



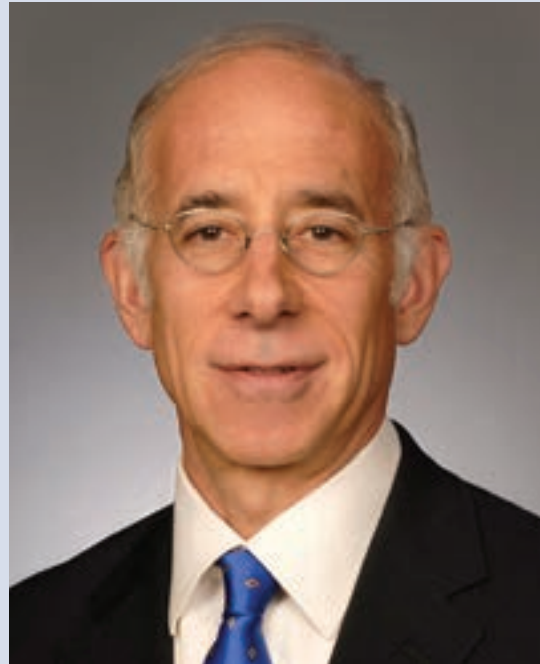
# Pathways to Partnership

2017 ANNUAL REVIEW  
INTERNATIONAL INSTITUTE FOR  
CONFLICT PREVENTION & RESOLUTION

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## *A Letter from CPR's President and Chief Executive Officer*



Here we are, beginning 2017 in an increasingly complex world torn between inexorable forces of globalization and powerful, populist resistance taking many forms. The theme of CPR's 2016 annual review was "Rising to the Challenge: The Journey Continues." Much like getting to an inclusive, globally-oriented world is a long journey with inevitable bumps so, I believe, is our journey. And progressing in our journey is a small, but important advancement toward the kind of global landscape we all hope to see. In the continuing context of "redefining winning" (our theme from 2015), we were referring to our sustained and collective effort to elevate commercial dispute resolution to a more thoughtful, holistic and business-friendly process.

Our journey continues, and will go on for quite some time, perhaps forever. And that is not a bad thing. All worthwhile efforts, especially those that challenge the status quo, require commitment, a level of continuing mindfulness and repetition. The best and probably *only* way for us to make healthier dispute resolution efforts stick is to undertake the effort together, collaboratively, as partners.

In-house counsel working with outside counsel to drive more effective dispute resolution have always been a focus of CPR's, indeed part of the organization's structural foundation. But, during my two-year tenure, we have driven and witnessed "partnerships" taking several other instructional and inspirational forms:

## *Our journey continues, and will go on for quite some time, perhaps forever.*

- Under the “CPR model,” members collaborating on the CPR Council and numerous committees, both exchanging insights they can apply to their own companies and clients and then memorializing their exchanges via the creation of new CPR resources that benefit the entire membership and ADR community. The just-released *CPR Corporate Counsel Manual for Cross-Border Dispute Resolution* is merely one example of this process, and of what makes CPR so special.
- Two ADR organizations (CPR and Centre for Effective Dispute Resolution (CEDR)) partnering seamlessly to promote, recommend and accept filings under CPR’s Administered Arbitration Rules, as well as to collaborate on trainings.
- CPR partnering with the Financial Industry Regulatory Authority (FINRA) and the Leadership Council on Legal Diversity (LCLD) to do more than talk about diversity, but actually move the needle.
- Opposing parties taking full advantage of ADR’s benefits by dealing more efficiently and effectively with each other, as well as dealing in an optimal manner with their neutral.
- More experienced lawyers and neutrals mentoring younger generations, imparting valuable experience and advice.

- And finally, as demonstrated so powerfully by our inaugural Inspiring Innovation Award winner Scott Partridge and Monsanto Co. last year, the example of law departments partnering effectively with their business units and outside law firms – then going one step further by driving “partnership” with industry competitors to replace knee-jerk litigation with an ongoing dialogue that minimizes disputes, furthers technological and scientific invention, and strengthens the economy.

Throughout this document, you will hear from some of these people, including top neutrals such as Ken Feinberg and Layn Phillips, as they describe key factors behind such successful professional ADR pairings. It is examples such as these, so generously shared, which lay the individual stepping stones that form the pathways that will ultimately move us forward. I encourage you all to follow these suggested routes and – as you go on to forge your own paths – to “pay it forward” by leaving similar markers for those who might seek to follow you.



**Noah Hanft**  
President & CEO

**“ I encourage you all to follow these suggested routes and – as you go on to forge your own paths – to ‘pay it forward’ by leaving similar markers for those who might seek to follow you.”**

**Noah Hanft**

## A Letter from The CPR Board



**John Kiernan**

Chair, CPR Board of Directors

**Carlos M. Hernandez**

Vice-Chair, CPR Board of Directors

2016 was a year of meaningful progress for CPR, beginning with important investment into the organization's foundation and future. CPR undertook an office move, resulting in significant savings in an especially tough commercial real estate climate. The organization also launched a new website, with the goal of offering a more modern and user-friendly experience for our members and the public. If you have not already explored the new site, we encourage you to do so – both to remind yourself of valuable CPR resources you may have forgotten about and to avail yourself of some exciting new ones, such as CPR's new interactive model clause selection tool and the more extensive feature, "The Complete Clause."

While not quite matching last year's near-meteoric pace, CPR membership continues to grow steadily. And as the direct result of CPR's continuous efforts to improve its offerings, CPR's Dispute Resolution Services had a strong 2016 showing as well, receiving a prestigious award for innovation (for its Screened Selection Process), and seeing both a 36% increase in revenues (for FY16) and notable results from its continuing commitment to increase diversity in ADR. This year also featured CPR's inaugural Inspiring Innovation Award dinner and a highly successful Corporate Leadership Award dinner. Both drew unprecedented support for both CPR's honorees and its mission to help global businesses and their counsel prevent and resolve commercial disputes more effectively – directly, by enhancing their capabilities, and indirectly, by improving ADR capacity worldwide.

Key to the success of CPR's mission is a strong international focus. This year, we expanded ongoing international initiatives in Europe and Brazil, and entered new markets such as Canada. Among many

other accomplishments that will be detailed in these pages, this year CPR released several translations of the *EAB Mediation and ADR Guide* for in-house counsel and businesses, and entered into an exciting partnership with the Centre for Effective Dispute Resolution (CEDR) to promote and accept filings under CPR's Administered Arbitration Rules and collaborate on trainings.

The work of CPR's Council and committees in 2016 has also been extraordinary, with the Council already beginning to realize and share its potential, and the committees releasing and close-to-releasing a number of new and sophisticated ADR resources.

We are delighted to announce that six new members joined our Board this year, to participate in guiding CPR's important mission and work: **Loren H. Brown** Partner Global Co-Chair, Litigation Practice Co-Chair, US Litigation Practice, DLA Piper; **Gregory Gallopoulos**, Senior Vice President, General Counsel and Corporate Secretary, General Dynamics Corp.; **Richard Hill**, General Counsel, Global Litigation at Shell International Limited; **Joseph E. Neuhaus**, Partner, Sullivan & Cromwell; **Robert Particelli**, Vice President and Deputy General Counsel, Litigation, Hewlett Packard Enterprise Co.; **Layn R. Phillips**, founder of Phillips ADR Enterprises (PADRE); **Ank Santens**, Partner, White & Case; **Jeffrey S. Sherman**, Executive Vice President and General Counsel, Becton, Dickinson & Co.; and **Richard Ziegler**, Senior Litigation Partner, Jenner & Block.

We are honored to lead the CPR Board as this organization continues – thoughtfully, strategically and collaboratively, in what we also view as a productive kind of "partnership" – to pursue improvements in the ways the world resolves conflict.

# CPR MEMBERSHIP

The International Institute for Conflict Prevention & Resolution is an independent nonprofit organization that, for nearly 40 years, has helped global businesses prevent and resolve commercial disputes effectively and efficiently. Our membership consists of top corporations and law firms, academic and government institutions, and leading mediators and arbitrators around the world. CPR is unique as (1) a thought leader, driving a global dispute resolution culture; (2) a developer of cutting-edge tools and resources, powered by the collective innovation of its membership; and (3) an ADR provider offering innovative, practical arbitration rules, mediation and other dispute resolution procedures, and neutrals worldwide.

CPR's all-in-one approach provides a cost-effective method by which companies of all sizes and across a spectrum of ADR needs can obtain up-to-date resources and tools necessary to excel in dispute prevention, mitigation and resolution. Last but certainly not least, CPR offers its members access to a vibrant corporate ADR community that will directly assist and enhance their businesses.

For more information or to join CPR, contact [nborofsky@cpradr.org](mailto:nborofsky@cpradr.org)

Click on red type to read more

## Do Better, While Doing Good

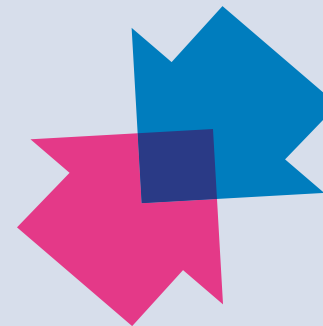


Whether you are a corporation, law firm, neutral, or an academic or government entity, CPR membership offers you the opportunity to address your business conflicts more effectively by taking full advantage of our cutting-edge dispute prevention and resolution resources and services. Our all-in-one approach provides the most innovative and affordable methods that allow you to anticipate and address your dispute prevention, mitigation and resolution needs. Membership is the only way that you can have 24/7 web access to CPR's proprietary Panels of Distinguished Neutrals, which comprise the most highly qualified mediators and arbitrators around the world, with real experience in the subtleties of more than 20 different practice areas and industries.

CPR membership also provides you with the opportunity to support the critical mission of driving a thoughtful dispute resolution culture worldwide. This is a responsibility that we, as a nonprofit think tank, take very seriously. Your contributions, financial and intellectual, are what enable us to accomplish this important goal, and create a global landscape where business and innovation can flourish.

## A Whole Greater Than the Sum of its Parts

CPR members are in extremely good company, among other leading companies and law firms, as well as government officials, retired judges, highly experienced neutrals and leading academics. For almost four decades, CPR has been the only organization where all of these stakeholders come together and collaborate (on CPR's numerous committees and otherwise) – producing a greater understanding of commercial parties' needs and spearheading true innovation with approaches to dispute prevention and resolution that are specifically tailored to those needs.



This pragmatic collaboration and thought leadership, in turn, continuously enhances CPR's Dispute Resolution Services, and informs its Rules, Model Clauses and Protocols, making sure that they always represent the forefront in ADR approaches.

## MEMBER BENEFITS

- Access (with Corporate or Firm membership) to CPR's full [panel of Distinguished Neutrals](#)
- Free workshops in negotiating skills and dispute prevention management and resolution strategies led by noted mediators
- Hands-on Early Dispute Resolution Workshop (for corporate members)
- The latest in dispute resolution techniques, tools, best practices and resources
- Evaluation of member companies' existing dispute prevention and resolution programs
- Discounts for CPR dispute resolution services (for both member and counterparty), including:
  - CPR's [Flat Fee Mediation Program](#) (Member rate: \$2,500, Non-member rate: \$3,500)
  - 15% [membership discount on fees](#) for arbitrations and mediations conducted by select CPR distinguished neutrals
- Member-only CPR Advisory Council (included with corporate membership) and committees to drive and formulate best practices
- Customized arbitration training by CPR and the College of Commercial Arbitrators
- Access to CPR's innovative model clauses, rules, protocols and guidelines
- 11 issues of, and unlimited electronic (and new web app) access to, CPR's award-winning newsletter *Alternatives*
- Research and drafting guidance by CPR staff
- Opportunities for speaking engagements, and to write articles in *Alternatives* and on CPR's blog, *CPR Speaks*
- Discounts for CPR meetings; conferences and publications; select CLE training courses; and hearing and conference space at CPR partners' locations

# Dispute Resolution Services

In 2016 DRS continued its focus on driving greater usage of our panels and services.

EFFICIENT

INEXPENSIVE

INNOVATIVE

For more information about Rules or CPR's Dispute Resolution Services, call 212-949-6490 or email [CPRNeutrals@cpradr.org](mailto:CPRNeutrals@cpradr.org)

In 2016 DRS continued its focus on driving greater usage of our panels and services. And, speaking of services, well beyond arbitration and mediation, as CPR's new website more accurately reflects we offer a *wide range of services*, also including special arbitrator/interim measures, fund holding, deal facilitation, early neutral evaluation, mini trials and dispute resolution boards.

More and more corporations are utilizing our new Administered Arbitration Rules. And why? Because:

- We are efficient, inexpensive and innovative
- We are a developer of cutting-edge tools and resources, uniquely powered by the collective innovation, creativity, expertise and commitment of our corporate, law firm, neutral and academic members
- Each of these unique elements enriches and informs the others, allowing CPR to provide the most innovative and yet practical dispute resolution rules, protocols and best practices – as well as the most skilled and experienced neutrals – worldwide

Earlier this year, CPR was awarded the prestigious GAR 2016 Innovation Award in recognition of the inclusion of CPR's Screened Selection Process in CPR's international arbitration rules. The process has been praised by both client-users and neutrals alike.



Accepting the GAR award on behalf of CPR:  
Lawrence S. Schaner, Jenner & Block and C. Mark Baker, Norton Rose Fulbright US

CPR has added 51 new members to its Panel of Distinguished Neutrals since September 2015 – 12% of these are former judges. Our neutrals hail from 24 countries (up from 21 last year).

In addition, CPR saw an 81% increase in the selection of women and diverse neutrals in FY16, with woman and minorities accounting for 26% of selections. In CY16, 19% of the arbitrators appointed in CPR cases were women.

“ CPR both understands that litigation-type disputes are problems that need to be solved and provides a range of tools to solve them. But what makes them unique is that they also provide thinking to come up with new ideas as to how to make arbitration or mediation work better so that we get disputes resolved in a more efficient way.



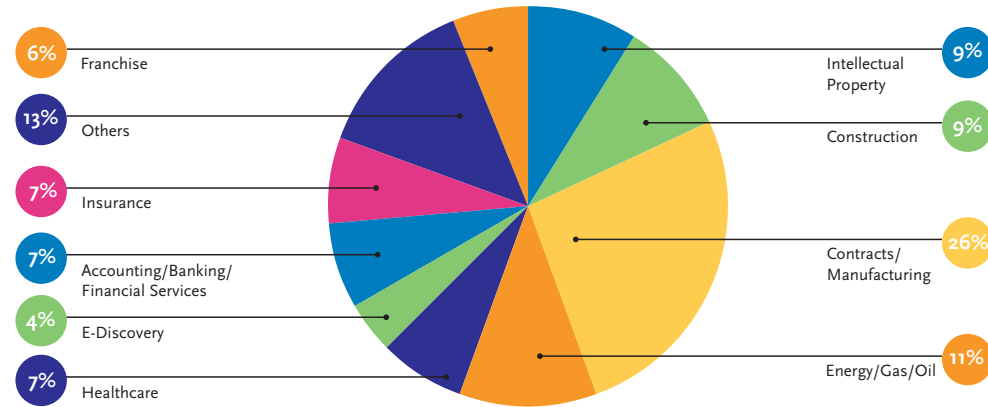
The Screened Selection Process, for which CPR has been honored with a major award for innovation, is a prime example of this thought leadership. It means that when you're selected as an arbitrator, you don't know who selected you. And that has been, for me as an arbitrator, very beneficial. It means that I can approach the arbitration – whether it's questioning witnesses or questioning lawyers – without any sense of loyalty to any side. And, while I would be neutral in any event, when you know who picked you it subtly can influence you or make you reluctant to throw yourself into active participation in the arbitration, so I think it's been a great system.

When you know who picked you, and there are witnesses who are testifying, if it's the witness for the side who picked you, you're worried if you ask questions in a particular way, will that be perceived as bias? If it's the other side's witness, you're worried if you're too aggressive, will it *also* be perceived that you're biased? Again, even if you're neutral, some of those things go through your mind. But here, you don't know who picked you so you can be very open, ask all the questions you want, and I think it produces a better process. It frees you up intellectually, both in terms of the process and the decision.”

**Richard J. Davis**  
Attorney at Law, Richard J. Davis  
Former Partner, Litigation Department,  
Weil, Gotshal & Manges LLP

## CPR Dispute Resolution Services (DRS)

Cases by Subject Matter 07/01/15 to 6/30/2016



## CPR's DRS BENEFITS

For both members and non-members, CPR's DRS improve parties' ability to resolve disputes more effectively and economically, with:

- Access to CPR's innovative model clauses, rules, protocols and guidelines
- Administered or non-administered arbitration
- Assisted arbitration services
- Mediation for cases both large and small
- [CPR's new Flat Fee Mediation Program](#)
- [15% member discount from participating neutrals](#)

## Partnering to Enhance Diversity in Dispute Resolution

For those of us that see the critical importance of forward-looking thinking in dispute resolution, the current lack of diversity is particularly unacceptable at a time when the growing diversity of our society, combined with the dismantling of legal barriers, has led to women and minorities filling positions and offices that would once have been virtually unimaginable in many other fields.

CPR has long been at the forefront of efforts to improve diversity in dispute resolution. A decade ago, we convened the **National Task Force on Diversity in ADR**, with Carla Herron, then Group Counsel – Litigation of The Shell Group; Charles R. Morgan, then Executive Vice President and General Counsel of On Site EDiscovery; and Thomas L. Sager, then Vice President and Assistant General Counsel of E.I. du Pont de Nemours & Co. serving as founding co-chairs. That Task Force focused

### THE INHERENT VALUE OF DIVERSITY

“ I am pleased to be a part of CPR’s collaboration with FINRA and the LCLD. This effort to enhance opportunities for minorities and women in the ADR field is especially welcome as companies increasingly recognize the inherent value of diversity in addressing complicated business disputes. It’s an honor to serve as a mentor, and an even greater honor to participate in the continued growth of the ADR profession.”



**Hon. Timothy K. Lewis**  
Counsel, Schnader Harrison Segal & Lewis

on driving adoption throughout the profession of business-driven initiatives to increase all forms of diversity. With support of members including general counsel and other senior legal representatives of ExxonMobil Corp., FedEx Corp., Coca-Cola Co., BellSouth Corp., The International Monetary Fund, RARE Hospitality International Inc., Cardinal Health, Inc., Fireman’s Fund Insurance Co., Marriott International, Inc., Pitney Bowes Inc., UPS, Citigroup Inc., Duke Energy Corp., ITT Corp. and Schering-Plough Corp., through the Diversity Survey, the Task Force did much to improve awareness of issues and to encourage conscious choices to include diversity as a factor in neutral selection.

But however noble the intent, more needed to be done to enable diverse candidates interested in dispute resolution to enter the pipeline and to do so successfully. We knew we would need to directly address issues that impact the likelihood of success, such as the tendency of legal professionals to enter the dispute resolution profession relatively late in their professional careers.

To do so, CPR reached out to two organizations with a shared commitment to diversity and a willingness to partner to drive meaningful change: **LCLD** and **FINRA**. Each organization brought unique capabilities to bear. LCLD has an existing – and highly successful – Fellows Program, which identifies high-potential attorneys from diverse backgrounds and sets them on the path to leadership of their organizations. FINRA provides arbitration training and an early opportunity for new neutrals to be included on a roster with paid work opportunities, a necessary foundation for wider qualification. In combination with CPR’s training, mentoring and networking, we have created a program



that enables alumnae of the LCLD Fellows Program interested in developing expertise as neutrals to gain early and unique access to professional development opportunities.

At its 2016 Annual Meeting in New Orleans, CPR launched the pilot of a

two-year program that provides exceptional substantive formal training in mediation and arbitration skills, including CLE-certified education on important issues in domestic and international dispute resolution; mentoring by skilled CPR neutrals; and networking opportunities within CPR’s commercial dispute resolution community. Altogether, the program is structured to enable participants to become not just qualified as neutrals, but neutrals of *choice*. Based on feedback from program participants, Year One has been a resounding success, and we look forward to welcoming our second class at our 2017 Annual Meeting at The Biltmore Hotel in Coral Gables-Miami, FL.

### SHARING WISDOM AND EXPERIENCE

“ This mentorship program was yet another way my participation in LCLD has enhanced and enriched my legal knowledge. My mentors passed on tangible skills and techniques to help me become a more effective mediator, and it was an honor to gain a bit of their wisdom and learn from their experience.”



**Joseph M. Hanna**  
Partner, Goldberg Segalla



# Driving a Global Dispute Prevention & Resolution Culture

In 2016, CPR continued its advocacy and educational initiatives designed to increase understanding and implementation of thoughtful dispute resolution processes and programs globally.

EUROPE

CANADA

BRAZIL

## Europe

In October 2016, CPR and the largest conflict management and resolution consultancy in the world, the **Centre for Effective Dispute Resolution (CEDR)**, announced they would be joining forces to provide users of CPR's International Administered Arbitration Rules with an important local, real-time dispute resolution resource in one of the most important business hubs in the world. The two organizations are also collaborating on joint trainings, and CPR members can participate in CEDR's highly regarded open course trainings in Europe at a significant discount.

CPR also translated its recently released *European Mediation & ADR Guide*, spearheaded by CPR's dedicated European Advisory Board (EAB), into Spanish, Russian, Polish and Italian (with more translations to come) and organized several well-attended events in Amsterdam, Paris, Geneva, London and Milan (including a March EAB mini-conference on "Resolving Disputes with Public Bodies and Government Institutions" held at NautaDutilh in Amsterdam).

## Canada

CPR held its inaugural CPR Canada Regional Meeting in June 2016 in Toronto, at McMillan. The meeting presented a unique opportunity to explore effective paths to efficient dispute prevention and resolution by enhancing the critical inside/outside counsel relationship, and to discuss hot issues affecting dispute resolution between Canada and the United States, the two largest trading partners in North America.



## Brazil

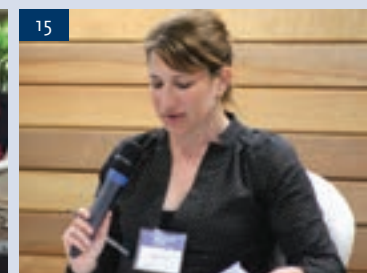
In 2016, CPR continued its commitment to growing ADR in Brazil, one of the most litigious countries in the world. A flurry of events in early May were capped off by the highly successful **Fourth CPR Business Mediation Congress**, “Harmonizing Global Approaches,” which took place in Rio de Janeiro in association with CBMA (Brazilian Center for Mediation and Arbitration) and FIRJAN, the Industry Federation of the State of Rio de Janeiro. More than 180 registrants attended the program, which featured a keynote address by Prof. Dwight Golann as well as panels on Brazil’s new mediation law, settlement opportunities in arbitration and innovations in ADR. CPR welcomed participants from the law firm and mediator communities as well as from companies as diverse as Ericsson, Light, Expedia Inc., Swiss Re Group, Wärtsilä and Gas Natural Fenosa. In conjunction with the Congress, CPR also organized a three-day mediator training from May 3-5, hosted by CPR Member law firm Barbosa, Müssnich e Aragão, training an additional seven neutrals for the Brazilian market.

*Our annual Brazil Congress/Training is now known as the preeminent Brazilian ADR event.*



## 2016 Brazil Congress

01. Audience
02. Olivier André (Int'l & Dispute Resolution Services, The CPR Institute)
03. Dwight Golann (Suffolk University Law School)
04. Claudia Grosman (Instituto D'Accord); Patricia Freitas Fuoco (PNST Advogados); Fernanda Levy (Conima); Monica Mendonça Costa (TozziniFreire); Beatriz Rosa (Mediator & Arbitrator); and Henrique Gomm (Gomm Advogados Associados)
05. Cesar Felipe Cury (Judge); Joaquim de Paiva Muniz (Trench Rossi e Watanabe); Tânia Almeida (Mediare); and Flavia Foz Mange (Mange & Gabbay)
06. José Luis Frigerio Paulo (Mediator & Arbitrator); Beatriz Rosa (Taroba Engenharia); Tânia Almeida (Mediare); Sonia Andreotti Carneiro Frúgoli; and Silvana Lauria Neubern
07. Nathalia Mazzonetto (Müller Mazzonetto Advogados); Victória Schulsinger (Pacheco, Neto, Sanden, Teisseire); Alessandra Bonilha (Fachada Bonilha); and Beatriz Mattos (Câmara de Mediação e Arbitragem do Agronegócio)
08. Gabriela Assmar (ICATU Seguros); Ilan Leibel Swartzman (Light Utilities); Carolina Azevedo (Ericsson); Ralf Lindbäck (Wärtsilä Corp.); and Ana C. Reyes (Williams & Connolly)
09. Prof. Rafael Bernal (IACAC); Joaquim de Paiva Muniz (Trench Rossi e Watanabe); Albert C. Hilber (Swiss Re); and Prof. Humberto Dalla Bernardina de Pinho (UER)
10. Gustavo Schmidt (CBMA)
11. Shelby Grubbs (Atlanta Center for International Arbitration & Mediation); Beatriz Rosa (Taroba Engenharia); and Olivier André (International & Dispute Resolution Services, The CPR Institute)
12. Discussion Group
13. Noah Hanft (The CPR Institute)
14. Katia Junqueira (Gás Natural Fenosa); Andre Chateaubriand Martins (Sergio Bermudes Advogados); Ana Paula de Almeida Santos (Assurant Solutions); Adolfo Braga (Mediator); and Andrea Maia (FindResolution, CBMA)
15. Hagit Elul (Hughes Hubbard & Reed)
16. Gabriela Assmar (ICATU Seguros); Ian Leibel Swartzman (Light Utilities); Carolina Azevedo (Ericsson); and Ralf Lindbäck (Wärtsilä Corp.)
17. Discussion Group
18. Gustavo Schmidt (CBMA); [Three unidentified]; Paul Eric Mason (CPR Distinguished Neutral, second from right); and Corina Gugler (Debevoise & Plimpton)
19. Evelyn R. A. Barreto de Souza (Núcleo Paulista de Mediação e Arbitragem); Vilma Toshie Kutomi (Mattos Filho); Cibelle Linero; Mariana Freitas de Souza (Veirano Advogados, CBMA); and Gustavo Dias (Expedia Inc.)



# Committees and Task Forces: Partners in Innovation

One of CPR's greatest strengths is the work produced by its industry committees, councils and task forces that are organized around practice areas.

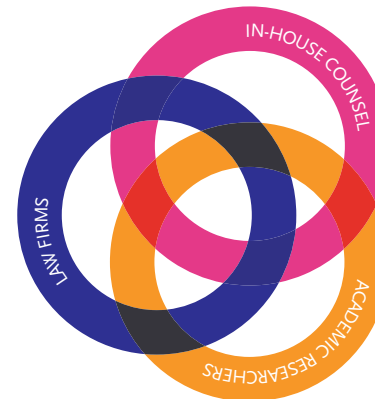
CPR COUNCIL

COMMITTEES

TASK FORCES

## The CPR Council

For decades, CPR has enabled in-house counsel, law firms and leading academic researchers to join together and spearhead innovation in commercial conflict management. This partnership in development of best-in-class approaches to dispute resolution is the hallmark of CPR membership and enables a level of creativity and effectiveness that would otherwise be impossible.



To advance this collaborative work, in 2014 CPR created the CPR Council.\* Every CPR corporate member has a seat on the Council, as do several leading law firms, neutrals and academics. Within the Council, members identify emerging issues and share approaches to taking commercial dispute resolution to the next level. Discussions have been facilitated by surveying members to identify areas of greatest need.

Over the three years since its inception, issues of particular focus have included the next generation of approaches to early dispute resolution and prevention, including cutting-edge approaches taken by leading companies in the pharmaceutical and agricultural biotechnology sectors.

Out of these discussions, the Council has created a relationship-based Dispute Resolution Subcommittee that will develop tools so that companies in other sectors can adapt these approaches to their needs.

Council work is not limited to collaboration among Council members. It extends to partnering with CPR Committees to advance work on specific projects. Currently, a Council subcommittee is partnering with the Mediation Committee in its work on the *Domestic Mediation Handbook*, an in-house counsel handbook on domestic mediation. Through this collaboration, the Council enables the Mediation Committee to identify a broader range of in-house perspectives for inclusion in the *The Handbook*. These examples – and many more – exemplify the power of partnership among CPR members as a driving force in enhancing global dispute resolution capacity and capability.

\*A complete list of CPR Council Members appears at the back of this book.

## Committees and Task Forces

- |  |   |
|--|---|
|  CPR Council                              |  Environmental Committee   |
|  Arbitration Committee                    |  Healthcare and Life Sciences Committee                                |
|  Banking and Financial Services Committee |  Intellectual Property Disputes Committee                              |
|  Brazil Advisory Board                    |  Liability Insurance Committee   |
|  Construction Advisory Committee          |  Mediation Committee   |
|  European Advisory Board                |  National Task Force on Diversity in ADR                             |
|  Employment Disputes Committee          |  <b>NEW</b> Transactional Dispute Prevention and Solutions Committee |
|  Energy, Oil & Gas Committee            |  Y-ADR Steering Committee  |

## Committees

CPR's industry-specific committees analyze dispute resolution challenges, recommend global best practices and publish materials on issues at the forefront of legal debate. These committees' balanced interests provide a unique platform for analyzing the latest developments, both legal and practical, in all manner of dispute resolution. Committees meet regularly to draft rules and propose industry protocols used around the world.

CPR's newest committee, the **Transactional Prevention and Solutions Committee**, held its inaugural meeting in April. Attracting 29 participants (including 17 in-house counsel), the informative discussion led us to form two working groups. The first is focusing on advancing the fundamentals of dispute prevention and resolution, including clause construction, step provisions and finding a clear and cogent way to provide the basics to in-house transactional lawyers and their business clients. The second will address dispute prevention and utilizing ADR skills to avoid or anticipate disputes, for example the use of standing neutrals in different commercial contexts such as joint ventures. The work of this group could potentially give rise to a suite of dispute prevention tools.

CPR's Committees were very active in 2016. The **Healthcare and Life Sciences Committee** presented a webinar on "Fast Track and Baseball Arbitration for Commercial Disputes." In June, the **Banking Committee** hosted Daniel Pollack, the mediator who settled the intractable dispute between Argentina and its creditors. July saw the **Employment Committee** present a webinar on "What Do Employers Need to Know, Post-Lewis v. Epic Systems," while the **Arbitration Committee** took a break from work on its just-released

## CPR's newest committee, the Transactional Prevention and Solutions Committee, held its inaugural meeting in April.

CPR Corporate Counsel Manual for Cross-Border Dispute Resolution to present "The Impact of Brexit on Cross-Border Arbitration and Litigation Involving the UK." Finally, in 2016 the **Insurance Committee** embarked on formulating a groundbreaking rule set for D&O disputes.

### CPR'S BENEFICIAL 'SWEAT EQUITY' STRUCTURE

“It's fine to contribute and make a donation and feel good and not feel like one is being a 'free rider' on CPR's ADR accomplishments. But it's even better to take advantage of CPR's structure, which is basically one of sweat equity. CPR has accomplished much more than its small staff would suggest, because its members contribute to the work of the organization. There are committees, there's the CPR Council, there are numerous opportunities to participate – and that is one of the things that makes CPR different than a typical ADR organization.”



**Richard Ziegler**  
Partner, Jenner & Block

# Meetings and Events – Dispute Resolution’s Most Engaged and Collaborative Community

Nothing better demonstrates the power of the CPR approach to dispute resolution than the extraordinary in-person exchanges that take place at CPR’s events. At its annual meetings, specialized trainings with leading neutrals and Y-ADR events, CPR convenes skilled and experienced counsel from leading companies and law firms, neutrals, academics and judges to address changes and challenges in dispute resolution, and exchange perspectives and best practices. Presentations and discussions are always interesting, often challenging and highly interactive.

LEADERSHIP DINNER

ANNUAL MEETING

AWARDS

## CPR’s Annual Meeting



CPR hosted its 2016 **Annual Meeting, “The Dispute Resolution Divide: Harmonizing Global Approaches”** in February 2016 at The Roosevelt Hotel in New Orleans, LA. The event was attended by 200 practitioners and thought leaders, including an elite group of corporate executives, top law firm counsel, leading neutrals, and esteemed judges and academics.



**Day 1: The opening keynote address was provided by Howard Dean**, former governor of Vermont,

presidential candidate, Chair of the Democratic National Committee and noted political commentator.

The panels program on Day One began with “Are We Killing Mediation?” a panel continuing the robust debate at AM15 on changes in mediation practice and their impact on mediation effectiveness. The next panel, “Why I ‘Hate’ Arbitration,” was a lively discussion

of reasons counsel avoid and/or delay dispute resolution. Following our morning dissecting issues and challenges in dispute resolution, the afternoon of Day One began with “Creative Approaches to Aligning Interests in Dispute Resolution,” a panel focused on the innovative approaches our neighbors in Brazil and Canada are using to enhance dispute resolution processes and outcomes. The panels on Day One concluded with “Redefining Winning – CPR Hot Topics,” addressing emerging issues and solutions in dispute resolution around the world.

On the evening of Day One, **CPR was pleased to honor Monsanto Co. and Scott Partridge, the company's Vice President of Global Strategy, with the inaugural Inspiring Innovation Award** in recognition of Monsanto's development and implementation of a unique, business-led dispute management process creating a powerful, proactive industry-wide dispute identification and resolution program. Learn more about this process, in Scott's own words, on page 26.



**Day 2: The program on Day Two began with a keynote address by Kenneth Feinberg**, noted mediator, Special Master for victim compensation funds, including the September 11th Victim Compensation Fund and One Fund Boston, and author of *What is Life Worth?* and *Who Gets What?* We continued with breakout sessions including an IP panel addressing Patent ADR around the world, a Healthcare panel addressing dispute resolution in the context of the industry consolidation and realignment that have followed in the wake of the Affordable Care Act, and an in-house panel addressing practical and strategic issues involved in



arbitrator selection. Next, attendees enjoyed "The Rising Global Debate Regarding Arbitration Ethics," a spirited discussion of the nature and source of concerns and a range of proposals that have been made to "solve" the problems. Day Two concluded with two CPR perennial favorites. First, CPR's Business Roundtable, during which leading General Counsel from around the world addressed strategic issues they face as they implement a thoughtful approach to dispute resolution. Second, we once again convened a dynamic and interactive ethics panel addressing key issues faced day-to-day in dispute resolution.

## PARTNERSHIP IN COMPROMISE

“Mediation is about compromise, not capitulation. In order to compromise effectively, you must have a partner in compromise. Sometimes it is an in-house lawyer, sometimes it is an insurer, a broker, outside counsel or settlement empowered business executives. But every mediator worth their salt can separate the Secretaries of State in the room from the Secretaries of War, and lay the groundwork for the parties' commitment toward resolution through collaborative relationships.

Focusing on the famous Compromise of 1790, the American bargain that produced our nation's financial system and moved our country's capital to Washington D.C., the Broadway hit "Hamilton" aptly describes those mediation dynamics in the lyrics of "In the Room Where It Happens":

*"No one really knows how the parties  
get to yes,  
The pieces that are sacrificed in every  
game of chess.*

---

*No one really knows how the game is played,  
The art of the trade,  
How the sausage gets made.  
We just assume that it happens.  
But no one else is in the room  
where it happens,  
The room where it happens."*

- Hamilton, the Musical

In mediations, the "room where it happens" is most often the separate caucus room. Perhaps it is getting the parties to focus on what brought them together as business allies in the first place before litigation disrupted those relationships. Perhaps it is identifying the basis for a personal or business relationship on a going forward basis in order to get past the current litigation obstacles. More often than not, it is about identifying those personalities you can effectively partner with to achieve resolution. In the crucible of mediation, it always comes down to the forging of some form of a partnership in compromise in order to succeed. Hope to see you soon in the room where it happens."



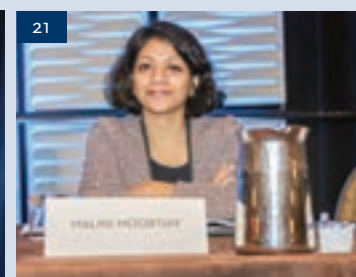
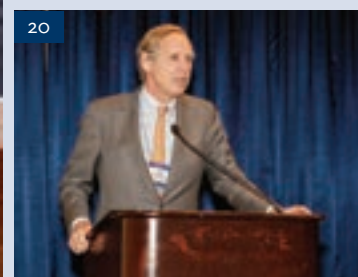
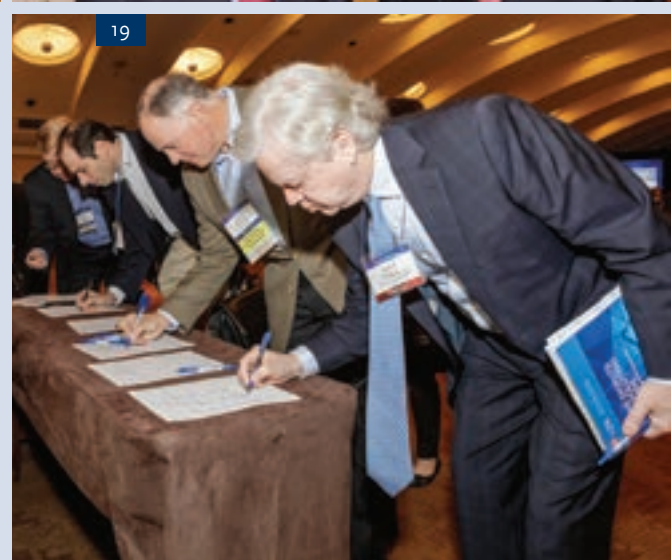
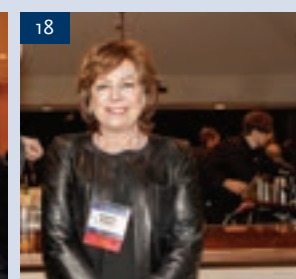
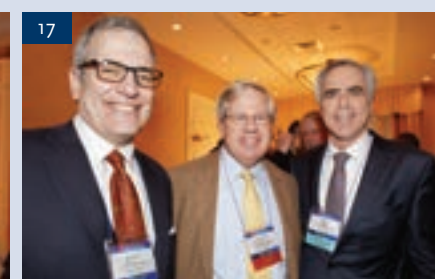
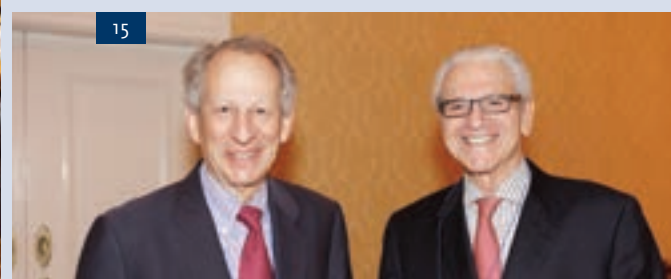
**Layn R. Phillips**  
Former U.S. District Judge  
Phillips ADR Enterprises (PADRE)

## 2016 Annual Meeting

01. Scott Partridge, Monsanto, Winner of CPR's inaugural Inspiring Innovation Award and Noah Hanft, CPR
02. Erin Gleason Alvarez, American International Group Inc.
03. Mara Weinstein, FINRA (left)
04. Noah Hanft, CPR
05. Tamara Jih Murray, Google
06. A packed house at The Roosevelt Hotel, New Orleans
07. Renato Grion, Pinheiro Neto Advogados; Kevin Hardy, Williams & Connolly; Hon. Faith Hochberg
08. Keynote speaker, Kenneth Feinberg, Law Offices of Kenneth Feinberg
09. Hon. Kathryn Oberly; Edna Sussman, SussmanADR; Natalie Reid, Debevoise & Plimpton
10. Sashe Dimitroff, Baker & Hostetler; Steven Spears, McDermott, Will & Emory; and Lee Kaplan, Smyser Kaplan & Veselka
11. Charles Toliver, Morris James
12. Michael Diamant, Taft, Stettinius & Hollister; Melinda Jayson, Melinda Jayson, P.C.; Henry Parr, Wyche, P.A.; and Stuart Widman, Widman Law Offices
13. The Roosevelt Hotel in New Orleans
14. Larry Marx, Integral and Ralf Lindbäck, Wärtsilä Corp.
15. Eric Green, Resolutions, LLC and Steven Comen, Goodwin
16. Noah Hanft; Kenneth J. Glasner, Q.C. Law Corp.; and Mark Friedman, Debevoise & Plimpton
17. Jeffrey Sherman, Becton Dickinson & Co.; Stephen Younger, Patterson Belknap Webb & Tyler; and Karl Stern, Quinn Emanuel Urquhart & Sullivan
18. Barbara Daniele, formerly of GE Capital Corp.
19. Signing in for CLE: Kenneth L. Jacobs, Kenneth L. Jacobs; Joshua Rothman, Fitzpatrick, Cella, Harper & Scinto; David McLean, Latham & Watkins; and Philip O'Neill, Boston College Law School
20. John Kiernan, Debevoise & Plimpton and Chair of CPR's Board of Directors
21. Malini Moorthy, Bayer Corp.
22. Keynote speaker, former Governor Howard Dean







## Awards for Outstanding Scholarship in ADR

At the 2016 Annual Meeting, CPR presented its 33rd Annual Awards for Outstanding Scholarship in ADR, recognizing stellar scholarship in this field. Award criteria focuses on processes, techniques, systems, commitment and scholarship, which address the resolution, prevention or creative management of major disputes.

### A PARTNERSHIP OF STAKEHOLDERS

“CPR is particularly valuable to a company like VISA for a variety of reasons. First, it brings together a lot of stakeholders, from outside counsel to inside counsel, academics and experts in the field to develop a complete set of tools and resources for those of us who are engaged in trying to



avoid conflict. If and when conflict does happen, CPR helps you deal with it in the best way possible.”

Kelly Tullier, VISA

## Outstanding Professional Articles

The Award for Outstanding Professional Article recognizes articles published by academics and other professionals that advance understanding in the field of ADR. This year, the award was granted to:

- **Nancy Rogers** (pictured), “When Conflicts Polarize Communities: Designing Localized Offices That Intervene Collaboratively,” 30 *Ohio State Journal on Dispute Resolution* 173 (2015)
- Honorable Mention: **Joel Lee**, “Culture and its Importance in Mediation,” from *Mediation in Singapore: A Practical Guide* (Sweet & Maxwell, Hong Kong, 2015) also to be published by Pepperdine D.R. *Journal Col. XVI*



Harry Trueheart, Nixon Peabody, presenting Nancy Rogers with her award for 2015 Outstanding Professional Article

## WIN/WIN PARTNERSHIP

“Both the 2010 BP Oil Spill in the Gulf of Mexico and the recent controversy surrounding alleged ignition switch failure in certain General Motors automobiles give rise to two striking examples of ‘partnership’ between in-house corporate counsel and an outside agreed-upon Claims Administrator. The partnership – critical to the success of these two programs – began with a corporate decision to design and implement a voluntary claims program as an alternative to conventional litigation.



Corporate counsel at BP and GM asked me to become the Claims Administrator, with full authority to review and determine eligibility and the amount of individual awards. Although the partnership included an agreement to draft a ‘Final Protocol,’ detailing the terms and conditions of the claims program, it was agreed that the corporation would not challenge or appeal the individual claims decisions rendered by the Administrator. If the individual claimant voluntarily accepted the Administrator’s proposed award, a final comprehensive release agreeing not to litigate would be executed by the claimant.

Both programs were a stunning success. Some 92% of eligible claimants who suffered economic damage as a result of the BP oil spill accepted the Administrator’s award; 95% of GM automobile owners similarly were satisfied with the offered compensation and signed a full release. The ‘partnership’ offered the two corporations and the claimants a win/win alternative to costly, time-consuming and uncertain litigation.”

**Kenneth R. Feinberg**

Founder, Managing Partner  
Feinberg Law Offices

## Joseph T. McLaughlin Original Student Article Award

The Joseph T. McLaughlin Student Article Award, endowed through the year 2021 in honor of Joseph T. McLaughlin – a former CPR Board member, long-time CPR supporter and prolific advocate for effective conflict resolution practices as a practitioner, academic, writer and speaker – recognizes an article or paper written by a student that was focused on events or issues in the field of ADR. This year's award was presented to:

- **Salvatore Bonaccorso**, “State Court Resistance to Federal Arbitration Law,” *67 Stanford Law Review* 1145 (2015)
- Honorable Mention: **Joseph Kammerman** (pictured), “One Hundred Years of Local Conflict and One National Tragedy,” submitted for the ADR Writing Seminar, Benjamin Cardozo School of Law (Spring 2015)



Joseph T. McLaughlin Honorable Mention Award Winner Joseph Kammerman, Cardozo School of Law

## James F. Henry Award



Thomas Stipanowich, winner of the James F. Henry Award, presented by former CPR Chairman Judge William Webster

This year's recipient, **Professor Thomas Stipanowich**, already a leading scholar, mediator and arbitrator, was tapped to lead CPR from 2002 to 2006, a period during which CPR launched its Master Guide series of books; published revised Arbitration Rules, Patent Rules, Fast Track Rules and Construction Rules; created the Corporate Leadership Award; and launched the CPR International Program, featuring meetings on both sides of the Atlantic. Now, Prof. Stipanowich is entering his tenth year as Academic Director of the Straus Institute for Dispute Resolution at Pepperdine University School of Law, occupying the William H. Webster Chair in Dispute Resolution. Under his leadership the Institute has thrived, recognized by *US News & World Report* as the leading ADR program in the US. His published work of well over 50 volumes is informed by his multiple perspectives as a private conflict resolution lawyer, neutral mediator and arbitrator, law professor, CEO of a leading ADR provider, not to mention architect, singer and illustrator. A leading scholar and innovator, he exemplifies the qualities honored by this Award.

Created in 2002, the Award recognizes outstanding achievement by individuals for their distinguished, sustained contributions to the field of ADR. Candidates for the James F. Henry Award are evaluated for leadership, innovation and sustaining commitment to the field. This



## INAUGURAL CANADA REGIONAL MEETING IN TORONTO

### Regional Meetings

This year, CPR continued its program of regional meetings offering timely panels, and an unmatched opportunity to network and exchange knowledge and experiences with counsel, neutrals and others at the forefront of advancing dispute resolution issues. Following a successful late 2015 regional meeting at the offices of Anheuser-Busch InBev in St. Louis, CPR hosted its inaugural **Canada Regional Meeting** in Toronto on June 21, 2016. At this one-day conference, attendees explored paths to optimize efficiency of dispute prevention and resolution by enhancing the inside/outside counsel relationship. Distinguished Panelists also discussed hot issues affecting dispute resolution between Canada and the United States, the two largest trading partners in North America.

Our lunch keynote speaker was Professor Andrea Bjorklund, McGill University Faculty of Law, L. Yves Fortier Chair in International Arbitration and International Commercial Law, and an expert in free trade agreements and their dispute resolution mechanisms. The topic of her speech was: “Will Proposed Investment Courts Change Arbitration as We Know It?”

## Trainings

Throughout the year, CPR offers a number of pre-scheduled trainings at the CPR Institute or in collaboration with other organizations. They are led by subject-matter experts, employ an interactive format, and provide practical understanding and application of ADR tactics. This year, CPR continued to develop and present custom training designed to address specific business needs to multiple corporate members.

This winter we hosted a highly successful **Basic Mediator Training** program by trainers Michael Lewis and Linda Singer, held January 7-8, 2016 at the New York offices of Norton Rose Fulbright. The program attracted practicing neutrals as well as in-house and law firm counsel seeking to transition from legal practice to providing ADR services.



Our three-day **Advanced Mediator Training** in Brazil, held in May 2016 in conjunction with our Fourth Annual Brazil Congress, was conducted by trainers Robert Randolph and Frank Carr, who have trained on four continents and work often under the auspices of the US Agency for International Development. This training was hosted by CPR Member law firm Barbosa, Müssnich e Aragão, and we were able to train an additional seven neutrals for the Brazilian market this year.

Finally, through our recently announced partnership with

**Centre for Effective Dispute Resolution (CEDR)**, CPR members can now receive a discount for CEDR's Mediator Skills, and Employment & Workplace Mediator Skills trainings, in London or Dublin (please check our website for dates). CPR and CEDR also held their first joint Advanced Mediation Skills Training (leading to CEDR's international accreditation) in January 2017 at Hogan Lovells in New York.

## CPR's Young Attorneys in Dispute Resolution – (Y-ADR)

### **CPR's Young Attorneys in Dispute Resolution (Y-ADR)**

program promotes the full spectrum of dispute resolution mechanisms with the younger generation of lawyers – i.e., those who are 45 years old or younger or with less than eight years of professional experience in international ADR practice. Through periodic seminars and other initiatives, Y-ADR participants gain an insider's look at the role of dispute resolution processes and practices in corporations and multinational organizations. More importantly, they have an opportunity to network with in-house counsel and experts in the field.

### **The Y-ADR Steering Committee is the leadership group for Y-ADR.**

The Committee is chaired by Dana MacGrath of Sidley Austin and co-chaired by Alberto Ravell of ConocoPhillips, and is composed of young in-house counsel and practitioners at leading law firms around the world. CPR's Y-ADR Steering Committee members are selected through a competitive vetting process and serve for a two-year term. This year, the Steering Committee hosted two mock procedural hearings (one in New York and one in Washington, DC) under CPR's Rules for Administered Arbitration of International Disputes, and a mock arbitrator challenge at the New York Int'l Arbitration Center, three of our most well-attended events to date. "Lessons Learned in the Design of Dispute Management Systems," which took place on May 5, 2016 in Rio de Janeiro at Trench, Rossi e Watanabe, was another popular 2016 Y-ADR event.

In 2016, CPR also launched the inaugural **CPR Y-ADR Annual Award for Efficient and Effective Collaboration**

## PARTNERS IN ALL STAGES OF THE PROCESS

“We make clear to any counsel we retain, or seek to retain, the level of involvement our in-house team is going to have in every step of the process, from the drafting of pleadings, to the preparation for mediation or court/arbitration proceeding. We are involved in all stages of the arbitration, mediation or litigation process. I even sit in on depositions because I need to be as knowledgeable as our outside counsel with regard to the facts in order to properly advise the company on the strengths and weaknesses of our matters. We truly consider the in-house and outside counsel a team that is advising our client, Amgen.”

### **Mary Beth Cantrell**

Senior Assoc. General Counsel at Amgen Inc.



**Between Corporate Counsel and Outside Counsel**, generously sponsored by Assurant Inc., GlaxoSmithKline plc and White & Case. The winner of this award was Jared Hubbard of Hubb Legal, AC in Newburyport, MA, for his article, “Charting a Course for Success: The Importance of An Initial Case Plan.”



Y-ADR members and CPR panelists in action, at the Mock Procedural Hearing under CPR Rules for Administered Arbitration of International Disputes held in NY on Feb 11, 2016. From left to right: Debra Verstandig, Reed Smith; Hagit L. Elul, Hughes Hubbard & Reed; Jennifer Kirby, KIRBY; Dana MacGrath, Sidley Austin; Olivier P. André, CPR; Eric A. Schwartz, King & Spalding; Laura J. Stipanowich; Vanessa Alarcón Duvanel, White & Case; and Noah Hanft, CPR.



Y-ADR in Rio. From left to right: Ricardo Lagrega Siqueira, MercadoLivre.com; Flávio Franco, Netshoes; Shirley Meschke, Laboratórios Pfizer Ltda; Luis Alberto Salton Peretti, Trench, Rossi e Watanabe; and Juliano Pescuma Rodrigues, HP Inc.

## 2016 CORPORATE LEADERSHIP AWARD DINNER

Each year, CPR honors a corporation that has demonstrated leadership in the field of conflict management and has institutionalized ADR into their legal structure and corporate culture. The Award is presented at a black tie event that draws approximately 500 attendees representing the general counsel from Fortune 200 corporations, partners from leading law firms, and industry experts and scholars who come together to demonstrate the importance of ADR. Since inception, the event has raised more than \$8 million for CPR’s public policy research and programs as well as our initiatives internationally. Past honorees have included 3M Co., United Technologies, Johnson & Johnson, General Electric, Ernst & Young, ConocoPhillips, Microsoft, DuPont, Pfizer, Amgen, FMC Technologies, GlaxoSmithKline, Royal Dutch Shell and Hewlett-Packard.

At the 2016 Corporate Leadership Award Dinner in New York, CPR and distinguished guests comprising general counsel from Fortune 200 corporations, partners from leading law firms, industry experts and scholars honored **General Motors** and **Craig B. Glidden**, General Counsel and EVP Law & Public Policy.

## 2016 CORPORATE LEADERSHIP AWARD DINNER COMMITTEE

### *Chair*

**Charles R. Morgan**  
President & CEO  
The Morgan Group

**Christopher Austin**  
Partner  
Cleary Gottlieb Steen & Hamilton

**Mary Beth Cantrell**  
Senior Associate General Counsel  
Amgen Inc.

**Ann Cathcart Chaplin**  
Deputy General Counsel - Litigation  
General Motors LLC

**Paul G. Cereghini**  
Firm Chairman  
Bowman and Brooke

**Michael P. Cooney**  
Member  
Dykema Gossett

**M. Carter Crow**  
Partner-In-Charge, Houston  
Norton Rose Fulbright

**Kyle Dreyer**  
Partner  
Hartline Dacus Barger Dreyer

**David Foltyn**  
Chairman of the Board & Chief  
Executive Officer  
Honigman Miller Schwartz & Cohn

**Richard C. Godfrey, P.C.**  
Partner  
Kirkland & Ellis

**Sidney “Skip” N. Herman**  
Managing Partner  
Bartlit Beck Herman Palenchar & Scott

**Carlos M. Hernandez**  
Chief Legal Officer and Secretary  
Fluor Corp.

**Jeffrey A. Kaplan**  
Executive Vice President and Chief  
Legal Officer  
LyondellBasell Industries

**Martin Lipton**  
Founding Partner  
Wachtell, Lipton, Rosen & Katz

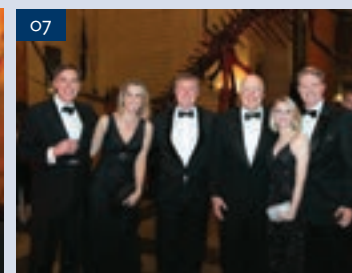
**Thomas M. Melsheimer**  
Principal  
Fish & Richardson

**Steve Rosenblum**  
Partner  
Wachtell, Lipton, Rosen & Katz

**Anton R. Valukas**  
Chairman of the Firm  
Jenner & Block

## 2016 Corporate Leadership Award Dinner

01. The General Dynamics Corp. Team
02. Regina Lee, AlixPartners; Laura Kaplan, LyondellBasell; Craig B. Glidden, GM; Jennifer Smith, Hogan Lovells; Mindy Davidson, Pillsbury
03. Neil M. Kliebenstein, Bowman and Brooke; Whitney Cruz, Bowman and Brooke; Dommond E. Lonnie, Dykema Gossett; Tamara Bush, Dykema Gossett
04. Lucy Clark Dougherty, GM; Mark Riashi, GM; Bryanna Green, GM; Michael Gruskin, GM; Michael Daar, GM; Carlos Herrera, GM; Glenn Jackson, GM; Jill Sutton, GM; Joe Lines, GM; Jeffrey A. Taylor, GM; Jeffrey A. Koppy, GM; Suzanne Miklos, GM; Craig B. Glidden, GM
05. Philmore H. Colburn II, Cantor Colburn; Carlos Herrera, GM; Justin Spurlock, Cantor Colburn; Usha Parker, Cantor Colburn; Eric Baron, Cantor Colburn; Tanmay Dharmadhikari, Cantor Colburn; Dave S. Christensen, Cantor Colburn; Karl Barr, Cantor Colburn
06. John K. Johnson, Freshfields Bruckhaus Deringer; Ali Kirby-Harris, Freshfields Bruckhaus Deringer; John T. Johnson, Fish & Richardson
07. William Gould, Holland & Knight; Lara Covington, Holland & Knight; Stuart Nash, Holland & Knight; Christopher Kelly, Holland & Knight; Merri Moken, Holland & Knight; John Brownlee, Holland & Knight
08. Jeffrey A. Kaplan, LyondellBasell; Laura Kaplan, LyondellBasell; Penny Glidden, GM; Craig B. Glidden, GM
09. The Marsh & McLennan Cos. Team
10. Kelli Brooks, KPMG US; Amanda Rigby, KPMG US; Suzanne Miklos, GM; Bryanna Green, GM
11. The Theodore Roosevelt Memorial Hall Rotunda
12. Tomasita Luz Sherer, DLA Piper; Wendy Venoit, Hinckley Allen & Snyder; Natasha Kanerva, DLA Piper; Kiera Gans, DLA Piper
13. Bob Patel, Levick; Milton Carroll, Levick; Craig B. Glidden, GM
14. Karma Giulianielli, Bartlit Beck Herman Palenchar & Scott; Reid Bolton, Bartlit Beck Herman Palenchar & Scott; Jeannie Tinkham, Bartlit Beck Herman Palenchar & Scott
15. Adam Beschloss, QuisLex; Heimon Smits, Norton Rose Fulbright; Seth Engel, Dentons
16. Janet McGinness; Mastercard; Jim Masterson, Mastercard; Markus Lotz, Mastercard; Pilar Ramos, Mastercard; Timothy Murphy, Mastercard; Noah Hanft, The CPR Institute; Natasha Fapohunda, Mastercard; Cathy Lueders, Mastercard; Javier Robles, MasterCard
17. Noah Hanft, The CPR Institute; John Kiernan, Debevoise & Plimpton; Craig B. Glidden, GM; Charles R. Morgan, The Morgan Group
18. Cynthia Beagles, American Kennel Club; Heather McManus, American Kennel Club; Jay Waks, American Kennel Club
19. Kevin Malloy, Bowman and Brooke; Neil M. Kliebenstein, Bowman and Brooke; Robert J. Rudock, Bowman and Brooke; Whitney Cruz, Bowman and Brooke; Paul Cereghini, Bowman and Brooke; Sandra Giannone Ezell, Bowman and Brooke; Michael Carey, Bowman and Brooke; Todd Croftchik, Bowman and Brooke; Nathan Colarusso, Bowman and Brooke
20. John Savarese, Wachtell, Lipton, Rosen & Katz; Henry Klehm, Jones Day; Stephen Younger, Patterson Belknap Webb & Tyler





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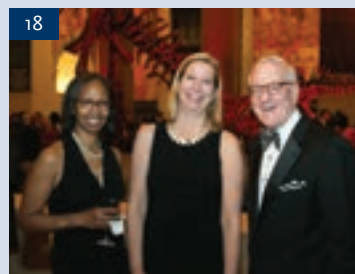
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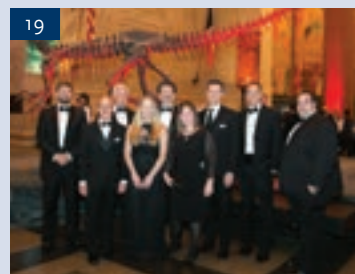
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# CPR Marketing & Communications – Continuing the Momentum

CPR promotes its cutting-edge Rules, Panels, Dispute Resolution Services, Membership benefits and programs to a wide range of stakeholders through a wide range of platforms.

NEW WEBSITE

MARKETING INITIATIVES

ALTERNATIVES

## CPR's [New Website](#) – A Powerful Platform

CPR launched a newly-designed website this Fall with the aim of offering greater benefits and convenience to our members, the ADR community and the public.



### KEY NEW WEBSITE FEATURES INCLUDE

- Striking new design with clean lines and easy-to-read font
- Reorganized and more logical navigation and site structure
- Fixed header (remains visible as you move throughout the site) containing our most important items and calls-to-action
- Google-like search available on every page
- Responsiveness – a site that adjusts to your device, from desktop to mobile
- Many new page tools, including printing and sharing capability
- Newly organized Events & Trainings listings
- New easy event registration and membership renewal features
- A newly organized (and stocked) Resource Center, featuring a wealth of both public and members-only content



### EXCITING NEW TOOLS

- As you explore the new website, we hope you will reacquaint yourself with all of CPR's existing resources, such as rules, model clauses, protocols and guidelines, and CPR Store items. In addition, we've recently launched two new interactive and clause-related CPR tools:
- The first, the [CPR Dispute Resolution Clause Selection tool](#), allows you to select a specific scenario and click through to the appropriate existing CPR clause for your needs
  - And the second, the [CPR Complete Clause](#), takes users step-by-step through either a domestic or international path, answering questions that allow them to complete their own ideal clause



Click on red type to read more

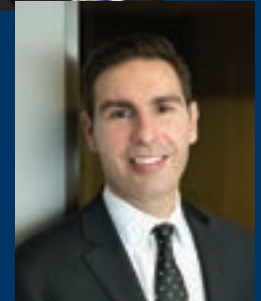


## WEBSITE TIPS

If you have not yet explored CPR's new website, we encourage you to do so now. Note: everyone must register (or re-register), but it is very quick and easy. Simply click the "Register if you don't have an account" link beneath the sign-in boxes, enter your organizational (business) email and click outside the box so any existing data auto-populates. Note your assigned user name and create your password. Once you've submitted your request, you will receive an email with a confirmation link for you to click on to complete the process. As all users will now have access to a personal "dashboard" featuring their specific membership details, event registrations and committee activity, we urge each individual user to create their own website account (as opposed to sharing one general firm or corporate username and login). Happy exploring, and we look forward to your thoughts and feedback.

## PARTNERING ON PREVENTION

“ The frequency, scale and nature of the ADR with which we are involved depends somewhat on the cycle of the market. North West Australia is home to some of the biggest resources projects in the world. Hundreds of billions of dollars has been invested in the construction of resource infrastructure over the past decade. During times of high commodity prices, too much money could be made on new projects for clients to push claims and contemplate disputes. In that environment, our role in ADR largely involved providing legal and strategic advice on claims that ultimately were settled without formal escalation. Relationships and future business were too important and external counsel was left behind the scenes and in the 'long grass'.



With the drop in commodity process and no new projects on the horizon, partnering has become all the more important – albeit different. Jones Day is on the front lines in some "bet the farm" litigation but is also looking for 'alternative' ways to partner with in-house counsel to assist clients achieve their objectives of resolving disputes on positive terms, quickly and cost-effectively. All of those objectives are rarely met via large scale-arbitration or litigation, due to the inherent risks, costs and time involved.

Dispute prevention and minimization is a major focus. If contracts are drafted properly with sensible risk-allocation that encourage early dialogue on possible claims, disputes are less likely to arise and when they do arise they can be resolved more effectively. Saving money on legals at the front end of a project can be pennywise and pound foolish. We are also often engaged before disputes arise in a project counsel role with the aim of avoiding or minimizing claims and disputes.

Where disputes have arisen and are on the brink of large-scale arbitration or litigation, we have been able to partner with clients to achieve standstill agreements to facilitate dialogue in a compromise-rich environment. Our experience is that parties can at that time be greatly assisted by mutually appointing an expert in the subject matter in dispute. Armed with the non-binding assessment of the parties' positions, most commercially astute parties are able to sensibly calibrate their position to account for merit, risk and cost so as to maximize the prospects of achieving a 'Better Alternative to Litigation'."

**Carlos F. Concepción and Simon Bellas**

Jones Day

## PR & Media Relations

Finally, this year CPR continued its PR efforts to promote our resources, Panel of Distinguished Neutrals, our DRS services, pledges and *Alternatives* in the media. A sampling of our coverage from 2016 follows:

- CPR Featured in *Law.com* Article on Diversity
- Noah Hanft on What's Next in Conflict Resolution (*Levick Blog*)
- *Practical Law* Covers CPR's Innovative Way to Appoint Arbitrators
- Turning Conflict into Commerce – Noah Hanft Offers Tips for Dealmakers on *CEO.com*
- *Law360* Covers CPR's New Board Members
- Can Mediation Take Hold in Europe? *GC Grapevine* Interviews Noah Hanft
- Can Mediation Take Hold in Europe? (Part II) *GC Grapevine* Interviews Alex Oddy
- CPR's Noah Hanft Named One of *The National Law Journal's* 2016 ADR Champions in Special Report
- "The Future of ADR in Business" – an Interview with Noah Hanft in the *McGill Journal of Dispute Resolution*
- *Corporate Counsel* covers CPR's new EAB Mediation & ADR Guide in "CPR Releases New Guide for European Countries"

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THE NATIONAL LAW JOURNAL

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CORPORATE COUNSEL

## Get Social With CPR

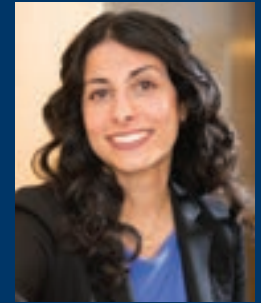
If you are not already doing so, please follow us on Facebook, Twitter (@CPR\_Institute) and on our LinkedIn Company Page. We also have a blog, at <http://blog.cpradr.org/>, and welcome your contributions.



## COLLABORATION IS MORE ART THAN SCIENCE

“ Collaboration between inside and outside counsel on dispute resolution, like so many other things, is more art than science.

That is to say, one size does not fit all, and outside counsel must be able to tailor advice that takes full accounting of the client's specific circumstances. Having said that, certain themes do emerge for what constitutes effective collaboration:



*First*, always keep ADR on the mind. Many outside counsel think in terms of mediation or settlement only when the contract or the client points them in that direction, and usually only at the outset of the relationship. In fact, ADR should be on the radar throughout the life of a matter, and in my view, an efficient and proactive outside counsel will utilize important interim wins – for example, a win on an evidentiary application or a positive resolution of a preliminary issue – to create leverage for settlement or an opportunity to commence a mediation process. A positive and early end to a case is often preferable to litigating, even successfully, for years.

*Second*, inside counsel are, and should be treated as, partners. There is a prevailing sense that it is the rare inside counsel who gets deeply involved in a matter. In my view, that is a misconception. The vast majority of my cases involve close collaboration with inside counsel, who get into the weeds and provide their often unique input. In one particularly acrimonious dispute, for example, inside counsel was pivotal in helping to navigate the relationship with the client's business side to convince them of the benefits of ADR and drive towards a good result for the company as a whole.

*Third*, the early days of the inside-outside counsel relationship are pivotal to setting the stage for success. The “first 45,” as I like to call the initial 45 days of a case, involves the first and best opportunity for significant strategizing around the client's overall objectives, high-level client contact, and establishing communication flows. Importantly, by “objectives” I am not referring to just legal objectives – which are of course part of the equation – but the client's business objectives. They are not always the same. For example, in a case where the client had a very strong legal claim as claimant, we fashioned a solution that utilized ADR, not because we were worried about the prospect of winning a straight-out arbitration, but because the client was operating in a very small market and the adverse party was more valuable as a future business collaborator than as a losing side in adverse proceedings.”

**Catherine Amirfar**

Partner, Debevoise & Plimpton

## Alternatives

*Alternatives to the High Cost of Litigation* in 2016 presented the newsletter's customary blend of news analysis and cutting-edge conflict resolution practice articles that readers have expected for decades. Focusing on the changes in the use of arbitration at the hands of regulators and the nation's courts, *Alternatives* pointed practitioners to key developments nationwide, and warned readers of impending changes in their livelihood ahead of the general and legal press.

As has been the custom in *Alternatives'* pages over the course of the newsletter's 34 years, practice techniques in the mediation room and at arbitration hearings were advanced this year with vivid illustrations and insightful tips. Our pages revealed, for example, new and revolutionary hybrid ADR processes and debuted to the profession landmark data and research.

After a decade in which *Alternatives* has won 12 national business journalism and communications awards for its writing and commentary, the newsletter has continued to be the leading venue for discourse in the business conflict resolution community with timely, in-depth analysis of essential developments, techniques and emerging issues.

The articles reflect perspectives from every element of the dispute resolution community, including large and small companies, counsel, neutrals, academicians, government officials and the judiciary, and features prominently our own investigations. Readers rely on *Alternatives'* pages for everything from techniques to get a mediation settlement agreement signed to information for writing a U.S. Supreme Court brief on Circuit Court conflicts in arbitration cases.

## The newsletter has continued to be the leading venue for discourse in the business conflict resolution community

*Alternatives'* theme has expanded from avoiding litigation costs to a focus on early dispute resolution. The newsletter seeks to orient parties toward prevention and dispute management that gets problems resolved long before litigation. In 2016 news stories, *Alternatives* analyzed legal events in the days following the death of U.S. Supreme Court Justice Antonin Scalia, and pointed readers to the likely implications for ADR practices. We reported comprehensively on federal class waiver/arbitration employment cases as they arose – the filings, the appellate arguments, the decisions, the Supreme Court cert petitions and the prospects for the cases at the nation's top Court.

At the same time, we focused on regulators at the Consumer Financial Protection Bureau, who proceeded throughout the year in a process designed to eliminate class waivers that may change how arbitration is used and practiced.

*Alternatives* is co-published by the CPR Institute with international publisher John Wiley & Sons, and is provided on multiple platforms, including print; multiple dedicated websites that include full text and individual articles; academic, legal and commercial databases, including full text on Lexis and Westlaw; and via a web app that is available for free to CPR Institute members and subscribers.



## Monsanto's Relationship-Based Approach to Dispute Prevention and Resolution

### Scott Partridge

Vice President, Global Strategy,  
Monsanto Co., and CPR Board member



Monsanto, like all companies, competes vigorously in the marketplace to deliver value for its customers and shareholders. At the same time, when competition results in all-consuming litigation and other forms of corporate warfare, innovation and business opportunities are usually casualties, and even a “win” can be a loss. This reality, even as Monsanto emerged “victorious” in a major battle, led Monsanto to rethink its approach to dispute resolution and build a relationship-based – some might say, “partnership-based” – approach to dispute prevention and resolution in which business people take the lead in seeking business solutions to business problems.

From the outset, Monsanto's creation of a sustainable process had to be endorsed at the very top, and the process had to be built in a manner that reflected that endorsement by senior management at Monsanto and ultimately its competitors. The presence of senior science and technology people at the table enabled companies to develop rapport where little had previously existed. Over time, Monsanto evolved to a process in which the science and technology have moved front and center to drive greater collaboration on invention. Yes, legal is still an indispensable partner, but generally commercial counsel work on new agreements, or resolution of a dispute regarding an existing agreement. Even when such resolution has been elusive, and traditional mediation involving litigation counsel is required, the teams are led by business executives.

While the Monsanto relationship-based process was originally created for use with other multinational competitors, application of business processes, it turns out, is just as important to successful resolution

of business disputes as it is to any other aspect of business. Equally important, experience has also established that the Monsanto relationship-based approach to dispute resolution works in contexts such as customer relationships and mass torts – contexts where preexisting relationships are vastly different, or nonexistent.

Notably, Monsanto's relationship-based approach can work even where no direct relationship exists, including in three mass-tort cases arising out of legacy chemical manufacturing sites. Those lawsuits were cumbersome, costly and combative. The history of contentious relationships among counsel was more challenging than the issues that we had faced in the commercial arena, and there was no offsetting potential for business opportunity. Still, if Monsanto was to put those cases in the rear-view mirror, a significant change in engagement was needed. That change proved to require the same foundational elements that has succeeded on the commercial side:

**This reality, even as Monsanto emerged “victorious” in a major battle, led Monsanto to rethink its approach to dispute resolution.**

clear support by the CEO and senior leadership for a new approach to resolving disputes; clear, well-structured CPR dispute management processes, including sound science and mediators; and, most critical, development of a dialogue with plaintiffs' counsel that enabled Monsanto to establish trust in its commitment to finding a principled path to resolution of all claims. The resolutions were not easy, or swift, but in all three cases, settlements using principles of sound science and real medicine were reached despite the initial, usual threats of jury trials, runaway verdicts and dislike for big companies. Without commitment and personal engagement on the part of the company, including a willingness to develop relationships with “the enemy,” such settlements would have been impossible.

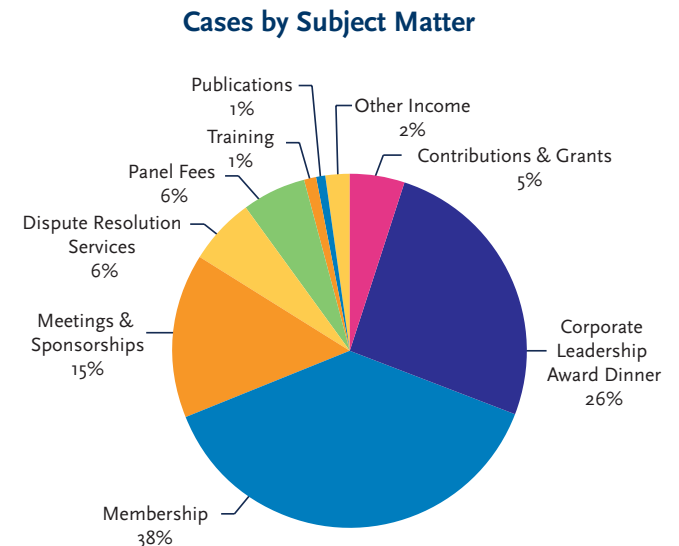
## A Letter From the Chairman of CPR's Finance Budget & Audit Committee



This has been a year of investment for CPR. We developed new programs, continued our international expansion and improved our membership benefits. We also moved our offices, upgraded our technology and launched a new website. These capital expenditures were all designed to improve the member experience and advance CPR's mission to collaboratively develop the most effective methods for resolving disputes.

The fiscal year 2016 (7/1/15-6/30/16) showed positive changes in key sources of revenue. Meetings and Sponsorships increased by 62% from the prior year, demonstrating a resounding endorsement of CPR's programs domestically and internationally. The first annual Inspiring Innovation Award Dinner, honoring Monsanto and Vice President, Global Strategy, Scott Partridge was a resounding success and a valuable addition to the Annual Meeting in New Orleans. CPR's Dispute Resolution Services has benefited from the new administered rules and additional marketing, with an increase in revenues of 37% over fiscal year 2015. For the second year in a row, both Contributions and Grants and Membership revenues have increased. Contributions saw a 31% improvement, with a significant portion of these donations supporting international efforts in Brazil. Membership revenues were also up from the prior period. There was a small decrease in net assets, due to reduced revenues for the Corporate Leadership Award Dinner and uncapitalized moving expenses.

At the mid-point of the current fiscal year, I am pleased to report that we are well ahead of budgeted revenue goals thanks to a record-breaking Corporate Leadership Award Dinner, which recognized General Motors and its GC, Craig Glidden, for their leadership in the field of ADR. This event was held at the American Museum of Natural History in New York and attracted close to 500



guests. Membership revenues are on target for another strong year and Dispute Resolution Services continues to grow. With a European Congress planned for March, and the 5th Brazilian Mediation Congress taking place in May, we expect to finish this year in a strong financial position.

We greatly appreciate the financial contributions, leadership and service of so many of you and donors. With your continued support, we look forward to sustained growth and even greater impact in the future.

Sincerely,

**Dale L. Matschullat**

Chair

CPR Finance Budget & Audit Committee

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## CPR Staff



**Noah J. Hanft**  
President and Chief  
Executive Officer  
+1.646.753.8248  
[nhanft@cpradr.org](mailto:nhanft@cpradr.org)



**Elizabeth Corman**  
Chief Financial Officer and  
Acting Director of  
Membership Services  
+1.646.753.8240  
[bcorman@cpradr.org](mailto:bcorman@cpradr.org)



**Helena Tavares Erickson**  
Senior Vice-President,  
Dispute Resolution Services  
& Corporate Secretary  
+1.646.753.8237  
[herickson@cpradr.org](mailto:herickson@cpradr.org)



**Olivier P. André**  
Vice President, International  
& Dispute Resolution  
Services  
+1.646.753.8241  
[oandre@cpradr.org](mailto:oandre@cpradr.org)



**Niki Borofsky**  
Vice President, Membership  
+1.646-753-8225  
[nborofsky@cpradr.org](mailto:nborofsky@cpradr.org)



**Tania Zamorsky**  
Vice President and  
Director of Marketing and  
Communications  
+1.646.753.8223  
[tzamorsky@cpradr.org](mailto:tzamorsky@cpradr.org)



**Erick Growcock**  
Director of IT Operations  
+1.646.753.8222  
[egrowcock@cpradr.org](mailto:egrowcock@cpradr.org)



**Vincent Gilbert**  
Program and Events  
Manager  
+1.646.753.8243  
[vgilbert@cpradr.org](mailto:vgilbert@cpradr.org)



**Allegra Berndt**  
Marketing and  
Communications Specialist  
+1.646.753.8227  
[aberndt@cpradr.org](mailto:aberndt@cpradr.org)



**Agata Koscinska**  
Office Manager  
+1.646.753.8242  
[akoscinska@cpradr.org](mailto:akoscinska@cpradr.org)



**Christopher Silva**  
Administrative Assistant  
+1.646.753.8239  
[csilva@cpradr.org](mailto:csilva@cpradr.org)



**Samantha Slattery**  
Membership Coordinator /  
Executive Assistant  
+1.646.753.8221  
[sslattery@cpradr.org](mailto:sslattery@cpradr.org)

## CPR Consultants



**Russ Bleemer**  
Editor, *Alternatives*  
[rbleemer@cpradr.org](mailto:rbleemer@cpradr.org)



**David H. Burt**  
Executive Consultant,  
Programs and Resources  
[dburt@cpradr.org](mailto:dburt@cpradr.org)



**Angelica Walker**  
Foreign Legal Consultant  
(Brazil)  
+1-646-842-1835  
[awalker@cpradr.org](mailto:awalker@cpradr.org)

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As of November 16, 2016

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“ One of the most exciting things about CPR is the partnership that it creates between law firms partners and associates and in-house counsel. At the end of the day, so much of our activities are about improving how disputes are resolved by driving a more effective partnership between law firms and corporations. And that is one of the reasons so many law firms are so involved with CPR. We are the only organization that partners law firms and corporations in ongoing efforts to find the very best ways to resolve disputes.”

Noah Hanft  
President & CEO, CPR



# Pathways to Partnership



30 East 33rd Street, 6th Floor

New York, NY 10016

Phone: +1.212.949.6490

Fax: +1.212.949.8859

[www.cpradr.org](http://www.cpradr.org)

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