A two-term governor of New York, Hugh Carey amassed a remarkable record of achievement in both public and private sectors over his long and distinguished life. A decorated veteran of World War II, he entered politics in 1960 and was elected to the United States House of Representatives, where he served on the powerful Ways and Means Committee. After fourteen years in the House, he was elected Governor of New York in 1974 with the second largest plurality in state history.

Governor Carey inherited a state mired in deep economic trouble. The financial crisis afflicting New York City threatened to consume the entire state. He quickly got to work, bringing together the bankers, the unions, and the federal and state governments to find a solution. Through his perseverance and willingness to take difficult positions, he saved New York City from bankruptcy, rescued the Urban Development Corporation, and balanced the state budget, all while lowering the tax burden on New Yorkers. Recognizing the difficult times he faced, the New York Times described Hugh Carey as a “Governor for Hard Winters.” But the seeds of economic stability that he planted matured in the form of a rejuvenated New York City and New York State.

Hugh Carey’s record of problem-solving initiatives, however, does not end with his program of economic development for New York City. As a member of the “Four
Horsem en” with Daniel Patrick Moynihan, Tip O’Neill, and Edward Kennedy, he was one of the first major American officials to sit down with representatives of the Irish and British governments to seek a solution to the Troubles in Northern Ireland. In signing the Willowbrook Consent Decree, he ended the warehousing of the mentally retarded and developmentally disabled, paving the way for a program of community placement that became the national norm. And he mediated the conflict between environmental regulators and General Electric over PCBs in the Hudson River, ultimately winning an agreement that obligated New York’s industrial giant to pay millions to clean up the river.

Governor Carey’s efforts to find mutually-advantageous solutions to social problems continued after he left public office. As an Executive Vice President for Grace Corporation, he headed the firm’s Office of Environmental Policy as Grace struggled to deal with asbestos liability and the aftershocks of the massive environmental contamination lawsuit depicted in the book and movie “A Civil Action.” He described his role at Grace as serving as “a conciliator between industry and Government,” charged with helping both sides move beyond the defensiveness that had hindered progress on environmental initiatives. He remained true to his core principles in private industry just as he had been in public office. He refused to let Grace use bankruptcy as an easy way out of its asbestos liabilities, just as he had refused to let New York City sink into bankruptcy a decade earlier.

Throughout his long career in public service and after, Governor Carey demonstrated his courage to tackle difficult, sometimes unpopular, conflicts, give voice to the victims of social injustice and encourage workable solutions to resolve these conflicts. He also demonstrated his commitment to St. John’s and to the ideals on which the University and the Law School rest. His vision and generosity have ensured that his legacy lives on in the Hugh L. Carey Center for Dispute Resolution.
Mediation Training in Ghana

This summer, the Carey Center partnered with Fordham Law School’s Feerick Center for Social Justice to offer mediation training at the Catholic University in Sunyani, Ghana. Sponsored by the Giving to Ghana Foundation under the leadership of Dennis Lynch, the training provided intensive instruction in mediation to a diverse group of professionals, clergy, chiefs, and academics from around Ghana, and featured appearances by the Chief Justice of the Ghana Supreme Court and other high-ranking officials.

Working with several prominent Ghanaian law professors and former Fordham Dean John Feerick, Carey Center Director Elayne Greenberg and Fordham’s Professor Jacqueline Nolan-Haley designed the program and led the training effort. “How thrilling to be part of a collaboration that helped to integrate the customary, long-standing dispute resolution skills that have been successfully used in Ghana with the more formal requirements of the new Ghana ADR Act,” said Professor Greenberg. “I was personally transformed by the richness of the experience and deeply moved by the welcoming hearts and generous spirit of the Ghanaian people.”

St. John’s students Samantha Horn and Nk Udogwu.

“Ghana was the first sub-Saharan African country to gain its independence, and it has a long history of peaceful conflict resolution,” said Professor Paul Kirgis, Faculty Chair of the Carey Center and a member of the training team. “I know I learned as much about dispute resolution from our Ghanaian hosts as I taught.”

The training builds on a training St. John’s School of Law hosted in the summer of 2008 in which a group of Ghanaian students came to New York to study American alternative dispute resolution systems. “Projects like this really show how we are putting into practice our goal of increasing student engagement while focusing on social justice and global initiatives,” said Dean Michael A. Simons. “I am thrilled that the Carey Center is continuing Governor Carey’s legacy of promoting peaceful international dispute resolution in this way.”

“I was personally transformed by the richness of the experience and deeply moved by the welcoming hearts and generous spirit of the Ghanaian people.

— Professor Elayne Greenberg

Trainers Samantha Horn, Kathleen Scanlon, Nene Amegatcher, Jackie Nolan-Haley, Paul Kirgis, and Elayne Greenberg with Dennis E.A. Lynch, Executive Director of the Giving to Ghana Foundation.

St. John’s students Samantha Horn and Nk Udogwu.

Former Fordham Dean John Feerick with Ghana’s Chief Justice Georgina Wood at the opening of the Marian Conflict Resolution Center.
Worlds of Work Conference, Cambridge, England

On July 20-22, 2011, the Carey Center joined with St. John’s School of Law’s Center for Labor and Employment Law to host Worlds of Work: Employment Dispute Resolution Systems Across the Globe, a landmark international conference held at Fitzwilliam College, University of Cambridge. The event brought together a world-class group of scholars and practitioners from the fields of labor law and ADR to exchange ideas on a range of topics, including differences among countries in the handling of workplace disputes, employment discrimination law in a transnational context, and the cultural, religious, and ethical dimensions of workplace conflict.

Among the many noted scholars and practitioners who participated in the conference were:

- Theodore J. St. Antoine, James E. and Sarah A. Degan Professor of Law and Dean Emeritus, Michigan Law School; Past President, National Academy of Arbitrators.
- Thomas J. Stipanowich, William H. Webster Chair in Dispute Resolution and Professor of Law, Pepperdine University School of Law George Cohen, Director, Federal Mediation and Conciliation Service.
- Samuel Estreicher, Dwight Opperman Professor of Law Executive Director, Center for Labor and Employment Law, New York University School of Law.
- Julius G. (“Jack”) Getman, Earl E. Sheffield Professor of Law, University of Texas School of Law.
- William B. Gould IV, Charles A. Beardasley Professor of Law, Emeritus, Stanford Law School; Former Chairman, National Labor Relations Board.
- Sir Bob Hepple QC FBA, Emeritus Master of Clare College; Emeritus Professor of Law, University of Cambridge; Former Chairman, Industrial Tribunals (England and Wales); Senior Vice President, United Nations Administrative Tribunal.
- George Cohen, Director, Federal Mediation and Conciliation Service.

The conference continued St. John’s successful history of academic programs focusing on international dispute resolution, building on the 2006 conference Transnational Perspectives on ADR, held at the University of London’s Queen Mary College. The conference papers will be published in a dedicated issue of the St. John’s Law Review.

“The timely conference themes reflected St. John’s social justice mission and global focus, and the conference’s engaging agenda evinced the positive synergy of the Law School’s academic centers,” said Dean Michael A. Simons.

Leading the Way in Bankruptcy Mediation

Working with the American Bankruptcy Institute (ABI) and the Center for Bankruptcy Studies at St. John’s, the Carey Center will offer a comprehensive 40-hour training in bankruptcy mediation on December 7-10, 2011 at St. John’s University’s campus in Manhattan. ABI is the nation’s leading provider of quality bankruptcy educational programs, and St. John’s Center for Bankruptcy Studies offers the nation’s premier bankruptcy program, featuring the only LL.M. in Bankruptcy. Together, ABI and St. John’s publish the ABI Law Review, the nation’s premier bankruptcy journal, with a circulation of approximately 11,000. Having partnered in 2009 with the ABI Law Review to host a conference on ADR in bankruptcy, the Carey Center now extends this successful collaboration to develop this groundbreaking bankruptcy mediation training program.

“Bankruptcy mediation is actually an amalgam of two settlement-focused cultures: bankruptcy and dispute resolution,” said Carey Center Director Elayne Greenberg, who is leading the training. “In bankruptcy mediation, skilled bankruptcy attorneys working with a well-trained bankruptcy mediator have the opportunity to overcome the impasses they have reached in negotiation and work to develop efficient and effective resolutions for debtors and creditors.”

The ABI/St. John’s Bankruptcy Mediation Training is designed to educate mediators about the theory, skills and specific practice challenges of bankruptcy mediation. Guided by a distinguished advisory board of nationally respected bankruptcy jurists, practitioners and mediators, and featuring faculty who are leaders in the field of bankruptcy mediation, the ABI/St. John’s Mediation Training will teach the critical skills that are requisites for bankruptcy mediators. Utilizing lectures, exercises and simulations focusing solely on bankruptcy conflicts, the training will cover both the core skills essential for all good mediators and the specialized bankruptcy issues inherent in Chapter 7, 11 and 13 mediations.

Keynote Speaker Theodore J. St. Antoine.

Carey Center Director and leader of the Bankruptcy Mediation Training Elayne E. Greenberg.
Paul E. Kirgis  
Professor of Law  
and Faculty Chair, Hugh L. Carey Center for Dispute Resolution

Paul Kirgis presented his article “Hard Bargaining in the Classroom: Realistic Simulated Negotiation and Student Values” at the Legal Educators’ Colloquium at the 2011 ABA Dispute Resolution Section Conference. With articles by Michael Wheeler, Nancy Welsh, and Jennifer Gerarda Brown, his article will be published in a dedicated issue of the peer-reviewed Negotiation Journal published by the Program on Negotiation at Harvard Law School.

A co-organizer of the conference Worlds of Work: Employment Dispute Resolution Systems Across the Globe, held at Cambridge University in July 2011, Professor Kirgis moderated a panel at the conference titled “Navigating Heterogeneous Legal Systems.”

Elayne E. Greenberg  
Director, Hugh L. Carey Center for Dispute Resolution

Elayne Greenberg, a co-organizer of the conference Worlds of Work: Employment Dispute Resolution Systems Across the Globe, moderated a panel at the conference on “Employment Discrimination in Transnational Contexts,” in which she presented her paper “Overcoming Our Global Disability in the Workforce: Mediating the Dream.” The paper will be published with others from the conference in a dedicated issue of the St. John’s Law Review.

David Gregory  
Dorothy Day Professor of Law  
and Executive Director, Center for Labor and Employment Law

David Gregory, Director of the Center for Labor and Employment Law, co-organized the conference Worlds of Work: Employment Dispute Resolution Systems Across the Globe, where he and his co-authors Andriana Mavidis and Michael Harary presented their paper “A Comparative Assessment of Labor and Employment Dispute Resolution in the United States and the United Kingdom.” The paper will be published with the other conference papers in a dedicated issue of the St. John’s Law Review.


Nicholas R. Weiskopf  
Professor of Law

In June, at the New York State Bar Association’s Program on Arbitration at Cardozo Law School, Nick Weiskopf addressed the issues involving arbitrariness and the allocation of powers between courts and arbitrators in light of recent Supreme Court precedent. His article “Unnecessary Decision-making: A U.S. View of the Supreme Court’s 2010 Arbitration Cases” appeared in the Dispute Resolution Journal (Feb.-Apr. 2011).


Ettie Ward  
Professor of Law

Ettie Ward is Chair of the Alternative Dispute Resolution Committee of the Tort and Insurance Practice Section of the ABA. She organized a program for the August 2011 ABA Annual Meeting on “Mass Settlements: Beyond Compensation.”

Adam Zimmerman  
Assistant Professor of Law

Adam Zimmerman’s scholarship explores the way class action attorneys, regulatory agencies and criminal prosecutors provide justice to large groups of victims through overlapping systems of tort law, administrative law and criminal law. His article “Distributing Justice” was published in the New York University Law Review, his article “The Criminal Class Action,” written David Jaros, was published in the University of Pennsylvania Law Review, and his article “Funding Irrationality” was published in the Duke Law Journal.

Lisa Catalano  
Director, Securities Arbitration Clinic and Associate Professor of Clinical Legal Education

In August 2011, Lisa Catalano moderated a panel at the Practising Law Institute’s (PLI) annual Securities Arbitration program on whether arbitrators and mediators really care about the law. She also participated on a panel discussing which cases are appropriate for negotiation, mediation or arbitration. Her paper entitled “Ethical Landmines in Settlement Negotiations,” addressing the ethical issues that may arise when counsel use criminal, regulatory or disciplinary threats to gain a tactical advantage in settlement negotiations, was published in the course materials for the program.

Professor Catalano chairs the Amicus Curiae Committee of the Public Investors Arbitration Bar Association (PIABA). This year, the Committee filed an amicus brief in a case pending in the Second Circuit Court of Appeals arguing in favor of an expansive reading of the definition of “customer” under the Financial Industry Regulatory Authority’s (FINRA) Code of Arbitration Procedure, and another in a major case pending before the New York Court of Appeals, in which the Committee argued that the Martin Act, New York’s blue sky law, does not pre-empt common law claims for negligence and breach of fiduciary duty.
St. John's Takes Third Place at Vis International Arbitration Moot

Vis teammates Olga Shestova, Rachel Roseman, Daniel Merker and Brian Andrews after their successful run in Vienna.

St. John’s placed third out of 260 competing teams from 65 countries around the world at the 18th Annual Willem C. Vis International Commercial Arbitration Moot in Vienna. The team of Brian Andrews, Daniel Merker, Rachel Roseman and Olga Shestova, coached by Christine Lazaro and William J.T. Brown, was the only American team to make the semi-finals. Brian and Rachel earned honorable mentions for Best Oralist.

“This is an extraordinary achievement for everyone involved, including the Dispute Resolution Society and our entire ADR program,” said Dean Michael A. Simons. “The Vis Moot has become one of the key credentialing activities and networking points for anyone wanting to enter into international commercial arbitration. Not only participating, but excelling, in this year’s competition is a significant step for us.”

Reflecting on the competition, Dispute Resolution Society Executive Director Daniel Merker said: “From the first day of practice to our last argument in Vienna, every step felt more rewarding. Prior to reaching Vienna, we had to learn an entirely new body of law, style of advocacy and type of problem. As a participant, your success is directly tied to your submersion in the problem and, although it seemed daunting at times, it was an amazing experience.”

Founded by Pace Law School in 1994 and held at the University of Vienna School of Law each spring, the Vis competition is designed to foster the study of international commercial and arbitration laws and to promote the benefits of using arbitration to resolve business disputes. Competitors submit written briefs and present oral arguments on a dispute involving an international transaction governed by the United Nations Convention on Contracts for the International Sale of Goods and other uniform international commercial law — in the context of an arbitration of a dispute under specified arbitration rules. Because the competition pits schools from common-law countries against schools from civil-law countries, it challenges students to learn about and engage with different legal systems as well as different national cultures. It gives students a hands-on introduction to the burgeoning world of international legal practice.

“One of our primary goals at the Carey Center is to give students experiential learning opportunities that will allow them to enter the profession ready to function at a high level,” said Professor Paul Kirgis. “The Vis competition offers an unparalleled practical experience in international dispute resolution.”

Added Professor Lazaro, Supervising Attorney of the Law School’s Securities Arbitration Clinic, “Over 1,000 law students and over 700 arbitrators from all over the world participate in the competition. From the opening ceremony to the awards banquet, our students are able to interact with these fellow participants and develop personal and professional relationships that will last long after the Moot is over.”

Mediation Training First to Receive State Recognition

New York has a longstanding commitment to including quality dispute resolution interventions as an integral part of judicial case management. New York’s court system continues to honor that commitment by implementing new rules to ensure the highest standards for New York’s court-connected mediation training programs. The goal of the new rules, contained in Part 146 of the Rules of the Chief Administrative Judge, is to ensure that neutrals selected to serve on all court mediation rosters in New York have rigorous and focused mediation training.

This year, the 42-hour Divorce Mediation Training created by Carey Center Director Elayne E. Greenberg became the first mediation training approved by the New York Unified Court System’s Office of ADR Programs under the Part 146 rules. Twenty-four St. John’s law students took the training during an intensive week in January, learning both the basics of mediation and the complexities of mediation in a divorce context. Students who attended the mediation training came to understand the essential roles of mediators and attorneys in helping divorcing parents end their relationship as husband and wife while redefining their continuing relationship as parents. They saw how skillful mediation can help people maintain their dignity even in the midst of the most traumatic conflict.

At the conclusion of the training, participants were awarded a Certificate of Completion, qualifying them to apply for court-connected rosters. Several of those students have moved on to externship placements in the Matrimonial Part of the Nassau County Supreme Court, where they see how mediation works in a divorce context up close. Others have begun externships or part-time employment with private matrimonial practitioners who use mediation.

Kelly Fissel is one of those students. She credits the training with giving her the skills and credentials that a young attorney needs to distinguish herself in a difficult job market. “While interviewing for a summer associate position as a second-year student,” she says, “employers were consistently impressed with the fact that I had received my mediation certificate through the divorce mediation training, something many of them as practicing attorneys had yet to accomplish. This certification gave me the skills necessary to compete in the New York legal market, and helped land me a position in a matrimonial firm in Manhattan.”
On October 15-16, 2011, the Hugh L. Carey Center for Dispute Resolution and the Financial Industry Regulatory Authority (FINRA) hosted the third annual Securities Dispute Resolution Triathlon at St. John’s University’s Manhattan campus. The Triathlon is a skills competition in which law students negotiate, then mediate, then arbitrate a realistic securities dispute. It is the only dispute resolution competition in which students engage in each of the three primary methods of alternative dispute resolution in a single event. Professional neutrals from FINRA’s roster serve as mediators, arbitrators, and judges, making the Triathlon a uniquely realistic lawyering experience.

“The Triathlon provides aspiring lawyers with an invaluable opportunity to broaden their range of advocacy skills necessary to settle all types of disputes, not only securities disputes,” said Elyne Greenberg, Director of the Carey Center. “Our evolving legal profession needs lawyers who are settlement-compliant, and the Triathlon helps participants get a competitive edge.”

This year, 24 teams from law schools around the country competed. A team from Pace University School of Law took the top prize, the overall Championship, and also won the arbitration round. Florida International University College of Law won the negotiation round, while William & Mary Law School won the mediation round. Texas Wesleyan School of Law won the Advocate’s Choice Award, given to the team voted by the other competitors as demonstrating the highest degree of effectiveness and professionalism.

“As someone who has coached ADR teams for 20 years, this is one of the best we do because the students learn three processes and also about settlement counsel,” said Kay Elliott, experienced mediator and coach of the Texas Wesleyan team.

“The students appreciated the evaluations and feedback from these veteran neutrals,” said Ken Andrichik, Vice President, Chief Counsel and Director of Mediation and Strategy for FINRA Dispute Resolution. “Over 90 FINRA arbitrators and mediators volunteered for the event. Many have participated each year. The neutrals enjoyed helping the students to hone their advocacy skills, knowing that some of these students will soon be appearing in front of them representing real clients.”

The 2012 Securities Dispute Resolution Triathlon will be held on October 13–14, 2012.
The Hugh L. Carey Center for Dispute Resolution

Mission
Guided by the mission of St. John’s University, The Hugh L. Carey Center for Dispute Resolution is dedicated to the development of conflict resolution as a value and as a practice.

• We investigate processes of dispute resolution to explore issues of justice, ethics and efficacy.

• We teach advocates to provide representation with courage and wisdom, while respecting the humanity of others.

• We focus the resources of an international university to promote the resolution of conflict on a local, national and global scale.