



6-Month Review of Activities July – December 2011

New Staff

- **Damon Hurd** has joined CPR as Director of IT Operations. In this capacity, he will have complete oversight of CPR's technology infrastructure.
- **Dana Massarsky** has joined CPR as Marketing and Communications Manager. In this role, she will provide a broad range of marketing-related support to the organization, manage CPR's special events and assist in CPR's varied communications initiatives.
- **Zosia Ulatowski** has joined CPR as Membership and Committees Administrator. In this role, she will support CPR's membership- and committee-related activities and the Corporate Leadership Award Dinner.
- **Kathleen Scanlon** has re-joined CPR in a part-time capacity, managing various substantive projects, ADR training initiatives and select committee work.

Corporate Leadership Award Dinner

CPR honored GlaxoSmithKline and its General Counsel Dan Troy with the 2011 Corporate Leadership Award at an event held on November 2 in New York City. For more than two decades, GSK has been an industry leader in bringing negotiation and mediation to pharmaceutical industry disputes. The company's law department has integrated ADR into its operations through its contract clauses, a systematic approach to early case assessment and a commitment to ADR education for its inside and outside counsel. As head of GSK's legal team, Dan Troy has demonstrated leadership and dedication to conflict management principles throughout his legal career in private practice, public service and as corporate counsel. Under his leadership, GSK is currently spearheading an effort to develop meaningful corporate data about the efficiency and financial impact of alternative methods of resolving disputes.

2012 Annual Meeting

The 2012 CPR Annual Meeting will take place on January 12-13 at the Barclay InterContinental in New York City. Join CPR and our esteemed colleagues as we explore "It's a Shrinking World: Acceleration and Evolution in ADR." At this year's Annual Meeting, leading General Counsel, top attorneys and experts in international arbitration and mediation will gather to discuss emerging challenges and opportunities in an increasingly interconnected world. Our Keynote Speakers are Harriet E. Miers, former White House Counsel, and Scott Turow, the award-winning author. Program highlights include: Current Perspectives on the Law and ADR; a Business Roundtable with leading corporate counsel from Fluor, Pfizer and ConocoPhillips; "We Have Met the Enemy and It is Us," which will address and offer solutions to common mistakes in ADR; New Developments in International Dispute Resolution; a Roundtable on Mediation with the Government; and Ethical Issues in Mediation and Arbitration. A brochure is included in your package.

CPR's International Activities

ODR: CPR continues to play an active role in the working group assisting the U.S. delegation to the UNCITRAL Working Group III, which is developing rules and procedures for an ODR platform for cross-border, E-commerce transactions. As part of this activity, CPR is engaged in weekly discussions addressing the framework for the continued work at the November meeting of the UNCITRAL Working Group III. These discussions continue to provide an unparalleled opportunity to hear the differing national and cultural approaches to ADR, and to be

involved in a process that seeks to bridge the differences to create a cross-border framework that meets current needs, and has the flexibility to evolve over time.

ASIA PACIFIC: Working in conjunction with our Asia Pacific Advisory Council, and with support from General Electric, CPR has disseminated a Survey on the Use of Mediation in the Asia Pacific Region and is continuing to collect responses. If you have not done so already, please take the survey by visiting CPR's website.

BRAZIL: In September, CPR continued its focus on ADR in Brazil by hosting a second program in its popular Regional CLE Series. The program, "A Step Ahead: Tools for Navigating Complex Business Disputes," was held in Miami on September 13 at the offices of Holland & Knight LLP. Speakers including Fernando Eduardo Serec of Tozzini Freire Advogados, and Judith Korchin and Adolfo E. Jimenez from the host firm explored international ADR, with a focus on ADR mechanisms in Brazil. CPR is currently working on Portuguese translations of its various rules and materials. A subtitled version of the DVD "Resolution through Mediation" has already been translated and is now available. The next phase of CPR's program will involve professional exchanges with companies in Brazil.

EUROPE: CPR has been working to re-energize our activities in Europe. Over the past quarter, we have continued working with General Electric's Jean-Claude Najar to identify key members for CPR's new European Executive Board (EEB). The EEB will determine our strategic direction and help prioritize CPR activities in Europe. In addition to these activities, CPR participated in a videoconference on Mediation Practices in Civil Disputes around the Globe on August 4. This event, which was organized by the Turkish Ministry of Justice and UNDP Turkey (United Nations Development Program), served as a unique platform for exchanging national and international knowledge, experiences and best practices on mediation in civil disputes. The event provided useful inputs for the development of a model on civil mediation in Turkey, and finalization of Turkey's Act on Mediation in Civil Disputes in Turkey.

In addition, CPR hosted a State Department delegation from former Soviet bloc nations on July 19 under the auspices of CPR's Public Policy mission. The representatives of Armenia, Moldavia and other nations looked to CPR for an introduction to the field of commercial arbitration in the U.S.

Panels of Distinguished Neutrals and DRS

The panels section of CPR's website continues to be a significant draw for CPR's members. During a short three-month period (7/1-10/1/11), website visitors ran queries of CPR's panels more than 3,800 times. The most frequently used criteria were searches by Panel, by State, by Panelist Name and by Keyword. The highest queried Panels were (ranked in order of popularity): the National Panel, Technology Panel, Insurance Panel, Energy, Oil & Gas Panel, and CPR Judicial Panel. Individual panelist bios were accessed more than 3,400 times during this period.

Since July, CPR's Dispute Resolution Services has been asked to aid parties in selecting neutrals in 16 matters – 12 arbitrations, including one Wellington Proceeding, and four mediations, including one Franchise matter.

Membership

CPR has established an internal goal of acquiring 50 new members between July 1, 2011 and June 30, 2012. As of today, we have three new members who have joined or pledged to join CPR since July 1, 2011:

- Brown & Welsh, P.C.
- Leader & Berkon LLP
- PepsiCo, Inc.

Based on the successful results from the Board's membership recruitment initiative in FY11, we are continuing this campaign into FY12. We are asking each member of the Board, as well as each member of the Executive Advisory Committee, to help us in our membership recruitment efforts by recruiting two new members during FY12.

Member-Get-A-Member Campaign

On October 1, CPR re-launched its annual Member-Get-A-Member Campaign. We are asking CPR members to use their astute advocacy skills to spread the word about the value of joining CPR. For each new member successfully recruited, the current member will receive an invitation to attend CPR's Annual Board of Director's/Awards Dinner in January 2013, and their organization's ADR expertise, leadership, and support will be highlighted with a special acknowledgment in an issue of CPR's award-winning newsletter, *Alternatives*. See CPR's website for complete details, resources, rules and restrictions.

Leadership Circle

CPR launched our Leadership Circle program last year as a way to increase support from our top contributors and to provide additional benefits to organizations that support CPR at a significant level. Leadership Circle status is given to donors who pledge to support CPR at a level greater than \$30,000 during CPR's fiscal year ending June 30th. Support can be customized to an organization's interests and provided to CPR in a number of ways. Current Leadership Circle members are Amgen Inc., Debevoise & Plimpton LLP, Dickstein Shapiro LLP, E. I. du Pont de Nemours and Company, Fulbright & Jaworski LLP, Kaye Scholer LLP, McDermott Will & Emery LLP, Schiff Hardin LLP, and Sullivan & Cromwell LLP. Current support ranges from \$30,000 to more than \$100,000.

"Road Shows"

CPR's regional "Road Show" visits to members, neutrals and prospects have been a successful new undertaking and have been instrumental in getting our current members and neutrals more involved, as well as securing new members. Since July, we have visited law firms and corporations in Miami, Washington, DC, Boston, New York, and Charlotte, NC.

Y-ADR Group

CPR's "Y-ADR" Group - Young Attorneys in Alternative Dispute Resolution - introduces young lawyers to in-house counsel in the international ADR practice area. The seminars, hosted by CPR member law firms, are free to participants. Some offer CLE credit and are offered as online podcasts via CPR's alliance with WestLegalEdCenter, a Thomson Reuters division. CPR also recently launched a Y-ADR Group on LinkedIn which allows participants to continue the conversation on the web. It currently boasts more than 40 members.

On June 28, CPR held a Y-ADR event, "**Early Case Assessment: How Corporations Decide What Dispute Resolution Mechanism is Right for Them,**" at the Washington, D.C. offices of Milbank, Tweed, Hadley & McCloy LLP. The panel featured corporate counsel from Blackboard Inc., E. I. du Pont de Nemours and Company, Intelsat, GE Capital, and GlaxoSmithKline.

On October 19, the Boston office of Mintz Levin Cohn Ferris Glovsky & Popeo, P.C. hosted "**Successful ADR Strategies For Life Sciences Companies: What Young Lawyers Should Know,**" which featured in-house counsel from leading drug companies, including Abbott Laboratories, Pfizer, Qiagen and AVEO Pharmaceuticals.

A Y-ADR program is planned in London on November 16 at the offices of Herbert Smith LLP. In "**What Defines Success in Mediation,**" a distinguished panel of in-house counsel will discuss their views on what, in the modern ADR world, defines mediation success. Panelists include international practice attorneys from Lloyds Banking Group, BP, Chartis Insurance, Shell, Financial Services Authority, and GlaxoSmithKline.

Future programs are scheduled as follows:

February 2012	Shearman & Sterling LLP, Paris, France
April 2012	Morrison & Foerster LLP, San Francisco, CA
June/July 2012	Allen & Overy LLP, New York, NY

Publications and ADR Tools

CPR has a number of publications and initiatives currently under development and slated for release after the first of the year, including:

Protocol for the Early Resolution of Product Liability Claims – Developed by Dale Matschullat and members of CPR’s Product Liability Committee, this guide provides recommendations for the management and resolution of manufacturing- and product-related disputes.

CPR Guidelines on Early Disposition of Issues in Arbitration - These guidelines, developed by CPR’s Arbitration Committee, address the circumstances under which it may be appropriate for an arbitral tribunal to undertake early disposition of one or more issues.

CPR has assembled a small working group focused on developing a new **CPR Corporate Pledge[®] Initiative**. Dale Matschullat has agreed to Chair this effort. CPR’s original Corporate Policy Statement on Alternatives to Litigation[®] was launched in 1984.

CPR is currently beta-testing a new section of its website. Named “**ADR 101**”, this section features a compilation of ADR tools related to the two most widely used procedures -- mediation and arbitration -- and presents a practical introduction to the world of alternative dispute resolution. The sections will be vetted over the coming months by CPR’s Mediation and Arbitration Committees prior to an early January 2012 launch.

Alternatives

Alternatives July-October coverage continued to be dominated by analysis of the U.S. Supreme Court’s arbitration work. *Alternatives’* other principal focus this year has been on international ADR developments. We assessed the overall progress in implementing cross-border mediation laws soon after the European Commission’s spring directive deadline. In addition to the broad EC mediation coverage, countries profiled in the monthly *Worldly Perspectives’* column recently have included Belgium and Sweden, with France set for November.

The October issue features a comprehensive comparison of five sets of international arbitration rules, providing an exclusive section-by-section comparison of the new ICC international arbitration rules with those of the CPR Institute, the American Arbitration Association/ICDR, the LCIA, and UNCITRAL. The cover story proposes, in theory and practice, a new form of alternative dispute resolution, a formalized “Planned Early Negotiation.”

Alternatives, which recently received its 2nd consecutive and 4th overall Apex Business Communications Award of Excellence, has also continued its coverage and analysis of ADR news. A July/August issue article dissected a spring Ninth Circuit decision declaring the U.S. Veterans Administration’s disability appeals processes unconstitutional. The article was paired with a lengthy memo discussing and applying principles from CPR’s “Master Guide to Mass Claims Resolution Facilities,” and sent to the leadership of the CPR Commission on Facilities for the Resolution of Mass Claims for further consideration.

Other news stories included an examination of the next Washington legislative and agency moves on arbitration fairness issues; a hard look at the United Nations’ effort on online dispute resolution and the need for a

workable technology platform, and the reconstitution of the 2001 Victim Compensation Fund and the new conflict resolution processes it will deploy.

Alternatives publisher, John Wiley & Sons, has launched an iPhone/iPad app for *Alternatives*, continuing its investment in the publication that late last year saw the introduction of mobile access for nonmember subscribers, and a commercial website featuring new sales platforms and editorial content at www.altnewsletter.com. Wiley's new *For CPR Members Only* app, which was approved in late spring by Apple and is now available in the iTunes store, uses a special code that is available upon logging into CPR's website.

Wiley has continued to improve the search capabilities for *Alternatives*, which can be reached by individuals at all CPR Institute members by logging into the CPR website. The new search uses keywords, including subjects and author names, to search full text and retrieve articles back to *Alternatives'* 1983 inception, saving members Westlaw and Lexis search and time charges.

Online Continuing Legal Education and Podcasts

As a content provider for Thomson Reuter's WestLegalEdCenter.com, CPR now has 34 on-demand, continuing legal education courses available. Twenty six of the sessions currently are available as podcasts for CLE on the go. CPR members automatically get a 25% discount when they register through CPR's site.

The newest offerings are recordings of two outstanding 2011 CPR events: June's Y-ADR panel on "Early Case Assessment: How Corporations Decide What Dispute Resolution Mechanism is Right for Them," and an April panel discussion regarding CPR's new Master Guide to Mass Claims Resolution Facilities.

Also available on-demand are two original CPR-sponsored webcasts: a September webcast on neuroscience and decision making—"From Conflict to Creativity: Neuroscience Insights for Commercial Dispute Resolution," and from August "Changing the Game: How to Move from Tug of War to Science Project in Settling Business Disputes," an advanced ADR techniques session applying collaborative law in commercial cases easily, efficiently, and effectively.

CPR's *International Dispute Negotiation*, a podcast examining global conflict resolution, has broadcast its 100th episode. The anniversary episode, which was posted in two installments, was a typically rigorous examination of a tough topic: how scientists are using ADR processes and procedures to fight creationism. A new web article supplement on science in the courts is being prepared and will be posted to the CPR website soon. IDN's host is Michael McIlwrath, Senior Counsel, Litigation at GE Infrastructure - Oil & Gas, in Florence, Italy. You can stream or download, and subscribe to, the podcasts for free at IDN's page at www.cpradr.org, or get them on iTunes or via IDN's Facebook page. @IntlDispNegPod on Twitter now has more than 450 followers and 1,100 tweets.

Training and CLE

On August 16, Helena Tavares Erickson moderated an in-person and online CLE seminar on "Ethics in Arbitration," in conjunction with PLI, in New York City. Panelists included CPR neutrals and other distinguished presenters.

CPR Member Duncan MacKay of Northeast Utilities and CPR's Beth Trent were featured presenters at Corporate Counsel's Virtual Corporate Counsel Forum on September 21. This event, which limited participation to only corporate counsel, was a one-day conference held entirely on the web. Their presentation was titled "Early Dispute Resolution: Leveraging the Flexibility & Efficiency of ADR Tools to Control Caseloads and Costs."

On January 11-12, 2012, CPR will offer a training for Basic Mediator Skills in conjunction with the 2012 CPR Annual Meeting. The two-day program will be led by trainers Simeon Baum and Stephen A. Hochman.

Partnerships and Alliances

CPR co-sponsored, with the Chartered Institute of Arbitrators - New York Chapter, “**The Judges' Program**” in New York on October 6. This inaugural program featured a panel discussion with three retired jurists who are now successful arbitrators -- and current CPR Panelists. Speakers included: Hon. William Bassler, Hon. Judith Kaye and Hon. William Webster.

Articles and Social Media

CPR continues its coverage of up-to-the-minute ADR rulings and news from the U.S. Supreme Court and other jurisdictions, including blog coverage at www.cpradr.org and live coverage on LinkedIn/Twitter/Facebook.

These articles can be read on CPR’s website:

- Senate Judiciary Committee Testimony for Arbitration Fairness Hearing (October 13)
- After a Claims Facility Has Closed, Bill Would Allow Holocaust-Era Suits Against Insurers (July 18)
- Analyzing the Petition: Why the Government Wants to Rehear the Veterans’ Appeals Case (July 18)
- Attention Clause Drafters: Proofread! (July 11)
- Justice Asks Ninth Circuit for Rehearing in Veterans' Disabilities Claims Backlog Case (July 11)
- Failure to Disclose Gets a Texas Partnership Award Overturned (July 7)

CPR has also been featured in and/or authored the following articles during this period:

- *The International Institute for Conflict Prevention and Resolution* by Olivier Andre (Arbitration News, the Newsletter of the International Bar Association Legal Practice Division – September Issue).
- *By Harnessing the Collective Expertise of Leading Minds and Benchmarking Best Practices, CPR is the Resource Of Choice* (Metropolitan Corporate Counsel – August Issue)
- *Patent Cases Need Early Resolution. Here's How...* by Manny W. Schecter and Kathleen A. Bryan (New York Law Journal Online – June Issue)

CPR’s breaking news items and announcements are posted daily on Twitter, where CPR currently boasts more than 540 tweets and more than 330 followers. Discussions are also forming on our CPR LinkedIn Group regularly.

Speaking Engagements and Conference Participation

CPR participates in monthly meetings of the Committee on International Arbitration and ADR of the International Law Section of the New York State Bar Association, the New York City Bar Arbitration Committee, and the New York International Arbitration Club. CPR also continued its annual participation in New York City’s Annual Mediation Settlement Day events in October.

CPR’s Committees

The **Patent Mediation Task Force** is currently developing an “Effective Practices: Protocol for Promoting Mediation of Patent Disputes (EPP).”

On October 18, the **Energy, Oil & Gas and Construction Committees** jointly produced a seminar on “ADR in the Construction of International Energy Projects.” The event was held at the Washington, D.C. offices of Morgan Lewis and featured many CPR neutrals and law firm members, including attorneys from Crowell & Moring, Morgan Lewis, Nixon Peabody, and McCarter & English. Corporate and institutional panelists included representatives from AES Construction Worldwide, 1492 Americas, Navigant Consulting, Inc., Dispute Resolution Board Foundation, Chartered Institute of Arbitrators, and Northeast Utilities.

The **Arbitration Committee** is currently working on a protocol on the drafting of arbitration awards. The product is expected for delivery early next year.

The **Employment Committee** has established a subcommittee to update its previous publications and is looking forward to highlighting the results of the CPR-Cornell survey at its next meeting in January.

The **Banking Committee** has created two subcommittees. One will identify specific outreach initiatives to promote ADR within trade organizations in the field, and the other will conduct an informal survey of corporate lawyers in the industry to analyze the ADR processes they currently use and obstacles they encounter.