 even recommends mediation for the resolution of ADA disputes. (The law states, "Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is encouraged to resolve disputes arising under this chapter.")

Nevertheless, the mediator is vested with the duty of balancing the need for inclusiveness, self-determination, and accommodation with the mediator's professional mandate to ensure effectiveness and fairness. See Standard I of the Model Standards of Conduct for Mediators on self-determination, Standard VI(10) on accommodation, and Standard VI, generally, on quality of process; see also Russ Bleemer, "ADA Mediation, Updated: The Law Is Enforced by ADR Processes. They Work." 41 *Alternatives* 19 (February 2023) (available on Westlaw), all working toward a healthy balance between inclusiveness, accommodation, and effectiveness when mediating disputes involving persons with disabilities.

Do the Facts Reveal the Commission of a Crime? Pre-session may also reveal whether the facts of a dispute constitute a crime or not. This information would in turn guide the mediator to refer to court, report, or proceed with mediation, particularly if the dispute is of a class that can be classified as both crime and civil wrong. Many financial and proprietary disputes fall within this category. For example, the categorization of misuse of funds would determine whether the case is a civil wrong or a crime, the appropriate forum for the redress of grievances, and the ensuing remedy or penalty.

A preliminary knowledge of civil wrongs and crimes would suffice to make this distinction. Common cases with both criminal and civil characteristics often presented for mediation include financial and proprietary misappropriation and accidents.

It is noteworthy that where danger to human life is probable, where there is a threat to property, and in cases like fatal accidents, mediation should be conducted at the court's directive.

Is there a Power Imbalance? What is power imbalance? Power imbalance is a skewed or unequal distribution of the ability to influence persons. Ali Qtaishat, "Power Imbalances in Mediation," 14(2)) *Asian Social Science* 75 (January 2018) (available at https://rb.gy/0i9xlf).

Such influence is usually exerted to the influenced person's disadvantage. Common sources of power imbalance include personality differences (e.g., introvert and extrovert), financial status, affiliations, and societal classification.

It seems that mediators' facilitation of quality participation by both parties and the application of necessary accommodation will aid in establishing fairness even where there is an evident power imbalance.

During pre-session, the mediator should consider the parties' respective strengths and sources of power and craft a process that will enable them both to mediate fairly, safely, and constructively. Hilary Linton, "Top Ten Questions about Screening for Power Imbalances and Domestic Violence in Mediation and Arbitration," *Riverdale Mediation* (April 20, 2023) (available at https://rb.gy/9bj78m).

It is advisable that the same mediator/administrator confidentially engages both parties to understand the relationship dynamics. Ibid. It is noteworthy that people who are concerned for their safety or that of their loved ones are unlikely to talk about it easily or quickly. Ibid.

Accommodation can play a significant role in balancing power structures that may affect a party's wholesome participation in mediation. For example, a female mediation party may request to be accompanied by a legal representative to mediation where the other party is a dominating male with whom she believes she cannot reason.

Accommodation may be instrumental to equalizing power imbalances that arise from differences in gender, age, race, and educational background. The mediator should also promptly ask parties about logistic requirements and necessary accommodations that would satisfy the legal requirement for accommodation. See Standard VI of the Model Standards of Conduct for Mediators linked and discussed above.

Are Parties Prepared for Mediation? Pre-sessions are excellent opportunities to prepare parties for mediation. Parties should be informed of mediation's characteristics, advantages, limitations, and reasonable remedial expectations.

Many mediation institutions and private practices create posters and pamphlets that summarize the mediation essentials. The mediator/administrator conducting pre-session should endeavor to enlighten the parties, answer questions regarding mediation, and obtain the assurance that parties understand the concept of mediation and are prepared for it.

Common causes of mediation hesitancy include concerns about the enforceability of mediation settlement agreements, the possibility of an opposing party turning to mediation as a time-wasting strategy, and the mediators' inability to make compulsory orders—for example, an order to compel to ensure that a party attends mediation sessions—since mediation is a voluntary process. Mediators should respond to parties' inquiries honestly and accurately to enable them to decide whether to proceed with mediation.

During pre-session, mediators should engage parties and attorneys to overcome impasses and biases. See Elayne Greenberg, "Starting Here, Starting Now: Using the Lawyer as Impasse-Breaker During the Pre-Mediation Phase," St. John's Legal Studies Research Paper No. 1916919 (2011) (available at https://bit.ly/40z1O89), and John Lande, "Survey of Early Dispute Resolution Movements and Possible Next Steps," University of Missouri School of Law Legal Studies Research Paper No. 2021-06 (2021) (available at https://bit.ly/4nuTdNA).

The mediator should also guide parties and their attorneys to exchange position statements if applicable. See Madeline Kimei, "Preparing for Mediation: Position Statement" (2022) (available at https://bit.ly/4kmCbPh). Where position statements are exchanged, the mediator and parties should not leave the confidentiality of position statements to the court's interpretation—express written commitment should be mutually made to protect disclosures made in position statements.

Will Witnesses/Evidence Be Required During Mediation? A witness has been defined as one who has personal knowledge of an event or a fact—*Encyclopedia.com* at https://bit.ly/40wBmvS—while evidence is objects, documents, official statements, etc., used to prove something is true or not true, especially for legal purposes. Cambridge Dictionary, "Evidence" (available at https://bit.ly/3ZZjxp9).

It is noteworthy that the use of witnesses and any other kind of evidence in mediation is not as intensive as in litigation. Nevertheless, where the resolution of an issue depends on any evidence, the party with access to such evidence may produce the evidence unless there are cogent reasons why such evidence cannot be produced.

For instance, a party may hesitate to produce evidence that constitutes a trade secret. Often, the information required to break an impasse or make constructive progress with mediation can be obtained from invited witnesses and requested evidence. Hence the production or concealment of evidence could determine the party's intention to proceed with mediation or not.

Facts disclosed at a pre-session would in many instances guide on who to invite to the mediation session as a witness, documents and any other evidence to be requested. Proactive considerations on necessary witness(es) and/or evidence would prevent unnecessary re-scheduling of mediation sessions, and improve the mediator's efficiency and mediation process quality.

Is there a Suitable Venue/Appropriate Logistics for the Mediation? Pre-session interactions usually reveal the number of persons involved in the dispute, relevant witnesses on both sides, and the special needs of participants and parties to the mediation.

The choice of a suitable venue for mediation is dictated by the number of persons involved in the mediation, the parties' preferences, needs, and the availability of necessary facilities. For example, the chosen venue should have been designed to accommodate access features for someone in a wheelchair if such a person should physically attend a mediation session. The mediator, however, needs to bear in mind that virtual mediation can make up for the unavailability of an appropriate venue unless there are peculiarities that necessitate an on-site session.

Are the Parties Able to Cover the Mediation Cost? In many jurisdictions, disputants have an array of outlets offering free mediation and other free legal services. Where parties opt for a paid mediation, they should be capable and willing to pay the mediator's professional fees.

Sometimes, fees are deposited upfront, leaving the mediator with the responsibility of accounting for unearned fees or requesting for a balance where service rendered exceeds initial deposit. The parties may also commit to pay after the session has been concluded.

The mode of payment would significantly depend on the mediator's preference. If the mediator is not disposed to offer free mediation services, it may be perceived from pre-session whether or not the parties are willing and/or able to pay the mediator's fee.

Post-Mediation Considerations: Pre-sessions should be futuristic. The mediator should not only consider issues that affect the mediation, but post-mediation concerns ought to be evaluated by the mediator/administrator. One of the most common post-mediation concerns is whether the parties' expectations from the proposed mediation are realistic.

For example, a party looking to exploit information exposed during pre-sessions and actual mediation sessions should be reminded that mediation is not the appropriate dispute resolution model for such exploits. There is an actual risk that a party or counsel may try to obtain the production of confidential pre-session notes at the court.

In an Ontario, Canada, case, *Benson v. Kitt*, 2018 ONSC 7552 (CanLII) (available at https://bit.ly/3I5MYQb), the parties who had separated took to mediation to resolve child support issues. Deciding on a party's request for the mediator's screening notes and intake forms, the court declined the request for several reasons.

First, the requested information was covered by settlement privilege, a common law rule of evidence that protects communications exchanged by parties as they try to settle a dispute, and no exception to settlement privilege was applicable in the case.

Furthermore, the court considered that granting the request for the mediator's notes would be contrary to the contractual provision in the "Family Agreement to Mediate," which made the mediator's file inadmissible in litigation.

* * *

Pre-session is an essential aspect of mediation. Mediators should be on guard against bias that can defeat mediation. It is essential to planning the mediation, ensuring quality mediation sessions, and ultimately, determining the fitness and safety of the parties.

In other words, the success or failure of mediation may be hinged on the diligence of the mediator or administrator conducting the pre-session. U.S. Founding Father George Mason's quote offers an instructive caution. "Attend with diligence and strict integrity to the interest of your correspondents and enter into no engagement which you have not the almost certain means of performing." (George Mason, *Brainy Quotes* (available at https://rb.gy/8kpffo).

Worldly Perspectives

Ireland's Wide Mediation Spectrum

BY GIUSEPPE DE PALO & MARY B. TREVOR

From a process unknown in the Irish legal system 40 years ago, mediation has become part of a holistic approach to effecting positive change in conflict management through the use of public policymaking, legislation, and cultural transformation.

Originally, mediation was part of public policy making in the family law area. In 1986, the first-ever Minister of State for Women's Affairs and Family Law Reform, Nuala Fennell, pioneered a successful three-year pilot mediation scheme. Nuala Fennell, Political Woman: A Memoir (Currach Press 2009).

It led to the creation of the Family Mediation Service—see Delma Sweeney and Mary Lloyd (eds.), Mediation in Focus: A Celebration of the Family Mediation Service in Ireland (Family Mediation Service 2011)—managed then by Maura Wall-Murphy and today by the Legal Aid Board. Legal Aid Board, Strategy and Plan for the Provision of Family Mediation Services 2021–2023 (Legal Aid Board 2021). It has been a publicly funded, free (means-tested) service for nearly four decades.

Over these decades, the courts, legislature, lawyers, and associated legal professions have come to embrace the concept of mediation for a broader range of conflicts, including civil and commercial disputes, the focus of the *Rebooting Mediation Project Study,* which is discussed in the authors' credit line below and in the box at right.

Members of the judiciary see mediation as a practical option in these areas and have promoted its use. Chief Justice's Working Group on Access to Justice, Access to Justice Conference Report (Courts Service 2021) (available at https://bit.ly/4f8iZ6F). Lawyers are generally positively disposed to it, and many have made it part of their skill sets.

Public interest in mediation spans a wide spectrum of fields, including in Family Law and community proceedings, in Personal Injuries Assessment Board claims (Personal Injuries Assessment Board, Annual Report 2022 (PIAB 2022) (available at https://bit.ly/4lR19Yy)); for the Residential Tenancies Board (Residential Tenancies Board, Annual Report 2022 (RTB 2022) (available at https://bit.ly/3INJDpk), and for the Workplace Pensions Service and the Financial Pension Services Ombudsman (Pensions Authority, Annual Report 2022 (available at https://bit.ly/41d8yJh)—all part of State-supported mediation avenues. The Workplace Relations' Committee discretionally supports mediation. The Workplace Relations Commission was established by the Workplace Relations Act 2015 (No. 16 of 2015).

In 2017, the Mediation Act established the general framework for Irish mediation. Mediation Act 2017 (No. 27 of 2017) (available at https://bit.ly/3H5gwNJ). Now eight years on, as this column was being written, the Minister for Justice published a major review of the Civil Legal Aid scheme that includes recommendations for a supporting pillar of mediation services and setting up a Mediation Council without delay. "Minister Jim O'Callaghan publishes historic review of Civil Legal Aid Scheme," *gov.ie* (July 24, 2025) (available at https://bit.ly/4o2I2Mt).

1. The General Legal Framework of Civil and Commercial Mediation. While Ireland timely transposed the 2008 EU Mediation Directive (Mediation Directive) by regulation in 2011, the regulations' scope was limited to cross-border mediations. See, respectively, Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters (2008) OJL136/3 (available at

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Background and Acknowledgments

In each of these *Worldly Perspectives* columns, co-authors Giuseppe De Palo and Mary B. Trevor are presenting a summary of a forthcoming country report that has resulted from the Rebooting Mediation Project study of individual nations' ADR efforts. See the authors' accompanying credit line and this website: www.dialogue-throughconflict.org/rebooting-the-eu-mediation-directive. This month's Ireland column relies on data from the project.

This month's column was prepared in collaboration with Anna Walsh Doyle, a seasoned mediation professional with more than five decades in national and international public service.

After 20 years as a Principal Officer in the Irish Public Service in the Ministries of Justice, Public Service, Agriculture and Lands (1971-1991), Doyle moved to Belgium in 1991 to start a career in international public service at EUROCONTROL, the European Organisation for the Safety of Air Navigation.

At EUROCONTROL, she created the Agency's Mediation Service in 2006 and served as its first Mediator and Ethics Officer until 2018. Since 2019, she has worked as an external mediator for the European Space Agency and is a member of the U.N. Global Mediation Panel.

A founder of the European Mediators' Network Initiative, Doyle is also an Advanced Practitioner with the Mediators' Institute of Ireland and certified by the International Mediation Institute and the Elder Mediation International Network. Based in Waterloo, Belgium, she offers mediation and conflict resolution services in English, French, and Irish.

http://bit.ly/4mfDyk3), and European Communities (Mediation) Regulations 2011 (SI 209 of 2011) (available at https://bit.ly/4lKL7iF).

Domestic mediations were not addressed until the Mediation Act, containing general principles for the conduct of mediation by qualified mediators, came into operation on Jan. 1, 2018. It included provisions for mediation practice codes to be introduced and for the future establishment of a Mediation Council to oversee further development of the mediation sector.

The Mediation Act's scope included all civil proceedings that may be instituted before a court, save for certain exceptions provided for in Section 3. It also amended several pieces of legislation to incorporate relevant mediation provisions, such as Guardianship of Infants Act 1964, the Judicial Separation and Family Law Reform Act 1989, and the Family Law (Divorce) Act 1996.

2. The Legal Framework of Civil and Commercial Mediation in the Mediation Act. *Confidentiality*: Under Mediation Act section 10, and subject to certain exceptions relating generally to enforcing mediation agreements and preventing harm, all communications (including oral statements) and all records and notes relating to a mediation must be held confidential and may not be disclosed in any proceedings before a court or otherwise.

The terms of engagement between mediators and the parties typically also contain confidentiality provisions seeking to ensure that what is said in mediation stays in mediation. An added layer of confidentiality applies within private breakout sessions: the mediator is bound not to disclose anything said by the parties without their express consent.

This section's approach reflects the spirit of the codes of conduct that all mediators are invited to voluntarily subscribe to under the provisions of the Mediation Directive and the European Code of Conduct for Mediation Providers (Dec. 4, 2018) (available at https://bit.ly/3U3AR98).

Enforceability: Under Mediation Act Section 11, the parties determine whether they have reached a settlement and whether it is enforceable between them. A court may then enforce it as a contractual obligation unless the parties have deferred its enforceability to a subsequent agreement or contract, or the enforcing court determines enforcement is not appropriate under the circumstances.

Limitation and Prescription Periods: Under Mediation Act Section 18, when calculating passage of time for purposes of limitation periods, the time from the date an agreement to mediate is signed until 30 days after the date of a settlement or the end of the mediation is not included in the calculation.

Duration and Statutory Fees: In Ireland, there is no prescribed duration for the mediation process or time by which the mediation should commence, nor are fees prescribed by statute. There is no comprehensive material available to elucidate the typical duration of, or fees for, mediation.

Growing Embedded ADR

This month's Worldly Perspectives jurisdiction: Ireland.

The state of practice: There is a solid court and government framework supporting mediation's use.

The state of the prospects: The 'exciting' challenges include the establishment of a council that will study improving an imbalance between mediation and litigation that seeks to boost ADR use beyond its successful family law deployment.

3. Recourse by Statute, Judicial Referral, Contract Clause, or Agreement. The demand side of mediation in Ireland has remained relatively unexplored until now.

The recent publication of two reports (Majority and Minority) of the Civil Legal Aid Review Group on the Future of the Civil Legal Aid Scheme, as part of the major Ministerial review referenced earlier, is warmly welcomed.

Both reports recognize the potential to expand mediation use but disagree on how to achieve it. One offers a roadmap to transform how the state supports access to justice by providing mediation in all appropriate cases; the other considers whether mediation should be seen as a central plank in a new legal aid support system.

Recourse by statute. No statute currently requires use of mediation or attendance at preliminary information sessions.

Recourse by judicial referral. Several legal provisions allow a court to encourage the parties to mediate. Order 56A, Rule No. 2 of the Court Rules allows a court to adjourn proceedings and invite the parties before it to mediate. Rules of the Superior Courts (Mediation and Conciliation) 2010 (SI No 502 of 2010), Order 56A, Rule 2 (available at https://bit.ly/3UyV5aW).

Further, the Civil Liability and Courts Act, Section 15, authorizes a court to direct the parties to meet in a mediation conference if doing so might promote settlement (available at https://bit.ly/4m8FM4A). And the Mediation Act, Section 19, authorizes a court, upon request of the parties, to adjourn proceedings to facilitate mediation.

Nevertheless, the general judicial approach is encouragement rather than compulsion, as indicated in cases such as *Ryan v. Walls Construction Ltd.*, [2015] IECA 214 (Oct. 6, 2015) and *I.E.G.P. Mgt. Co. Ltd. v. Cosgrave,* [2023] IECA 128 (May 25, 2023).

But there can be financial consequences for refusing to participate in mediation. The Mediation Act, section 21, provides that "unreasonable" refusal to consider or attend mediation may be a factor in awarding costs in court proceedings. In *Mascarenhas v. Karim*, [2022] IECA 48 (March 2, 2022), for example, the judge imposed a 10% cost penalty on one of the parties for unreasonably refusing to mediate.

Recourse by contract clause. Neither the *Rebooting* study responses nor any available source addresses the current situation concerning providing for recourse to mediation through contractual provisions.

Recourse by agreement: Neither the *Rebooting* study responses nor any available source addresses the current situation concerning providing for recourse to mediation on the basis of ad hoc agreements.

The Mediation Act, however, in Section 14, does require solicitors both to advise disputing parties to consider using mediation and, should the dispute end up in court, to file there a statutory declaration of having done so. The section does not require advising clients to mediate but instead facilitates informed decision-making and promotes awareness of the risks and downsides of not mediating. In *Byrne & Ors v. Arnold,* [2024] IEHC 308 (June 5, 2024), the court reduced costs awarded to a prevailing party for failure to comply with the section's requirements.

4. Ensuring the Quality of Mediation Services. In Ireland, there are no legal requirements for those who seek to practice as

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mediators. The market is largely left to regulate performance standards, and numerous bodies accredit practitioners and set minimum training standards for mediators. These include the Mediators' Institute of Ireland (MII); the Chartered Institute of Arbitrators (CIArb)—Irish Branch; the Edward M. Kennedy Institute for Conflict Intervention at the National University of Ireland, Maynooth; and CEDR Ireland.

Generally, accredited mediators must have undertaken an approved training course of at least 40 hours that includes an independent assessment. Mediators must also earn a certain number of 'CPD' (Continuing Professional Development points) to retain their accreditation.

Mediators must also follow an approved code of conduct, be of good standing, have an internal complaints procedure, and obtain public liability insurance. In certain instances, they must also undertake mediation-specific continuous professional development courses (for example, in child-inclusive mediation or in elder mediation). Different categories apply to members of varying experience and standing, with some mediators complying with international professional standards.

5. The Mediation Market. There has been little study of this area in Ireland. Hopefully, the *Rebooting* study will help stimulate further research into the nature of the mediation market.

Size of the market. As in many jurisdictions, it is difficult to provide any comprehensive data for the mediation market in Ireland, other than in the family law area (which is specifically excluded from the scope of this *Rebooting* study). Study respondents produced a wide variety of responses in attempting to estimate the mediation market size, but overall, they indicated the potential for further growth and development of mediation in Ireland rather than a lively market. It would seem that currently, a mere fraction of litigated cases is directed to mediation.

Mode of mediation. Most mediations are conducted in person, although online mediation—not yet regulated by law in Ireland—became relatively well-established during the Covid-19 pandemic and has remained so since in certain areas. A majority of respondents to the *Rebooting* study took the view that online mediation "is used frequently, but not as much as in person."

Costs. In the absence of statutory fees or published reports on the fee levels charged by mediating professionals, it generally appears that fees vary significantly depending on the value of the case, the area of dispute, and the experience and expertise of the mediator. *Rebooting* study respondents gave a broad set of responses to this question, perhaps indicating the different types of mediation with which they were familiar.

Fee estimates ranged from "between 501 and 1,000 euro" to "over 5,000 euro," with the latter figure chosen by the majority of respondents, although a significant number of respondents selected figures about midway between the two outermost figures.

Number of mediators and the mediator service market. It is not known how many mediators are active (or seek to be active) in the Irish mediation market. It has been estimated that the number of mediation practitioners in Ireland falls below 950 and that the number of mediators working full time in mediation falls below 200**.** It is also said that many mediators work part-time and many of those working in the community sector do so voluntarily.

Rebooting study respondents expressed very wide-ranging views on their estimation of the market, with answers ranging from "less than 100" to "between 5,001 and 10,000" mediators.

Mediation training providers have proliferated in recent years, and there has been some speculation that the market is saturated. *Rebooting* study respondents were in broad agreement with this perception.

6. Key challenges for further development. The challenge now for mediation in Ireland is an exciting one. The Legal Aid Board has already been working with a Mediation Council Shadow Group, consisting of stakeholders from mediation, arbitration, and lawyer organizations involved in the mediation sector, to determine the parameters of such a council.

The group is tasked with research, criteria development, and governmental coordination activities. Now, with the publication of the Minister of Justice review, its deliberations will comprehend the latest far-reaching recommendations made to the Minister, particularly the support for setting up the Mediation Council and for exploring the relative costs and benefits of additional mediation services in areas of law beyond family law.

In addition, there are a great many opportunities for inter-jurisdictional cooperation in the context of various Shared Island initiatives between the Republic of Ireland, Northern Ireland, England and Wales and Scotland. (For more information, see https://bit.ly/4lIjdE5.) This was the subject of an Oct. 17, 2024, discussion at Ulster University, and it might also be a discussion subject for a future BIICG (British-Irish Intergovernmental Conference), established under Strand three of the Belfast/Good Friday agreement in 1998, "to promote bilateral cooperation at all levels on all matters of mutual interest within the competence of the UK and Irish Governments."

Also, as addressed by the *Rebooting* study respondents, other measures could more directly increase mediation use in Ireland. While statistical backup is limited, the general perception is that the current situation does not reflect a balanced relationship between mediation and litigation as a means of resolving disputes.

The respondents to the *Rebooting* study offered a wide range of views on the current law addressing mediation and on measures that might help correct this imbalance. Popular ideas included financial incentives for parties choosing to mediate, such as refunding court fees or providing tax credits, and mandating attendance at mediation information sessions before litigation. Ideas that got mixed reviews included mandating participation in mediation in certain types of cases or situations, and allowing judges to require parties to mandate rather than offering the option.

* * *

Overall, while statistics regarding the state of mediation fall short of ideal, mediation is a success story in Ireland: high-quality mediation services are available, the Mediation Act has provided a framework for its use, and mediation is positively viewed. It is firmly embedded as an option for the Irish courts which, as noted above, can penalize parties for unreasonably refusing to consider mediation.

But more can be done and is being done. Ireland has historically taken a pragmatic approach to dispute resolution, one that views family, community, enterprise, and social justice as cornerstones in the design of a shared future. This approach, which has enabled peace processes on its shared island, can also achieve outcomes for mediation that emanate from the needs of its people and help ensure a healthy society.

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substantial thought leadership in the field of ADR. Their many and varied contributions to the literature and ongoing discussions in the field will undoubtedly serve to educate and inform both current and future practitioners on alternatives to litigation. We are thrilled to provide them with this well-deserved recognition."

* * *

First, the 2024 Outstanding Book Award was presented for a publication from the 2024 awards period—November 2023-October 2024—that advances ADR understanding.

The award was presented to Amy J. Schmitz for "The Arbitration Conversation: Insights and Wisdom from Experts in the Field" (ABA DR Section 2024) (available at https://bit.ly/46EgerF).

Amy J. Schmitz is a professor and John Deaver Drinko-Baker & Hostetler Endowed Chair in Law at the Ohio State Moritz College of Law and Program on Dispute Resolution in Columbus, Ohio. She is a co-director of the Translational Data Analytics Institute's Responsible Data Science Research Community of Practice and is also working with the Ohio State Program on Data Governance and the Divided Community Project.

The book includes "more than 115 interviews" that cover traditional arbitration as well as digital-age technology-assisted arbitration. The book focuses on the need for arbitration, highlighting the use of specialist arbitrators and noting its place where businesses believe their operational secrets must be safeguarded. It supports the importance of neutral international forums. The book also looks at the benefits and pitfalls of arbitration in more controversial areas like business-to-consumer and employment contracts.

"The Arbitration Conversation" emphasizes the problem-solving nature of the process, with the interviews targeted to providing new perspectives, and the critical role of technology—noting the extensive impact of the Covid-19 and the move to online arbitration.

"There are many different flavors of arbitration, and the process should be adapted to fit the given context and parties," writes Schmitz in her introduction, noting, "context matters, and this will be a running theme in the book."

Schmitz's interviews are available through this website, too: https://arbitrate.podbean.com. An excerpt from the book is available at https://bit.ly/46GiyhW.

Ellen Waldman, then a CPR vice president, said in presenting the award at the Miami dinner, "Amy's scholarship is known for its ambition and reach, tackling the befuddling ethical moral and pragmatic questions raised by technological innovation and its consequences for alternative dispute resolution generally and arbitration specifically."

Waldman added that the book "enhances our understanding of arbitration and is an important contribution to the ADR field."

In her brief acceptance remarks, Amy Schmitz called the book "a love letter to the field"; she thanked interview participants, including some in the audience.

In a longer prepared statement last winter, Schmitz said,

> This award means the world to me, as a long-time admirer of CPR and the work that they do in the field of dispute resolution! Moreover, this book … distill[s] key themes emanating from my over 120 interviews of top arbitration leaders that were part of The Arbitration Conversation podcast. Indeed, I am incredibly thankful to all who participated in the interviews and to [President and CEO of ODR.com/Mediate.com] Colin Rule for his collaboration with the podcast. As the book highlights, the interviews underscored the adaptability and problem-solving power of dispute resolution processes, as well as the innovative spirit driving the evolution of arbitration in the digital age.

* * *

The Outstanding Professional Article Award is for an article published by academics and other professionals in the November 2023-October 2024 awards period that advances understanding in the field of ADR.

There were two 2024 winners: Art Hinshaw and Roselle L. Wissler for "Comparing Joint Session and Caucus Outcomes: Factoring in Substantive Discussions and Case Characteristics," 25 *Cardozo J. of Conflict Resol.* 491 (2024) (available at https://bit.ly/4mpg4Ja), and Michael Z. Green for "Expanding the Ban on Forced Arbitration to Race Claims," 72 *Kansas L. Rev.* 455 (2024) (available at https://bit.ly/452kkIZ).

First, Hinshaw is the Associate Dean for Experiential Learning, John J. Bouma Fellow in Alternative Dispute Resolution, Clinical Professor of Law, and Founding Director of the Lodestar Dispute Resolution Center at the Arizona State University Sandra Day O'Connor College of Law, in Phoenix. Wissler is Research Director at the Lodestar Dispute Resolution Center.

Their article looks at the decline in mediation joint sessions, and explores whether that affects settlement likelihood, via a survey of more than 1,000 mediators in eight states. Outcome success, the study finds, depends on the extent of substantive discussions among the mediator, the disputants, and the lawyers as well as several case and mediator characteristics, not solely on whether the disputants are together or apart.

It is the first study to compare the benefits of initial joint sessions versus initial caucuses.

Hinshaw and Wissler were unable to travel to the awards dinner, but provided a joint statement upon receiving the award:

> We are grateful to CPR for recognizing the need for empirical study of what mediators and mediation participants actually do during initial joint sessions and initial caucuses and the effects those actions have on mediation outcomes. The award will make more mediators aware of the findings—that some common assertions

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about the benefits of the parties being together or apart, per se, are not supported, but that discussions and participant interactions during the initial session play a large role in outcomes.

The Outstanding Professional Article Award was also presented to Michael Z. Green for his article on banning mandatory arbitration for race claims. Green is a law professor and Director of the Workplace Law Program at Texas A&M University School of Law in Fort Worth, Texas. He is also a labor and employment mediator and arbitrator.

In his article, Green argues that a recent law restricting mandatory arbitration from use in sexual harassment claims should extend to claims of racial discrimination. Because the 2022 Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act "requires that sexual assault or sexual harassment claims may not be forced into arbitration," writes Green, "allowing other claims related to or intertwined with the sexual assault or sexual harassment to be resolved separately in arbitration could affect the overall vindication of the sexual assault or sexual harassment claims in court as intended by" the three-year-old law.

Green notes that a similar legislative proposal barring mandatory arbitration of race discrimination claims hasn't garnered bipartisan support and isn't likely to pass in the near future.

He concludes that companies should take steps to end mandatory arbitration of racial claims where intertwined claims would mean that sexual harassment claims would not be arbitrated.

The article examines history, processes and case law and recommends that the private sector act where Congress has not.

Ellen Waldman, in presenting the award, said that Green "is a thoughtful and prolific scholar who focuses his writing on workplace dispute resolution." The 2024 article, she said, was well-researched and well-written… and a must read for those who practice in the employment realm."

In his acceptance remarks, Green thanked CPR and his Texas A&M colleagues, and directed comments to corporate attorneys in the awards dinner audience as reassurance: "I don't want to throw out the baby with the bathwater," he said, "as I definitely believe in the use of arbitration."

In a statement, Green said, "After 25 years as a law faculty member who published his first key law review article on arbitration in 2000, recognition of my scholarly work has come full circle with the receipt of the 2024 CPR Award for Outstanding Article." He added, "Given CPR's reputation in dispute resolution, I will remain forever grateful for this prestigious honor based on my most recent article on how race disputes can be resolved after a recent amendment to the Federal Arbitration Act."

* * *

Last year's Outstanding Short Article Award was presented to Melvin Loh for "The Power of Stories: Advocating for Therapeutic Justice Through Mediation," 2023 *Asian J. on Mediation* 1 (December 2023).

Loh is a Senior Lecturer in the Singapore University of Social Sciences School of Law in Singapore.

CPR's awards announcement noted that Loh's article looks specifically at the telling of stories in mediation, including narrative mediation, which may serve as a means to benefit from the pursuit and the achievement of therapeutic justice in the long run.

"The judges found this well-written article a significant contribution to the literature regarding mediation and therapeutic justice," said CPR Senior Vice President Helena Erickson in presenting the award at the February CPR Annual Meeting dinner.

Loh's acceptance statement said, "This award celebrates the culmination of dedicated effort and also motivates me to continue advocating for mediation as a vital access-to-justice mechanism. I am committed to furthering our understanding and implementation of therapeutic justice, striving to uphold and advance the high standards set by CPR."

* * *

CPR's Joseph T. McLaughlin Original Student Article or Paper is presented to articles or papers written by students on events or issues in the ADR field during the awards period.

The 2024 Outstanding Student Article Award was presented to Samuel R. Cole for "Bargaining in the Shadow of the EFAA," a student paper that has since been published at 2025 *J. Disp. Resol.* 232 (2025) (available at: https://bit.ly/4miR9qA). Cole received his J.D. in June from the University of Chicago Law School.

The article examines the distinction between arbitration agreements contained in collective bargaining agreements and arbitration agreements in contracts between employers and at-will employees.

Cole maintains that the "result has been to entwine the Federal Arbitration Act (FAA) and the Labor Management Relation Act (LMRA) in ways that create ambiguity."

Moreover, he explains, employers and unions are considering treatment over grievances involving the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act, which, as discussed above, prohibits mandatory arbitration for sexual assault and harassment claims. The law, writes Cole, is unclear on its coverage. He discusses the ambiguities of the statute's application to unionized workers and proposes exempting labor arbitration.

"[A]pplying the [Ending Forced Arbitration Act], a statute designed to prevent 'forced' arbitration under the FAA, to collectively bargained arbitration agreements misunderstands the purpose and history of labor arbitration, and worse, threatens its future," concludes Cole.

In a prepared statement, Cole said, "I am deeply humbled to receive the Joseph T. McLaughlin Original Student Article Award. To have my research recognized by CPR, a leader in dispute resolution, is an extraordinary honor. I am particularly grateful to [University of Louisville] Prof. Ariana Levinson for her invaluable feedback and thoughtful comments that helped strengthen this article, and to my mom, Prof.

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Sarah Cole [who is Michael E. Moritz Chair in Alternative Dispute Resolution at the Ohio State University's Moritz College of Law], for her exceptional mentorship throughout my academic (and life) journey."

* * *

Christopher C. Murray, a shareholder in the Indianapolis office of Ogletree Deakins was presented with the CPR Partner of the Year award for 2024.

The award is given annually to a member who has made outstanding contributions to the thought leadership of the CPR Institute, who has shown exceptional engagement with CPR's activities, and who has demonstrated meaningful commitment to CPR's mission of dispute prevention and resolution.

Murray is co-chair of the CPR Institute's Employment Disputes Committee and is a frequent speaker at the committee's programs and events. He also participates in employment-related initiatives held by other CPR groups, such as the 2024 ADR Skills Training webinar series, held by the CPR's Y-ADR—Young Leaders in Alternative Dispute Resolution Steering Committee and CPR Dispute Resolution. Murray has led the long-running CPR Arbitration Template Task Force of the EDC, which during the summer released a template employment arbitration disputes program for adoption by companies that can be found at https://drs.cpradr.org/practice-areas/employment.

Said CPR's Serena Lee, "CPR Institute members are the fuel that powers the organization forward to fulfill its mission to reduce conflict so that others may achieve their chosen purpose. Chris has been an exceptional member in sharing his knowledge and experience with our community. We appreciate his contributions and are pleased to offer him this gesture of our gratitude."

In accepting his award in Miami in February, Murray said, "I appreciated my many opportunities to work with CPR on various projects, and frankly always doing that has been its own reward."

Earlier, Murray wrote, "I am very honored to receive this award. It's been a great pleasure working with CPR and fellow CPR members over the years on various ADR initiatives. CPR always provides tremendous opportunities to collaborate with and learn from practitioners and thought leaders with many different perspectives."

Murray continued,

> As a management-side employment attorney, for example, I've greatly valued the chances to work on CPR projects with not only arbitrators, CPR staff, and fellow management counsel but also employee-side counsel. I've learned a great deal through my association with CPR and am grateful for this kind recognition.

* * *

The CPR Annual Meeting Awards dinner also saw the recognition of two diversity award recipients. The 2024 Outstanding Contribution to Diversity in ADR award was presented to both Dr. Katherine Simpson, a Michigan-based international arbitrator, and Ingeuneal C. Gray, vice president of diversity, equity and inclusion at the American Arbitration Association.

The award began in 2007, when the CPR National Task Force on Diversity in ADR created an Award for Outstanding Contribution to Diversity in ADR to recognize a person or organization who has contributed significantly to diversity in the alternative dispute resolution field. Submissions for the Outstanding Contribution to Diversity in ADR are reviewed by a panel consisting of past winners, the co-chairs of CPR's National Task Force on Diversity in ADR, and the CPR president & CEO. For information on the award including past winner, please see www.cpradr.org/diversity-award.

Katherine Simpson has repeatedly challenged the ADR status quo, in particular citing the exclusion of diverse neutrals in international arbitration. She compiled evidence and documented the availability of women arbitrators in 2020, counter to conventional wisdom, in the European Union and Canada. Member of Simpson's list of 70 women arbitrators were qualified to be appointed to the Chairpersons roster for the Comprehensive and Economic Trade Agreement, a trade agreement between the EU and Canada.

Two years later, the EU signed the Equal Representation in Arbitration Pledge and created a new process for appointing arbitrators to trade treaty and investor-state disputes. Later, Simpson, along with New York arbitrator Nancy M. Thevenin, published an "Arbitrators of African Descent" list, compiling 120 qualified, diverse arbitrators for commercial cases. Simpson also made early and significant contributions to the Ray Corollary Initiative, a nonprofit organization dedicated to increasing diversity, equity, and inclusion in the selection of neutrals.

On accepting the award in Miami, Simpson said that "every time the United States has sought quality, it has arrived at diversity." Arbitrator selection, she explained, "is a merits appointment process." She added that "diversity and quality are closely connected, … neither is at the expense of the other."

In an accompanying prepared statement, Simpson noted,

> In these exceptional times, I am comforted and encouraged that CPR continues to value and promote diversity, equity, and inclusion in all facets of alternative dispute resolution. I am grateful to be in the company of past winners, and I look forward to continuing our joint efforts to promote and celebrate increased diversity in alternative dispute resolution.

The AAA's Ingeuneal Gray oversees development of initiatives that foster growth, inclusivity and empowering of ADR professionals at the nation's largest ADR provider. The programs have become benchmarks for the ADR profession.

Gray's work includes overseeing the AAA's Higginbotham Fellows Program and the Diverse Student ADR Summit, launched in 2019

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to expose students to conflict resolution neutrals practices. She also has coordinated the AAA's "Pathways to ADR Series," which provides workshops and tailored programs to equip new ADR professionals with the skills to succeed.

Gray told the awards dinner audience in February, "I accept this with deep gratitude on behalf of myself and the American Arbitration Association." She added,

> In today's climate where diversity, equity, and inclusion … efforts are being challenged in ways we've never expected, this work is even more critical than ever, which is why the AAA is committed to improving and increasing diversity and inclusion in the field of ADR.

In an accompanying prepared statement, Gray added, "I am grateful to be part of an organization that prioritizes these principles, and I look forward to continuing this important work."

Ingeuneal Gray and Katherine Simpson, noted CPR President Serena Lee,

> Both understand the importance of diversifying the field and are working toward a more inclusive community of neutrals. By developing and supporting programs that offer diverse students and practitioners experiences and training, Ingeuneal is part of the ADR community's efforts to transform future rosters of arbitrators. Katie demonstrates that ample talent is available now and serves as a catalyst for improvement in near-term selections. Supporting the pipeline of arbitrators and increasing the frequency with which diverse neutrals are selected are strategies that CPR practices and supports. We are excited to honor both winners today for their efforts and achievements.

* * *

There were two "Rising Stars" presentations by CPR President and CEO Serena Lee to conclude the evening. She cited Joshua Kane, of counsel in the New York office of DLA Piper and Paloma Cipoll Moguilevsky, an associate in Washington, D.C.'s Williams & Connolly.

* * *

Two other awards presented at the Feb. 6 Miami dinner were discussed earlier this year in *Alternatives*. For details on the presentation of the CPR Institute 2024 James P. Groton Award for Outstanding Leadership in Dispute Prevention, which was awarded to Venable's Kenneth M. Roberts, see "Chicago Attorney-Educator Receives CPR's Annual Groton Dispute Prevention Award," 43 *Alternatives* 70 (May 2025) (available on Westlaw). For details on CPR's James F. Henry Award, which went to a former CPR board member, see "CPR's Founder's Award Presented, Posthumously, to Michael Leathes," 43 *Alternatives* 36 (March 2025).