

CARDOZO STUDENTS LEARN THE ART OF

# Crafting Solutions



Jane Linker

**I**n 1985 Prof. Lela Love proposed that Cardozo become one of the first law schools in the country to offer a 25-hour mediation training program for lawyers. Today she vividly recalls the response of the academic dean. “He wanted to know what we could possibly talk about for 25 hours,” she laughs. “Now, of course, it’s quite different.”

Now, as the legal system struggles with overloaded court calendars and disenchantment abounds with both the process and outcome of most litigations, the interest in alternative processes has grown tremendously. A recent survey reports ADR courses and programs at 182 law schools, with 61 schools offering dispute resolution-related clinics. More than 500 law professors identify themselves as teaching ADR. The ABA Section of Dispute Resolution Conference, only three years old, is larger than the ABA Litigation Section Conference.

For the past three years, Cardozo’s Kukin Program for

Conflict Resolution has been ranked among the top 10 in law schools in the country by *US News & World Report*. The richness of course offerings and the practical experience gained by students through the Mediation Clinic anchor the program, which also includes a Certificate Program in Dispute Resolution for J.D. students, inaugurated in 2001; the *Cardozo Online Journal of Conflict Resolution*; and a summer abroad program that focuses on arbitration in Paris and mediation in Budapest.

“The mission of the Cardozo ADR Program is to encourage an understanding and vision of the role of the lawyer as a wise counselor, a problem-solver, and a peacemaker, in addition to the lawyer’s traditional role as an advocate for clients,” explains Professor Love. “Our students receive practical and theoretical training from leaders in the field.”

Professor Love, director of the Kukin Program, came to Cardozo after setting up a successful small business

law clinic at the George Washington National Law Center. Widely in demand as a lecturer and mediator, Love, a graduate of Harvard University and the Georgetown Law School, is considered a leader in the ADR field.

In an office dominated by a large poster of Gandhi (“he saw a situation and dreamt up a novel method to address it that got great results”), Love talks about the phenomenal growth of ADR. “Therapeutic jurisprudence, client-centered counselling, the lawyer as problem solver, and preventive and collaborative law—parallel movements that take into account the psychological well-being of clients and factors other than legal entitlements—have brought an interdisciplinary approach to the teaching and practice of the law as has mediation,” she explains. “As a result, mediation has attracted much attention, due in part to client satisfaction with the participatory nature of the process and the more optimal outcomes the process can achieve for all parties.”

Love, who likes to begin each semester by drawing an infinity symbol on the blackboard, firmly believes that the role of lawyer as problem-solver is as important as that of lawyer as advocate. “I like to explain that the set of solutions to any given problem is infinite. The challenge becomes to structure a process that allows people to find the possibilities,” she says. “We believe a lawyer should be able to offer a variety of approaches, not see herself as one dimensional, with litigation as the only

answer. That would be like saying that the only medical option for a patient is surgery.”

For many students, like Steve Yadegari '98, learning to utilize that extra set of skills initially attracts them to the ADR program, but the opportunity to have an immediate impact on people's lives inspires them.

“For years, the legal community has been talking about ADR being the wave of the future, providing a set of tools that every lawyer should have, and I've definitely found that it gives you an edge,” he explains. “I learned all kinds of practical skills, like active listening, and improved my ability to negotiate, but I think what I remember most is the actual experience of being in a room with two very angry people at a mediation session—often with people who'd been referred by the police—and somehow getting them to come to an agreement. There's nothing more satisfying than that.”

Yadegari, who this fall became an associate at Proskauer, Rose after a four-year stint with the federal Securities and Exchange Commission in Washington, par-



Prof. Lela Love, director,  
Kukin Program for Conflict Resolution

## International Advocate for Peace Award

In 1999, the *Cardozo Online Journal of Conflict Resolution* and the International Law Students Association created the International Advocate for Peace Award.

“We wanted to showcase the international aspect of alternative dispute resolution, and after a great deal of discussion, we came up with the idea of this award to recognize and encourage people doing outstanding work in the field,” explains Peggy Sweeney '01 who, with Leila

Zubi '00, and Tiiu Gennert '00 cofounded the award.

The annual award has gone to President William Jefferson Clinton for his peace efforts in Northern Ireland and Israel, and to former UN Ambassador Richard C. Holbrooke for his role in the Dayton Accords and his many years of work in international relations. In 2002, it was given to both Senator George Mitchell for his pivotal role in the successful 1998 multilateral peace agreement in Northern Ireland, and to, Seeds of Peace, an organization that brings teenagers together from regions of conflict and teaches them the skills necessary to make peace.

Organized by the students, the award is presented at a ceremony attended by the Cardozo community and special guests. In its short history, it has generated much attention, becoming an important vehicle for recognizing successful peace initiatives and inspiring future peacemakers.



Richard Holbrooke, inaugural winner of The International Advocate for Peace Award, attended the ceremony honoring President Clinton in 2001



Prof. Joseph Stulberg at the Mediation Clinic orientation



ticipated in the Mediation Clinic as a second-year law student. He spent a year at the Brooklyn Mediation Center, one of the community dispute resolution centers where Clinic students work as mediators.

“Many of the people who came to us had had bad experiences with the legal system and felt it didn’t work for them,” recalls Yadegari. “In mediation, we helped parties create their own solution—not imposing something on them. That provides a tremendous sense of empowerment for all parties.”

The two-semester Mediation Clinic has always been one of the most popular programs at Cardozo. Now, expanded course offerings allow many students to study within the field, and many do. The addition of a certificate program—Cardozo is one of only a small group of law schools nationwide to offer one—has been carefully crafted with courses in dispute resolution processes, negotiation, mediation, arbitration, and counseling so that students gain the competencies they need to serve clients well.

This expansion is a move Dean Rudenstine strongly supports. “ADR is as integral to the education of a lawyer and to the daily practice of law as litigation. Students are offered a meaningful and important educational experience in ADR theory and practice, giving them a stronger and steadier footing when they begin to do what most lawyers do all the time before turning to the courts: craft solutions to significant problems,” he explains.

At the heart of the Kukin Program, so named for a generous gift from the family of Board members Ira and Jonathan Kukin ’87, is the Mediation Clinic, which provides an intensive “hands-on” educational experience that has also become a valued community service. Students begin mediating right from the start, working under the supervision of a professor during the first semester. During the spring semester they are able to mediate on their own, taking on diverse and challenging cases that deal with discrimination in the workplace, neighbor-to-neighbor conflicts, a wide variety of civil matters, and quality of life complaints.

They work in the Brooklyn and Manhattan Mediation Centers, handling cases referred by the Criminal Court Dispute Referral Center, in the New York City Small Claims and Civil Pro Se Courts, and on cases referred by the Equal Employment Opportunities Commission. Their work in the field is sup-

plemented by classroom training where they hone their skills by role-playing, monitoring videotaped mediation sessions, and critiquing each other.

Students in the Mediation Clinic last year worked on 369 cases, either as mediators or apprentice mediators. Over the years, points out Professor Love, students have provided thousands of pro bono hours to citizens in New York City.

ADR courses are taught by full-time faculty, adjuncts, and visiting professors who are acknowledged experts in the field, such as Frank Scardilli, chief circuit mediator for the US Court of Appeals for the 2nd Circuit, the longest serving appellate court mediator in the nation and regarded as the “dean” of federal appeals court mediation programs. Curtis E. Pew, a partner with Duane, Morris and Heckscher, who has practiced before the Iran-US Claims Tribunal, the International Chamber of Commerce in Paris, and other arbitration forums around the world, teaches international commercial arbitration. Susan T. Mackenzie, who has served as a mediator and arbitrator for more than 25 years, and in 1993 received the American Arbitration Association Distinguished Service Award, teaches dispute resolution in the workplace.

Many Mediation Clinic graduates have become leaders in dispute resolution, including Daniel Weitz ’96, the coordinator for Alternative Dispute Resolution for the New York State Unified Court System; James Kornbluh ’93, the Mediation Coordinator at the Center for Court Innovation; Ivan Deadrick ’98, who directs the Mediation Institute of the Harlem Community Justice Center; Abe Tawil ’98, founder of NYU’s dispute resolution program; and Raymond Patterson, director of the mediation program for the NYC Civilian Complaint Review Board.

“The Mediation Clinic has been a major influence in my professional life,” explains Patterson ’96, who was 46 when he started law school after two prior careers, one as a high school science teacher, the next in educational publishing. “I applied to the clinic because it offered me the opportunity to help resolve conflicts before I actually passed the bar and the experience gave me a great deal of satisfaction. When I was approached by the Civilian Complaint Review Board about setting up a mediation program, I took what I had learned and started what is today the largest such program in the country.”

These and other alumni have continued to be in-

volved in the Mediation Clinic and ADR program, and many students feel that access to these ADR practitioners is a vital component to the Cardozo program.

“At Cardozo, you are definitely exposed to a wide range of people,” explains second-year student Malte Pendergast Fisher, who worked as the court coordinator for the Manhattan Mediation Center for two years before entering law school. “Professor Love’s relationships with people in the field enable her students to have contact with the best people in ADR.”

Even those who don’t end up working primarily in ADR have found that the knowledge they gained and the techniques they learned have long-standing impact on their practice of the law.

“Lela and the Mediation Clinic are probably the two most influential aspects of my years at Cardozo. What I learned helps me immensely in my daily interaction with employees, vendors, and customers,” said Effy Zinkin ’94, senior vice president/general counsel of Ecco Complex, a \$250 million apparel company.

Jacob Kubetz ’01, an assistant district attorney in Suffolk County, recalls how surprised he was to realize how much he used his ADR training. “I reality-test pleas, validate victims’ experiences, and spend much time gathering information,” he explains. “My mediation skills are called into play constantly.”

Cardozo negotiation teams have consistently fared well at ADR competitions, winning last year’s ABA Regional Negotiation Competition and the Regional Representation in Medi-

ation Competition (for the third year in a row). Teams placed second at the ABA Regional Client Counseling Competition and fifth in the National Representation in Mediation Competition Finals in Seattle.

Just as the ADR field has dramatically grown throughout the nation, it is beginning to exert significant influence on international law, as well. “As business, politics, and culture globalize, virtually all types of disputes have an international or multi-ethnic component,” explains Love, pointing out that Americans have been leaders in the modern era of mediation. “It seemed right to expand our program into an international context.”

In the summer of 2001, Cardozo and Hamline School of Law held their first joint ADR summer abroad program in Budapest, Hungary, focusing on strategies to foster and support democratic and constructive dialogue, especially in high-conflict situations that involved inter-ethnic tensions. The ABA approved expansion of the program, adding a two-week session in Paris on international commercial arbitration, brought together students

and professors from around the world in the summer of 2002 to study arbitration, mediation, and other consensual processes for addressing and resolving conflicts.

The richness and growth of the Cardozo program reflects and is keeping pace with the enormous interest in all fields of law. Prof. Joseph B. Stulberg, coordinator of the Dispute Resolution Program at Ohio State’s Moritz College of Law, visited Cardozo this fall as part of the orientation/training of students for the Mediation Clinic. He has worked with Cardozo students for the past 18 years, training them as mediators at Safe Horizon, a community-based mediation program, where students spend the year. “The

Cardozo Mediation Clinic provides perhaps the most sustained mediation and training opportunity for law students in the country,” he says.

“The study of ADR attracts students who want to play an active role in assisting actual disputants address their concerns in a constructive, engaging manner. The Cardozo program provides students with an excellent opportunity to study, practice, critique, and improve these approaches to conflict resolution; from what I’ve observed, they take full advantage of it.” ■



Students in the summer ADR program visiting the Supreme Court of Hungary

Mediation Clinic students during an August training session





**Talee Zur '00**

*Assistant Vice President and Counsel,  
Legal Department  
JP Morgan Chase*

Talee Zur chose to participate in the Mediation Clinic during her third year at Cardozo because she was interested in nonadversarial ways to resolve disputes and wanted an academic environment in which to study negotiation. Now, two years into a job in which she represents JP Morgan Chase in litigation that includes sexual harassment and employee benefits issues, she finds she's using her ADR skills all the time.

"You're trained to think in a non-adversarial method. You can often resolve things faster if you focus on common interests rather than differences, and the Mediation Clinic definitely teaches that," points out Zur, who volunteered at both the Brooklyn and Manhattan Mediation Centers when she was a Cardozo student.

For Zur, the Clinic was an excellent opportunity to practice her skills, with the added advantage of having fellow students and professors brief the cases afterwards—and the lessons have stayed with her.

"Negotiation and dispute resolution skills are easily transferable to life as a practicing attorney. We were taught how to spot what would be roadblocks and how to overcome them, how to approach difficult standstills in negotiation and get beyond them. I use those skills all the time."



**Jay Ganzman '86**

*Deputy Attorney General,  
State of New Jersey*

Jay Ganzman participated in the Mediation Clinic early in its history; the experience is still vivid for him.

"The Mediation Clinic was the most unusual, interesting, and ultimately the most practical course I took in law school," he says. "The concepts I learned, like separating people from positions and looking for mutual interests, have been useful in all aspects of my life."

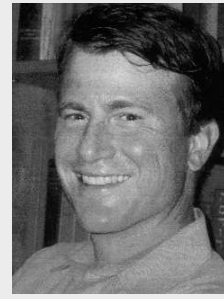
Ganzman spent 12 years at a New Jersey law firm as a partner specializing in health care and corporate practice. Now he is involved in the attorney general's oversight responsibility in hospital acquisitions.

When he was in private practice, Ganzman often served as a mediator and arbitrator, for such organizations as the Better Business Bureau, the Federal District Court of New Jersey, and the Lawrence Township Municipal Court.

"In the Mediation Clinic, you learned to think on your feet about how to be a neutral party trying to come up with a mutually acceptable solution. I use those skills, that way of thinking, all the time," he says.

Ganzman believes that all lawyers really should understand ADR, especially now that courts are increasingly turning to the process to bring their caseloads down.

"If attorneys understand how mediation works, they'll be more effective overall. It's not all about litigation."



**Seth Park '91**

*Siegal & Napierkowski*

As a litigator representing insurance companies in complex environmental claims—or, as he terms it, "toxic torts"—Seth Park explains that most of his cases end in settlement mode, arbitration of a discrete issue, or mediation. Therefore, he's often called upon to represent parties who are involved in ADR.

"I understand what the mediator is trying to accomplish. I guess you could say I 'speak the language' and bring creativity to the process, and I've seen firsthand that there's more than one way to skin the litigation cat," explains Park. "What I learned in the Mediation Clinic continues to be invaluable. I enrolled in the program because it had an amazing reputation even then. I thought it could help me as a lawyer no matter what area I practiced in, and I was absolutely right."

Park remembers the opportunity to actually engage in mediation as being the most important part of his year in the Clinic.

"The beauty of Professor Love's approach is that we actually became mediators. That hands-on part of the experience not only gave me a great deal of satisfaction, but was also a very effective way to learn."