The Carey Center is committed to providing St. John’s Law students with a dispute resolution education that not only prepares them for real-world legal practice, but also helps them stand out to employers looking for talented, practice-ready young lawyers in a crowded marketplace.

Our students build a very useful, and a highly marketable, skillset through our dispute resolution courses, as members of our Dispute Resolution Society (DRS), in team competitions, and through scholarly writing. And, starting this semester, they can further hone these essential lawyering skills in our new Dispute System Design seminar.

We created this innovative, yearlong honors seminar to give St. John’s Law students an opportunity to explore, in depth, how discrete legal issues often reflect systemic problems within an organization. Seeking more responsive and lasting resolutions, today’s clients are asking their lawyers to be dispute system architects—organizational problem solvers who guide clients on managing disputes and in creating dispute resolution systems that minimize their recurrence.

The 3L Carey Center Fellows in the seminar use a textbook, and explore real-life examples, that introduce the core elements of dispute system design. They also learn how organizations have successfully implemented these designs, including General Electric’s Six Sigma approach to case management, EBay’s and Kaiser’s dispute resolution systems, and Walmart’s restorative justice program. Redressing campus sexual violence, streamlining the collective bargaining process, and incorporating ODR in existing dispute system designs are just a few of the other topics our students address in this hands-on learning environment.

As part of the curriculum, the students are learning from the wisdom of such dispute system design luminaries as Professor Ethan Katch, recognized as the founder of the online dispute resolution field; Dan M. Weitz, the statewide alternative dispute resolution coordinator for New York’s Office of Court Administration; and Professor John Lande, a leader in promoting planned early negotiation as part of a comprehensive settlement approach.

For their final project, the seminar participants design a dispute system to better manage a recurring or emerging systemic legal problem in their chosen area of practice. They present their design to DRS members and to a panel of experts in the field for critique and feedback.

Through our Dispute System Design seminar—and with our full suite of dispute resolution course offerings, co-curricular programs, events, and initiatives—the Carey Center continues to prepare our students to be more effective practitioners and leaders in the fast-evolving world of legal practice.

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
Educating the Dispute System Architects of Tomorrow

The 3L Carey Center Fellows in the Law School’s new Dispute System Design seminar are gaining the practical and highly marketable skills they need to be dispute system architects, a skillset essential to today’s practice of law.

{ Nick Berg }
Seminar Project: System that helps union members feel heard when they have a complaint that doesn’t rise to the level of a grievance

“We’re being taught how to pick up on design flaws in the way things work and how to think analytically about how to address them. This will be fantastic for our career prospects as we’ll be able to use these skills to stand out in the crowd of first year associates wherever we decide to begin our career. We’ll be able to approach our superiors with critical solutions to outside the box problems that they may not have even been aware of.”

{ Naffie Lamin }
Seminar Project: System that law schools can use to help students build the dispute resolution skills they’ll need as practitioners in small and mid-size law firms

“The course is unique because of how effectively it reflects the role of the modern lawyer. Lawyers are increasingly asked to solve organizational design issues and to set up organizations.”

{ Adam Lau }
Seminar Project: System to help loft landlords and tenants establish their rights and responsibilities while avoiding the attenuated litigation process that exists under current loft law

“I’ve never before stopped to think about the process of creating ADR procedures. This course has helped me understand the different perspectives and needs that must be taken into consideration when procedures are put in place.”

{ Melanie Lee }
Seminar Project: Negotiated rule making and the positive impact, politically and economically, the process could have if properly implemented in dealing with the relocation of refugees throughout the United States

“No matter what issue you want to design a dispute system for you can do so in DSD and Professor Greenberg has the expertise to guide us along the way. By the end of this course we’ll each have designed, and possibly even begun to implement, a dispute system design in the area of our choice and many of us are choosing areas where we hope to practice in the future.”

{ Michael Lezamiz }
Seminar Project: Copyright claims system for YouTube that will be more responsive to the interests of content creators and YouTube

“I’ve chosen to focus my research on the flawed copyright claim system implemented by YouTube. For the first time in law school, I’m able to scrutinize a dispute system that affects consumers like myself, and the content creating artists of YouTube, in a way that critiques YouTube’s shortcomings in addressing artists’ concerns.”

{ Jamie Mattera }
Seminar Project: System to increase the gender diversity of international arbitration panels

“Currently, I’m interested in formulating and implementing arbitration systems more effectively. I feel that the knowledge I’ve learned thus far will aid me immensely in my career in international arbitration.”

{ Kenny St. John }
Seminar Project: System to help resolve scope of work claims in multi-union workplaces in the transportation industry before they become actual grievances

“The course really takes our ADR experience to the next level. Previously, we’ve learned the skills of negotiation, mediation, and arbitration in order to participate in simulated exercises and in competitions. Now, we’re seeing the other side of ADR: applying that knowledge and using what we already know to study various real-life problems.”
On March 14, 2016, the Carey Center presented its 2016 Mangano Dispute Resolution Advancement Award to University of California, Davis Professor Donna Shestowsky, a nationally respected dispute resolution and procedural justice scholar.

The $5000 annual award honors scholars whose published empirical research has furthered the advancement and understanding of the values and skills of dispute resolution. It was established through the generosity of Hon. Guy J. Mangano ’55, ’83HON, who has dedicated his 40-year career to promoting dispute resolution, first as presiding justice of the New York State Appellate Division, Second Department, then as a state legislator, and now as an arbitrator and mediator.

A selection committee, consisting of faculty from the Law School and the University, selected Professor Shestowsky for the groundbreaking empirical research set out in her Iowa Law Review article, “The Psychology of Procedural Preference: How Litigants Evaluate Legal Procedures Ex Ante.” The research is part of a national longitudinal study examining how litigants decide how to resolve their disputes. The work was funded in large part through competitive grants from the National Science Foundation and the American Bar Association, as well as the University of California, Davis.

The selection committee also recognized the strong credentials that Professor Shestowsky brings to her work. She earned a J.D. and a Ph.D. in Psychology from Stanford University. While at Stanford, she taught courses in legal psychology and established a research lab for undergraduates that was devoted to the empirical study of juries and dispute resolution procedures. At UC Davis, Professor Shestowsky teaches Criminal Law, Negotiation Strategy, Alternative Dispute Resolution, and a Seminar in Legal Psychology.

Her study, which included over 400 litigants, was innovative in that it took vital research out of the laboratory and into the field with the aim of offering more real-world applicability. “It was a really exciting project,” Professor Shestowsky shared, “although it presented some logistical challenges, and we had to do a lot of detective work to contact the litigants.” The study found that mediation, judge trial, and negotiation with the litigants and their attorneys present all tied for the litigants’ favorite procedures.

Professor Shestowsky is analyzing data captured during the second part of the study, which involved a phone survey of the litigants after their case closed to determine which dispute resolution procedure they used and what they thought of it. In the third and final part of the study, she will examine how litigants’ perceptions of legal procedures at the start of their case compare with their perceptions after the case ends.

“Professor Shestowsky’s research fills a gap in dispute resolution scholarship by focusing on actual litigants’ dispute resolution preferences,” said Professor Elayne Greenberg. “The richness of her research offers important insights for lawyers who want to work effectively with their clients, courts who seek to marshal their scarce resources, and legal educators who are shaping our future lawyers.”

“I feel extremely honored to receive the Mangano Award,” Professor Shestowsky said, adding that she appreciated the opportunity she was given to come to New York with her family and receive the honor in person. “We felt like we were part of the extended St. John’s family.” She also enjoyed meeting the “incredibly insightful, wise, and humble” Judge Mangano. “I’m grateful that he has endowed this award to acknowledge empirical scholarship in the field of ADR,” she said. “Empirical research is hard. And it’s expensive. And it takes a long time. The Mangano Award goes a long way towards encouraging us researchers to continue our efforts.”
Sports Salary Negotiation and Arbitration Course Builds Key Practical Skills

Ryan Lake ‘13 LL.M. and Kap Misir ‘13LL.M.—both graduates of St. John’s LL.M. in International Sports Law Practice who now work in the field—had just finished coaching St. John’s Law students to an impressive second place finish at the 2016 National Baseball Arbitration Competition when an idea came to them. “The experience brought home that students would really benefit from, and that we would really enjoy teaching, a course on sports salary negotiation and arbitration at St. John’s,” Lake recalls.

Lake and Misir discussed their idea with Professor Elayne Greenberg, who heads the Law School’s dispute resolution program, and Professor Ettie Ward, who directs St. John’s sports law LL.M. They also consulted with Jeff Fannell ’92C, ’96L, their former professor in the LL.M. program and a leading practitioner in the area of Major League Baseball salary arbitration. Fast forward seven months, and the two were in front of a classroom full of students teaching the course titled Salary Negotiation and Arbitration in Sports.

As Lake and Misir describe it, they designed the one-credit intersession offering to be an intensive course that explores the salary negotiation and arbitration procedures for Major League Baseball and the National Hockey League. The goal was to take an in-depth, comparative look at the MLB’s and the NHL’s rules relating to salary arbitration. They also wanted the students to build practical skills, so the course included a mock contract negotiation and a mock salary arbitration. The students were tasked with researching a player, developing negotiation and hearing strategies, and applying oral advocacy skills.

“If they had this class when I was in school, I would have signed up,” Misir says. “But the class name is misleading in a way. On the one hand, it’s a ton of fun, and we talk sports. But on the other hand, we teach an analytical way of practicing law with a labor law undertone. Unlike all of the other law school courses where you rely on case law, statutes, etc., in our class you rely solely on statistics—and numbers don’t lie.”

Sean McGrath ’18 appreciated the course’s unique curriculum. “A lot of classes in law school are theory based, and while you know they’re the necessary foundation for practicing law in that area, they don’t give you the practical effect that this course did,” he says. “The exams and classroom work put you in the shoes of an attorney practicing in the area of salary arbitration. My final was an oral argument where I represented the Houston Astros in regard to Evan Gattis’s compensation for the 2016 season. It was the first time that I walked out of an exam and told my friends, ‘that was fun.’”

Emily Price ’18 also enjoyed the practical aspects of the course. “I was introduced to two sports that I previously had no interest in,” she says. “The course opened my eyes to what it actually means to be an attorney in the sports industry.”
Students in the Carey Center’s Dispute Resolution Society participated in a range of activities, events, and initiatives during the 2015-2016 academic year. Here are just a few of the highlights of DRS in action.

**ABA Law Student Division Negotiation Competition**
Michael Galati ’17, Kenny St. John ’17, and coach Natalie Elisha ’12 faced a field of 24 teams and emerged the regional champions at the ABA Law Student Division Negotiation Competition.

**ABA Representing Clients in Mediation Competition**
The team of Raspreet Bhatia ’16 and Artem Skorostensky ’16 and the team of Christopher Eisenhardt ’16 and Kevin Gerspach ’17 competed in the ABA Representing Clients in Mediation Competition at Cardozo Law School. In strong showings, Raspreet and Artem placed third in the region, and Christopher and Kevin placed fifth.
Judith S. Kaye Arbitration Competition
Chris Eisenhardt ‘16, Kevin Gerspach ‘17, Naffie Lamin ‘18, Melanie Lee ‘17, Michael Lezamiz ‘17, and Janel Rottkamp ‘18 represented DRS at the Judith S. Kaye Arbitration Competition (formerly the NYSBA/AAA Arbitration Competition). With an assist from coach and DRS alumnus Daniel Merker ’11, the team came away with the competition’s Best Witness Preparation award.

National Baseball Arbitration Competition
Sean McGrath ’18, Rob Vogel ’16, and Shawn Heide ’18, won the Best Oral Advocacy award and ranked first after day one of the two-day National Baseball Arbitration Competition at Tulane Law. Coached by Kap Misir ’04CPS, ’13LL.M. and Ryan Lake ’13LL.M., both graduates of the Law School’s International Sports Law Practice LL.M. program, the team made a strong showing and advanced to the final round of competition.

1L Negotiation Competition
Twenty teams competed in DRS’s 2016 1L Internal Negotiation Competition. Nicole Rende and Courtney Sokol took first, while Meghan Lombardo and Kyle Monaghan placed second. All the competitors showed their enthusiasm for honing negotiation skills developed in their winter intersession Lawyering course. Professor Elyane Greenberg helped to organize the competition, Lawyering Professors Peter J. Bernbaum, Ettie Ward, and Michael Kerman served as judges in the preliminary rounds, and DRS members Christopher Eisenhardt ’16, Raspreet Bhatia ’16, and Kevin Gerspach ’17 judged the final round.

Carey Center Conversations
Spring 2016 marked the launch of a new anthology series called Carey Center Conversations. Highlighting the use of ADR in the legal profession, the series featured discussions planned by the 3L DRS Executive Board members. The aim was to bridge the gap between the dispute resolution skills students learn from the Carey Center and the application of those skills in the fields of practice most valued by the respective students.

• Raspreet Bhatia ’16 hosted a conversation with practitioner Douglas Hand on the interplay between fashion and business law.

• Christopher Eisenhardt ’16 hosted a panel discussion with Hon. C. Raymond Radigan and attorneys Gail R. Davis and Donna Furey ’01 about the benefits and challenges of implementing a mediation program for trust and estate matters.

• Christina Nguyen ’16 brought attorneys Allan Bloom, Eldonie S. Mason, Yasuhiro Saito ’92, and Wanda Sanchez-Day together to discuss how negotiations are impacted by implicit bias about a lawyer’s race, ethnicity, and gender.
Elayne E. Greenberg

“Fitting the Forum to the Pernicious Fuss: A Dispute System Design to Address Implicit Bias and ‘isms in the Workplace,” an article by Professor Elayne E. Greenberg published in the Cardozo Journal of Conflict Resolution, was chosen as the first Alternative Dispute Resolution scholarship to be featured in “Quick Takes” at Indisputably, the specialized blog that links dispute resolution, scholarship, education and practice.

Professor Greenberg’s most recent article, “Bridging our Justice Gap With Empathic Processes that Change Hearts, Expand Minds About Implicit Discrimination,” is forthcoming in the spring 2017 edition of the Ohio St. Dispute Resolution Journal. In November, Professor Greenberg was again recognized in Best Lawyers New York City for Dispute Resolution.” In 2016, she was also recognized as one of the top three women in Dispute Resolution in New York. She was the only law professor in New York, and St. John’s was the only New York law school, to receive that distinction.

Professor Greenberg presented a talk on “The Danger of Falling in Love With Your Case” to the New York State Bar Association’s Entertainment, Arts and Sports Law Section. She also co-presented the talk “Don’t Name the Cow” at the ABA Section of Dispute Resolution Spring Conference in New York. Both talks addressed how the cognitive bias of optimistic overconfidence derails negotiations and strategies that effective negotiators might use to counteract its deleterious influence. “Because It’s Not Just About Money” was the subject of Professor Greenberg’s “Ethical Compass” column appearing in the Spring 2016 edition of the New York Dispute Resolution Lawyer.

Patricia Grande Montana

In the spring, Professor Patricia Grande Montana developed a new course, Drafting: Transnational Civil Litigation. In today’s increasingly globalized market, Professor Montana explains, lawyers need to be prepared to handle legal problems that involve international issues or that cross international borders. They also must be able to interact with people from different cultures and countries. To that end, this advanced writing course covers a number of practical lawyering skills, including predictive and persuasive writing, interviewing, counseling, and negotiation in the context of transnational civil litigation. Professor Montana also teaches Advanced Interviewing and Counseling, where students learn how to: prepare for a client interview; gather, organize, and present key information; conduct a persuasive fact analysis; engage in client-centered interviewing; develop and present legal advice and guidance; effectively counsel a client; and negotiate a legal settlement. The course also teaches an awareness of multi-cultural and other issues that impact on lawyering.

Ettie Ward

Professor Ettie Ward presented on two panels at the International Sports Lawyers Association Conference in Hamburg, Germany. Both panels considered the legal challenges of Olympic host city bidding. Professor Ward also moderated a panel on international sports arbitration, organized by the New York State Bar Association’s Committee on International Arbitration and Alternative Dispute Resolution, and presented on the Court of Arbitration for Sport at a New York Law School panel on Dispute Resolution in Sports.