



Section of Dispute Resolution

Annual Meeting

August 5 - 8, 2010

San Francisco, CA

Headquarter Hotel: Intercontinental
Presidential CLE Center: Moscone Center

Section Chair

Homer C. La Rue

Meeting Co-Chairs

Claudia Bernard
San Francisco, CA

Martin Quinn
San Francisco, CA



Schedule at a Glance

TIME	THURSDAY – August 5, 2010	LOCATION
10:30am – 12:00pm	Same- Sex Marriage - Moving Beyond State Courts <i>Primary Sponsor: Section of Individual Rights and Responsibilities</i>	Moscone Center
2:00pm – 3:30pm	Deal Mediation: Maximize your Chances for Success in Complex Negotiations	Moscone Center
2:00pm – 3:30pm	Neuroscience, Negotiation and Persuasion: Applications and Implications in Litigation and Dispute Resolution	Moscone Center
3:45pm – 5:15pm	Mediating the Intellectual Property Case: Can We Do a Better Job? <i>Co-Sponsor: Section of Intellectual Property Law</i>	Moscone Center
3:45pm – 5:15pm	Arbitrating Complex Cases in the Healthcare Field: Education Over Advocacy <i>Co-Sponsor: Section of Health Law</i>	Moscone Center
FRIDAY – August 6, 2010		
8:30am – 10:00am	Emerging Legal & Social Issues in Same-Sex Dissolutions <i>Co-Sponsors: Commission on Sexual Orientation and Gender Identity; Section of Individual Rights and Responsibilities</i>	Moscone Center
8:30am – 10:00am	Fellows Research Seminar: Does Anyone Win at the EEOC? Findings from the American Bar Foundation Employment Discrimination Litigation Research Project <i>Primary Sponsor: American Bar Foundation</i>	Moscone Center
8:30am – 10:00am	Justice 12.0 - Is There an App for That? <i>Primary Sponsor: Judicial Division</i>	San Francisco Marriott Marquis
12:00pm – 1:30pm	Careers in ADR Luncheon <i>Co-sponsor: Law Student Division</i>	San Francisco Marriott Marquis
2:00pm – 3:30pm	Virtual Virtues: Wrestling with the Ethical Dilemmas of an Online Dispute Resolution Practice <i>Co-Sponsors: Commission on Ethics 20/20; Center for Professional Responsibility</i>	Moscone Center
2:00pm – 3:30pm	Judging Aging: The Quiz Show <i>Primary Sponsor: Standing Committee on Federal Judicial Improvements</i>	Moscone Center
3:45pm – 5:15pm	Practicing Law in a Fishbowl – The New Reality of Engaging the Public in Environmental Decision-Making <i>Co-Sponsor: Section of Administrative Law and Regulatory Practice</i>	Moscone Center
3:45pm – 5:15pm	E-Discovery Headache: Take Two Aspirin and Call a Special Master	Moscone Center
6:30pm – 9:00pm	Section Reception and Dinner Ticketed Event	University Club
10:00pm – 11:00pm	Chair's Hospitality Suite	Intercontinental
SATURDAY – August 7, 2010		
7:30am – 8:30am	Executive Committee Meeting	Intercontinental
8:00am – 9:00am	Council Breakfast	Intercontinental
8:00am – 9:00am	Ethics Committee Meeting	Intercontinental
8:30am – 10:00am	The Real Realities of Cloud Computing – Will the Cloud Produce Smooth Sailing or Stormy Weather? <i>Primary Sponsor: Section of Science and Technology Law</i>	Moscone Center
9:00am – 2:00pm	Council Meeting	Intercontinental
2:00pm – 2:30pm	Annual Meeting of the Members and Council Elections	Intercontinental
2:30pm – 4:00pm	"ADR in the Business Courts: How Commercial Judges Encourage Settlement." <i>Primary sponsor: Business Law Section</i>	Moscone Center
3:00pm – 5:00pm	Long Range Planning Committee Meeting	Intercontinental
SUNDAY – August 8, 2010		
8:30am – 10:00am	The Emerging Practice of Elder/Adult Family Mediation: A Resource for Decision-Making and Conflict Management <i>Co-Sponsor: Senior Lawyer Division</i>	Moscone Center
8:30am – 10:00am	Lawyers and Midlife: Planning For and Living the Rest of Your Life <i>Primary Sponsor: Commission on Lawyer Assistance Programs</i>	Palace
10:30am – 12:00pm	Fair Trial, Free Press? High-Profile Cases in a 24/7 "New Media" World <i>Primary Sponsor: Judicial Division</i>	Moscone Center

Thursday, August 5, 2010

10:30am – 12:00pm

Same-Sex Marriage - Moving Beyond State Courts

Room 2014, 2nd Floor, Moscone Center West

Primary Sponsor: Section of Individual Rights and Responsibilities

To date, most of the litigation regarding same-sex couples and marriage has focused on state constitutional claims. Currently, however, a number of lawsuits raise federal constitutional claims with respect to same-sex couple and marriage. Some of these cases, including the pending Perry v. Schwarzenegger case, argue that excluding same-sex couples from the right to marry, or stripping same-sex couples of the right to marry, violate various federal constitutional principles. Other cases argue that denying federal recognition of valid marriages between same-sex couples violates the federal constitution. In addition, in a number of states, same-sex couples obtained the right to marry through the legislative process. The panelists are all on the front lines of these developments. Ted Olson will speak about his pending Perry v. Schwarzenegger case. Mary Bonauto, an attorney who won several same-sex marriage cases in state courts, will speak about her pending federal challenge, Gill v. OPM. Beth Robinson, another veteran of state court same-sex marriage cases, will speak about the legislative victory in Vermont.

Moderator:

Raymond Marshall, San Francisco, CA

Speakers:

Mary Bonauto, Boston, MA

Theodore Olson, Washington, DC

Beth Robinson, Middlebury, VT

2:00pm – 3:30pm

Deal Mediation: Maximize Your Chances for Success in Complex Negotiations

Room 3020, 3rd Floor, Moscone Center West

This advanced program in the emerging specialty practice of deal mediation explores the many dimensions of facilitated deal making with the goal of providing participants with proven and innovative approaches to creative problem-solving and consensus building as a neutral in order to unlock the greatest latent asset of any transaction - a strong relationship. Through observation and guided discussion of a case study animated "live" by the program faculty, participants will examine key phases of the deal mediation process and survey associated interpersonal dynamics. Emphasis will focus upon training participants in the various "tools" that a neutral may use to help parties build higher relational value in their deals while overcoming the psychological barriers to definitive agreement. Topics to be covered in this program include (1) an overview of the deal mediation process, (2) the role of the neutral as conflict coach in helping parties obtain durable agreements and build long-term relationships, (3) the role of the neutral in managing perception, leverage, emotion, and trust in a deal-making context, (4) the role of the neutral in documenting the agreed upon transactions, and (5) important ethical considerations.

Panelists:

Ellen Beilock, TechADR, San Francisco, CA

Jason Meek, The iDeal World/UC Hastings College of Law, Palo Alto, CA

Joseph dos Ramos, University of California San Francisco, San Francisco, CA

Neuroscience, Negotiation and Persuasion: Applications and Implications in Litigation and Dispute Resolution

Room 3018, 3rd Floor, Moscone Center West

Neuroscience and neuropsychology have yielded many important insights about the functioning of the human brain, and in turn, the mind. These insights are of enormous importance to anyone involved in advocacy and persuasion, activities which form the core of litigation, negotiation, mediation and arbitration. However, until recently, there is precious little organized information about how neuroscience and neuropsychology impacts the practicing lawyer. In this presentation, a negotiation professor with significant trial experience will illuminate the intersection between the study of the brain and the practice of law.

Panelist:

Richard Birke, Willamette University College of Law, Salem, OR

3:45pm – 5:15pm

Mediating the Intellectual Property Case: Can We Do a Better Job?

Room 3020, 3rd Floor, Moscone Center West

One of the promises of mediation is that it helps parties meet their real-world needs and interests in a way that litigation is unable to do. And yet most mediation in intellectual property cases is dominated by litigation risk analysis, valuation and positional bargaining. It can be an efficient, cost-effective way to avoid trial. But could it be more? This panel of highly experienced mediators and IP litigators will address the benefits (and pitfalls) of expanding the IP mediation's problem definition from legal problem to business problem; of expanding the mediation process from risk analysis to creative problem solving.

Moderator:

Claudia Bernard, 9th Circuit U.S. Court of Appeals, San Francisco, CA

Panelists:

Honorable Jeremy Fogel, U.S. District Court, Northern District of California, San Jose, CA

James Gilliland, Townsend and Townsend and Crew LLP, San Francisco, CA

Honorable Edward Infante, JAMS, San Francisco, CA

Beth Parker, Arnold & Porter LLP, San Francisco, CA

Claude Stern, Quinn Emanuel Urquhart Sullivan, Redwood City, CA

Arbitrating Complex Cases in the Healthcare Field: Education Over Advocacy

Room 3018, 3rd Floor, Moscone Center West

Arbitration is the favored method of resolving complex healthcare business disputes. In fact, these disputes can become so complex, and the concepts so unfamiliar, that the primary goal of counsel is often to educate, not to advocate. Put differently, a focus on advocacy without education may leave the arbitrator or panel wondering just what the dispute is really about, and how to approach resolution. This presentation will focus on some tried and true techniques for organizing complex health care case presentations so that counsel can both educate and advocate, and get the best result possible.

Panelists:

Stephen Goff, DLA Piper, Sacramento, CA

James L. Poth, Jones Day, Irvine, CA

Friday, August 6, 2010

8:30am – 10:00am

Emerging Legal & Social Issues in Same-Sex Dissolutions

Room 3020, 3rd Floor, Moscone Center West

This panel will present an overview of emerging legal issues arising in the dissolution of same-sex partnerships, including the interaction of non-marital and marital law, jurisdictional debates regarding recognition of out-of-state parentage and marriages/partnerships, and the consequences of federal non-recognition, especially the tax ramifications of dissolutions. The panel will explore the underlying social issues of gender, relationship recognition, the politics of civil marriage, and the new demographics of lesbian and gay communities in the context of the changing legal environment and discuss the value of mediation and collaborative approaches to same-sex dissolutions, and the need for legal and social competence on the part of attorney and mediator practitioners.

Panelists:

Frederick Hertz, Law & Mediation Offices of Frederick Hertz, Oakland, CA
Shannon Minter, National Center for Lesbian Rights, San Francisco, CA
Deborah Wald, The Wald Law Group, San Francisco, CA

Fellows Research Seminar: Does Anyone Win at the EEOC? Findings from the American Bar Foundation Employment Discrimination Litigation Research Project

Room 2018, 2nd Floor, Moscone Center West

Primary Sponsor: American Bar Foundation

This seminar will present findings from the Employment Discrimination Litigation Research Project of the American Bar Foundation, which collected data from a large random sample of federal court filings for the period 1988-2003; conducted interviews with 100 plaintiffs, defendants, and their counsel; and matched data from the EEOC charge database for the same period. This uniquely comprehensive study reveals how employment discrimination litigation actually operates, including the prospects for success, the size of typical settlements and awards, the roles that the race and gender of plaintiffs play, and the profound importance of legal counsel to case outcomes.

Speakers:

Robert Nelson, Chicago, IL
Laura Beth Nielsen, Evanston, IL

Justice 12.0 - Is There an App for That?

Ballroom Salons 1/2, Lower B2 Level, San Francisco Marriott Marquis

Primary Sponsor: Judicial Division

What changes does the future hold for substantive law? With an increasingly crowded planet, what new areas of law will develop to deal with scarcity and ration resources? How will the law evolve to address the growing challenges of science and technology, and privacy (or lack thereof)? Will we continue to have state law, and state courts? Will we continue to have U.S. law and U.S. courts? Will the international harmonization of laws make U.S. law less important? Will we have more disputes, or fewer disputes? How will the types of disputes, and the parties, change? Will the trends toward specialized courts and ADR continue? How will demographic changes impact the justice system of the future? Will families and communities be structured fundamentally differently? Will the justice system continue to play the same role in U.S. society, or will that change as well? **This is a complimentary CLE program.**

Chair:

Honorable Delissa A. Ridgway, U.S. Court of International Trade, New York, NY

Panelists:

Peter N. Fowler, Washington, DC
Honorable John R. Tunheim, Minneapolis, MN

12:00pm – 1:30pm

Careers in ADR Luncheon

Marriott Marquis, Ballroom Salons 3 & 4

Co-sponsor: Law Student Division

Over the last decade the field of ADR has exploded as parties have learned the benefits of reaching agreement or otherwise settling disputes outside of the court. Mediator was ranked by US News and World Report as one of the hottest career fields to enter. A panel of experienced ADR professionals from various practice settings will discuss how law students can enter the ADR field; what skills and training are needed to succeed; ways to build and parlay your conflict resolution skills for use both in business and in the community; and answers to your most pressing questions about where the jobs are in this hot and growing field. **This luncheon program is complimentary for ABA Law Student Division members. To attend, please visit the Law Student Division registration desk at the Marriott Marquis to pick up a lunch ticket. Limited space is available.**

Moderator:

Honorable Bruce E. Meyerson, Arbitrator & Mediator, Phoenix, AZ

Panelists:

Kimberly Taylor, Vice President, JAMS – The Resolution Experts, New York, NY

Philip Armstrong, Office of General Counsel, Georgia Pacific Corp., Atlanta, GA

Michelle Katz, Law and Mediation Offices of Michelle Katz, Los Angeles, CA

Homer C. La Rue, Chair, ABA Section of Dispute Resolution, Columbia, MD

Ernest Uwazie, Professor, Center for African Peace and Conflict Resolution, California State Univ. at Sacramento, Sacramento, CA

2:00pm – 3:30pm

Virtual Virtues: Wrestling with the Ethical Dilemmas of an Online Dispute Resolution Practice

Room 3020, 3rd Floor, Moscone Center West

For the past decade, online dispute resolution (ODR) has evolved yet there has been limited discussion regarding ethics for the ODR practitioner. How ethical standards such as confidentiality, party self-determination, neutral impartiality, and conflicts of interest impact the credibility of ODR? What is the neutral's liability if ethical standards are violated online? What ethical standards do or should control an ODR practice? Join a lively discussion filled with ODR hypotheticals that raise ethical concerns.

Panelists:

Jo DeMars, DeMars & Associates Ltd, Waukesha, WI

Susan Exon, University of La Verne College of Law, Ontario, CA

John Helie, Superior Court of California, County of Alameda, Oakland CA

Kimberlee Kovach, South Texas College of Law, Houston, TX

Judging Aging: The Quiz Show

Room 3002, 3rd Floor, Moscone Center West

Primary Sponsor: Standing Committee on Federal Judicial Improvements

This informative and highly-interactive presentation will begin with a brief, multi-media overview of the subject. Then, in an entertaining "game show" format, audience members will use hand-held technology to "vote" (anonymously) on the answers to quiz questions on topics including the specific cognitive functions used in the process of "judging," how aging affects those functions, the positive effects associated with aging which enhance judges' performance, the differences between normal and abnormal aging, what judges can do to enhance cognitive functioning and slow age-related deterioration, how judges can monitor their own cognitive status, "coping strategies" that individual judges can use to compensate for the effects of aging, and how judges' caseloads can be structured to maximize their contributions as they age. **This is a complimentary CLE program.**

Chair:

Honorable Delissa A. Ridgway, New York, NY

Panelist:

Wilfred van Gorp, Ph.D., New York, NY

3:45pm – 5:15pm

Practicing Law in a Fishbowl – The New Reality of Engaging the Public in Environmental Decision-Making

Room 3020, 3rd Floor, Moscone Center West

This program will address the use of Environmental Conflict Resolution (ECR) techniques in different types of environmental matters where numerous participants are involved in the environmental decision-making process (e.g. federal, state and local government responses to climate change and the development of state adaptation plans; the development and implementation of Total Maximum Daily Loads (TMDLs) and large natural resource restoration projects; Negotiated Rulemaking; the siting and construction of large environmentally significant projects like wind projects). The program will employ an interactive format beginning with short presentations followed by a role plays using case studies to illustrate the use of ECR techniques applicable to the fact patterns.

Panelists:

John Bickerman, Bickerman Dispute Resolution, PLLC, Washington, DC
Richard Miles, FERC's ADR Act Dispute Resolution Specialist, Washington, DC
Edna Sussman, SussmanADR LLC, New York, NY
John F. Gullace, Manko, Gold, Katcher & Fox, LLP, Bala Cynwyd, PA

E-Discovery Headache: Take Two Aspirin and Call a Special Master

Room 3010, 3rd Floor, Moscone Center West

With e-discovery now a way of life in civil litigation, it threatens to make the preservation and production of documents prohibitively expensive and disruptive to the parties' business. Counsel and their clients are often unable to approach e-discovery with the candid and collaborative attitude that it requires - and that courts are demanding. A cost-effective solution is for the court to appoint a special master, knowledgeable about the legal and technical aspects of e-discovery, to mediate and regulate the process. The panel will identify the situations that call for a special master; review the appointment process set forth in Federal Rule 53; and discuss how a special master can persuade, and if necessary require, the parties to engage in "best practices" for conducting e-discovery. The panel will also explore the use of special masters in state court actions, and to solve the special problems presented by e-discovery in arbitrations.

Panelists:

Honorable Richard A. Levie (Ret.), JAMS, Washington, D.C.
Martin Quinn, JAMS, San Francisco, CA

Saturday, August 7, 2010

7:30am – 8:30am

Executive Committee Meeting

Executive Boardroom, 4th Floor, InterContinental

8:00am – 9:00am

Council Breakfast

InterContinental Ballroom A, 5th Floor

8:00am – 9:00am

Ethics Committee Meeting

Union Square, 3rd Floor, InterContinental

8:30am – 10:00am

The Real Realities of Cloud Computing – Will the Cloud Produce Smooth Sailing or Stormy Weather

Room 2018, 2nd Floor, Moscone Center West

Primary Sponsor: Section of Science and Technology Law

From exceptionally knowledgeable and highly experienced presenters, you will learn why cloud computing is going to have a most profound effect at all levels of information technology as it evolves into a utility and why spending on it is expected to catapult, the risks to your clients and your office when it is adopted, how to assess the cost savings and whether or not they are real or illusory, the basic differences between cloud computing and outsourcing, proven strategies for dealing with cloud computing adhesion agreements, the service levels you need to expect and have to demand, novel dispute management mechanisms for resolving inter-party disputes, and the looming privacy, security, and intellectual property risks and issues. After attending this session, you will leave harnessed with an understanding of the information, tools, and considerations you will need to properly advise your clients and your office on whether to embrace cloud computing, how to properly contract for it, and the privacy, security, intellectual property issues with which you must come to grips when making use of the new paradigm of cloud computing, and your ethical obligations as an attorney.

Moderators:

Stephen N. Hollman, San Jose, CA

John P. Tomaszewski, San Francisco, CA

Patrick J. Whalen, Kansas City, MO

Speakers:

David W. Cearley, Stanford, CT

Daniel Cooperman, East Palo Alto, CA

Michelle Finneran Dennedy, Menlo Park, CA

Allan Leinwand, Menlo Park, CA

Martin Quinn, San Francisco, CA

Ronald Trope, New York, NY

9:00am – 2:00pm

Council Meeting

Intercontinental Ballroom A, 5th Floor, Intercontinental Hotel

2:00pm – 2:30pm

Annual Meeting of the Members and Council Elections

Intercontinental Ballroom A, 5th Floor, Intercontinental Hotel

2:30pm – 4:00pm

ADR in the Business Courts: How Commercial Judges Encourage Settlement

Primary Sponsor: Business Law Section

The session features a panel discussion with leading commercial judges and attorneys who have been responsible for designing and implementing court-annexed ADR programs.

3:00pm - 4:00pm

Long Range Planning Committee Meeting

Executive Boardroom, 4th Floor, InterContinental Hotel

Sunday, August 8, 2010

8:30am – 10:00am

The Emerging Practice of Elder/Adult Family Mediation: A Resource for Decision-Making and Conflict Management

Room 3022, 3rd Floor, Moscone Center West

In 2008, persons 65 years old and older outnumbered younger adults by 38.9 million, an increase of 4.5 million or 13% since 1998. During the same period, the number of persons 45-64 who will reach 65 over the next two decades increased by 31%, and the number aged 100 or older increased 147%. Concurrently, health care costs skyrocketed, the economy took a nosedive and families became increasingly dispersed and alienated. It is timely for Elder/Adult Family Mediation's emergence as a powerfully effective process in enabling families to address the multiple, complex issues encountered as family members transition from independence to dependence. Elder mediation allows conflicted families to make wise decisions about independence (housing, care-giving, health care) and money (gifts, family business succession, estate planning) and to prevent the painful and costly consequences of contested conservatorship proceedings and, later, trust and estate litigation. This program will: (1) Explore the "universe" of elder mediation; (2) Examine the value-added opportunities for families in elder mediation; (3) Clarify the early warning signs that family decisions may lead to conflicts appropriate for mediation; (4) Outline the distinguishing features of elder mediation; (5) Help you find an elder mediator; and (6) Explore the role of the lawyer in elder mediation. **This is a complimentary CLE program.**

Panelists:

William M. Andrews, Law Firm of William M. Andrews, Santa Rosa, CA
Dana Curtis, Dana Curtis Mediation, Sausalito, CA

Lawyers and Midlife: Planning For and Living the Rest of Your Life

Marina, 2nd Floor, Palace

Primary Sponsor: Commission on Lawyer Assistance Programs

Lawyers at midlife, as young as 50, should begin planning for the time when they no longer practice law. Financial planning and the need for economic independence are a huge part of this, but not the only aspects to be considered. This program also looks at the emotional aspects and the need for meaningful engagement after transitioning from practice. This program will help lawyers who are at all stages of retirement planning consider the full range of issues that will make that part of their lives most fulfilling. This is a complimentary CLE program.

Speaker:

Mike Long, Portland, OR

10:30am – 12:00pm

Fair Trial, Free Press? High-Profile Cases in a 24/7 "New Media" World

Rooms 2001/2003, 2nd Floor, Moscone Center West

Primary Sponsor: Judicial Division

The ranks of newspapers, newspaper readers, and traditional journalists are rapidly dwindling, replaced by bloggers, twitterers, "citizen journalists," and other so-called "social" and 'new' media. Can "trial by twitter" be far behind? In a fast-paced, multi-media "talk show" format, renowned judges, and journalists (representing both conventional and "new" media) will use real-life examples "ripped from the headlines" - screening actual news reports on select trials - to highlight the growing challenges of litigating high-profile cases in a world where a 24/7 news cycle is the norm, the news cycle is the norm, the journalists' code of ethics is being rewritten "on the fly," and jurors are negotiating book deals during coffee breaks and researching case details on their Blackberries to reach a verdict. Panelists include the judge who recently presided over the "Proposition 8"/same-sex marriage trial, as well as the judge who recently handled one of the largest public corruption cases in the country and now has a major national security case involving an alleged terrorist plot to blow up

a skyscraper. The relationship between the courts and the media has always been rocky, and the emergence of “new” social media clearly raise the stakes and pose novel problems. Don't miss this frank and stimulating exchange on how to protect parties' rights to a fair trial while- at the same time - satisfying the rights of the public and media to access to the courts. **This is a complimentary CLE program.**

Speaker:

Honorable Vaughn Walker, San Francisco, CA

Panelists:

David Boies, Armonk, NY

Honorable Barbara M.G. Lynn, Dallas, TX

Additional Annual Meeting Resources

For more information, visit <http://new.abanet.org/annual/pages/default.aspx>

To register online, visit <https://www.xpressreg.net/register/abaa080/lookup.asp>



Section Reception & Dinner

Friday, August 6, 2010
6:30pm – 9:00pm

University Club
800 Powell Street
San Francisco, CA

Ticket Prices:

- ABA Section of Dispute Resolution Members - **\$60**
- ABA Members - **\$75**
- Non-Members - **\$95**

Name: _____

Affiliation: _____

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Signature: _____ Date: _____

Send registration form to:

ABA Section of Dispute Resolution
740 15th Street, NW, 9th Floor
Washington, DC 20005
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