2017

Front Matter

Follow this and additional works at: https://scholar.smu.edu/smulr

Part of the Law Commons

Recommended Citation
https://scholar.smu.edu/smulr/vol70/iss3/1

This Front Matter is brought to you for free and open access by the Law Journals at SMU Scholar. It has been accepted for inclusion in SMU Law Review by an authorized administrator of SMU Scholar. For more information, please visit http://digitalrepository.smu.edu.
TABLE OF CONTENTS

SMU Law Review

ADR SYMPOSIUM
Part 1 of 2

FOREWORD

Alternative Dispute Resolution:
A Critical Reconsideration .................. Richard Delgado 595

ARTICLES

The Unbearable Lightness of Alternative
Dispute Resolution: Critical Thoughts
on Fairness and Formality .................. Richard Delgado 611

Reconsidering Prejudice in Alternative
Dispute Resolution for Black Work Matters ..................
............................................ Michael Z. Green 639

Implicit Bias and Prejudice in Mediation ........ Carol Izumi 681

Negotiating While Female .................. Andrea Schneider 695

Do You Believe in Magic?:
Self-Determination and Procedural
Justice Meet Inequality in
Court-Connected Mediation .................. Nancy A. Welsh 721
The SMU Law Review (ISSN 1066-1271) is published four times a year, (1) Winter, (2) Spring, (3) Summer, and (4) Fall, by the SMU Law Review Association, Storey Hall, Dallas, Texas 75275. Domestic subscription price, $42.00 per year. Foreign subscription price, $49.00 per year. Single copies: Regular issues, $18.00 (add 8.25% tax on single issue orders within the state of Texas. Tax exempt institutions must include copy of exemption certificate with order.) An additional charge will be made for postage and handling of each order of single copies. Prior issues, volumes 1-67, are available from: William S. Hein & Co.; 2350 North Forest Road; Getzville, NY 14068. Volumes 68-70 are available from: SMU Law Review; Southern Methodist University; Dedman School of Law; P.O. Box 750116; Dallas, TX 75275-0116.

POSTMASTER: Send address changes to: SMU Law Review; Southern Methodist University; Dedman School of Law; P.O. Box 750116; Dallas, TX 75275-0116.

Editorial and business offices: SMU Law Review; Southern Methodist University; Dedman School of Law; P.O. Box 750116; Dallas, TX 75275-0116. Office: 214.768.2061 or 214.768.2570. Printed by Joe Christensen, Inc.; Lincoln, Nebraska 68521.

Periodicals postage paid at Dallas, Texas and at additional mailing offices.

Citations conform with The Bluebook: A Uniform System of Citation (20th ed. 2015) and Texas Rules of Form (13th ed. 2015).
THE SMU LAW REVIEW ASSOCIATION PROUDLY ANNOUNCES
ITS 2017-2018 STAFF

Rachel Aboukhair
Jeffrey Allcorn
Maria G. Alonso
Victoria S. Bahrami
Tammie Beassie Banko
Anna Katherine Bonnet
Austin Brakebill
Claire Burdette
Alyse Cicco
Richard Cochrane
Sally Cooper
Devan Dal Col
Tiffany Crawford
Tess Dennis
Tim Doyle
Bethany Echols
Robin Featherston
Mackenzie Fitzgerald
Kelsey Flores
Madeleine Giese
Matthew Grofman
Brooke Hauglid
Ellen Heighten
Klayton Hiland
Lara Kakish
Brian Long
Jackson Long

AJ Lozano
Lauren Marks
Kyle Mason
Taylor Michals
Lukas Moffett
Emily Nash
Merritt Owens
Jonathan Petree
Alicia Pitts
Caroline A. Reed
Stacy Reeves
Adrienne Roberts
Katie Manworren
Chandler Rognes
Alec Schlinkert
Emily Semon
Daniel Sepulveda
Amy Steuer
Luke Strieber
Laura Lindsay Tatum
Joseph Theilen
Chelsea Till
Juan Felipe Velasquez
Jennifer Wilt
Hunter Winsauer
Jake Winslett
SOUTHERN METHODIST UNIVERSITY DEDMAN
SCHOOL OF LAW

OFFICERS OF THE UNIVERSITY
R. Gerald Turner, President
Steven C. Currall, Provost and Vice President for Academic Affairs
Harold W. Stanley, Vice President for Executive Affairs
Brad E. Cheves, Vice President for Development and External Affairs
Christine C. Regis, Vice President for Business and Finance
Paul J. Ward, Vice President for Legal Affairs and Government Relations, General Counsel, and Secretary
Kenechukwu (K.C.) Mmeje, Vice President for Student Affairs
Rakesh Dahiya, University Treasurer

DEDMAN SCHOOL OF LAW
FACULTY AND ADMINISTRATIVE STAFF
Jennifer Collins, B.A., J.D. Judge James Noel Dean and Professor of Law
Jeffrey M. Gaba, B.A., J.D., M.P.H., Senior Associate Dean for Academic Affairs and M.D. Anderson Foundation Endowed Professor in Health Law
Nathan Cortez, B.A., J.D., Associate Dean for Research, Adelfa Botello Callejo Endowed Professor of Law in Leadership and Latino Studies, and Gerald J. Ford Research Fellow
Mary B. Spector, B.A., J.D., Associate Dean for Clinics, Co-Director of the Civil Clinic, Director of Consumer Advocacy Project, and Professor of Law
Greg Ivy, B.B.A., M.A., J.D., Associate Dean for Library & Technology, Underwood Law Library
Martin L. Camp, B.A., J.D., Assistant Dean for Graduate and International Programs
Becca Henley, B.A., J.D., Assistant Dean for Administration
Jill Nikirk, B.A., J.D., Assistant Dean for Admissions
Karen C. Sargent, B.B.A., J.D., Assistant Dean and Executive Director for Career Services
Stephen B. Yeager, B.B.A., J.D., Assistant Dean for Student Affairs
Anne G. Beard, Director of Development
Laura G. Burstein, B.A., J.D., Director of Public Service and Director of Academic Success
Lynn McVicker Dempsey, B.B.A., Director of External Relations
Kristy Offenburger, Director of Communications and Marketing
Michelle A. Ray, Director of Admissions
Rey Rodriguez, B.B.A., J.D., Director of Career Services and Diversity and Inclusion Initiatives
Abby N. Ruth, B.S., J.D., Director of Alumni Relations
Jerchel Anderson, E.M.B.A., Director of Financial Services
Laura Amberson, B.S., Registrar

FACULTY
Roy R. Anderson, B.A., J.D., LL.M., Vinson & Elkins Distinguished Teaching Fellow and Professor of Law
Maureen N. Armour, B.A., M.S.W., J.D., Associate Professor of Law
Misty Birdsong, B.A., J.D., Adjunct Professor of Legal Research, Writing, and Advocacy
Lackland H. Bloom, Jr., B.A., J.D., Larry and Jane Harlan Senior Research Fellow and Professor of Law
William J. Bridge, B.S.F.S., J.D., Associate Professor of Law
Brook Busbee, B.A.S., J.D., Adjunct Clinical Professor of Law, Criminal Justice Clinic
Regis W. Campbell, B.B.A., LL.B., Professor Emeritus of Law and Marilyn Jeanne Johnson Distinguished Law Faculty Fellow Emeritus
Beverly M. Carl, B.S.L., J.D., LL.M., Professor Emeritus of Law
Dale Carpenter, B.A., J.D., Judge William Hawley Atwell Chair of Constitutional Law and Professor of Law
Michaela E. Cashen, B.A., J.D., Senior Lecturer in Law
Eric Cedillo, B.S., J.D., Adjunct Clinical Professor of Law, Consumer Advocacy Project
David J. Cho, B.A., J.D., Adjunct Clinical Professor of Law, Trademark Clinic
Anthony J. Colangelo, B.A., J.D., LL.M., J.S.D., Gerald J. Ford Research Fellow and Professor of Law
James W. Coleman, B.A., J.D., Assistant Professor of Law
Jennifer Collins, B.A., J.D., Judge James Noel Dean and Professor of Law
Nathan Cortez, B.A., J.D., Associate Dean for Research and Adelfa Botello Callejo Endowed Professor of Law in Leadership and Latino Studies
Gregory S. Crespi, B.S., M.S., Ph.D., J.D., Homer R. Mitchell Endowed Professor of Law in Commercial and Insurance Law, and Professor of Law
Ruth A. Cross, B.A., J.D., Director of Legal Research, Writing, and Advocacy Program and Senior Lecturer in Law
Gail Daly, B.A., M.A., J.D., Professor Emeritus of Law
William V. Dorsaneo III, B.A., J.D., Chief Justice John and Lena Hickman Distinguished Faculty Fellow and Professor of Law
Beverly C. Duréus, B.A., J.D., Th.M., D. Min. Senior Lecturer in Law
Linda S. Eads, B.A., J.D., Associate Professor of Law
Julia P. Forrester, B.S.E.E., J.D., Associate Provost and Professor of Law
Jeffrey M. Gaba, B.A., J.D., M.P.H., Senior Associate Dean for Academic Affairs, M.D. Anderson Foundation Endowed Professor in Health Law, and Professor of Law
Joanna L. Grossman, B.A., J.D., Ellen K. Solender Endowed Chair in Women and the Law and Professor of Law
Christopher H. Hanna, B.S., J.D., LL.M. (in Taxation), Alan D. Feld Endowed Professor of Law, Altshuler University Distinguished Teaching Professor, and Professor of Law
Grant M. Hayden, B.A., M.A., J.D., Professor of Law
Patricia S. Heard, B.A., J.D., Senior Lecturer in Law
JoAnn A. Hubbard, B.S., J.D., Senior Lecturer in Law
Marc Hubbard, B.S., J.D., Adjunct Clinical Professor of Law, Patent Clinic
Lolita Buckner Inniss, A.B., J.D., LL.M., Ph.D, Professor of Law
Greg Ivy, B.B.A., M.A., J.D., Associate Dean for Library & Technology, Underwood Law Library
Christopher M. Jenks, B.S., J.D., LL.M., Ph.D. Candidate, Director of the Criminal Justice Clinic and Associate Professor of Law
Larry Jones, B.B.A., J.D., LL.M., Adjunct Clinical Professor of Law, Federal Tax Clinic
Jeffrey Kahn, B.A., M.Phil., D.Phil., J.D., Professor of Law
Ndiva Kofele-Kale, B.A., M.A., J.D., Ph.D., Professor Emeritus of Law
Julie Lesser, B.A., J.D., Adjunct Clinical Professor of Law, Innocence Clinic
Henry J. Lischer, Jr., B.B.A., J.D., LL.M. (in Taxation), Professor Emeritus of Law
John S. Lowe, B.A., LL.B., George W. Hutchison Chair in Energy Law and Professor of Law
George A. Martinez, B.A., M.A., J.D., Professor of Law
Thomas Wm. Mayo, B.A., J.D., Altshuler University Distinguished Teaching Professor and Professor of Law
Orly Sulami Mazur, B.B.A., M.P.A., J.D., LL.M. (Taxation), Assistant Professor of Law
Michael McCollum, LL.B., Adjunct Clinical Professor of Law, Criminal Justice Clinic
Pamela R. Metzger, B.A., J.D., Director of the Deason Family Criminal Law Reform Center and Professor of Law
Charles J. Morris, B.A., LL.B., Professor Emeritus of Law
Frederick C. Moss, A.B., J.D., LL.M., Professor Emeritus of Law
John J. Mylan, B.S., J.D., LL.M. (in Taxation), Professor Emeritus of Law
Natalie Nanasi, B.A., J.D., Director of the Judge Elmo B. Hunter Legal Center for Victims of Crimes Against Women and Assistant Professor of Law
Joseph Judge Norton, A.B., LL.B., LL.M, S.J.D., D.Phil., LLD, LLD, James L. Walsh Distinguished Faculty Fellow and Professor in Financial Institutions Law
Victoria Palacios, J.D., Associate Professor of Law
Kenneth L. Penegar, A.B., J.D., LL.M., Professor Emeritus of Law
Chante Prox, B.S., M.S.S.W., J.D., Director of the VanSickle Family Law Clinic and Lecturer in Law
W. Keith Robinson, B.S., J.D., Co-Director of the Tsai Center for Law, Science and Innovation and Associate Professor of Law
C. Paul Rogers III, B.A., J.D., LL.M., Marilyn Jeannie Johnson Distinguished Faculty Fellow, Professor of Law, and Former Dean
Meghan Ryan, A.B., J.D., Gerald J. Ford Research Fellow and Professor of Law
Eliot Shavin, B.A., J.D., Adjunct Clinical Professor of Law, Civil Clinic
Mary B. Spector, B.A., J.D., Associate Dean for Clinics, Director of the Civil Clinic, Director of Consumer Advocacy Project, and Professor of Law
Walter W. Steele Jr., LL.B., Professor Emeritus of Law
Marc I. Steinberg, A.B., J.D., LL.M., Rupert and Lillian Radford Chair in Law and Professor of Law
Heather L. Stobaugh, B.A., M.A., J.D., Senior Lecturer in Law
Diane M. Sumoski, B.A., J.D., Director of the W.W. Caruth, Jr. Child Advocacy Clinic, Director of the W.W. Caruth, Jr. Institute for Children’s Rights, and Lecturer in Law
Joshua C. Tate, B.A., M.A., M.Phil. J.D., Ph.D., Professor of Law
David O. Taylor, B.S., J.D., Co-Director of the Tsai Center for Law, Science and Innovation and Associate Professor of Law
Walther Theiss, A.B., M.B.A., J.D., Adjunct Clinical Professor of Law, Small Business Clinic
Elizabeth G. Thornburg, B.A., J.D., Richard R. Lee Endowed Professor, Altshuler University Distinguished Teaching Professor, and Professor of Law
Jenia Iontcheva Turner, B.A., J.D., Amy Abboud Ware Centennial Professor in Criminal Law
Jonni Walls, B.A., J.D., Senior Lecturer in Law
Jessica Dixon Weaver, B.A., J.D., Associate Professor of Law
Harvey Wingo, B.A., M.A., J.D., Vinson & Elkins Distinguished Teaching Fellow Emeritus and Professor Emeritus of Law
Peter Winship, B.A., LL.B., LL.M., J.S.D. Candidate, James Cleo Thompson, Sr., Law School Endowed Professor and Professor of Law
**Advisory Board**

Harvie Branscomb, Jr.  
Branscomb P.C.  
Corpus Christi, Texas

Deborah G. Hankinson  
Hankinson Levinger LLP  
Dallas, Texas

The Honorable Nathan L. Hecht  
Supreme Court of Texas  
Austin, Texas

Gregory S. Crespi  
Professor of Law  
Southern Methodist University  
Dedman School of Law

The Honorable Patrick E. Higginbotham  
United States Court of Appeals  
Fifth Judicial Circuit

Craig T. Enoch  
Winstead P.C.  
Austin, Texas

Thomas Wm. Mayo  
Associate Professor of Law  
Southern Methodist University  
Dedman School of Law

Ernest E. Figari, Jr.  
Figari & Davenport  
Dallas, Texas

R. Gerald Turner  
President  
Southern Methodist University
LETTER FROM THE EDITORS

On behalf of the SMU Law Review, we are honored to present this symposium, which provides insights on some of the shortcomings of alternative dispute resolution and reflects on Professor Delgado’s seminal article, *Fairness & Formality: Minimizing the Risk of Prejudice in Alternative Dispute Resolution*. The articles presented will be divided into two parts that will span the last two issues of the SMU Law Review’s 70th volume.

It has been a pleasure to work with each of these brilliant scholars and leaders as they shape our understanding and evaluation of alternative dispute resolution mechanisms. Their excellence in the field is matched only by their kindness and humility. The Law Review would especially like to thank Professors Michael Green and Richard Delgado for their assistance and guidance.

As we reflect on the past 70 volumes, the Editors would like to thank the members who have dedicated so much of their time to the journal. We would also like to recognize the faculty and staff—especially Dean Jennifer Collins, Dean Becca Henley, Professor Thomas Mayo, Professor Gregory Crespi, Professor Anthony Colangelo, TaLibra Ferguson, and Lisa Browning—who have shaped this Law Review through their selfless support, guidance, and insight. Finally, we would like to thank you, our readers, for your steadfast support and interest. We look forward to providing you with excellent scholarship for years to come.

Philip Spencer  
*Editor-in-Chief*  
SMU Law Review

Elijah Stone  
*Managing Editor*  
SMU Law Review

Michael Fechner  
*President*  
SMU Law Review Association