

Benjamin N. Cardozo School of Law Dispute Resolution Courses

These are the course descriptions for all the Dispute Resolution courses currently offered in the Cardozo School of Law catalogue. Not every course is offered every semester or every year. Where multiple professors teach different sections of a given course, the professors' names are separated by a comma. Where two professors co-teach a class, the professors' names are separated by a slash.

- **ADR in the Workplace** ([Kessler](#))
2.0 Credits

Workplace conflict is a perennial issue that attorneys must face in the context of litigation, advising for-profit and not-for-profit entities, and within their own professional contexts. ADR in the Workplace is intended to familiarize students with the variety of ADR modalities used to address conflict in the workplace, including mediation, arbitration, and restorative practices. By incorporating a combination of law, skills and interdisciplinary approaches, this course will provide a foundation for students pursuing careers as advocates, advisors, or neutrals in the employment context, as well as for students seeking additional resources in navigating their own professional contexts. Topics addressed will include: the dynamics of conflict in the workplace; regimes governing workplace disputes, including anti-discrimination law, employment contracts and collective bargaining agreements; a doctrinal overview of the development and legal standing of mediation and arbitration in the workplace; the role of restorative practices, ombuds offices and peer mentoring in the workplace; ethical issues implicated by the use of alternative dispute resolution in the workplace; and the development of effective conflict management systems.

- **ADR Writing Seminar** ([Weinstein](#))
2.0 Credits
Can Satisfy Writing Requirement

Over the course of the semester, students will meet in a classroom setting as well as work in small writing groups on a weekly basis to critique and advance their writing projects. Students will develop a topic of their choice in the ADR field, will develop a short proposal, an outline, a list of sources, a first draft for the instructor's comments, and a final draft.

- **Arbitration Law: Theory and Practice** ([Farkas](#))
2.0 Credits
Can Satisfy Writing Requirement

This course provides an introduction to arbitration, an ancient method of conflict resolution that has become increasingly popular in the United States. Disputes of all varieties -- commercial, employment, labor, intellectual property, financial -- are routinely resolved by private arbitration. Through readings and simulations, students will study the arbitration process, from arbitrator selection to effective advocacy, to enforcement of an award. Particular attention is paid to the Federal Arbitration Act and the Supreme Court's arbitration-related jurisprudence. Topics include the relationship between state and federal legislation; the role of courts in arbitration; the enforcement of arbitration agreements; and the scope of arbitrators' powers. In addition to learning the practicalities of arbitration practice, the course also considers the broader public policy debates surrounding arbitration, along with proposed regulations.

- **Collaborative Family Law** ([Bernier](#))
1.0 Credit

This interactive class introduces students to Collaborative Family Law, a fast-growing alternative dispute resolution process, which offers a new framework and skill set to help attorneys resolve conflicts out of court. Through a combination of lecture, demonstration, discussion and role play, students will learn the fundamental concepts and basic skills that underlie the collaborative framework. The class is structured around the actual stages of the collaborative negotiation process, from the initial consultation with clients and assessing appropriateness of the process, to the joint meetings, through the "end game" of negotiating a collaborative settlement.

- **Collective Bargaining and Negotiation in Sports and Entertainment** ([Mendelsohn](#))

2.0 Credits

A study of the law, strategy, and history of union activity in the sports and entertainment industries. Unions play a major role in defining the business of sports and entertainment, and the union-negotiated collective bargaining agreements impact every part of these businesses, from industry trends to individual contracts. The CBAs dictate, for example, why the NBA has a salary cap but Major League Baseball does not. The goal of this course is to highlight the facets of practicing sports and entertainment law that make it unique both practically and historically and familiarize students with the relevant labor law, antitrust law, and negotiation rules and processes that impact such practice. This course is helpful for students who want to work in this field, whether they are lawyers for the union, management, productions, agents, or studios. The course provides a foundational understanding of basic labor law, the NLRA (and how the NLRB works), Section 7 rights, collective bargaining practices, the grievance and arbitration processes, and how practicing attorneys can use these to their advantage.

- **Dispute Systems Design** ([Weitz](#))

2.0 Credits

This course focuses on the study and practice of dispute systems design - understanding the structure and design choices made by, and the challenges presented to organizations. This includes examination of court processes and other government or private systems for managing conflict. Dispute systems designers also develop and improve upon mediation and other alternative dispute resolution (ADR) service programs, as well as provide assessments of their appropriateness in various contexts. The knowledge and skills developed in this course are transferable to the emerging needs of practicing attorneys who are more and more frequently called upon as systems designers. Many lawyers, even if they never take the design initiative to lead a project, often serve as stakeholders and representatives of bar or professional associations recruited by systems designers to participate in the design process. This course also enhances the basic mediation and conflict management skills learned in other ADR related courses by application to the dispute system design framework.

Students will be expected to read, write, discuss, critique and participate in simulated exercises. After an overview of dispute systems design theory and principles, students will, through readings, discussions and exercises, study seven actual systems that reflect dispute systems design principles. Then through a series of additional hands-on role plays and simulations, students will have the opportunity to develop systems design skills and work on a mock consulting team during class. Simulations will lead students through the various stages or architecture of systems design, from taking design initiative through assessment, creating processes and systems and implementation. This course also focuses on advanced mediation and dispute systems design topics, including recent developments in neuroscience and their potential impact on dispute resolution, choice architecture and “nudge” principles, the impact of mediator orientations on program design, restorative justice practices, and transformative mediation. The practical and ethical implications of systems design work will also be explored, as well as opportunities for synthesis of systems design skills into legal practice.

- **Dispute Resolution Processes** ([Schneider](#))

3.0 Credits

This course will introduce the concepts and practice of dispute resolution, focusing primarily on the particular processes of ADR – negotiation, mediation, and arbitration – and then examine these forms in the context of different areas of the law and the judicial system. At the end of the course, students will be able to counsel a client about the use of all three processes of ADR; recognize effective negotiation skills; understand the role of mediation in and out of the court system; and be familiar with the variety of arbitration processes.

- **Divorce Mediation** ([Collins](#))

2.0 Credits

This course will examine the role of mediation in resolving family disputes, focusing on divorce. Students will explore the theory, practice and techniques of mediation as applied to divorce and parenting conflicts, including: an examination of the options for dealing with conflict and an exploration of the spectrum of alternative dispute resolution processes; theories on structuring the mediation process; insights into defusing emotional issues in negotiations, and, learning the techniques

necessary to conduct an effective mediation. All the legal issues that arise in divorce, such as division of property, parenting of children, tax issues, and child and spousal support will be examined, with an emphasis both on absorbing the fundamental points of law as well as learning how to guide people to informed decision-making as a mediator. Divorce mediation role plays will be integrated throughout the course to provide experiential learning of the material. Students can expect to leave the course with a working knowledge of family mediation; the three-credit version this course may also meet the training requirements for membership in the ACR (Association of Conflict Resolution), formerly the Academy of Family Mediators.

- **Divorce Process** ([Newman/Schein](#))

2.0 Credits

The Ins & Outs of the Divorce Process is a course that teaches students about the divorce process from start to finish. The course will provide students with an inside look into the different divorce process choices available: litigation, mediation and collaborative law and provide an in-depth and hands on look at both the similarities and differences between the process options. Students will be provided with an overview of each of the process choices (litigation, mediation and collaborative law) through lectures, guests, written materials, observation and participation in mock role plays, and a discussion of current family law and divorce articles and news. Students will hone their analytical, negotiation, oral and written communication skills through a discussion of real-life fact patterns and family law issues and interactive participation (i.e. mock interactive demonstration) throughout the course. Students will also learn the skills to represent clients going through a divorce in each of the process choices: litigation, mediation and collaborative law. Students will gain an understanding of each process choice from both the client and attorney/mediator perspective. Throughout the course, students will be provided with facts, information and supplemental materials that will form the basis for both the weekly class discussion and the role play.

- **Innovations in Justice** ([Berman/Behin](#))

2.0 Credits

Meets Race in The Law Requirement & Can Satisfy Writing Requirement

This 2-credit course introduces students to the innovative ideas and practices around a justice approach where individual and community building and healing is at the forefront in the wake of dysfunction, calamities, and crimes. This alternate approach is in contrast to a retributive system of justice where punishment, proportionate to the offense, is doled out to offenders and where victims are often sidelined. Students will explore the philosophical and theoretical underpinnings of restorative and therapeutic justice and practice, in class, different techniques associated with various approaches. Students will also be asked to observe up to 6 hours in the community, related to their chosen research project and to write a significant paper which captures both their scholarly and field research.

- **International Commercial Arbitration** ([Rangachari](#))

2.0 Credits

This course engages in a thoughtful exploration of arbitration as a dispute resolution process in the domain of international trade. Topics include the composition and jurisdiction of international arbitral tribunals, international institutional as well as ad hoc procedures, and enforcement of arbitration awards under the New York Convention. In addition to U.S. case law, particular emphasis will be placed on court opinions from France, Switzerland, and Hong Kong on pertinent international commercial arbitration issues.

- **International Investment Arbitration** ([Gatica/Gonzalez](#))

2.0 Credits

Cross-border investments have become a critical aspect of the global business landscape and economic development. Historically, disputes between foreign investors and host States remained unresolved or were otherwise resolved through national courts or coercive means. However, in the mid-20th century, international investment protection emerged to provide a neutral forum to solve investor-State disputes in the form of international investment arbitration.

This course on investment arbitration delves into the substantive protections afforded by bilateral and multilateral agreements to foreign investors, the jurisdictional requirements for those investors to access such protections, and how jurisdictional requirements and substantive protections have been addressed by tribunals in an increasing amount of

investor-State cases throughout the past two decades. The course also offers a comprehensive overview into the challenges that the system is currently confronting, as well as reforms to the investor-State arbitration system that are already underway or contemplated for the future. By combining both theoretical and practical elements, this course will equip future lawyers with the knowledge and skills necessary to deal with investment protection issues, either in international corporate transactions or disputes.

- **International Peacemaking: Israel** ([Schneider](#))

2.0 Credits

Can Satisfy Writing Requirement

The case study of Israel will be used for the course focusing on the Israeli-Palestinian conflict, coexistence projects, Israeli Arab relations, and the integration of dispute resolution into the Israeli legal system. The purpose of this course is to understand the different tools of conflict resolution applied to external as well as internal disputes and conflicts.

The class will meet over the course of the entire year and will travel to Israel to study these issues in person during the second week of the January Winter session. Students will be responsible for some portion of their travel. In the Fall, this class will begin in October and meet on select Tuesdays. Students must attend both the full-year classroom component and the Israel trip to receive credit for the course.

- **Introduction to ADR in NYC** ([Weinstein](#))

1.0 Credit

This course is designed to provide Dispute Resolution and Advocacy LLM students with an introduction to ADR processes and an overview of dispute resolution career opportunities in New York. This course will include site visits to various domestic and international dispute resolution providers including: the United Nations Mediation Office, JAMS, AAA-ICDR, the Second Circuit Appellate Mediation Program (CAMP) and others, with the goal of helping students better navigate their searches for internships and jobs in dispute resolution.

- **Introduction to Mediation** ([Love/Stulberg](#))

2.0 Credits

Students taking this course will participate in the intensive training program for Mediation Clinic students. This training will orient participants to the theory and practice of mediation, including an overview of different approaches to mediation and the skills involved in beginning a mediation, gathering information, forming a constructive discussion agenda, generating movement and bringing the session to a close. The program involves participating in role-play and interactive exercises, culminating in conducting an entire mediation session as the mediator. Required reading will precede the training. After the training, students will write a short paper responding to targeted questions raised in the reading and in class.

- **Mass Tort Victim-Survivor Settlement Funds** ([Lelchuk](#))

2.0 Credits

This seminar is an interactive workshop designed to introduce students to how independent mass tort claims programs are designed and operate to compensate victim-survivors of mass tragedies and situations involving multiple survivors outside the traditional tort litigation system. This seminar will track the natural life of a settlement fund covering the dynamics that lead to fund formation, including the design, implementation, and ultimately to the finalization of the settlement fund. Interactions with counsel, victim/survivors and the Courts will be covered. The seminar will include experts in mediation, bankruptcy claims, ethical issues, Qualified Settlement Fund formation, etc. who Lelchuk consults with as part of the design and implementation of her settlement programs.

- **Negotiation Theory and Skills** ([Yadegari](#), [Robinson](#), [Baum](#), [Gise](#), or [Greenberg-Kobrin](#))

2.0/3.0 credits

This seminar provides students with an introduction to both theoretical and practice-based foundations of negotiation. Through simulation-based exercises and classroom discussions, the course will cover the elements of both integrative and distributive bargaining; barriers to agreement and strategies to overcome them; the nature of dialogue; negotiation power; the role of culture, gender, and race in negotiations; negotiation preparation, tactics, initial and responsive strategies, and ethics.

- **Representation in Arbitration** ([Farkas](#))

1.0 Credit

Can Satisfy Writing Requirement

This skills-focused course prepares students to represent clients in private arbitration proceedings. After discussing the basic legal framework for arbitration in the United States, the course will delve into practical lawyering skills that are unique to arbitration. Topics include drafting arbitration agreements and selecting arbitrators, as well as advocacy techniques for opening and closing statements, and conducting direct and cross-examinations. Students also examine the relationship between arbitration and the courts, with particular attention to motions to stay or compel arbitration, and motions to vacate or confirm arbitral awards. Broader client counseling questions will also be considered, including advising clients on selecting the most appropriate conflict resolution mechanism for their dispute. Students emerge from the course with a firm grasp of the basic vocabulary, procedure and advocacy skills necessary to represent clients in arbitration.

- **Representation in Mediation (IMAP)** ([White](#))

2.0 Credits

This intensive, interactive course introduces students to negotiation and mediation theory and develops strategies and skills for effective attorney representation in mediation. Students will examine attorney responsibilities in advising clients about dispute resolution options, in preparing both the case and the client for mediation, and in representing the client effectively in a mediation session. The program culminates in the students participating in a mock mediation coached by seasoned mediators.

- **The Law of Settlement** ([Farkas](#))

2.0 Credits

Can Satisfy Writing Requirement

Most civil disputes settle before trial. Indeed, the statistics are not even particularly close: recent scholarship suggests that between 92 and 98% of civil cases are resolved before trial, depending on the jurisdiction and claims. Why do so many cases settle? When do they settle? And—perhaps most importantly—how can attorneys facilitate settlement in a manner that is most advantageous for their clients? This course will consider these important questions. First, we will set the stage by examining the full spectrum of processes that are available for resolving civil conflicts, such as negotiation, mediation, arbitration, and litigation. Second, we will review basic concepts of interest-based negotiation theory that lawyers regularly employ to settle disputes. Third, we will analyze the timeline of most civil litigation from the filing of the complaint through enforcement of judgment. Using this timeline, we will consider “leverage points” when settlement is most likely. Fourth, we will study settlement agreements themselves. What goes into a settlement agreement? What are best practices for drafting such agreements? Can they remain confidential? What happens if one party fails to comply? Finally, we will examine the rules of professional conduct that guide attorneys who negotiate settlement agreements on behalf of clients. Overall, students will emerge from this course with a strong understanding of why and how civil cases settle, including a practical sense of the mechanisms for memorializing and enforcing settlements.