USC Gould's Center for Dispute Resolution continued to provide thought leadership at the forefront of ADR education and positively shape the future of the field through the collaborative work of its faculty, alumni and students throughout 2021.

Before we embark on another year, we reflect on some of their accomplishments and contributions that have created measurable impact in 2021 and set the stage for continued successes in 2022.

Expanding the Dialogue

In the wake of COVID-19: An awakening of special education dispute resolution
Q&A with USC Gould Lecturer Richard Erhard

USC Gould School of Law Lecturer in Law Richard Erhard's experience in special education spans nearly 30 years and two states, including his service as a special education teacher, coordinator, special education local
plan area (SELPA) director and assistant superintendent of student services. He is president/principal of the consulting firm Richard Erhard and Associates, LLC, which focuses on mediation and consultation services for conflict resolution. In addition, he is an associate member of the American Bar Association, and San Diego County Bar Association Dispute Resolution sections.

A member of the Southern California Mediation Association’s board of directors Erhard, who will assume the Presidency of the Association in 2022, discusses how policies (past and present), shifts in public perception, and the pandemic have contributed to shaping special education.

Historically, what are the types of policy challenges facing special education?
Special education has always been plagued by two distinct public policy issues: lack of funding and a marginalized population. In 1975, when the Education of All Handicapped Children Act (EAHCA) was enacted under PL 94-142, the intent was for the federal government to fund the Act at the 40% level. In 1990, the Act was reauthorized as the Individuals with Disabilities Education Act (IDEA), PL 101-476 and although the Act has been reauthorized numerous times since its inception in 1975, including the most recent reauthorization in 2004 as PL 108-446, it has never been funded at the 40% level. Over the last 46 years, funding has never reached even the 20% funding level.

Furthermore, children with disabilities have been the subject of a marginalization of status, due largely to the public misperception that individuals with disabilities are in some way less able to contribute to society. While funding for special education has not increased, thankfully public perception of individuals with disabilities as being “able,” as opposed to simply “disabled,” is improving.

Over the years, what factors have helped to shift public sentiment around special education?
The overarching reason for the change in public perception is education. However, the process of educating the public is costly, hard fought and takes place in multiple venues, including: public and private schools, institutions of higher education and the courts. Education through the courts is extremely costly, both in fiscal and human terms and in some cases, actually culminates in the Supreme Court of the United States. Here, the Court’s decision, in landmark precedent setting cases, changes the interpretation of the Act and hopefully therefore, public perception.

View a recent virtual lecture by Richard Erhard titled "The Human Condition: Is Disability Special, Exceptional, or a Fact of Life?" on the topic of special education and the public policy implications of disability laws that have become increasingly litigious. Watch here.

What parties are generally involved in special education court cases?
As with most litigation, there are most often only two sides present in special education litigation, and the litigants are typically parents of children with disabilities.
and the school districts their children attend. However, given the aforementioned cost of litigation and public policy concerns regarding this cost, a third side is now emerging. In his book, The Third Side: Why We Fight and How We Can Stop, William Ury, co-author of Getting to Yes, describes the third side as the community at-large; supporting the “emergent will of the community.”

**What impact has the pandemic caused in addressing special education disputes?**
In the wake of the COVID-19 pandemic, parents of children with disabilities are filing complaints in record numbers, seeking compensatory education for learning loss due to a significant interruption to their child's education, reportedly due to the school closures. This dramatic increase in court filings is taxing the already overburdened institutionalized dispute resolution process in California.

**In light of the increase in complaint filings amid the pandemic, what has been the response from state lawmakers?**
In the spring of 2021, given the increase in filings, a “Third Side,” the California Legislature – recognizing the overburdened dispute resolution process – emerged, passing two bills: AB 130 and AB 967; authorizing significant fiscal resources for special education. Combined, they represent millions of dollars dedicated to the development, training and implementation of special education dispute resolution practices throughout the state for all parties: parents, schools and their communities. These immense resources may actually provide the long needed catalyst for an awakening of special education dispute resolution in California.

**Mediation's Future as a Profession**
_Q&A with USC Gould Lecturer Jack R. Goetz, president of nonprofit MC3 Mediation Certification_

USC Gould School of Law Lecturer in Law **Jack R. Goetz** is the president of MC3, a multi-state nonprofit that certifies mediators for public quality assurance. With extensive experience which includes serving as the academic lead for mediation training programs at universities, the Los Angeles County Bar Association and the Los Angeles Police Department, Office of the Ombuds, as well as serving as the 2018 president of the Southern California Mediation Association, Goetz discusses the work of MC3 – and USC Gould’s contributions – to setting professional standards in the field.

**What is the overarching goal of MC3?**
MC3 is organized to ensure user and public confidence in the mediation process by setting standards for mediator training, education and ethics, and by maintaining those standards through its certification program. MC3 launched in 2019 with the goal of helping transform mediation from a field to a profession. MC3’s volunteer board and officers include several USC Gould faculty and graduates, including Jason Harper, who teaches Cross-Cultural Dispute Resolution (LAW 829) and me, teaching Mediation Theory and Practice (LAW 680). USC Gould alumni contributors include Adam Ravitch (JD 2007), Henry Alfano (MDR 2020) and Mariam Vartkis (MDR 2019).

**For mediation as a field, what challenges do you see, and how are you working to address them?**
There is no agreed upon, step-by-step approach that changes a field to a profession. Dr. Jennifer Kalfsbeek and I co-authored a 2014 paper that noted the distinguishing
characteristics of a formal profession, including self-governance based upon a binding ethics code, as well as education and continuing education requirements at a meaningful level in the field (often attached to a degree).

Read the full Q&A here.

Leading the Conversation

USC Gould & JAMS Arbitration Institute
The Center and JAMS completed three virtual symposia in 2021—the Global Construction Disputes Update 2021: The Energy Transition, the Entertainment ADR Symposium, and the Fifth Annual International Arbitration Symposium—with networking sessions following each program.

The Second Annual Global Construction Disputes Update Webinar
On November 11, the USC & JAMS Arbitration Institute continued its annual webinar series with the 2nd Annual Global Construction Disputes Update, with a focus on the Energy Transition.

The program was moderated by Laura C. Abrahamson of JAMS and featured a global panel of energy and construction experts including Joachim Delaney of Holman Fenwick Willan LLP, Alexander Grant of Pinsent Masons, Daniel Muñoz Jimenez of Enel Green Power S.p.A., Colin Johnson of HKA, Nav Juty of AECOM, and Nathan O’Malley of Musick Peeler.

The panel covered a range of topics pertaining to the renewables industry including an overview of the key risk drivers in renewable project disputes, challenges for the future, and a wide discussion on the general renewable dispute trends in the UK, Europe, Asia and Americas.

The program recording is available here and program materials are available here.

Entertainment ADR Symposium
The Entertainment ADR Symposium: Is There Still No Business Like Show Business? – ADR Challenges and the Evolution of New Media, was held over the summer. The symposium began with a keynote address entitled “The Brave New World of Entertainment” by Jeffrey Cole, research professor and Director of the Center for the Digital Future with USC’s Annenberg School for Communication and Journalism.

Mr. Cole then joined a panel on “Managing Risk in the Era of New Media” moderated by Patricia L. Glaser of Glaser Weil picking up from the keynote and discussing how to identify risk in the era of new media.
A second panel on “Drafting Skills in New Media – Recognizing and Minimizing Risk” was moderated by Richard Chernick, Mediator and Arbitrator with JAMS in Los Angeles, and Symposium Chair for the USC Gould Center for Dispute Resolution Advisory Board. Panelists discussed how to manage risks in new media, including those identified in the prior panel, and drafting new media dispute resolution clauses.

The program recordings are available from Panel 1 and Panel 2, and program materials are available [here](https://app.constantcontact.com/pages/campaigns/email-details/details/activity/e7efd9fd-e01f-4b59-9d62-6e9879c57799).

**Fifth Annual International Arbitration Symposium**

The third of the three-part webinars comprising the Fifth Annual International Arbitration Symposium: Bridging the Common and Civil Law Chasm was held in spring. Hiro Aragaki, FCI Arb, Mediator and Arbitrator with JAMS in Los Angeles, began the final installment with a keynote address on “The Singapore Convention and the Rise of Cross-Border Commercial Mediation: Challenges and Opportunities.”

Howard B. Miller, FCI Arb, Mediator and Arbitrator with JAMS in Los Angeles, then moderated a panel discussion featuring Mr. Aragaki, Josephine Hadikusumo (International Mediator and Director, Asia Mediation Centre – Sabah, Malaysia), Michael McIlwrath (Former Vice President - Litigation, Baker Hughes Company; Chair – ICC Governing Body for Dispute Resolution Services – Florence), Nina Mocheva (Senior Financial Sector Specialist [Dispute Resolution and Insolvency], World Bank Group – Washington DC), and Laila Ollapally (Mediator and Founder, Centre of Advanced Mediation Practice – Bangalore).

The recording and materials from the third webinar are available [here](https://app.constantcontact.com/pages/campaigns/email-details/details/activity/e7efd9fd-e01f-4b59-9d62-6e9879c57799). You may also review the recordings from Webinar 1 and Webinar 2 in the series.

Please email Natasha Moreno at nmoreno@jamsadr.com to join our mailing list for similar events. For sponsorship opportunities, please email Preston Ascherin at pascherin@law.usc.edu.

**USC Unifying Values Community Panel on Open Communication**

This summer, USC hosted a panel focusing on the value of “Open Communication” that featured the Center’s Director, Prof. Richard Peterson, alongside other staff, students and administrators for all schools and units. He brought a unique perspective to enrich the conversation about how we as individuals and as an institution can live out the value of “Open Communication” as it relates to conflict resolution.
This panel event was hosted by USC's Culture Transformation team under the Office of Culture, Ethics and Compliance to generate excitement around USC's Unifying Values: Integrity, Diversity, Equity and Inclusion, Well-being, Accountability, Open Communication, and Excellence.

**SCMA 2021 Annual Fall Conference**
USC Gould LLM in ADR alum, Lydia Liberio, hosted a dynamic workshop during the conference titled, "Resilience and Reimagining Resolution: Where Emotional Intelligence Meets Trauma-Informed Facilitation."

The Center was a proud sponsor of the SCMA 2021 Fall Conference.

**USC Brazil International Podcast**
USC Brazil Office Director, Marcus Costa, has launched a Portuguese-language podcast that features engaging interviews with alumni and feature career resources and more.

A recent episode featured USC Gould LLM in ADR alum, Fernanda Bortolini, currently employed at Pinheiro Neto, a top Brazilian law firm. Tune in to future episodes of the podcast [here](in Portuguese).

**Furthering Career Development**
USC Gould School of Law's Center for Dispute Resolution offers one of the nation's longest-standing and most comprehensive programs in arbitration and mediation. In addition to the Center's academic and clinical programs, the Career Development Team offers a wide variety of workshops, expert panels and individual speaker events. In this way the Center provides students with access to the experience and expertise of accomplished ADR practitioners from around the world.

**Career Events & Opportunities**
In 2021, the Center again offered its ADR Speaker Series. This series of intimate, informal conversations included experts in youth conflict resolution education, administrators with prominent arbitration providers, and several Gould ADR alumni. Joseph Jeong (2018) and Brooke Cavanaugh (2020) who currently apply their LLM in ADR degrees at the Financial Industry Regulatory Authority (FINRA), shared how they help parties in securities disputes navigate the arbitration or mediation process. Seth Chavez of the Los Angeles County Bar Association (LACBA) discussed the association's fee arbitration program and offered insight into how
attorneys and clients navigate such disputes and available opportunities for ADR graduates to contribute.

The Center also hosted Julie Ware, private mediator and Assistant Manager for the downtown Los Angeles Resolution Center of JAMS, Inc, who offered unique insights as a mediation practitioner and arbitration administrator. Trojan alum Valerie Harragin also joined the Series to discuss her years of experience as a Federal Mediator dealing with labor and employment disputes.

Our ADR students also heard from Gould Lecturer and ADR alum Justin Hoyt. In addition to teaching ADR Clause Drafting and Arbitration in the U.S. at Gould, Justin maintains a private practice as an arbitrator, discovery referee, and mediator of commercial, employment and personal injury disputes. Finally, Shaune Gatlin and Arturo Magaña from the Western Justice Center spoke with students about their work overseeing youth conflict resolution programs and education in LA-area middle schools, as well as internship opportunities for students.

**SCMA Family Mediation Institute & Annual Fall Conference**
The Center sponsored USC Gould’s ADR students to attend Southern California Mediation Association’s 4th Annual Family Mediation Institute and Annual Fall Conference where they were able to learn from and network with attorneys, mediators, experts, and other professionals across California and the U.S..

**Building Your Mediation Practice Workshop**
We again offered a Building Your Mediation Practice Workshop to the Center's students and alumni. In this live webinar, Wendy Kramer of ADR Services, Inc., taught students how to build a mediation business from the ground up. Students learned how to enhance their professional development, develop tools necessary to market their practices, network to develop clientele, and identify day-to-day mediation business practices.

**ADR Faculty: News & Notes**

**Gail A. Glick**
As a recognized resource for the most sought-after mediators, arbitrators, and private judges, Judicate West recently welcomed Glick to the neutrals panel.

**Jason Harper**
Jason Harper was a keynote speaker for the 2021 California ADR Conference. The conference reached administrators,
teachers, and service providers serving K-12th grade in Special Education for the entire state of California.

There were approximately 1200 attendees for this conference and Jason's keynote was titled "Mindfulness in Contentious Moments."

Jason Marsili
After 17 years as an advocate in the practice of labor and employment law, Adjunct Lecturer in Law, Jason Marsili, launched Marsili Mediation to realize the motivations that first prompted his study of law, which is to help others resolve disputes. As a mediator, Marsili maintains an extensive working knowledge of both employment litigation and traditional labor law, and utilizes the pragmatic considerations he established as a litigant to resolving disputes as a mediator.

Nathan O'Malley
Nathan O'Malley published a piece in the IBA covering the manner in which these rules have been interpreted by U.S. courts: The IBA Rules and US courts.

Additionally, O'Malley was listed by Who's Who Legal as a Global Leader in 2021 and a visionary in Business of Law: Trends, Updates & Visionaries, a special feature published recently by L.A. Times B2B Publishing, recognized for contributions and leadership within his firm, the legal profession and the community at large. Read the full press release here.

Jennifer Winestone
In Spring, Jennifer Winestone was profiled in the Daily Journal in an article entitled "The Human Element." The article can be found on the front page of the Verdicts and Settlements section of the journal for members.

Professor Richard Peterson
Named 2021 L. Randolph Lowry Award Recipient

Each year the Southern California Mediation Association (SCMA) presents the L. Randolph Lowry Award to a member of the dispute resolution community who has honored and inspired others through a passion and dedication to education in this important field. This year's recipient was USC Gould School of Law Professor and Center for Dispute Resolution Director Richard Peterson.

The award is named in honor of L. Randolph Lowry, one of the founders of SCMA and an educational leader of the mediation movement in Southern California.

Peterson was honored at the annual SCMA fall conference, with the award to be presented by its namesake, L. Randolph Lowry. Read the full announcement here.
ADR Alumni: News & Notes

Rebecca Akumbu
Since graduating from USC Gould, Rebecca Akumbu (ADR certificate 2018) has been appointed a FINRA arbitrator and launched her own mediation firm, Akumbu & Associates Disputes Resolution Center. She is currently enrolled as a PhD student studying conflict analysis and dispute resolution.

Richard T. Fields
Richard T. Fields, LLM in ADR ’20, as the Associate Justice for the 4th District of the CA Court of Appeal, has been enjoying conducting appellate mediations at the Court of Appeal, and shared that they recently settled via mediation a case that had been in litigation for more than 10 years.

Ronald R. Fox
This summer, Ronald R. Fox (MDR 2021) was hired as a full-time Clerk/Analyst at Cochran Firm of California, Civil Rights Division.

Jim Sullivan
Jim Sullivan (MDR 2018) will be joining the MC3 Board of Directors. His appointment to the Board will assist in the effort to expand the growth and reach of MC3 and further establish the organization as the Gold Standard for Mediator Certification. Read the full press release here.

Why Dispute Resolution at USC?
Renowned influencers in dispute resolution on faculty
Recognized Course Provider in the U.S. for CIARB
Curriculum based in real-life application
Scholarships that drive diversity & dedication

CURIOS? LEARN MORE: ADR AT USC
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USC Gould School of Law | 699 Exposition Blvd, Los Angeles, CA 90089-0071