

INSIDE STRAUS

Translating Theory into Practice

2011

CELEBRATING 25 YEARS

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## Straus' 25<sup>th</sup> Anniversary: THE BEST IS YET TO COME!

By Tom Stipanowich



Tom Stipanowich

**RECENTLY, THE STRAUS INSTITUTE hosted more than 125 teachers of dispute resolution courses from all over the United States and several foreign countries, most of whom were affiliated with various law school programs. When attendees were polled on the number of dispute resolution courses their law school sponsored, a large majority indicated that there were at least three such classes in their curriculum. Relatively few, however, could identify more than four or five.**

Yet a small group of people continued to hold up their hands for 10, 20, and even 30 courses in the curriculum. These individuals were overwhelmingly teachers affiliated with the Straus Institute, which annually provides about three dozen academic courses and numerous professional skills programs around the United States and in foreign countries. The academic curriculum serves around 400 students each year, and the other programs many hundreds more. There is nothing quite like Straus!

When the Straus Institute began its life 25 years ago, it owed much to the sudden emergence of mediation as a tool for settling litigated cases, and to the growing market for mediation training among experienced lawyers who saw the possibility of “retooling” as a mediator. Today, while the interest in mediation continues unabated, the knowledge and skills imparted by Straus courses are at the heart of current U.S. and international law practice, and are also essential to positions (such as point-of-care ombuds) that did not even exist a decade ago. The institute’s focus has expanded dramatically in several ways. Today, Straus’ full- and part-time faculty bring together cutting-edge expertise in a wide variety of topics such as commercial and international arbitration, cross-cultural dispute resolution, psychology of conflict, and many other specialties (sports, environmental, entertainment, construction, medical/health, and domestic relations). A growing number of LLM candidates, including Fulbright, Muskie, and Weinstein scholars, hail from countries around the world.

Straus’ full-time faculty now includes a number of nationally and internationally known scholars who are engaged in a wide range of scholarship, policy making, and other important work. Pepperdine is fortunate to have developed a “critical mass” of faculty expertise. Those of us who teach and write here nearly always have one or more people with whom to vet new ideas and discuss current developments in the field. (The only problem is, we all are so busy that we most often see colleagues at distant events, not at home!)

Today, the Straus Institute faces a world that is rapidly developing expertise in the management of conflict. There are myriad opportunities to train and to partner all over the globe. Meanwhile, dramatic developments in technology are changing the whole concept of communication as we know it and offering new opportunities and challenges for the dispute resolution field worldwide. A quarter century from now, perhaps the Straus Institute will be a virtual education and training organization that truly spans and unites the globe!

## Peacemaker Award Announced



The PACIS Project in Faith-Based Diplomacy is the honored recipient of the national Association for Conflict Resolution’s prized PEACEMAKER AWARD to be bestowed at this year’s annual conference in October. The Peacemaker Award acknowledges the significant and sustained contributions by an individual or organization to the cause of peace. This award recognizes efforts to bring peace to ethnic, religious, and civil conflicts that have raged domestically and outside the United States. The Peacemaker Award was instituted in 2001.

# Looking Back: THE PAST WAS FUN TOO

By Peter Robinson



*Randy Lowry*

**THE YEAR WAS 1986.** The Challenger Shuttle disaster. The premier of the Oprah Winfrey Show. The U.K. and France announced plans to build the Channel Tunnel “Chunnel.” Ferdinand Marcos relinquished the presidency of the Philippines. In that same year Randy Lowry joined the Pepperdine School of Law faculty, serving as the director of clinical law and tasked with creating a program in dispute resolution.

In 1986—25 years ago—Dean Ronald Phillips and the law school faculty determined that the then nascent field of alternative dispute resolution was an especially appropriate emphasis for the School of Law because the reconciliation theme supported the school’s commitment to Christian values.

Lowry’s vision, tireless energy, and extensive network of ADR colleagues willing to support Pepperdine’s new program were soon apparent. Lowry developed a multi-pronged agenda consisting of five themes: academic courses and programs; CLE programs and conferences for practitioners; reconciliation programs especially targeting religious communities experiencing conflict; research and publication; and service. With only half of one professor’s time and half of one administrative assistant, it would be impossible to predict that each of those areas would mature and together create a nationally recognized program. It wasn’t long before the program was benefiting from intensive workshops and courses taught by nationally prominent scholars like Leonard Riskin, Bryan Johnston, Charles Wiggins, Jack McCrory, Charles Craver, Joseph Folger, Josh Stulberg, and Lela Love, as well as successful practitioners like George Nicolau, Jack Ethridge, Eric Lindauer, Jeffrey Krivis, Nina Meierding, and Terry Waite.

Five years later, the institute was named for generous School of Law benefactors, Leonard and Dorothy Straus. Leonard was

a Harvard-educated lawyer, who then became CEO of Thrifty Drug Stores. He took great pride in solving problems collaboratively and never being personally sued.

The dispute resolution institute at Pepperdine bears the Straus name because Leonard and Dorothy believed in and supported the problem-solving lawyering skills the institute advances.

Over the years, Straus has been recognized for serving the ADR field with distinction by the Ninth Circuit Court of Appeals, the International Academy of Mediators, the American College of Civil Trial Mediators, the California Dispute Resolution Council, and the Los Angeles County Bar Association. This year Straus’ PACIS Project in Faith-Based Diplomacy has been named as the recipient of the national Association for Conflict Resolution’s Peacemaker Award.

Lowry resigned in 2005 to become the president of Lipscomb University. After a yearlong, nationwide search, Thomas Stipanowich resigned his position as the president of CPR to become codirector of Straus with long-time associate director, Peter Robinson. Stipanowich brought a nationally recognized reputation acknowledged by his receipt of the ABA Dispute Resolution Section’s prestigious D’Alemberte-Raven Award for distinguished service to the



*Peter Robinson*

ADR field. Robinson brought continuity and momentum of a successful program, having served as the Straus Institute’s associate director for 15 years.

The successful leadership transition has been objectively confirmed, with Straus receiving recognition by a survey of professors teaching ADR as one of best programs in the country for each of the last seven years. The institute has planned a yearlong celebration of its 25<sup>th</sup> year, including the events listed on the back cover. Stipanowich, Robinson, and the entire institute staff hope that you will join them at many of the specially planned events.

# A Rich History of...

## ...Innovative **ACADEMIC PROGRAMS**

**INNOVATION IS THE LONG-TERM THEME** that describes Straus' academic programs. From the beginning, the teaching methodology was distinct from the traditional law school approach, teaching skills through experiential exercises. Soon after being established in 1986, the institute's leaders asked the faculty to approve intensive two-week formats for courses offered during the summer so that it could recruit prominent scholars and practitioners from around the country to serve as visiting faculty. The summer intensive format with distinguished faculty soon began attracting law students from across the country.

In 1988 the faculty at Pepperdine School of Law approved the Straus Institute's first academic program, a 14-unit certificate in dispute resolution. It was originally envisioned to provide an optional experience for JD students, but within a few years lawyers and other mid-career professionals began applying to the academic certificate program after positive experiences at a Straus MCLE workshop or conference. The demand grew to the point that the faculty approved a master of dispute resolution (MDR) degree in 1995. The MDR was designed for JD students desiring a joint degree as well as a standalone academic experience for established professionals.

Meeting the needs of professionals required additional sensitivities. Straus made a commitment that the faculty who taught its courses would also have practice experience and be able to mentor mature students. Semester-long courses would meet only once a week and the courses would be scheduled in a ladder, enabling a student with professional commitments to commute to campus once a week and complete two or three courses a semester. The faculty approved offering dispute resolution skills courses in a one-week format the first week of January and last week of May, enabling students from other parts of the country to continue their practices and earn their degrees by commuting.

The professionally sensitive format and applicable course content began attracting the attention of Pepperdine's MBA students. Soon Pepperdine's School of Business authorized MBA students to apply Straus courses towards their MBA and designated dispute resolution as an MBA concentration.

Straus started offering courses at Pepperdine's Orange County campus to better serve MBA students and other mid-career professionals from that region. Since that campus is across the street from the John Wayne Airport, soon attorneys from other cities were commuting to courses in Orange County.

The volume of mid-career attorneys grew to the point that the faculty approved the LLM degree in 2002. With the establishment of the LLM degree, the Straus program began attracting recent law school graduates in addition to mid-career attorneys and judges. Soon Straus was receiving inquiries from recent law school graduates from around the world, including some selected to participate in Fulbright, the Organization of American States, and Muskie programs.

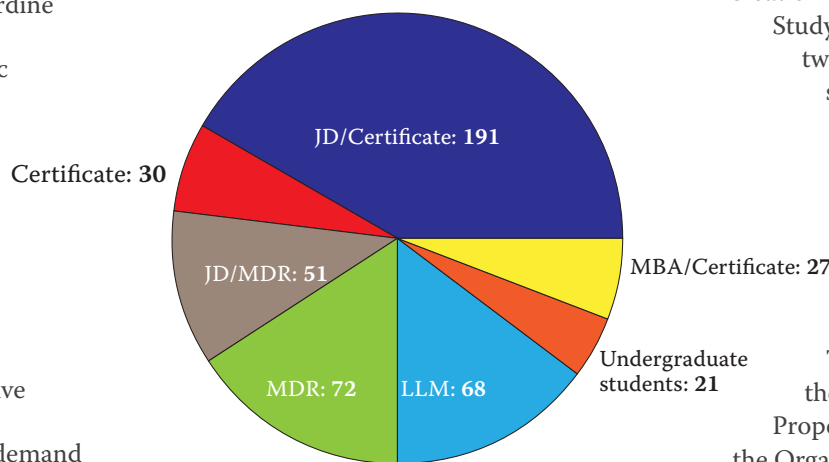
The increasing international awareness of the Straus faculty led to the creation of the London/Geneva Study Tour in 2003. This two-week course allows students to observe and experience many of the most important world institutions for public and private international dispute resolution, including the World Trade Organization, the World Intellectual Property Organization, the Organization for World Migration, the London Court for International Arbitration, and the Centre

for Effective Dispute Resolution. The student's enthusiastic reaction to the London/Geneva Study Tour led to the creation of a similar study tour to Hong Kong/Beijing a few years later. Today Straus offers one of these study tours every summer on an alternating basis.

The most recent innovation in the Straus academic program is to offer intensive courses meeting on Thursday and Friday evenings and all day Saturday over two weekends during the fall and spring semesters in Malibu. This format facilitates the recruitment of prominent practitioners and faculty from around the country to teach for the institute during the fall and spring terms, further strengthening the academic program and the student experience. This format has become very popular with the JD students, as well as the commuting professional students.

It is fitting that an academic program that encourages resolving disputes through innovative problem solving has responded to its environment and evolved. The Straus staff has embraced the concept that "change is the only constant."

**CURRENT STUDENTS**



# ...TRANSLATING THEORY INTO PRACTICE

**ROBUST CLINICAL PROGRAMS** are offered by the Straus Institute to assist students in translating theory into practice. From the beginning of the institute, students have been encouraged to participate in externships. Straus has developed two live-client, in-house clinics: the Mediation Clinic and the Investor Advocacy Clinic.

Straus maintains an active dispute resolution externship program that allows students to apply their academic interests to the real world and gain professional experience. Students use the externship opportunities to develop skills, build professional networks, and test-drive career options. Externships are required for both the LLM and Master of Dispute Resolution degrees. The program has grown so that recently students have completed more than 100 externships a year. Summer 2011 was a record-breaking semester for externship enrollment, totaling 58 externships.

Straus has cultivated externship placement opportunities with national and regional dispute resolution agencies, such as FINRA, CPR, JAMS, AAA, ADR Services, Adjudicate West, and ombuds offices throughout Southern California. Straus externs have also been accepted by international organizations, such as the International Chamber of Commerce (Paris), the U.S. Embassy (London), the United Nations (Lebanon), the Beijing Arbitration Commission (China), the London Court of International Arbitration, the Centre for Effective Dispute Resolution (London), the Carter Center, the Caux Center (Switzerland), Partners for Democratic Change, and the Glazer Institute (Israel). The externship program continues to build and update its comprehensive database of domestic and international placement opportunities.

In the fall of 1992, Straus opened its first clinic—the Mediation Clinic—which was originally funded by a grant from the U.S. Department of Education. The first faculty director was Cheryl McDonald. Believing that students earning advanced degrees should possess mediation skills, the Mediation Clinic became a required class in both the MDR and LLM programs. The course provides students a unique opportunity to mediate small claims and limited jurisdiction cases for the Los Angeles Superior Court. Over the years the practitioners teaching the class have included Jeffrey Krivis, Judge Alexander Williams (ret.), Max Factor III, Jim Stott, and Linda Meyer. The most recent addition

to the clinical program is the Investor Advocacy Clinic, which was established in the spring of 2011. The clinic is funded by a grant from the FINRA Investor Education Foundation and is conducted under the leadership of Robert A. Uhl, director, and Judith Hale Norris, associate director. Students are given the opportunity to represent investors with claims against their securities brokers or brokerage firms in arbitrations and mediations before FINRA.

## STUDENT VOICES



John E. Nordin (middle)

### Spring 2011 Externship with the Community Relations Service, U.S. Department of Justice, Los Angeles, California

My externship with the U.S. Department of Justice's Community Relations Service was a great change from my usual work with law enforcement. The western regional director, Ron Wakabayashi, and the conciliators were dedicated and extremely able. I was able to monitor demonstrations in Arizona by groups favoring and opposing the Arizona immigration statute, SB 1070. The pro-statute groups included veterans groups, bikers, generally older, conservative and blue-collar persons who were very concerned that they might be perceived as racists. Others desecrated the American flag. Much of this was not depicted in the media coverage. It was a fascinating experience.

#### JOHN E. NORDIN

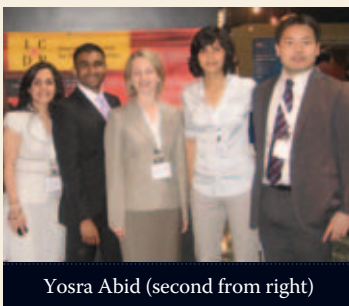
*Current LLM student, Assistant U.S. Attorney, and Assistant Chief, Civil Division*

### Summer 2011 Externship with the Los Angeles Unified School District, Los Angeles, California

While Straus undoubtedly has top-class professors, their externship program is what really makes Straus No. 1 in the nation. I was able to observe mediations between parents' counsel and members of the Los Angeles Unified School District, and in the process gained wisdom about how to effectively—and not so effectively—mediate. This is wisdom I likely could not have acquired in any other program.

#### ZACHARY ULRICH

*Current JD/MDR student*



Yosra Abid (second from right)

### Summer 2011 Externship with International Centre for Dispute Resolution in New York City

In addition to the substantive experience I have gained from externing with ICDR, this opportunity has allowed me to meet famous arbitrators and distinguished lawyers.

#### YOSRA ABID

*LLM alumna and Fulbright scholar*



## Celebrating 25 Years of PROFESSIONAL SKILLS PROGRAMS

**THE PROFESSIONAL SKILLS PROGRAM** is a three-day skills-development training program that began in the summer of 1987. The first few years there was only one program on Negotiation and Settlement Advocacy for Lawyers. In 1994 the program expanded to include simultaneous courses focusing on mediation and arbitration, as well as cross-cultural negotiation and public policy dispute settlement skills.

The number of courses expands every year because many practitioners have made the Professional Skills Program a yearly tradition and they look forward to new courses to attend. The result is the Malibu program has grown to offer 12 simultaneous workshops with basic to advanced skills development courses addressing cutting-edge topics in the dispute resolution field. The June 2011 program attracted 288 participants. Straus is delighted that this program has become a source of encouragement and community for professionals, many of whom have reported feeling isolated and without a forum to share the joys and travails of serving as a mediator or arbitrator.

Over the years the Professional Skills Program has served more than 3,000 people from 50 states and 28 foreign

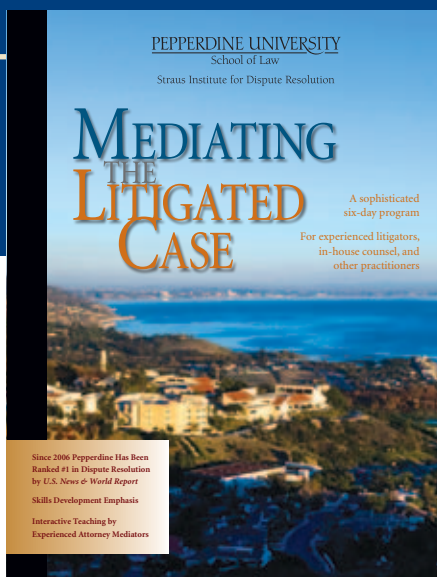
countries. Next year's 25<sup>th</sup> Annual Professional Skills Program will be in Malibu on June 21-23, 2012.

### EAST COAST PROFESSIONAL SKILLS PROGRAM

The Straus Institute was invited by Vermont Law School to present the first East Coast Professional Skills in October 2007. Cosponsored by Vermont Law School, the program takes place at the beautiful Woodstock Inn Resort in Woodstock, Vermont. The program was timed to take advantage of the gorgeous fall colors in Vermont. Participants from 27 states and four foreign countries attended the first session, which was enough of a response for it to become an annual event. As of 2010, 459 participants have attended the east coast program. This year's program is October 13-15, 2011. The sixth annual East Coast Professional Skills Program will be held on September 20-22, 2012.

### FACULTY

Over 72 faculty members have taught in the Professional Skills Program. The faculty for the program includes judges, attorneys, mediators, and law faculty from across the country and around the world.



## The Evolution of MEDIATING THE LITIGATED CASE

**MEDIATING THE LITIGATED CASE** is the Straus Institute's premier, six-day training program that is offered as an open-enrollment professional skills workshop several times each year and for various court systems throughout the world. Straus began offering *Mediating the Litigated Case* as an annual program in the spring of 1994 and due to its popularity began presenting multiple programs each year in 2000. The program is limited to 42 participants per section and the Southern California programs have been sold out for every offering for the last six years. The program has also been offered in Chicago, Honolulu, Seattle, and Washington, D.C. Since 1999 over 1,600 people have taken the *Mediating the Litigated Case* program from 39 states and 27 foreign countries.

California's Administrative Office of the Courts retained Straus to present the program for clusters of California judges annually from 1995 until 2004. It was a special honor because their normal practice is to usually recruit judges as faculty for their programs. In addition to training more than 300 judges, Straus has also partnered with the California courts by presenting *Mediating the Litigated Case* to an additional 639 mediators serving in court-annexed programs throughout California.

The 2012 schedule includes both West Los Angeles and Irvine on January 26–28 and February 9–11, 2012; Washington, D.C., on March 26–31, 2012; and Malibu on August 6–11, 2012.

### INTERNATIONAL OPPORTUNITIES

*Mediating the Litigated Case* regularly attracts registrants from around the world. For example, the entire Commercial Division of the High Court in Uganda attended the open enrollment program in August 2009 at Pepperdine. Also in August 2009, 45 judges from Thailand came to Malibu for a special *Mediating the Litigated Case* program. They provided interpreters and the program included a day of site visits to the Los Angeles Superior Court, the Los Angeles JAMS office, and

the Asian Pacific American Dispute Resolution Center. Similar translated versions of *Mediating the Litigated Case* have been offered multiple times for groups from Argentina and Jordan.

On July 26–31, 2010, Straus had the honor of presenting *Mediating the Litigated Case* program for 34 judges from 20 different countries. Straus offered the program free of charge under the condition that no more than three judges from any one country could attend. In addition to the classroom experience, the judges were able to shadow a mediator during mediations at the Los Angeles Superior Court, JAMS, Judicate West, ADR Services, IVAMS, and ARC. For many judges it was their first opportunity to experience a mediation.

Straus has offered *Mediating the Litigated Case* in Calgary, Canada, and Beijing, China, as well as in India, Israel, Jordan, Rwanda, and Malaysia. These international offerings are always hosted by a local entity such as the Beijing Arbitration Commission, which offered the program three times between 2005 and 2008, and the Malaysian Institute of Arbitrators, which offered the program in 2010 and is planning another program in 2012. The Rwandan Ministry of Justice recruited Straus to equip its staff to teach *Mediating the Litigated Case* to 30,000 Abunzi judges (village elders who serve as mediators and judges) in 2010. The University of Calgary hosted a *Mediating the Litigated Case* program in May 2011.

Various international host institutions have translated the Straus mediation workbook into Arabic, Mandarin, and Spanish.

### FACULTY

One of the distinctive aspects of *Mediating the Litigated Case* is a commitment to providing a faculty who have a variety of mediation styles and approaches. The course acknowledges that the practice of mediation is very stylistic and reinforces this message by arranging for multiple faculty members to serve in each program. International programs will only have three faculty members, but the Southern California programs will usually have five or six faculty members for each six-day program. The concept is that the participants can be mentored by practitioners with different personalities and different mediation philosophies and techniques. All of the faculty have extensive mediation experience, but the variety of context and approach to practice has contributed to a rich experience for the participants. Through the years faculty members have included the following judges and retired judges: E. Jeffrey Burke, Jack Ethridge, Alexander Williams, and Mitchell Goldberg. Professional mediators serving as faculty have included Nina Meierding, Jeffrey Krivis, Denise Madigan, Jim Craven, Lee Jay Berman, Linda Meyer, Matthew Guasco, and Eric Lindauer.

# A Special Tribute to FACULTY THROUGHOUT THE YEARS



## AT THE HEART OF THE STRAUS EDUCATIONAL EXPERIENCE

are the numerous faculty who have generously shared their time and expertise with students. From the beginning, the foundation of the Straus program was a highly qualified faculty composed of the leading scholars and practitioners in the dispute resolution field.

Straus has been fortunate to attract many of the world's top scholars and practitioners to serve on its faculty. Recognizing that it would not be practical for Pepperdine full-time faculty to teach all of the envisioned courses, founding director Randy Lowry recruited top scholars and practitioners to share their expertise with Pepperdine students in intensive courses. That practice of recruiting renowned scholars and practitioners to teach Straus courses is a strong tradition and integral aspect of our programs today.

Straus students have had the unique opportunity to take classes from and create mentoring relationships with prominent scholars and practitioners in a variety of specialty areas. Nowhere else in the nation can a student be exposed to the breadth or depth of faculty expertise and experience available at Straus.

In recognition of the many contributions made by the faculty helping Straus earn the reputation that it enjoys today, everyone at Straus offers a heartfelt "THANK YOU" to the over 215 individuals who have taught classes for us.

The following represents a small portion of faculty that have contributed to our programs:



## ARBITRATION

Sarah Cole  
Jay Grenig  
Stephen Hayford  
John Hinchey  
Jack McCrory  
Anthony Miller  
George Nicolau  
Thomas Stipanowich



## INTERNATIONAL COMMERCIAL ARBITRATION

Roger Alford  
Jack Coe  
Sally Harpole  
Michael McParland  
Ben Sheppard  
Thomas Stipanowich



## DIVORCE MEDIATION

Nina Meierding  
Jim Melamed  
Forrest "Woody" Mosten  
Zena Zumeta





**NEGOTIATION**

Dick Coleman  
 Charles Craver  
 Donald Gifford  
 Bryan Johnston  
 Jasper Kim  
 Russell Korobkin  
 L. Randolph Lowry  
 Thomas Stipanowich  
 Maureen Weston  
 Charles Wiggins



**MEDIATION**

Ken Cloke  
 Jim Craven  
 Bruce Edwards  
 Dwight Golann  
 Kimberlee Kovach  
 Jeffrey Kravis  
 Lela Love  
 Denise Madigan  
 Linda Meyer  
 Len Riskin  
 Peter Robinson  
 Josh Stuhlberg  
 John Wade

**SPECIAL APPLICATIONS OF MEDIATION**




**ENVIRONMENTAL**

Susan Carpenter  
 Alana Knaster




**CROSS-CULTURAL  
DISPUTE  
RESOLUTION**

Grant Ackerman  
 Michelle LeBaron  
 Ilhyung Lee  
 Michael Zacharia




**LABOR AND  
EMPLOYMENT**

Sara Adler  
 C. Richard Barnes  
 David Lipsky  
 Lamont Stallworth



**FAITH-BASED  
DISPUTE  
RESOLUTION**

F. Brian Cox  
 Speed Leas  
 Thomas W. Porter  
 W. Timothy Pownall  
 Diane Slaikeu  
 Karl Slaikeu  
 Larry Sullivan  
 Daniel Van Ness



**PSYCHOLOGY OF  
CONFLICT**

Bill Eddy  
 Richard Reuben



**TRANSFORMATIVE**

Baruch Bush  
 Joseph Folger  
 Dorothy Della Noce  
 Sally Ganong Pope



**OMBUDS**

Kathy Canul  
 Howard Gadlin  
 Wendell Jones  
 David Talbot

## STRAUS STUDENTS' Past and Present



**WHAT DO A FIRST** Circuit Court of Appeals judge in Louisiana, a mid-career attorney practicing in Florida, a Greek government official, a Fulbright Scholar from Russia, a human resources executive in California, and a second-year Pepperdine law student all have in common? They are all students in the dispute resolution program at the Straus Institute this fall. Nowhere else in the country can you find the professional and geographic diversity equal to the student population at Straus. What began as a small, certificate program for law students has grown into the largest and most comprehensive academic program available in the field resulting in Straus students being able to use their experiences at Pepperdine to transition into prominent positions in the dispute resolution and legal fields.



**JIM STOTT** (MDR '96), a former pilot for TWA, was hired as a commissioner for the Federal Mediation and Conciliation Service (FMCS) for Los Angeles and Washington, D.C., after graduating. He has done extensive work with national labor unions and management and is currently in private practice.



**ANDY FOX** (MDR '01) is assistant chief of the Los Angeles City Fire Department. When not coaching fire department officials and resolving conflict in the large emergency services organization, he serves on the city council of Thousand Oaks, California, population 130,000. "I could be the poster boy for the Pepperdine program," he reports. "It covers all the essential skills for the people working in dispute resolution or executive management."



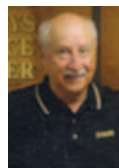
**REBECCA CALLAHAN** (LLM '07) "Earning an LLM from Straus was the best investment of time and money I've ever made. In addition to providing me with a way to distinguish myself from the hundreds of other lawyers in Southern California, it has opened doors and created opportunities for me that I did not know existed when I started my studies. The end result is that you exit the program as a better counselor of law. The LLM program is an academic program that challenges you to learn new skills which are different from, but complementary to, the legal reasoning and analysis skills learned in law school."



**ARTHUR PEARLSTEIN** (MDR '01) a Harvard-trained lawyer, came to Pepperdine to prepare himself to embark on the next stage of his professional life. After graduating, Pearlstein served as general counsel and director of ADR and International Programs at the Federal Mediation and Conciliation Service (FMCS). Pearlstein now serves as Creighton Law School's first director of the Werner Institute for Negotiation and Dispute Resolution.



**DAVID TALBOT** (MDR '98) was recently named as an ombudsman for the World Bank in Washington, D.C. Prior to that he worked for Coca-Cola Enterprises, Inc., serving approximately 65,000 employees across North America addressing a wide range of workplace concerns. Talbot has also worked as a mediator, trainer, and program manager and has served on the board of the International Ombudsman Association.



**THE HONORABLE SAM CIANCHETTI** (MDR '98) knew what he wanted to do after completing 23 years of service as a trial court judge for Los Angeles County. "After years of conducting trials, I recognized that there must be an alternative for many cases. I enjoyed the more creative moments of helping lawyers settle cases, and so a second career, this time as a professional neutral, seemed obvious." Judge Cianchetti is in high demand as a mediator and arbitrator with IVAMS—Inland Valley Arbitration and Mediation Services.

The meteoric growth in the interest of JD students in the program mirrored the increased application of mediation and arbitration in civil practice so that today about 100 JD students each year, nearly half of every entering JD class, apply to complete the 14 units required to earn the Certificate in Dispute Resolution. Over the years more than 600 Pepperdine JD students have graduated with the certificate. Over 170 law students at Pepperdine and some from other schools have simultaneously earned the MDR degree during the same three years that they complete their JD.



**JULIA CRONIN** (JD '05, MDR '05) completed a joint JD and master of dispute resolution and is currently an associate at Jones Day. She has represented clients before AAA arbitration panels and explored bilateral investment treaty claims under the International Centre for Settlement of Investment Disputes Convention.



**DAVID R. FISCHER** (MDR '06) and **ROYI MOAS** (JD '07, MDR '07): "Our experience at Pepperdine was a large reason why we were selected to mediate in the Nevada Supreme Court's Foreclosure Mediation Program."

Straus classes include graduate and undergraduate students from all of Pepperdine's five schools allowing those pursuing an MBA, MPP, EdD, MA in clinical psychology, or MA in ministry the opportunity to earn a certificate or master's degree in conjunction with their other course work. This year Straus has 20 students earning their Dispute Resolution Certificate as part of their MBA degree. More than 110 MBA students have earned a Certificate or MDR from Straus.



**KINGA TSHERING** (MBA '01, MDR '02) came to Pepperdine to earn an MBA, but soon added the MDR to his curriculum. Since graduating, Tshering is the CEO of Druk Holding and Investment (DHI) Infra, the largest infrastructure company in Bhutan.



**BREA L'HEUREUX** (MBA '08, Certificate '08) "The Straus Institute is why I chose Pepperdine's MBA program. The opportunity to go through Straus' Dispute Resolution program while completing my MBA was an opportunity not available at UCLA, USC and Loyola Marymount, and I knew that Pepperdine was the right choice for me."



**NATE YANG** (Seaver Cert. '11) earned the Undergraduate Certificate in Conflict Management during his senior year at Seaver College. "While cementing my interest in the legal profession, the curriculum also appeals to students of any major because it teaches practical skills that are useful in daily life. The knowledge I gained will be invaluable as I pursue my JD and LLM in international and comparative law at Duke University School of Law."

Pepperdine's LLM Program in Dispute Resolution serves senior-level attorneys desiring to serve as neutrals as well as recent law graduates from around the world. Pepperdine has awarded more than 140 LLM degrees in dispute resolution.



**THERESE CURRO** (LLM '05) is staff counsel for the Southwest Airlines Pilot Association. Curro started her work with Southwest through her externship collaborating with a consultant regarding Southwest's contract language. She was then offered a position as a full-time labor negotiating consultant to prepare the union negotiating committee for the upcoming collective bargaining process and to assist teaching integrative bargaining process and strategic communication skills. In 2007 Curro was hired as staff counsel.



**MICHAEL ZACHARIA** (LLM '10) came to Pepperdine after retiring as executive vice president for business development, general counsel, and secretary of Duty Free Shops Group Ltd. (DFS). Prior to DFS, Michael had been appointed by President Reagan and confirmed by the Senate as assistant secretary of commerce for export administration. Michael also served as a White House Fellow and special assistant in the office of the U.S. Secretary of State. Zacharia currently works in executive

coaching and as assistant director of the PACIS Project in International Faith-Based Diplomacy with the Straus Institute.



**NANCY ERBE** (LLM '05) was faculty at University of California, Berkeley, and the director for Berkeley's Rotary Center for International Studies in Peace and Conflict Resolution. She was named by the U.S. State Department as a Fulbright senior specialist in peace and conflict resolution. She lectured and consulted with faculty at Nicosia University and Eastern Mediterranean University in Cyprus in May on alternative and global dispute resolution, along with meeting several local professionals supported by Fulbright in doing bi-communal conflict resolution work.

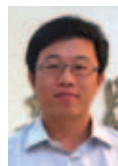


**VICTOR RUIZ** (LLM '08) an attorney from Mexico who joined our LLM program in 2006 and received a coveted internship with the ICC International Court of Arbitration in Paris in the summer of 2008. After the internship Ruiz was offered a position at the ICC as one of four counsel on the Latin American Team, overseeing arbitrations that involve Latin American parties or are seated in Latin America. "I'm really grateful to all my Straus professors," he says. "I came to Pepperdine to change my career, and now I'm headed to the leading arbitration institute in the world."



**CLIFTON E. SLATEN** (LLM '10), founding partner of Slaten Law, P.C. concentrates his practice in financial services litigation, product liability, toxic tort and pest control litigation, mental health, construction defect, premises liability, transportation, and bed bug litigation. "I was considering a career change to full-time mediation; however, the Pepperdine program completely rejuvenated me and recharged my practice. And while I do some mediations, the participation in the program with the outstanding faculty and fellow students has given me new tools to use in my everyday litigation practice."

Numerous international students (ranging from young law school undergraduates to prominent judges), including Fulbright and Muskie Program Scholars, have sought out the Pepperdine program to develop their expertise in dispute resolution. In recent years, Straus has hosted two to three Fulbright and/or Muskie Scholars each year and has been honored to host a variety of other international students whose education is being sponsored by their law firm, government, or home country.



**JIE XU** (LLM '10) graduated from Wuhan University in China prior to starting Pepperdine's LLM program. During Xu's LLM studies he secured an externship with the Beijing Arbitration Commission (BAC), one of the largest ADR providers in east China. Since graduation, Xu has been offered a position and is working at BAC.



**SHIBANI RAO** (LLM '04) After completing her studies at Pepperdine, she returned to Mumbai, India, as senior legal counsel for JP Morgan. She recently accepted a position as vice president for Deutsche Bank in Mumbai.



**GIORGI CHALADZE** (LLM '08) worked as specialist of organizational-analytical service of central administration at the Prosecution Service of the Republic of Georgia prior to joining Pepperdine's LLM program. After earning an LLM from Pepperdine he returned to Georgia as the vice minister at the Ministry of Culture, Monument Protection, and Sports of Georgia.

The aggregate result of all these programs is that over the past 25 years the Straus Institute's academic programs have awarded certificates, master's, and LLM degrees to almost 1,400 students.

## A Legacy of CONFERENCES AND SYMPOSIA

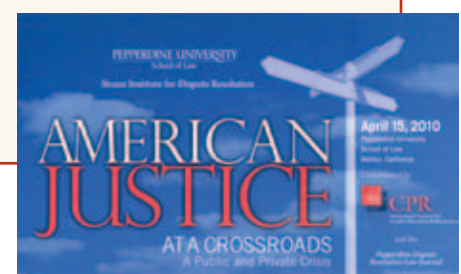
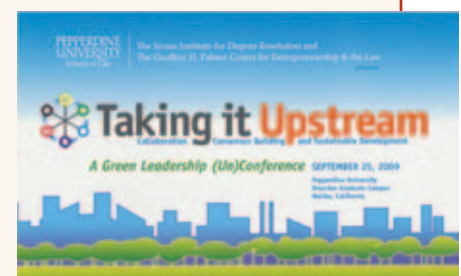
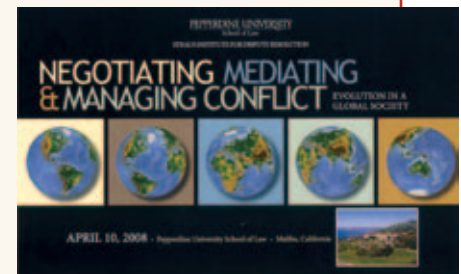
**THE STRAUS INSTITUTE HAS** a rich history of organizing and hosting conferences to serve both the academic and practitioner communities. The institute's location overlooking the Pacific Ocean creates an outstanding forum for thoughtful discussion and reflection.

After the institute's first year, Straus leaders invited the 15 community mediation programs in Southern California to bring their volunteer mediators together for edification and mutual support. More than 300 attendees led to the creation of the Southern California Mediation Association (SCMA) and Straus has continued to host their annual conference every November.

By the late 1990s it became apparent that there might be a need for a similar gathering of established professional mediators. Straus leaders formed an organizing committee and created a "by invitation only" event for accomplished mediators throughout the western United States. The Masters Forum was described as "a high-level dialogue among those who engage in dispute resolution practice every day" and was offered in the fall of 2000, 2002, and 2003. Each year it attracted more than 150 participants.

### HIGHLIGHTS OF CONFERENCES AND SYMPOSIA STRAUS HAS PRESENTED INCLUDE:

- ▶ **THE CONFLICT MANAGEMENT CULTURE AND THE TECHNOLOGY-DRIVEN COMPANY:**  
Improving the Bottom Line Through Strategic Dispute Resolution  
Cosponsored by the American Electronics Association  
*September 9–10, 2004*
- ▶ **TEACHING MEDIATION IN LAW SCHOOLS**  
*June 13–14, 2005*
- ▶ **THE PRICE OF CONFLICT: THE POWER OF COLLABORATION:**  
Achieving Ethical Conduct by Encouraging Conflict Competent Organizations  
Cosponsored with NASBA Center for Public Trust  
*July 14, 2006*
- ▶ **NEGOTIATING, MEDIATING, AND MANAGING CONFLICT:**  
Evolution in a Global Society  
*April 10, 2008*
- ▶ **ARBITRATING SPORTS:** Reflections on USADA/Landis, the Olympic Games, and the Future of Sports Dispute Resolution  
*February 27, 2009*
- ▶ **TAKING IT UPSTREAM:** Collaboration, Consensus Building, and Sustainable Development—A Green Leadership (Un)Conference  
*September 25, 2009*
- ▶ **AMERICAN JUSTICE AT A CROSSROADS:** A Public and Private Crisis  
*April 15, 2010*
- ▶ **TEACHING LAW SCHOOL ADR CLASSES**  
*June 21–22, 2011*



**LOOKING AHEAD, STRAUS WILL** host SCMA's 23<sup>rd</sup> annual conference, "Putting Mediation to Work: Expanding Horizons, Expanding Opportunities," on November 5, 2011. In March 2012, Straus will host an international conference on "Apology, Forgiveness, and Reconciliation."

# Engaging in the Debate over AMERICAN ARBITRATION

**THE NATIONAL DEBATE OVER** the future of predispute or “mandatory” arbitration agreements in consumer and employment contracts has reached a fever pitch, and Pepperdine law professors have been actively engaged. Professor Tom Stipanowich, Straus academic director and William H. Webster Chair in Dispute Resolution, has been a primary participant in the discussion.



Stipanowich’s article “Revelation and Reaction: The Struggle to Shape American Arbitration,” published in two separate symposia, critiqued two recent Supreme Court decisions affecting arbitration in “adhesion” contracts, as well as recent congressional legislation on the subject. This year, the publication of the Supreme Court decision in *AT&T*

*Mobility LLC v. Concepcion*, 131 S. Ct. 1740 (April 27, 2011) encouraged him to write “The Third Arbitration Trilogy: *Stolt-Nielsen*, *Rent-A-Center*, *Concepcion* and the Future of American Arbitration,” which will soon be published in the *American Review of International Arbitration*.

“I am concerned that recent Supreme Court decisions have left very little if any room for oversight of consumer and employment arbitration procedures,” explained Stipanowich. “On the other hand, congressional and executive responses have been single-mindedly focused on eliminating arbitration as an option. There’s been too little emphasis on looking at the actual operation of arbitration and litigation in specific transactional settings, and relative costs and benefits. There’s also been hardly any discussion of ways of ensuring fairness in arbitration.”

The issues have been aired at numerous conferences and symposia at various law schools in recent months—Fordham (twice), Penn State, George Washington University, St. John’s, and, this fall, Kansas. Stipanowich has spoken almost monthly on the subject over the last year.

Stipanowich and others have hopes that facilitated dialogue might be of some benefit, especially since the new Consumer Financial Protection Bureau and the SEC now have a mandate to examine consumer arbitration more closely. Stipanowich, who in 2010 served as cofacilitator of a discussion on related subjects sponsored by the ABA Section of Dispute Resolution, is currently working with other scholars, practitioners and advocates to create a framework for further discussion. There are plans afoot for one or more gatherings in the near future.

## THIS FALL THE STRAUS INSTITUTE UNVEILS AN EXCITING NEW PROGRAM of in-depth interviews with leaders in the dispute resolution field.



### The inaugural guest is Kenneth Feinberg.

On November 14, 2011, the Straus Institute and the Pepperdine School of Law will host “Straus Presents: A Conversation with Ken Feinberg.” To the general public, Feinberg is perhaps the most visible figure in the field of conflict resolution. He is best known for his role as the special master of the U.S. government’s September 11<sup>th</sup> Victim

Compensation Fund (chronicled in his book *What Is Life Worth?* (2005), a role in which he served pro bono for almost three years. More recently he was appointed special master for the TARP executive compensation initiative (“pay czar”), and in June 2010 was named to run the BP Deepwater Horizon Disaster Victim Compensation Fund, a \$20 billion fund to pay claims resulting from the BP Gulf oil spill.

Feinberg will be interviewed by Straus academic director and professor Tom Stipanowich, the William H. Webster Chair in Dispute Resolution. Stipanowich explains:

“This new series is a dream-come-true for the institute. We’ve long envisioned the Straus version of *Inside the Actor’s Studio*, which brings outstanding, creative individuals for an in-depth interview with an audience of students and interested invitees. I can think of no more appropriate first guest than Ken Feinberg, who is America’s go-to facilitator for the resolution of many of our most visible and intractable issues.”

In addition to inaugurating the “Conversation” series, Feinberg will spend two days at Pepperdine School of Law and conduct multiple presentations for students and faculty.

# FAITH-BASED RECONCILIATION

## Answering the Call...



**OUT OF A RICHNESS** of faith, a commitment to healthy relationships, and a deep sense of calling, the Straus Institute for Dispute Resolution under the early leadership of its founder Randy Lowry has been committed to serving believing individuals, faith communities, and international ministries caught in conflict. Whether working locally among Hispanic churches, nationally across mainstream denominational lines, or internationally among both established and emerging religious movements in places as diverse as Albania, Korea, Rwanda, and Russia, the Straus Institute has shared the skills necessary to implement Jesus' peacemaking process outlined in *Matthew 18*. From the beginning the institute has been keenly aware of the need for both biblical intervention in acutely distressed situations and leading-edge preventative education and training of church leaders. It has developed and encouraged training sessions around the world in the management of conflict, the theology of conflict, and biblical reconciliation.

Over the years, the Straus Institute, through the leadership of Larry Sullivan, Peter Robinson, and Tim Pownall, has continued to respond to calls for help from churches across the country. In the last two decades, the Straus Institute has participated in more than 300 conciliations, 100 formal church mediations, and 40 training programs, workshops, and conferences. From these experiences the Straus Institute has crafted and perfected not only skills-training materials and workshop experiences, but has also created curriculum

for academic courses taught at the School of Law that address the intersection of dispute resolution, religion, apology, and reconciliation.

As a natural outgrowth and evolution of these faith-based reconciliation efforts, the Straus Institute, with generous funding from the University, launched the PACIS Project in International Faith-Based Diplomacy in 2008. PACIS, in consultation with governments and religious leaders, addresses intractable identity-based conflicts that exceed the grasp of traditional diplomacy and legal remedy by effectively combining the transcendent power of religion with the practice of international diplomacy through an innovative model of faith-based reconciliation that has borne tangible fruit in Sudan, Kashmir, Kosovo, and now in the Middle East.

The PACIS Project emphasizes "on the ground" intervention among polarized communities in situations of identity- and religious-based conflict. It seeks to work with leaders and emerging leaders in policy-making circles, foreign ministries, national security agencies, religious denominational communities, and humanitarian nongovernmental organizations, which must grapple daily with the complex interconnected roles of religion, individual faith, and violent conflict among disparate societies. The Straus Institute's PACIS Project focuses on the development of the specialized field of "track-two" (informal) diplomacy that works in collaboration with official "track-one" government-to-government diplomacy. The PACIS Project's focus is on softening hearts of persons of influence according to God's call in Scripture in advance then of problem-solving initiatives that would benefit the communities involved and honor God in the doing.

The Straus Institute is blessed to be able to bring its heart commitment and experience to bear in that most spiritually profound moment of reconciliation. We remain committed to helping and empowering ministry among God's people!

# Full-Time FACULTY UPDATES, 2010–2011



## Roger P. Alford

*Apportioning Responsibility Among Joint Tortfeasors For International Law Violations*, 38 PEPP. L. REV. 233 (2011).



## Jack J. Coe, Jr.

*Bilateral Investment Treaties to Which the United States Is a Party*, in INVESTMENT TREATIES (Oxford Univ. Press, forthcoming).

*Chapters 1 and 5* (first tentative draft), in RESTATEMENT OF THE LAW (THIRD) INTERNATIONAL COMMERCIAL ARBITRATION (ALI 2010).

*Chapter 4*, in RESTATEMENT OF THE LAW (THIRD) INTERNATIONAL COMMERCIAL ARBITRATION (ALI forthcoming).

Coe was reappointed as liaison to the ABA Section International Law, American Law Institute, in 2011. He was appointed to the Executive Committee of the Southwestern Institute for International and Comparative Law, Center for American and International Law, and to the Ad Hoc Drafting Committee for Investor-State Mediation Rules, International Bar Association (IBA) as well.



## Michael A. Helfand

*Submitting Disputes for Religious Adjudication: The Enforceability of Religious Arbitration Awards* (forthcoming).

Fighting for the Debtor's Soul: Church Autonomy and Religious Arbitration, Speaker, Conference on Religious Legal Theory, St. John's University School of Law, New York, New York (Nov. 2010).

Rabbinical Arbitration in the 21st Century: Contemporary Issues and Challenges, Speaker, American Association of Law Schools Annual Meeting, Jewish Law Section, (forthcoming Jan. 2011).



## Anthony Miller

FAMILY LAW: CASES, MATERIALS, AND PROBLEMS (with Peter M. Swisher and Jana B. Singer) (Lexis, 3d ed. forthcoming).

Miller shared expertise in the documentary *Divorce: Circa 1960s*, which appears on the DVD of the fourth season of the television program *Mad Men*.



## Richard Peterson

*The Persistence of Low Expectations in Special Education Law Viewed through the Lens of Therapeutic Jurisprudence*. INTERNATIONAL JOURNAL OF LAW AND PSYCHIATRY, (October 2010).

## Peter R. Robinson



*Opening Pandora's Box: An Empirical Exploration of Judicial Settlement Ethics and Techniques* 27 OHIO ST. J. ON DISP. RESOL. (2012).

*An Empirical Study of Settlement Conference Nuts and Bolts: Settlement Judges Facilitating Communication, Compromise, and Fear*, HARV. NEGOT. L. REV. (forthcoming).

Keynote address, The Use and Misuse of Apology in Mediation, Speaker, at the California Dispute Resolution Council's annual conference (Sept. 2010).

Robinson also led a six-day Mediating the Litigated Case program in partnership with the Kuala Lumpur Regional Dispute Resolution Agency in Kuala Lumpur, Malaysia, in September 2010.



## Thomas J. Stipanowich

*Revelation and Reaction: The Struggle to Shape American Arbitration, Contemporary Issues*, INTERNATIONAL ARBITRATION AND MEDIATION: THE FORDHAM

PAPERS 2010 (Martinus Nijhoff Publishers, 2010) and in PENN STATE YEARBOOK ON ARBITRATION AND MEDIATION (2011).

Book review: REVIEW OF COMMERCIAL ARBITRATION IN AUSTRALIA FOR THE INTERNATIONAL REVIEW OF CONSTRUCTION LAW (2011).

*Expanded Review of Awards: Hall Street and Cable Connection*, in 2010 ANNUAL REPORT OF THE SECTION OF PUBLIC UTILITY, COMMUNICATIONS, AND TRANSPORTATION LAW (2010).

*The Third Arbitration Trilogy: Stolt-Nielsen, Rent-A-Center, Concepcion and the Future of American Arbitration* (to be featured alongside an article by University of Texas professor Alan Scott Rau), AM. J. INT'L ARB. (forthcoming).



RESOLVING DISPUTES: THEORY AND PRACTICE FOR LAWYERS (with Jay Folberg, Dwight Golann, Lisa Kloppenberg) (Aspen Publishers 2d ed. 2010).

*Behind the Neutral*, in AAA ARBITRATION HANDBOOK (Juris Publishing 2010).

PROTOCOL: College of Commercial Arbitrators Protocols for Expeditious, Cost-Effective Commercial Arbitration (editor-in-chief) (2010).



## Maureen Arellano Weston

*Anatomy of the First Public International Sports Arbitration and the Future of Public Arbitration after USADA v. Floyd Landis*, 2009–10 Y.B. OF ARBITRATION

AND MEDIATION (Vandeplas, 2010).

*The Other Avenues of Hall Street and Prospects for Judicial Review of Arbitral Awards*, 14 LEWIS & CLARK L. REV. 929 (2010).

ARBITRATION: CASES AND MATERIALS (with Stephen K. Huber) (Lexis 3d ed. 2010).

SPORTS LAW: CASES & MATERIALS (coauthors Raymond Yasser, James McCurdy, Peter Goplerud) (Lexis 7th ed. 2010).

Ordered to Mediate, or to Settle? Speaker, ABA, Section on Dispute Resolution, San Francisco, California (Apr. 2010).

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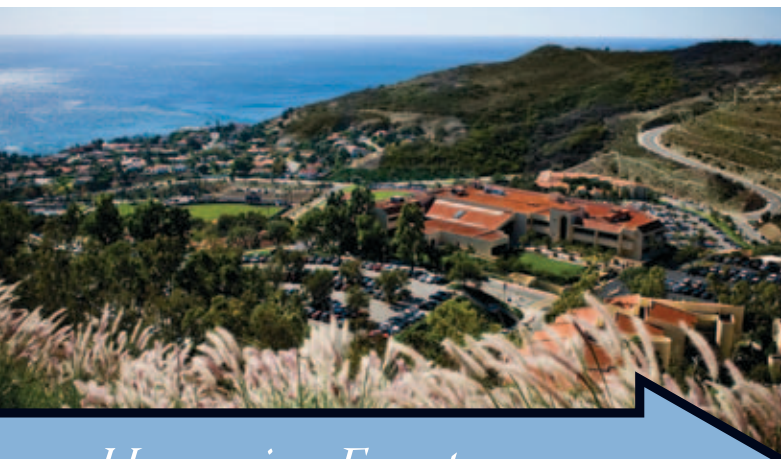
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[straus.pepperdine.edu](http://straus.pepperdine.edu)

e-mail: [dracademics@pepperdine.edu](mailto:dracademics@pepperdine.edu)

*All events are on the Malibu campus unless otherwise noted.*

**2011**

- June 21–22 Teaching ADR in Law Schools Conference
- June 23–25 Professional Skills Program (13 simultaneous programs)
- August 8–13 Mediating the Litigated Case
- October 13–15 Vermont Professional Skills Program (six simultaneous workshops)
- October 17 ABA Mediation Week Lunch Colloquium for Southern California Law and Graduate Students—Trends and Practices for Mediators: Reflections from the Past 20 Years
- October 22 Tricks of the Trade: Outsmarting Investment Frauds Conference

- November 5 SCMA 23<sup>rd</sup> Annual Fall Conference – Putting Mediation to Work: Expanding Horizons, Expanding Opportunities
- November 14 Straus Presents: A Conversation with Ken Feinberg

**2012**

- January 3–7 Winter Intensive Academic Program (six simultaneous classes)
- January 26–28 & February 9–11 Mediating the Litigated Case in Orange County and West Los Angeles
- February 3–4 National Roundtable on Consumer Dispute Resolution

- February Straus cosponsors regional conferences for the National Association of Community Mediation Programs in Los Angeles, Chicago, and Washington, D.C.

- March Apology, Forgiveness, and Reconciliation Conference
- March 26–31 Mediating the Litigated Case in Washington, D.C.

- April 20 Straus Faculty Reception at the ABA Dispute Resolution Conference in Washington, D.C.

- May 29–August 4 Summer Intensive Academic Program (approximately 22 courses will be offered)

- June 21–23 Professional Skills Program (12 simultaneous workshops)

- June 22 **25<sup>th</sup> Anniversary Gala event**
- July 24–August 2 Hong Kong/Beijing Study Tour