



ABA Annual Meeting 2009  
Section of Dispute Resolution  
July 30 - August 2, 2009

**Meeting Chairs**

Susan Yates, Chicago IL  
Stuart Widman, Chicago, IL  
William Hartgering, Chicago, IL

Headquarter Hotel: Marriott Chicago  
Presidential CLE Center: Hyatt Regency Chicago

**PROGRAM SCHEDULE**

## Thursday, July 30, 2009

2:00pm – 3:30pm

Hyatt Regency Chicago  
Columbus Hall EF; Gold Level, East Tower

### **The Impact of the Recession on Valuation of Assets and Damages in Resolving Complex Disputes**

**Program Description:** The Recession directly and indirectly impacts the valuation and resolution of a broad variety of matters, including real estate (e.g., foreclosures), Business/Firm divorces (where the joint asset must be valued), employment (front pay issues) and virtually any damages issue that involves the economy. Particularly during mediation, the parties and the mediator must work through the uncertainty of valuing assets, economic damages and challenges to conventional wisdom on what a judge or jury might decide on complex damage issues. Drawing upon the experience of a sitting judge, experienced counsel and members of the audience, this interactive discussion will explore how these damage issues have been resolved as an initial wave of disputes has come before the court and private ADR Providers.

**Moderator:** William Hartgering, Chicago, IL.

**Panelists:** Hon. Ronald F. Bartkowicz, Chicago, IL; Fred Feinstein, Chicago, IL; Heather Mackin, Chicago, IL.

3:45pm –5:15pm

Hyatt Regency Chicago  
Columbus Hall EF; Gold Level, East Tower

### **Negotiating Union Waivers of Statutory Discrimination Claims in Arbitration and Related Issues of Advocacy After *14 Penn Plaza LLC v. Pyett***

**Program Description:** On April 1, 2009, the Supreme Court decided *14 Penn Plaza LLC v. Pyett* which held that unions can agree to arbitrate statutory discrimination claims of individual employees. The Court found a clear and unmistakable waiver of the employment discrimination court claim at issue under the express terms of that collective bargaining agreement. The panelists include an experienced management attorney and an experienced union attorney. They will explore with a neutral arbitrator and labor and employment law professor the ramifications of the *Pyett* decision. Specifically, the panelists will discuss questions that the Court in *Pyett* refused to address and will suggest what the decision means for future bargaining about such waivers and any changes that may now occur in approaching advocacy in labor arbitration.

**Panelists:** Steve Adelman, Chicago, IL; Marvin Gittler, Chicago, IL; Michael Z. Green, Ft. Worth, TX.

## Friday, July 31, 2009

8:30am – 10:00am

Hyatt Regency Chicago  
Grand Suite 3; Gold Level, East Tower

### **Rules of the Road: How to Navigate the Legal Land Mines of Mediation**

**Program Description:** The increased use of mediation in litigation has likewise increased litigation about its use. As the Uniform Mediation Act has been adopted by more and more states and as other states have carved their own set of mediation statutes, a growing body of law regarding mediation has evolved. There are now hundreds of cases exploring the power of the courts to compel mediation and grant sanctions for bad faith negotiation in mediation, the scope of confidentiality of mediation proceedings including exceptions from the privilege not to testify in subsequent civil proceedings, the confusion of hybrid processes when mediation and arbitration converge, and the enforcement of mediated settlements. In a highly interactive program with audience participation, the panel will examine a number of themes emerging from the case law so that you can successfully sidestep the legal land mines on the mediation landscape.

**Panelists:** Ruth Glick, Burlingame, CA; Bruce Meyerson, Phoenix, AZ; Lori Sochin, Miami, FL; Ruth Vance, Valparaiso, IN

12:30 – 2:00pm

Section Advisory Committee Meeting

Marriott Chicago  
Cook, 3<sup>rd</sup> Floor

2:00pm – 3:30pm

Hyatt Regency Chicago  
Grand Suite 3; Gold Level, East Tower

**Analytical Mediation**

**Program Description:** Is Analytical Mediation a plausible answer to the “philosophical” debates surrounding purely facilitative and evaluative mediation? Growing out of a multi-year Task Force on Mediation Quality of the Section of Dispute Resolution, speakers will discuss the concept of Analytical Mediation, including how it works, its potential benefits and its limitations.

**Panelists:** John Bickerman, Washington, DC; Lela P. Love, New York, NY; Wayne Thorpe, Atlanta, GA

2:00pm – 3:30pm

Hyatt Regency Chicago

**Preventing Foreclosure: A Win-Win Solution for Everyone**

**Program Description:** Homeowners don’t want to lose their homes. Banks don’t want to be landlords. Neighborhoods filled with vacant homes deteriorate rapidly causing damaging effects to the entire community. No one wins when it comes to foreclosure. So what can be done? Plenty. Learn what options are available and how to put them in place for your clients. Whether you represent the debtor or the lender, options are available to prevent foreclosure.

Learn prevention strategies, defenses to foreclosure, and best practice tips. Learn how to work with lenders to modify loans and extend the original terms. Learn about model court programs utilizing strategies to prevent foreclosure. Learn what resources are available and how to avoid mortgage rescue scams.

**This is a FREE program.**

**Primary Sponsor:** ABA Commission on Homelessness and Poverty

**Co- Sponsors:** ABA Section of Dispute Resolution, ABA Business Law Section, ABA Real Property Section, ABA Forum on Affordable Housing, ABA State and Local Government Section

**Moderator:** Casey Trupin, Seattle, WA

**Panelists:** Donald Brewster, Calabasas, CA; Jean Constantine-Davis, Washington, DC; Jacqueline Hagerott, Columbus, OH, Michael Krimminger, Washington, DC

3:45pm – 5:15pm

Hyatt Regency Chicago  
Columbus Hall AB

**Can Mediation Help Save the American Dream? Lessons Learned and Obstacles Overcome in Ohio**

**Program Description:** Ohio’s Foreclosure Mediation Program is the first of its kind in the nation. Marked by an extraordinary commitment to galvanize the state’s human capital, program planners, the State Supreme Court Dispute Resolution Section and its Advisory Group convened representatives from every conceivable stakeholder group, inviting them to help respond to the state’s foreclosure crisis. The program’s website is a marvel. They’ve thought of everything. Model program descriptions, forms, practice tips, public education tools, and other resources are available on-line for Ohio’s local courts and the world.

How did they do it? Is it working? Representatives from key stakeholder groups will share their experiences, observations and recommendations for the future.

**Panelists:** Susan Choe, Attorney General’s Office, Columbus, OH; Jacqueline C. Hagerott, The Supreme Court of Ohio, Columbus, OH; Amy Hathaway, Lerner, Sampson & Rothfuss, Columbus, OH; Stephanie L. Spruill, Ohio Housing Finance Agency, Columbus, OH

3:45pm – 5:15pm

Hyatt Regency Chicago  
Grand Suite 3; Gold Level, East Tower

**Mediation’s Seven Deadly Sins—Avoiding Seven Sure Fire Ways to Torpedo Your Mediation, Upset Your Client, and Enrich the Other Side**

**Program Description:** This lively session will help counsel avoid seven common mistakes that bring client dissatisfaction and unsatisfactory mediation outcomes. A panel of experienced mediation counsel will provide practical advice in effective mediation advocacy to both novice and experienced practitioners. Three particularly effective mediation techniques will be shared that create value and achieve better results. Audience participation is a key feature of this popular program.

**Panelists:** Joel Davidson, Orangeburg, NY; Roger M. Deitz, New York, NY; Deborah Masucci, New York, NY; Richard Rogoff, Chicago, IL

## **\*\*TICKETED EVENT**

6:30pm - 9:00pm  
Section Evening Cocktails & Buffet

Maggiano's Little Italy,  
516 North Clark Street, Chicago, IL

Join the Section Officers and Council for a social event bringing together the community of providers and users of dispute resolution services.

**Tickets:** \$55 General; \$40 Gov't/Judges/Nonprofit; \$40 Young Lawyers; \$25 Students  
Complete the registration form on the last page to sign up. Act fast. **Space is limited.**

## **Saturday, August 1, 2009**

8:00am – 9:00am  
Ethics Committee Meeting

Marriott Chicago  
Los Angeles/Miami, 5<sup>th</sup> Floor

9:00am – 2:00pm  
Council Meeting

Marriott Chicago  
Avenue Ballroom, 4<sup>th</sup> Floor

2:00pm-2:30pm  
Annual Meeting of the Membership

Marriott Chicago  
Avenue Ballroom, 4<sup>th</sup> Floor

The Section's Annual Meeting of the Membership will convene to hear an Annual Report from Section Chair Lela P. Love and to elect the Officers and Council for 2009-2010. Homer La Rue, Columbia, MD will succeed to Section Chair at the conclusion of the meeting. The Nominating Committee has put forth the following slate of Officer candidates: R. Wayne Thorpe, Atlanta, GA, as Chair-Elect; Deborah Masucci, New York, NY, as Vice-Chair; Philip Armstrong, Atlanta, GA, as Budget Officer; and Pamela Enslin, Kalamazoo, MI, as Section Delegate. The following members are nominated for three-year council terms: Benjamin Davis, Toledo, OH; Roger Deitz, New York, NY; and David Sandborg, Hong Kong.

3:00pm – 5:00pm  
Spring Conference Planning Meeting

Marriott Chicago  
TBD

3:00pm – 5:00pm  
Collaborative Law Committee Meeting

Marriott Chicago  
Avenue Ballroom, 4<sup>th</sup> Floor

## **Sunday, August 2, 2009**

10:00 – 11:30 a.m.

Hyatt Regency Chicago

### **Ultimate Arbitration Update**

**Primary Sponsor:** Labor & Employment Law Section

**Co-sponsor:** Section of Dispute Resolution

Join us for our annual gathering to discuss the cutting edges of arbitration practice. Among the topics covered will be the impact of the U.S. Supreme Court's decision in *Pyett*, circuit court case update, difficult discovery issues, and ethical issues in class action arbitration. This always-lively panel invites your questions and comments.

**Moderator:** Susan Grody Ruben, Cleveland, OH

**Panelists:** Mark Y. Berger, Kansas City, MO; Thomas Doyle, Chicago, IL; Kevin McCarthy, Portage, MI; Stuart Widman, Chicago, IL



## **Additional Annual Meeting Resources**

For more information, visit

<http://new.abanet.org/annual/default.aspx>

To register online, visit

<https://www.xpressreg.net/register/abaa079/lookup.asp>



## Dispute Resolution Section Cocktails & Buffet

Friday, July 31, 2009

6:30pm - 9:00pm

Maggiano's Little Italy  
516 North Clark Street, Chicago, IL

### Ticket Prices:

- General - \$55     Gov't/Judges/Nonprofit - \$40  
 Young Lawyers - \$40     Student - \$25

Name: \_\_\_\_\_

Affiliation: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

Check enclosed payable to American Bar Association in the amount of \$ \_\_\_\_\_.

Charge: \$ \_\_\_\_\_ to my:    \_\_\_ AMEX    \_\_\_ VISA    \_\_\_ M/C

Card Number: \_\_\_\_\_ Exp Date: \_\_\_\_/\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

### Send registration form to:

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