

International Institute for Conflict Prevention and Resolution

Advisory Council

Summary of Meeting of May 20, 2016

Debevoise & Plimpton, 919 3rd Avenue, New York, NY

The CPR Advisory Council met on the morning of May 20, 2016, via both in person and telephone.

In person: Albert Hilber, Andrew Behrman, Ariel Belen, Bart Schwartz, Erin Gleason Alvarez, Dale Matschullat, Howard Zelbo, Jack Levin, Ken Jacobs, Kurt Hansson, Mary Beth Cantrell, Michael Nolan, Mike Moore, Richard Davis, Robert Haig, Ronnie Brandes, Larry Newman, Steven Antunes and Timothy Burns.

Via phone: Andrew Olejnik, Bennett Picker, Charles Patrizia, Christopher Mason, Claire Gutekunst, Debra Clements, Edward Yost, Heather Grenier, Jeanine DeFreese, Jeff Senger, Jennifer Fletcher, John Lande, Karl Stern, Mark Baker, Melanie Blunschi, Mike Lampert, Michael Timmons, Nancy Vanderlip, Pamela Corrie, Paul Petta, Ralf Lindback, Sarah Biser, S.I. Strong, Stephen Marzen, Steven Greenspan, Timothy Lewis, Donald Rose and Todd Carver.

Noah Hanft, Beth Corman, Helena Tavares Erickson, Beth Trent, Olivier Andre, Terri Bartlett, David Burt and Tania Zamorsky were also in attendance.

Noah Hanft announced a new name for group, “The CPR Council,” to more accurately reflect the role of the group and to avoid confusion with other bodies.

Noah also announced a new co-chair—Mike Moore from Dentons, along with Debra Clements who chairs on the corporate side.

Noah provided an update on recent activities of CPR. The pace of membership growth continues both in terms of number and geographic diversity. CPR is addressing diversity issues, working in conjunction with LCLD and FINRA. We had a very successful trip to Brazil, and have been active in Europe as well.

We had our first meeting of the new transactional committee, and will be focusing on preventative law, anticipating and dealing with disputes early as the construction industry has done so well. Finally, Noah recapped out excitement on

the DRS front as so many companies are starting to use our provisions in their contracts. He noted our recent win of the GAR innovation award, which speaks volumes about CPR.

In-House Counsel Guide

Jennifer Glasser discussed the inhouse counsel guide, CPR's corporate counsel manual for cross-border dispute resolution. The inspiration for the manual was an ADR guide DuPont created and brought to CPR. The purpose will be to give in-house counsel guidance on drafting and managing the full range of dispute resolution processes. The guide will reflect practices and allow in-house counsel to act autonomously.

Jennifer called for help reviewing and said she would welcome in-house counsel endorsements. The Guide should be ready to roll out this Fall. Jennifer raised three issues for the council's consideration:

- Marketing the manual. Needs to be used as marketing tool
- Next phases. The project was too big for country specific pieces here but this could be done in a follow-up phase. Question: GAR has recently published country specific chapters. Does it make sense in terms of structure and time and effort?
- Style of this manual. We originally made decision to use more informal style. Question to the group: is there a preference between informality and formality?

In-house Counsel Survey – a CPR Project

The in-house counsel survey, intended to be the first in a series, will address in a practical way the needs and observations that in-house counsel have in terms of ADR.

Beth Trent stated that she would share the survey and wanted feedback on the questions. A number of Council members made excellent suggestions about how to structure the survey, e.g., break it up into sections—one primary and one secondary, “only if you have a few more minutes.”

Erin Gleason Alvarez noted that people needed to get something back for their time and effort. Beth replied that they would—the full data and analysis.

Beth sought input on topics for the next annual meetings, as well as what is most important in terms of subject matter and format. Suggestions included

- A session to roll out the new manual
- Workshops over overview. Some like having committee meetings in the real conference.
- A “speed-dating” event with the new diverse FINRA program.
- Augmenting the meeting with things done online, online collaboration tools, access to videos so you can get to content, social media, etc.
- Attracting a non-legal segment to the meeting, as lawyers are often negotiating with procurement people.
- Perhaps shortening the meeting and organizing things in a way more specific for in-house counsel. Fewer mainroom things and more workshops would justify the in-house expense.
- Incorporating content from the committees into the annual meetings.
- A mock mediation—not scripted—which attendees could judge.
- Bringing neutrals together with in-house counsel to discuss the role of in-house counsel.
- Creating programs that allow in-house counsel to come away with a higher skill set and effectiveness in mediation.
- Topics on trending information. Metrics are important. Is cost going up? Are awards going up, length of time using different methods, etc.
- Too often programs are presented as neutrals or firms teaching in-house counsel what to do. We should do something from the client perspective—how they see and hire law firms, how they use neutrals. Possibly do at two levels, junior and senior. Roundtable workshops, anything that moves away from talking heads to knowledge sharing.

-Another suggestion to get non legal folks. The gateway to the business people is through the non-litigation corporate attorneys. Maybe something like a drafting clinic. What matters in clauses and why.

Erin Gleason Alvarez said that we don't talk about data protection enough and it's troubling. There needs to be something—best practices. It's not just the law firms that are vulnerable. People are sending confidential protected documents to mediators over gmail. People don't know they shouldn't use dropbox for mediation. Over email. Etc.

New Committees

At last meeting we talked about creation of new committees. One was to work in connection with mediation committee on handbook. And second was to follow up on the presentation from Monsanto about relationship-based dispute resolution. To create a set of tools so other companies that wanted to apply would have basic frameworks.

Erin updated the group on the mediation related committee. They've been working on developing a guide in the last year for in-house counsel to tackle issues that come up in mediation. E.g., counterparties are reluctant to mediate, when things aren't going well, what's worked, etc. We need more folks from the in-house community to join the conversation.

Noah Hanft made a couple of asks.

-We have great committees. Please get your teams involved. Particularly excited about transactional. These are people doing the drafting.

-We have the very best set of arbitration rules. A number of us are using them. If you are not using them yet, educate your teams and start.

-We have a regional meeting coming up. Please send someone.

-And the final ask related to membership. Please encourage people to join, introduce people to Noah, etc.