

# CARDOZO LAW

BENJAMIN N. CARDOZO SCHOOL OF LAW • YESHIVA UNIVERSITY

## Kukin Program for Conflict Resolution Newsletter

### President Jimmy Carter receives Cardozo's International Advocate for Peace Award

On April 10, 2013, *Cardozo's Journal of Conflict Resolution* presented its annual International Advocate for Peace (IAP) Award to Jimmy Carter, the 39th President of the United States and the winner of a Nobel Peace Prize. President Carter delivered an acceptance speech to students, faculty, and alumni entitled "America as Global Mediator." In the speech, he reflected on his own peacemaking efforts as president, as well as his prolific work since leaving office through the Carter Center.



*Editor-in-Chief of Cardozo's Journal of Conflict Resolution, Brian Farkas (seated), listens to President Jimmy Carter reflect on his various peacemaking efforts.*

### **Cardozo Journal of Conflict Resolution's Annual Symposium on Negotiating the Extremes: Impossible Political Dialogues in the 21st Century Explored Negotiation and Political Gridlock**

In November 2012, the nation was perhaps more politically divided than at any moment in its history. The United States had been

through a nearly three-year-long campaign, from the divisive Republican primaries to the even more divisive general election. Negative advertising by anonymous SuperPACs became the norm. And in the meantime, the government was unable to compromise on pragmatic solutions to a laundry list of issues: the deficit, the budget, the debt ceiling, immigration reform and climate change, just to name a few. Even with the reelection of a candidate once synonymous with "hope," the feeling of pessimism was pervasive.

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A Panel on "Practical Examples of Promoting Civil Discourse" with **Brad Heckman**, (Moderator) Chief Executive Officer, The New York Peace Institute, whose drawings appear in the background, Professor **Ben Davis**, The University of Toledo, College of Law, and **C.T. Butler**, Author and Mediator.

## Panel Discusses Controversial Delaware Chancery Court Arbitration Scheme

A panel held at Cardozo on February 7, 2013, sponsored by the *Cardozo Journal of Conflict Resolution* and the Kukin Program, examined a deceptively simple question: Can sitting judges confidentially arbitrate disputes?

In 2009, Delaware's legislature amended its laws to permit judges of the Court of Chancery to do just that. According to the scheme, parties could pay a set of fees and go for binding arbitration before some of the country's most renowned judges. But unlike traditional litigation, the entire proceeding would remain confidential. In August 2012, following a challenge from the Delaware Open Government Coalition, the program was declared unconstitutional under the First Amendment's right of qualified public access to court proceedings. The case is now on appeal to the Third Circuit.

[Read more.](#)



From left to right: **Hon. Shirley Werner Kornreich**, Justice of the New York State Supreme Court (Commercial Division), **Tracey B. Frisch**, Staff Attorney at the American Arbitration Association and Adjunct Professor at Cardozo School of Law, **David L. Finger**, Partner, Finger & Slanina, and lead counsel for the Delaware Open Government Coalition, **Katrina Dewey**, CEO and Founder of LawDragon.com, Professor **Paul F. Kirgis**, St. John's University School of Law, Professor **Thomas E. Carbonneau**, Penn State University Dickinson School of Law

## New Faculty & Classes

The Kukin Program for Conflict Resolution proudly welcomed new faculty member **David J. Weisenfeld** and a new course offering taught by **Carolyn Patty Blum**.



**David J. Weisenfeld**, an active arbitrator of labor, employment, and commercial disputes, introduced a new course, **ADR in the Workplace**, to Cardozo's course offerings. The course is simulation-based skills course that examines the doctrinal background and the practice of arbitration and mediation in the contexts of labor and employment disputes.



**Carolyn Patty Blum**, human rights consultant and Senior Legal Advisor for the Center for Justice & Accountability, introduced a course on **Transitional Justice and Accountability**. The course focuses on the emergence of societies from mass violence or political repression and the crucial questions that arise about achieving justice and accountability for the human rights abuses of the past.

## Cardozo Competes!

Cardozo's Alternative Dispute Resolution Competition Team had a very successful year! Eighteen dedicated student-competitors, under the guidance of Professors Rebecca Auster Freedman and Ben Thompson, earned distinction for Cardozo in regional, national and international competitions in mediation, arbitration, and negotiation.

In the **Jeffrey S. Abrams Mediator Competition** at the University of Houston Law Center held October 25-27, 2012, Adam Berkey, 3L, advanced to the semi-final round, finishing 3rd in total points and receiving an Honorable Mention Mediator Award, in a field of 16 competitors.

At the **American Bar Association Regional Negotiation Competition**, which took place at Boston College on December 1-2, 2012, Andrew Glantz and Rachel Teitelbaum, one of Cardozo's three teams sent to the Competition, advanced to the finals and placed third out of a field of twenty teams.

Since 2007, Cardozo has sent a team to the **ICC International Commercial Mediation Competition** in Paris. This year Cardozo was represented by the team of Adam Berkey,

3L, and Evan Kass, 2L, who finished 11th in the preliminary rounds out of sixty-six teams from around the world competing and advanced to the finals.

Adam Berkey, a 3L competitor who has been a member of the team for two years, reports:

*I was fortunate to have represented Cardozo both nationally and internationally during the 2012-2013 season. I competed in two competitions: the Jeffrey S. Abrams National Mediator Competition in Houston, Texas, and the International Chamber of Commerce International Commercial Mediation Competition in Paris, France. Both trips were highlights of my 3L year and I will remember them fondly throughout my career.*



*Evan Kass, a 2L, was my partner for the ICC Competition in Paris. We spent months analyzing complex fact patterns and developing strategy for the four preliminary rounds. We assumed the roles of client and attorney and learned the intricacies of several discrete international business disputes. In a span of four days, we represented a Sri Lankan moonstone supplier that needed to renegotiate an agreement with a jewelry distributor headquartered in Spain, a German publisher that had problems with excess glue from his printer, a coalition of software companies trying to protect their software in a largely unregulated country, and the CEO of a commodities brokerage house trying to preserve competition in the marketplace. Our counterparts at the negotiating table were from Canada, Sweden, India, and Israel. When the dust settled, we advanced as 11th place in a field of sixty-six teams from law schools and business schools around the world.*

Student competitors also represented Cardozo at the **St. John's Annual Securities Dispute Resolution Triathlon**, the **ABA Representation in Mediation Competition**, the **ABA Client Counseling Competition**, the **Robert R. Merhige, Jr. National Environmental Negotiation Competition**, and the **International Competition for Mediation Advocacy** in Canada.

## **International Commercial Arbitration LL.M. Moot**

Congratulations to Cardozo LL.M. team for winning the **LL.M. International Commercial Arbitration Moot Competition at American**

**University!** The students placed first out of 12 teams.

Two teams represented Cardozo in the 2013 competition. The winning Cardozo team included **Andrea Kalish**, **Iva Rukelj**, **Kristina Jean-Conte**, and **Matthew Gross**. Cardozo team member **Kristina Jean-Conte** also received an Honorable Mention for her oral argument skills.

[Read more.](#)



*Cardozo LL.M. Teams at the Moot  
(L-R: Professor and Coach Curtis Pew, Wookjae Jin, Anna Sarkisyan, Iva Rukelj, Mateus Pinheiro, Andrea Kalish, Kristina Jean-Conte, Marcin Tustin)*

## Cardozo's ADR Seminars Abroad

### January Seminar Abroad in South Africa

This year's winter break brought Cardozo students to South Africa to explore the role of conflict resolution in the country's rich and unique culture. Fifteen students joined Professors **Lela Love**, **Leslie Salzman**, and **Glen Parker** on a 10-day journey through South Africa where they met with leading professionals in the field of Conflict Resolution. The group's goal was to gain a first-hand perspective of how South Africa managed its transition from apartheid to a new democracy and how conflict resolution processes are currently used, particularly in the context of labor relations.



[Read more.](#)

### June Seminar Abroad in Budapest

One again, Cardozo is offering students the opportunity to study conflict resolution processes abroad in Budapest, Hungary this summer. This two-week, three-credit program offered June 2-14, 2013, at Central European University, focuses on *Mediation and Other Methods of Foster Democratic Dialogue*. American students learned side-by-side with scholars from Central and Eastern European countries and elsewhere. The

course is designed to facilitate the exchange of ideas and cooperative projects among academics, professionals, and students in the East and West who are pursuing the study of conflict and conflict resolution processes. The program is sponsored by Cardozo, together with both the Dispute Resolution Institute of Hamline University School of Law and Central European University. Professors **Jim Coben** and **Lela Love** will lead the program.

## Students in Action

The 2012-13 academic year has been a stellar one for the **Cardozo Dispute Resolution Society (CDRS)**. The student society has enjoyed many excellent speakers whose discussions addressed a wide range of topics; concurrently, CDRS spearheaded a couple of exciting initiatives. This year's speakers included international scholars and professors of alternative dispute resolution, successful alumni, and practitioners from all over the United States.



CDRS started off the fall semester with **Professor Michal Alberstein** of Bar-Ilan University, Israel, whose talk, titled "*The Law of Alternatives: In Search of Identity in Dispute Resolution*," explored the common principles and characteristics of various modes of conflict resolution, both within and outside of the law-school context. **Michael Kaiser**, of Seattle, also spoke at Cardozo during the fall semester. His discussion on

mediation of animal law issues sparked a fruitful conversation about the need for peacemakers to advance the interests of both human and non-human species. Mr. Kaiser will be publishing an article based on his talk in the Cardozo Journal of Conflict Resolution.

The spring semester was similarly enriched with diverse speaker events. **Dan Berstein**, founder of MH Mediate in New York City, explored the intersection of mental illness, violence, and mediation. Berstein stressed that mental illness must not be seen as correlating with an increase in violent tendencies, noting, for example, that people with mental illness are more likely to be crime victims than perpetrators. He then investigated the alienating and unnuanced nature of mental illness discussion and the resulting need for our society's reexamination of the current "us versus them" division. Later in the semester, **Professor John Faris**, of South Africa, discussed how African dispute resolution and "modern" dispute resolution might inform each other.





Other speakers included some close to Cardozo. Alumna **Serena Lee** came from Seattle to discuss alternative careers in alternative dispute resolution, describing her own trajectory to the American Arbitration Association. **Professor David Weisenfeld** gave a talk on alternative dispute resolution in the workplace, discussing the delicate balance between employers and employees and what problems typically can engender employment discrimination suits. Professor Lela Love discussed stories mediators tell, drawing from her book of the same name and inspiring a large group of audience members to share their own mediation stories.

Beyond this inspiring array of speakers, CDRS engaged in several initiatives in the ADR community. CDRS worked with the New York State Bar Association's Dispute Resolution Section to create a web site listing all educational ADR opportunities in New York—something that had not previously existed. This compilation includes crucial pieces of information that are critical to both burgeoning and established mediators, arbitrators, and negotiators. CDRS also created a new list serve for the ADR community that aims to keep an updated weekly calendar of primarily New York City-based educational and social events. Finally, CDRS worked with our counterparts in other law schools to discuss how best to strengthen our NYC student community through networking events.

## **Congratulations and Honors**

The Kukin Program for Conflict Resolution is proud to be ranked 6th in the nation and 1st among New York State Law Schools for Dispute Resolution by **U.S. News & World Report**. The Program has now been ranked among the Top 10 in the nation for the past 13 years.

### **2013 Recipients of the Certificate in Conflict Resolution**

**Michael K. Berman**  
**Brian Farkas**  
**Emily Fusting**  
**Leora Goldstein**  
**Delavar S. Omidfar**  
**Allison Simon**

### **Recipients of the LL.M. in Dispute Resolution and Advocacy**

**January 2013**

**Njideka A. Amaefuna**

## May 2013

Matthew B. Gross

Andrea R. Kalish

Marcin Tustin

### Recognition for Excellence in Writing

**Emily Fusting's** paper for the Mediation Clinic, *Making the Brain a Friend Not a Foe: What Interventionists Should Know About Neuroscience*, was published in 6 AJM 41 (2012). Her paper *It's a No-Brainer: Teaching Law Students Science about Memory and Decision-Making* will be published in Resolved: Journal of Alternative Dispute Resolution at Charleston's Law School.

**Jared Bloch's** Note for the Cardozo Journal of Conflict Resolution, *From the People's Court to American Idol: The Relationship Between Television and Arbitration*, 14 Cardozo J. Conflict Resolution 503 (2013), was selected as one of the best law review articles published within the last year in the fields of entertainment, publishing and the arts and will be included in the 2013 edition of the Entertainment, Publishing and the Arts Handbook, published annually by Thomson Reuters (West). This Handbook provides in-depth treatment and comprehensive coverage of the latest issues, regulations, legislation, and case law affecting the entertainment and publishing industries and the arts.

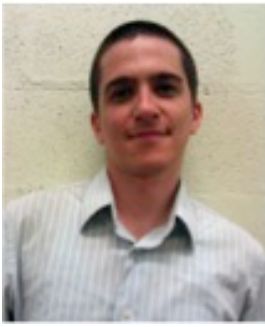
### The Cardozo Journal of Conflict Resolution Launches Revitalized Website and New Twitter Handle

The *Cardozo Journal of Conflict Resolution* has launched a revitalized website ([www.cardozojcr.com](http://www.cardozojcr.com)) and new Twitter account (@[cardozojcr](https://twitter.com/cardozojcr)), which already has nearly 500 followers. Follow the *Journal* on Twitter for the latest ADR news each week, as well as links to new Articles and Notes.

### Alumni Spotlight

**Glen Parker ('10 J.D. & '11 LL.M.)**





Thank you to Glen Parker for his contributions as Fellow with the *Kukin Program for Conflict Resolution*. Glen has moved on from the program and is now the Manhattan Civil Courts Coordinator and Lemon Law Coordinator for New York Peace Institute. He will also be teaching the ADR Field Clinic seminar at Cardozo in the spring. He was recently elected to the board of directors of the Association Conflict Resolution of Greater New York (ACR-GNY), where he is co-chair of the annual conference committee.

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