

2016 NORTHERN CALIFORNIA ADR FACULTY CONFERENCE

HOSTED AT SANTA CLARA UNIVERSITY

FEBRUARY 27, 2016 | 9:30 AM - 3:00 PM

Co-sponsored by:
The Center for Negotiation and Dispute Resolution, UC Hastings College of the Law
The Gould Negotiation and Mediation Program, Stanford Law School
The Santa Clara University School of Law

CONFERENCE AGENDA

- | | | |
|-------------|--|--|
| 9:30-9:45 | | Registration and Coffee |
| 9:45-9:50 | | Welcome
E. Gary Spitko |
| 9:50-10:20 | | Satisfying the ABA's New Experiential Learning Requirement with ADR Courses
Lisa A. Kloppenberg |
| 10:20-11:00 | | The Shrinking Joint Session: Survey Results and Implications for Teaching
Jay Folberg |
| 11:00-11:10 | | Break |
| 11:10-11:50 | | Teaching Creative and Innovative Thinking
Robert Cullen |
| 11:50-12:30 | | "Making" as a Way of Knowing: Using Expressive Arts in Conflict Transformation
Jason Meek |
| 12:30-1:30 | | Lunch |
| 1:30-2:10 | | Online Dispute Resolution: Building a Justice System for the Internet
Colin Rule |
| 2:10-2:50 | | Using Controversial Issues in Arbitration Law To Engage ADR Students
Edward Lozowicki |
| | | Closing Remarks |



CENTER FOR
NEGOTIATION
AND DISPUTE
RESOLUTION
UC Hastings College of the Law

Stanford
Law School

Gould Negotiation and
Mediation Program

C O N F E R E N C E S P E A K E R S

9:50 AM **SATISFYING THE ABA'S NEW EXPERIENTIAL LEARNING REQUIREMENT WITH ADR COURSES**

Dean Lisa Kloppenberg will address the new ABA standard on experiential learning and offer suggestions on how faculty members interested in conflict resolution can create courses to satisfy the new requirement. She sees this as a great opportunity for designing ADR-related simulation courses to benefit students and satisfy the requirement. She will discuss the requirements and implementation timing for the new Standard and provide a concrete example of a course that could satisfy the requirement.

Lisa A. Kloppenberg serves as Dean and Professor of Law at Santa Clara University School of Law. She is a well-known expert in constitutional law and Appropriate Dispute Resolution. Dean Kloppenberg is the co-author of a popular text teaching law students to be effective advocates in negotiation and mediation. Previous to being appointed Dean at Santa Clara in 2013, she co-founded and directed the University of Oregon School of Law's Appropriate Dispute Resolution Program.

10:20 AM **THE SHRINKING JOINT SESSION: SURVEY RESULTS AND IMPLICATIONS FOR TEACHING**

As mediation has proliferated, how mediations are conducted has changed and diversified. There is no "standard" process of mediation, and there is little empirical evidence to inform us about what happens behind closed mediation doors. However, the process most commonly presented in law school classes and in mediation trainings begins with a joint session similar to those most of us were trained to conduct. This presentation will provide the results of a recent national survey of experienced commercial mediators that asked whether, when, and why they use joint sessions. The presentation will highlight practice differences as well as regional variations, how the use of joint sessions has changed over time and the purposes for which they are used. Implications for how we teach mediation will be discussed.

Jay Folberg is Professor and Dean Emeritus at the University of San Francisco School of Law and an active mediator with JAMS. He is co-author of several books and numerous articles on dispute resolution, including *Lawyer Negotiation: Theory, Practice and Law*, 3rd Ed. (Aspen 2016). Dean Folberg is a mediator and arbitrator with JAMS and Chairs the JAMS Foundation.

11:10 AM **TEACHING CREATIVE AND INNOVATIVE THINKING**

Clients want their lawyers to problem solve but also to be entrepreneurial and innovative - creating opportunity and value. Creative thinking is an essential element in problem solving and in creating opportunity. Robert Cullen will discuss ways to teach creative and innovative thinking.

Robert Cullen is a Lecturer at Santa Clara University School of Law where he has taught Negotiating, Mediation, ADR, and Leadership for Lawyers. He is the author of *The Leading Lawyer, A Guide to Practicing Law and Leadership*. Mr. Cullen has developed leadership programs for law firms, corporate legal departments and government agencies. He is former VP and General Counsel of JSI Logistics. Previously, he was a shareholder and Managing Partner with Hoge, Fenton, Jones & Appel, Inc. in San Jose.

11:50 AM **"MAKING" AS A WAY OF KNOWING: USING EXPRESSIVE ARTS IN CONFLICT TRANSFORMATION**

Conflict and our ever-evolving relationship to it may be viewed and experienced as both disorienting dilemmas and catalysts for transformation. Whether as educators or interveners in conflict situations, we can better understand the concept of "transformation" by investigating the question, what "form" transforms? This presentation explores how the creative act of "making" stimulates developmental changes in the very "form" of knowing by which we construct meaning around our experiences. Through a topical introduction to theory as well as insightful examples from the field and the classroom, participants will learn how arts-based methods strengthen our capabilities to negotiate the adaptive challenges inherent in conflict with greater self-awareness, engagement, vitality, and resilience.



CONFERENCE SPEAKERS

Jason Meek is Lecturer in Law at Stanford Law School where he teaches Advanced Legal Writing: The Art of the Deal. He regularly teaches courses in negotiation and conflict resolution at Berkeley Law and UC Hastings. A seasoned deal lawyer, Mr. Meek mediates and facilitates complex negotiations, multi-stakeholder and organizational conflicts, and peace building initiatives, specializing in participatory dialogue and arts-based methods. He is currently appointed to the Mediation and Dialogue Facilitation Expert Roster for the OSCE in Vienna, Austria, and previously served as Mediator to the OECD in Paris, France. Mr. Meek is also co-founder of Renew Law, The Lawyers Leadership Initiative.

1:30 PM **ONLINE DISPUTE RESOLUTION: BUILDING A JUSTICE SYSTEM FOR THE INTERNET**

Technology is not only changing society, it is changing dispute resolution. Mediation and arbitration are rapidly moving online. Consumers, businesses, and lawyers increasingly expect to be able to resolve any issues that arise 24 hours a day and 7 days a week, right from their laptops and tablets. Also, transactions now routinely cross the globe, and disputants are unwilling to sort out complex issues of jurisdiction every time a problem crops up. Online Dispute Resolution (ODR) is the application of information and communications technology to the practice of dispute resolution. In this session we'll talk about the latest and greatest in ODR and see demos of cutting edge systems, as well as exploring what might be possible in the next wave of innovations just around the corner.

Colin Rule is co-founder and COO of Modria.com., an online dispute resolution service provider in Silicon Valley, building ODR tools for arbitration, mediation, and negotiation. From 2003 to 2011 he was Director of Online Dispute Resolution at eBay and PayPal. Mr. Rule is a Fellow at the Gould Center for Conflict Resolution at Stanford Law School and works closely with the National Center for Technology and Dispute Resolution at UMass-Amherst. Mr. Rule also is the author of Online Dispute Resolution for Business.

2:10 PM **USING CONTROVERSIAL ISSUES IN ARBITRATION LAW TO ENGAGE ADR STUDENTS**

Recent arbitration decisions of the US Supreme Court have generated national controversy. The Consumer Financial Protection Bureau has proposed regulations limiting the use of arbitration in contracts of financial institutions. And consumer groups and the *New York Times* have been critical of arbitration clauses in consumer and employment contracts. Edward Lozowicki will discuss these developments and methods of engaging students in the issues.

Edward Lozowicki is a Lecturer at Santa Clara University School of Law where he teaches the course in Alternative Dispute Resolution. He is author of *Binding Arbitration of Contract Disputes in California*, and writes and speaks on arbitration law topics for the ABA and AAA. Mr. Lozowicki has served as an American Arbitration Association arbitrator for over 30 years. In that capacity, he has served as the arbitrator in numerous and varied arbitration cases including construction claims, energy contract disputes, real estate and commercial contract disputes. From 1978-2012, Mr. Lozowicki was a partner in three international law firms.

LOCATION The 2016 Northern California ADR Faculty Conference will be held on the campus of Santa Clara University, **Bannan Hall, Room 139**. Parking is available in the Parking Structure adjacent to Bannan Hall.

LUNCH A boxed lunch will be served. If you would like to notify the conference organizers of any food allergies, please email gspitko@scu.edu.

MCLE The Conference offers the opportunity to earn 3.5 hours of MCLE credit.

REGISTRATION Deadline to registration is **FEBRUARY 15**. Register online at: <http://mysantaclara.scu.edu/law/2016-norcal-adr-faculty-conference-at-santa-clara-university-school-of-law>



Permit Parking

- V Visitor
- B Faculty/Staff
- D Off-campus residents
- E Nonresident student
- C Resident student
- F All permits
- CW Resident student
- CN Nobili Resident

Symbols

- Z Zipcar Location
- E EV Charging Station
- J Emergency Phone
- S Sustainable Features

Buildings Alphabetical Order

Building Name	Loc.
Admission and Enrollment Services [406]	C5
Adobe Lodge [108]	A5
Alumni Science Hall [208]	B3
Arrupe Center [605A]	C8
Arts & Sciences [804]	C4
Bannan Engineering Building [404]	C5
Bannan Hall [405]	C5
Bellarmino Residence Hall [*]	C10
Benson Memorial Center [301]	B6
Bergin Hall [203]	B5
Bookstore [303]	B6
Buck Shaw Stadium [706]	D5
Campisi Residence Hall [505]	C7
Campus Safety Services [714]	C6
Casa Italiana Residence Hall [602]	D8
Commons at Kennedy Mall [306]	A6
Cowell Health Center [701]	D7
Daly Science Center [207, 210, 211]	B3
de Saisset Museum [206]	B4
Donohoe Alumni House [103]	B6
Dunne Residence Hall [308]	A7
Fine Arts Building [601]	C8
Graham Residence Hall [501]	C7
Heafey Law Library [202]	B5
Jesuit Residence [*]	A2
Kenna Hall [204]	B6
Law, School of [202, 203]	B5
Learning Commons, Tech. Center, and Library [401]	C6
Leavey Event Center [702]	E6
Locatelli Student Activity Center [710]	E6
Loyola Hall [425]	E10
Lucas Hall [802]	C3

Malley Fitness & Recreation Center [715]	D6
Mayer Theatre [110]	A3
McLaughlin Residence Hall [305]	A6
Mechanical Engineering [402]	C6
Mission Santa Clara de Asis [101]	A4
Music & Dance, Recital Halls [114]	A3
Nobili Residence Hall [109]	A4
O'Connor Hall [111]	B3
Parking Structure [714]	D5
Ricard Memorial Observatory [104]	A6
Sanfilippo Residence Hall [506]	D8
Schott Stadium [443]	F8
Shapell Lounge [302]	B6
Sobrato Residence Hall [605A&B]	C8
Solar Decathlon House, 2007	C2
Solar Decathlon House, 2009 [717]	C6
St. Clare Residence Hall [*]	B1
St. Joseph's Hall [102]	B5
Sullivan Aquatic Center [702]	D6
Sullivan Engineering Center [402, 403, 404]	C5
Support Services/Facilities [604]	D9
Swig Residence Hall [307]	A7
University Villas [*]	F7
Varsi Hall [106]	A5
Visitor Kiosk [704]	D4
Walsh Administration Building [201]	B4
Walsh Residence Hall [304]	A6

Numerical Order

Building Name	Loc.
[101] Mission Santa Clara de Asis	A4
[102] St. Joseph's Hall	B5
[103] Donohoe Alumni House	B6
[104] Ricard Memorial Observatory	A6

[106] Varsi Hall	D6
[107] Restrooms	A3
[108] Adobe Lodge	A6
[109] Nobili Residence Hall	C6
[110] Mayer Theatre	A4
[111] O'Connor Hall	A4
[114] Music & Dance, Recital Halls	A3
[201] Walsh Administration Building	A4
[202] Heafey Law Library	B3
[203] Bergin Hall	D5
[204] Kenna Hall	A6
[206] de Saisset Museum	D8
[207, 210, 211] Daly Science Center	F8
[208] Alumni Science Hall	B6
[301] Benson Memorial Center	C8
[302] Shapell Lounge	C2
[303] Bookstore	C6
[304] Walsh Residence Hall	B1
[305] McLaughlin Residence Hall	B5
[306] Commons at Kennedy Mall	D6
[307] Swig Residence Hall	C5
[308] Dunne Residence Hall	D9
[401] Learning Commons, Tech. Center and Library	A7
[402] Mechanical Engineering	F7
[403] Bannan Engineering Laboratories	A5
[404] Bannan Engineering	D4
[405] Bannan Hall	B4
[406] Admission and Enrollment Services	A6
[501] Graham Residence Hall	C7
[505] Campisi Residence Hall	C7
[506] Sanfilippo Residence Hall	D8
[601] Fine Arts Building	C8
[602] Casa Italiana Residence Hall	D8
[604] Support Services (Facilities Purchasing, Mailing, and Receiving)	D9

[605A&B] Sobrato Residence Hall	A5
[701] Cowell Health Center	A5
[702] Leavey Event Center	A5
[702] Sullivan Aquatic Center	A4
[704] Visitor Kiosk	A3
[706] Buck Shaw Stadium	B3
[710] Locatelli Student Activity Center	B3
[714] Parking Structure	B4
[715] Malley Fitness & Recreation Center	B5
[717] Solar Decathlon House, 2009	B5
[733] Performing Arts Annex Building	B6
[802] Lucas Hall	B4
[804] Arts & Sciences	B3

College of Arts & Sciences
Main office in the Arts & Sciences Building [804]

Leavey School of Business
Main office in Lucas Hall [802]

School of Engineering
Main office in the Bannan Engineering Building [404]

Santa Clara University School of Law
Bergin Hall [203] and Heafey Law Library [202]

School of Education and Counseling Psychology
Loyola Hall [425]

Jesuit School of Theology
Berkeley Campus
1735 Le Roy Ave.
Berkeley, CA
Santa Clara Campus
Kenna Hall [204]

Centers of Distinction

Center for Science, Technology, and Society [109]	D7
Ignatian Center for Jesuit Education [605A]	E6
Markkula Center for Applied Ethics [804]	D6

* Off Campus Addresses

* Bellarmine Residence Hall	[C10]
* Classics	[A4]
* Human Resources	[E4]
* Jesuit Residence	[A2]
* Jesuit School of Theology	[F8]
* Kids on Campus	[B8]
* Loyola Hall	[E10]
* Northern California Innocence Project	[A3]
* St. Clare Residence Hall	[B1]
* University Finance Office	[A2]
* University Villas	[F7]