



ST. JOHN'S
UNIVERSITY
SCHOOL OF LAW



The
Hugh L. Carey Center
for Dispute Resolution

Message From The Director



Dear Friends and Colleagues,

Welcome to the Fall 2020 Carey Center newsletter, coming to you in its new e-format. This edition spotlights how dispute resolution values and skills fortify our students' resilience and help them reimagine the possibilities at this unprecedented time.

Behind that resilience and reimagination is the hard work of finding ways to do, and to be, better. That work is defined by the people who are doing it. Our Dispute Resolution Society (DRS) students are an amazing group. They're part of a "flat" organization that's diverse by design and that values connection, compassion, and collaboration. In other words, our DRS students were primed to meet the challenges of 2020.

Even before COVID-19 reframed reality, DRS students were learning to negotiate and advocate remotely, practical experience that will help them thrive in our increasingly virtual legal marketplace. That experience also eased our students' transition to online learning and engagement, as did this guiding mantra of reinvention: *As we lead DRS and animate its values, we can harness the benefits of going virtual without losing the essence of working in person*

While they navigated remote education and work ably, DRS members also responded to the nation's and Law School community's rising call for racial justice. In the wake of the senseless police killings of George Floyd and other Black Americans, our students mobilized virtually, harnessed their dispute resolution values and skills, and devised an anti-racist action plan that's now well underway.

In this newsletter, you'll sample just some of the ways St. John's DRS students are using their dispute resolution acumen to adapt to a changing landscape and effect change. Their empathy and respect for each other's humanity will move them, and us all, forward as we make human connections, strengthen bridges of understanding, and work together to dismantle racism.

With my warm regards,

Elayne E. Greenberg
Assistant Dean for Dispute Resolution Programs
Professor of Legal Practice
Director, The Hugh L. Carey Center for Dispute Resolution

Here are some highlights from a very different, but still very busy, year of Carey Center and DRS programs and initiatives.

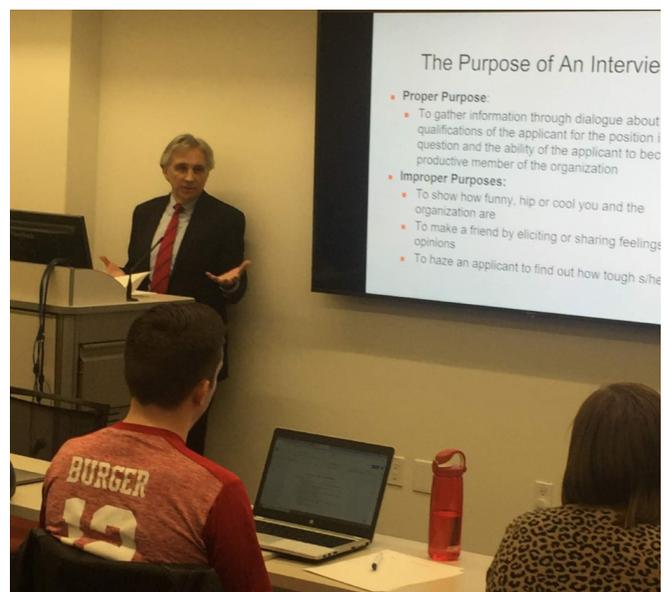


Having Courageous Conversations

Grounded in the skill of having difficult conversations, DRS members joined their fellow St. John's Law students and answered the call for anti-racist action by organizing a virtual series called Courageous Conversations About Race and Racism. With Rachel Harris '21 taking the lead as organizer, the first Conversation invited Law School faculty and administrators to talk about their personal approaches to discussing race. DRS students also shared their own experiences dealing with the racial divide. The presenters then answered challenging questions from students about how to create conversations of understanding when family members or friends express racist attitudes. For the second Conversation, St. John's Law Professor Renee Nicole Allen drew from her forthcoming *UCLA Law Review* article, "From Academic Freedom to Cancel Culture: Silencing Black Women in the Legal Academy," and related scholarship to discuss how the intersectionality of race and gender has created challenges for Black women in academia. The third Conversation, scheduled for this spring, will explore how to integrate anti-racist messages into the law school curriculum.

Making Interviewing and Assessing Part of Anti-Racism Work

As 2020 opened, Professor David R. Marshall, who directs St. John's Center for Labor and Employment Law, led a special training for the DRS Executive Board on how to legally interview and assess candidates for DRS membership. Professor Marshall reinforced for the student leaders the importance of developing a uniform process that establishes a strong link between the interview questions and the organization's mission. All candidates' answers should be assessed based on that link, he emphasized. When the DRS interviews pivoted online with the pandemic shutdown, the students were ready and able to move ahead and select our talented and diverse 2020-2021 DRS members.





Presenting the 2020 Mangano Award

This fall, the Carey Center hosted a virtual program celebrating the 2020 Mangano Dispute Resolution Advancement Award Recipients: University of Illinois College of Law Professors Verity Winship and Jennifer K. Robbennolt. The scholars discussed the award-winning research they reported in their article, “An Empirical Study of Admissions in SEC Settlements,” and its broader policy implications for accountability, settlement, and the rule of law. Professor Elayne E. Greenberg moderated the discussion and presented Professors Winship and Robbennolt with the \$5,000 Mangano Award. Nominations are now open for the 2021 honor, which has been renamed the Dispute Resolution Advancement Award. For more information, please contact Iris Diaz at diaz@stjohns.edu.

Reimagining the Triathlon

This year, we reimagined our annual Securities Dispute Resolution Triathlon—the Carey Center’s decade-long, joint initiative with the Financial Industry Regulatory Authority (FINRA)—as a virtual experience. DRS members Zachary Sobel ’21 and Spencer Sklar ’21 spearheaded the transition to the intra-school 2020 Biathlon, welcoming law school participants from across the country as they titrated their advocacy skills in both a party-directed and third party-directed process. With the Biathlon’s remote format, St. John’s DRS students were able to compete in this unique forum for the first time. As an added bonus, they got to watch arbitrators Sandra Mullings, Paul Walsh, and panel chair Joel Davidson deliberate. At the end of the competition, all of the participants received a recorded debrief of the problem from ADR industry professionals Ken Andrlichik, Joan Stearns Johnsen, and Sandra Mullings. We look forward to hosting an in-person Triathlon as soon as the public health landscape permits.



Strengthening Alumni-Student Bonds

With Zoom fatigue settling in this fall, DRS members and alumni Sierra Fischer ’21, Joseph Clifford ’21, and Christopher Eisenhardt ’16 reimagined the annual DRS student-alumni get together as a virtual game night featuring the ever-popular Guess Who and Kaboom. It was a fun bonding experience retrofitted for this new and, hopefully, short-lived era of social distancing.

DRS Leadership In Action

DRS produces leaders and, below, a few of our 3Ls talk about the leadership skills they're honing as DRS Executive Board members.



Rachel Harris '21

For me, leadership has always been about uplifting the voices of others. At St. John's, I'm the overall coordinator of DRS and the school's liaison to the NYSBA's Dispute Resolution Section. Since I have previous experience leading conversations about probing topics such as faith and diversity, the Courageous Conversations About Race and Racism series organized by DRS and the Carey Center (see Center News below) was yet another opportunity to welcome others into a space of open dialogue. Seeing it go from idea to actuality was exciting! I loved tapping into my own experiences while also encouraging others to contribute their talents and abilities.



Fiona Hogan '21

I signed up for DRS's 1L negotiation competition because I was a nervous public speaker and wanted to conquer that fear. In the nearly two years since then, my involvement in DRS has not only helped me grow into a more confident public speaker, it has allowed me to own and expand my leadership abilities and skills. DRS offers countless opportunities to develop as a student and practitioner of ADR, and to build meaningful relationships with fellow students, alumni, and practitioners in the field. By saying "yes" to those opportunities, I've gained so much more than I ever could have imagined as a 1L signing up for a negotiation competition. For instance, by saying "yes" to an opportunity at the New York State Office for Court Administration, with the help of Professor Greenberg, I gained an incredible externship this semester. I helped to administer various mediation programs across New York City civil courts while witnessing New York Chief Judge Janet DiFiore's signature Presumptive ADR Program in action.



Danielle (Ellie) Marino '21

As DRS's Director of Education, I help to foster and hone our members' dispute resolution skillset. This role taps leadership abilities and confidence I've gained as a participant in DRS competitions. When I was competing as a 1L, the older students who judged the competition gave my partner, opponent, and me positive feedback, and their input encouraged me to keep building my ADR skills. I further nurtured and developed those abilities in class. As I learned about the various forms of dispute resolution outside of litigation, I gained the confidence and the comfort level I needed to take charge. I also came to understand when to sit back and let others have the floor. My success in the external Judith S. Kaye Arbitration Competition and in upper-level internal negotiation competitions only added to my confidence in my dispute resolution skills and in my ability to take the lead. Now, as a DRS leader, I'm able to pass on what I've learned to my fellow students.

DRS Leadership In Action

ST. JOHN'S UNIVERSITY SCHOOL OF LAW



DISPUTE RESOLUTION SOCIETY E-BOARD 2020-2021

THE HUGH L. CAREY CENTER FOR DISPUTE RESOLUTION
ARBITRATION NEGOTIATION MEDIATION



About DRS

The Law School's **Dispute Resolution Society (DRS)** is the Carey Center's student division. Formed in 2007, DRS seeks to educate students about the values and skills of appropriate dispute resolution. It also helps students hone their negotiation, mediation, arbitration, and hybrid process skills through seminars, mentoring, and events, including external and intra-school competitions.

Alumni Reflections

Here, alumni reflect on their experience as practitioners using the knowledge, skills, and tools they gained through their involvement with DRS and the Carey Center at St. John's Law.



Stefanie Singer Ammirati '10

My study and practice of negotiation and mediation through DRS trained me to be an empathic lawyer. In my current work as General Counsel, being able to understand the other side's position, and therefore what it values, has helped me guide my company towards favorable resolutions without undermining its interests. That empathy has also translated well in my duties as Chief Risk Officer, as I develop, negotiate, and implement enterprise risk management policies across a national organization. My decisions and recommendations impact hundreds of people with different goals and interests. I only succeed when a policy reduces risk without impeding the company's operations or the success of all of those individuals in their respective roles.



Ross Kartez '12

When I first arrived at St. John's, I wanted to be a litigator. I thought that meant yelling at my adversaries, banging on tables, and winning well-deserved verdicts after hard-fought courtroom battles.

My perspective changed when I took an ADR course and learned that more than 90% of all disputes are resolved outside of court. I immersed myself in the Carey Center's offerings, including: courses in negotiation, mediation, and arbitration; DRS (which proved to be the highlight of my law school career); and internal and external ADR competitions.

Fast forward several years, I'm now the Chair-Elect of the New York State Bar Association's (NYSBA) Dispute Resolution Section—which Professor Greenberg helped conceive—and I must give credit where credit is due. Straight out of law school, I was more comfortable participating in mediations and arbitrations than most practicing attorneys. I learned the importance, and the difficulty, of preparing for a negotiation. I learned never to negotiate without knowing my BATNA. I learned that it's essential to calculate the value of a claim, which attorneys so commonly overlook. I learned many other valuable lessons, all while discovering a better way to win with skills I use every day.



Edda Santiago '13

One of the greatest takeaways from my DRS experience is to move away from arguing about positions. By actively listening and asking questions to uncover the other side's interests, I've successfully proposed solutions that are acceptable and, most importantly, that achieve my client's goals. Other times, especially in my current landlord-tenant practice, my DRS experience is reflected during more straightforward interactions—for instance, being strategic about my offer and leveraging sympathetic facts especially when the law isn't on my side. The main difference between practicing and DRS competitions, is that using all the proper techniques will not guarantee a winning or the desired outcome. When you're representing real people, with real concerns and issues, you have to be prepared for the unexpected and to possibly "settle" for an outcome that isn't ideal but still helps your client. I represent low-income tenants facing evictions and, many times, there is such a disparity of power between the parties (even when represented) that an outcome could be considered a "win" while not necessarily satisfying all parties or addressing the root issues for my client. What's most important in such cases is for the client to feel that they were heard and respected during the process.

Next Generation Perspectives

As shared here, St. John's Law 2Ls learn essential lawyering and life skills as DRS members.



Olivia Calamia '22

At its core, dispute resolution is about parties coming to the table to solve problems and make progress. As a DRS member, I'm learning the fundamentals of this process so I can succeed as a future lawyer and confront the personal attitudes and systemic injustices that stand as obstacles to racial equity. Our Courageous Conversations About Race and Racism program with Professor Renee Nicole Allen helped me understand that increasing the diversity of our academic and professional environments is only the first step. Creating spaces where Black people and other people of color can thrive requires not merely extending an invitation to those spaces, but transforming their very structures and norms. Such transformative work begins when there is honest dialogue about the barriers and inequities that continue to exist, and when the voices of people of color are genuinely, not performatively, valued. In just a few short months, I have seen DRS show by example how this work can be done. This has encouraged me to demand better from other organizations that purport to value diversity and inclusion, and to demand better of myself and those close to me.

Sara Salmonson '22

As a student in the Law School's in-house Consumer Justice for the Elderly: Litigation Clinic this semester, I negotiated to strike a non-disparagement agreement clause from a consumer case settlement. In that negotiation, I applied skills learned through my involvement with DRS in order to advocate for a real client. I also drew on knowledge I've gained researching my *St. John's Law Review* note on non-disparagement agreements in sexual harassment settlements. As a result, I was able to counsel the clinic client about the non-disparagement agreement clause and explain why it was unfavorable to him. I feel very fortunate that I could meld my DRS insights and legal research in this meaningful way to better advocate for my clinic client.



Alexander Zedlovich '22

Participating in DRS during the pandemic presented an incredible opportunity for our members to become familiar with the emerging process of online dispute resolution, which will likely survive the pandemic as more jurisdictions embrace early-stage alternative dispute resolution. By becoming fluent in online dispute resolution in its infancy, DRS members will reduce the competitive advantage that more experienced attorneys have over them when they enter their careers and will be extremely comfortable in a setting that is gaining acceptance in the legal profession.



Faculty Focus

The Carey Center and DRS are supported by a faculty of dedicated educators, accomplished scholars, and respected practitioners. Here we share a sampling of their recent activities and achievements.



Peter J. Bernbaum

Professor **Peter J. Bernbaum** continues on the Panel of Mediators for the United States District Court for the Southern District of New York; as a mediator for the Alternative Dispute Resolution Program for the Commercial Division of the New York County Supreme Court; and as a contract hearing officer for the New York State and Local Retirement System. He is also working to develop effective methods of conducting mediations remotely utilizing different remote and online platforms. In his law practice, Professor Bernbaum counsels businesses in cable television and related industries. This past year, he gave two lectures on negotiation theory and practice at the Drexel University Graduate Program in Television Management.



Elayne E. Greenberg

Professor **Elayne E. Greenberg** has focused her recent work on two areas: racial justice and online dispute resolution. She received St. John's teaching award for designing and co-teaching, with Professor Cheryl Wade, a seminar on Lynching: Restorative Justice and the Law. Her article, "Adding Value to Justice Reform Conversations," appears in the *ABA Dispute Resolution Magazine* and highlights the work of a New York task force that is exploring why innocent people plead guilty. Professor Greenberg again teamed with Professor Wade to write an opinion piece for *Jurist* titled "How Will We Celebrate?" In it, the co-authors reimagine a more truthful narrative about American racism. Together with Noam Ebner, Professor Greenberg penned "Strengthening Online Dispute Resolution Justice" for the *Washington University Journal of Law & Policy* and "Designing Binge-worthy Course: Pandemic Pleasures and Covid-19 Consequences," which appears in the *Negotiation Journal*. With Colin Rule, she presented an online dispute resolution webinar for UNARIO, an international organization of ombudsmen and mediators of the United Nations and Related International Organizations. Professor Greenberg also serves as Chair of the AALS Section of Dispute Resolution and is a member of the Chief Judge DiFiore's ADR Advisory Committee.



Patricia Grande Montana

Professor **Patricia Grande Montana's** article, "The Power of a Positive Tweet," was published in the *Journal of Legal Writing*. Along with St. John's Law Professor Elyse Pepper, she wrote "Getting It Right by Writing it Wrong: Embracing Faulty Reasoning as a Teaching Tool," which has been accepted for publication in the *Ohio Northern University Law Review*.



Rachel H. Smith

Professor **Rachel H. Smith's** recent publications include "Recommendations for Online Teaching," which was prepared by the St. John's Law Online & Hybrid Teaching Task Force, and "I Wish My Teacher Knew," a short article published in the Legal Writing Institute's *Second Draft*.



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