

Family Dispute Resolution: The More Things Change, the

Peter Salem reflects on conversations with Zena Zumeta, Brianna Zielke, and Justin Kelsey



Peter Salem

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Zena Zumeta

has been a mediator based in Ann Arbor, Michigan, since 1982. A nationally known trainer of mediators, she is a past president of the Academy of Family Mediators and a past board member of SPIDR, the Society of Professionals in Dispute Resolution, which were merged into what is now the Association for Conflict Resolution. She is a member of the Editorial Board of Dispute Resolution Magazine. She can be reached at zzumeta@igc.org.

Conversing with Zena Zumeta typically makes me feel like the new kid on the block, even though I've logged nearly 30 years in the field since my volunteer days at Chicago's Neighborhood Justice Center, which is now the Center for Conflict Resolution, or CCR. This may be because in 1989, when she trained me in divorce mediation, Zena was already a veteran mediator, and our teacher-student relationship endures. Conversely, I could almost feel my bones creaking while listening to Brianna Zielke and Justin Kelsey, two "next-generation" family dispute resolution (FDR) practitioners. Justin and Brianna, both in their late 30s, represent the youth movement in today's rapidly graying FDR community.

At the start of our conversation, the reasonable assumption was that dramatic changes in dispute

resolution over the last 35 years would cause Brianna and Justin to have perspectives and career paths that are quite different from Zena's and my own. Justin and Brianna grew up in an era of peer mediation; academic programs in conflict resolution; mediation advocacy competitions; an abundance of dispute resolution organizations, conferences, and training opportunities, at a time when mediation has a greater place in the public consciousness. When Zena, a long-time practitioner of both mediation and meditation, established her dispute resolution practice, she often had to make sure that prospective clients understood the distinction between the two.

Rather than finding significant differences, however, this particular trio discovered many similarities between generations. None of them *planned* to become FDR

More They Stay the Same



Brianna Zielke

is the owner of Shared Mediation, a Chicago-based mediation services provider. Trained as a litigator, she now focuses exclusively on divorce and post-decree mediation and educating the public about its availability and benefits. She also has a strong pro bono practice, donating 15% of her mediation sessions to low-income and high-conflict clients to help people avoid litigation. She can be reached at brianna@sharedmediation.com.



Justin L. Kelsey

is a collaborative divorce attorney and mediator in Framingham, Massachusetts. Justin is on the board of directors of the Massachusetts Collaborative Law Council and the Massachusetts Council on Family Mediation and is also on the Family Law Steering Committee of the Boston Bar Association. He can be reached at jkelsey@skylarklaw.com or through Twitter at [@skylarklaw](https://twitter.com/skylarklaw).

neutrals; they entered the field due to dissatisfaction with the fields they *had* chosen. Interestingly, they have demonstrated different approaches to pursuing success — plucky entrepreneurship, careful strategic planning, and extensive networking.

Zena, Justin, and Brianna share a familiar story about entering the field. All three attended law school, and none enjoyed an adversarial approach to their subsequent work. They did not study ADR or negotiation, although for Brianna and Justin these classes were readily available in the early 2000s at Northwestern and Boston University, respectively. Zena noted, however, that in the 1970s negotiation class at Michigan, higher grades were awarded to those who achieved better results at the expense of their negotiating partner.

Brianna, Justin, and Zena each worked in an adversarial role following law school, and none had a predisposition toward FDR. Zena was a union negotiator. Brianna, who did social justice work before law school, became a large-firm litigator so she could pay off her student loans. Justin originally intended to go into public health law but “took the first job I got,” which happened to be with a small family law litigation firm.

Their discomfort in adversarial roles led them each, eventually, to family dispute resolution. Zena was back at Michigan consulting with a labor law professor when she bumped into her family law professor, who told her of the emergence of family mediation. Justin struggled with opposing lawyers who were “in it for the fight” and found that he had a knack for settling difficult cases; when his firm refused to support his

request for mediation training, he started his own firm and took mediation training, noting, "I had lots of free time and not a lot of clients." Brianna left her litigation job after the birth of her daughter and said that having a child made her want to give back. She Googled, "What can you do with a law degree?" and the results led her to Chicago's CCR and ultimately a divorce mediation practice.

Although Zena, Justin, and Brianna did not plan for a career in family dispute resolution, they all left more established careers to join an emerging field (albeit one that had emerged far more by the time the latter two entered). Zena's impetus came from the broader "save the world" mentality of the 1960s, Brianna's, a personal desire to give back, and Justin's, a wish to provide services that were aligned with his beliefs. Both next-generation dispute resolvers cited a desire for work-life balance, something a trial schedule is less likely to offer.

Opportunities in family dispute resolution were limited for Zena, the representative of our founding generation. She found and completed the only mediation training available in Michigan and opened a practice with a local social worker. Lacking a local professional community, she joined the fledgling Academy of Family Mediators. There she met colleagues and developed contacts that would enable her to improve her skills and ultimately develop a national training practice.

In contrast, Brianna received mediation training and honed her craft as a volunteer for CCR before narrowing her focus to family disputes. She completed additional divorce mediation training and reached out to professionals in her network (including a divorce attorney, financial professionals, and family therapists) for mentoring and to build a team of complementary service providers. When she launched Shared Mediation, she set up a web site, bought a Google ad, and "People started calling!" Brianna attributes her unique success to "spending less time networking with other mediators and more time talking to anyone and everyone else about mediation." After her stint as a litigator, she, like many family dispute resolution founders, has concluded that mediation is best for almost everyone. She believes that if people were more aware of mediation and its benefits, divorce

mediation and divorce mediators would thrive. Toward that end, Brianna is planning a large public education campaign in 2015 to spread the word about the availability and benefits of mediation.

Justin has taken a more strategic approach to building his practice, with extensive marketing and social media, multidisciplinary professional partnerships, and deep engagement in the FDR community. He writes a blog, and his practice offers an array of services to meet the perceived needs of his clients, including mediation, collaborative divorce, mediation representation, and limited-scope representation. He does not go to court, although he recognizes the need for the litigation process. Justin has taken multiple trainings, places a premium on professional networking, and is a member of at least 10 associations (including eight state or local groups, the Association of Family and Conciliation Courts, and the Academy of Professional Family Mediators) for which he has served on committees and boards. He hopes to become more involved nationally, improve his skills, build his brand, and establish a firm of eight to 10 FDR practitioners.

Brianna's outlook seems reminiscent of the "if you build it, they will come" optimism of the early FDR movement. And for Brianna, they *have* come! Justin's more tactical approach also is not tremendously different from those of founding-generation practitioners who developed networks, relationships, and partnerships largely through national organizations because that's where the opportunities were at the time. Indeed, in her early days, Zena hung out a shingle and developed strategic partnerships, both of which bolstered her career.

Our founding and next-generation dispute resolvers do seem to have much in common, including the fact that none of them ever intended to work with families or in dispute resolution, which is not uncommon for FDR professionals. They share a distaste for being adversaries, an appreciation for processes designed around self-determination, and an interest in a career that aligns with their personal values. There may well be dozens of young FDR practitioners who began as peer mediators, earned FDR-related degrees, and worked their way up in an agency or practice. Somehow, however, the serendipitous route seems more likely. ■