



**CPR Diversity in ADR Task Force**  
**Thursday, April 30, 2019, 11:30 a.m. to 1:00 p.m. (ET)**

Schnader Harrison Segal & Lewis LLP  
1600 Market Street, Suite 3600 (36<sup>th</sup> Floor)  
Philadelphia, PA 19103

**ATTENDEES**

**Hon. Timothy K. Lewis (Ret.)**

**Co-Chair**

Schnader Harrison Segal & Lewis LLP  
*In Person*

**Hon. Shira A. Scheindlin (Ret.)**

**Co-Chair**

Stroock & Stroock & Lavan LLP  
*Via Phone*

**Louise Barrington**

Arbitration Place  
*Via Phone*

**Theodore Cheng**

ADR Office of Theo Cheng LLC  
*Via Phone*

**Louis Coffey**

Coffey Consulting Co.  
*In Person*

**Helena Erickson**

CPR Institute  
*Via Phone*

**Cassandra Georges**

Above & Beyond Dispute Resolution  
*In Person*

**Franco Gevaerd**

CPR Institute  
*Via Phone*

**Ricardo Granderson**

Granderson Group  
*Via Phone*

**Francine Griesing**

Griesing Law LLC  
*In Person*

**Noah Hanft**

CPR Institute

**Anna Hershenberg - Staff Liaison**

CPR Institute

**Wendy Hufford**

Boehringer-Ingelheim Corporation  
*Via Phone*

**Deborah Hylton**

Hylton ADR Services  
*In Person*

**Laura Kaster**

Laura A. Kaster LLC  
*In Person*

**Alfreida Kenny**

*In Person*

**John Kiernan**

Debevoise & Plimpton LLP  
*In Person*

**Lisa Love**  
Love and Long, LLP  
*In Person*

**Deborah Reperowitz**  
Stradley Ronon Stevens & Young, LLP  
*In Person*

**W. Thomas McGough**  
UPMC  
*In Person*

**Effie Silva**  
Tyson Foods Inc.  
*Via Phone*

**Linda Michler**  
Professional Dispute Resolution, LLC  
*Via Phone*

**Conna Weiner**  
Conna Weiner Dispute Resolution  
Services  
*Via Phone*

**Bennett Picker**  
Stradley Ronon Stevens & Young, LLP  
*In Person*

**Ralph Wellington**  
Schnader Harrison Segal & Lewis LLP  
*In Person*

**Sarah Rathke**  
Squire Patton Boggs  
*Via Phone*

**Gail Wright**  
National Bar Association  
*Via Phone*

## ***MINUTES***

*Moderated by Hon. Timothy K. Lewis*

### **I. Welcome and Introductions**

The Honorable Timothy K. Lewis and the Honorable Shira A. Scheindlin, Co-Chairs of the CPR Institute's Diversity in ADR Task Force, convened the meeting at 11:30 am ET, welcomed and thanked all the members attending. Judge Lewis expressed his gratitude to be hosting the meeting at Schnader's offices. He then asked every member attending the meeting to introduce themselves and to indicate how long they'd been involved with the Task Force.

### **II. Open Discussion on Task Force 2019 Project and Programming Ideas**

Judge Lewis then opened the floor to a discussion on how to best promote the mission of the Task Force – increasing diversity in the ADR space – and on 2019 project and programming ideas. The discussion resulted in the creation of two sub-committees (detailed below), which will develop the following projects and report back to the Task Force at the next meeting on July 24, 2019: a) Corporate & Law Firm ADR Selection Project; and b) Drafting of Model Clause with Diversity Language.

### **a. Project 1: Corporate & Law Firm ADR Selection Project**

Mr. Hanft introduced this proposed project by outlining his personal experience with the issue. During his time as General Counsel and Chief Franchise Officer for MasterCard, the company drove diversity among law firms and within the company worldwide. In order to ensure that MasterCard was best in class in terms of diversity, MasterCard implemented a “Supplier Diversity Program” with very clear objectives and metrics that tracked progress closely over time. While some corporations have such supplier programs, none as far as he knows extend the programs to the selection of neutrals because they are not direct suppliers.

Mr. Hanft observed that in-house counsel state they are in favor of the selection of diverse neutrals, but put the responsibility on law firms, while law firms do the same and place responsibility on clients. Despite the best of intentions, initiatives to increase the selection of diverse neutrals often fall through the cracks.

To remedy this, Mr. Hanft introduced the idea of encouraging law firms to adopt Supplier Diversity Programs similar to those utilized by corporations. Mr. Hanft made reference to the article “A New Frontier: Supplier Diversity in the Legal Industry” (access it [here](#)), where more information about supplier diversity programs in the legal industry can be found. He noted that, although some law firms have Supplier Diversity Programs, their programs often do not set clear objectives or use metrics as effectively as corporate programs and that they do not extend to the selection of neutrals. Mr. Hanft believes law firm supplier diversity programs that have clear objectives and metrics for tracking is key for the efficiency of these programs and could drive the selection of diverse neutrals

Mr. Hanft concluded that the Task Force needs to press law firms to adopt such programs, perhaps starting with CPR members. He then welcomed all the attendees to share their thoughts.

The reception of the group to this project was positive, although many of the comments focused on the need to push corporations to more strongly to commit to diversity.

Many suggestions were made, including that Task Force members could develop a uniform presentation to do roadshows for corporate counsel and at conferences, that members would conduct brief, 30-minute in-person meetings with law firms and companies to discuss diversity in ADR and suggest the implementation of a neutral supplier diversity program.

It was also suggested to start with companies that already emphasize diversity, but have yet to include ADR.

A sub-committee was created to further this project. Judge Scheindlin and Fran Griesing volunteered to act as Co-Chairs of this Sub-Committee and the following members volunteered to participate: Cassandra Georges, Noah Hanft, Deborah Hylton, Judge Lewis, Lisa Love, Linda Michler and Conna Weiner. This subcommittee will meet telephonically before the next Task Force meeting on July 24, 2019 and will report back to the larger Task Force at that time.

If you are interested in participating in the Corporate & Law Firm ADR Selection Sub-Committee, please e-mail Anna Hershenberg at [ahershenberg@cpradr.org](mailto:ahershenberg@cpradr.org).

## **b. Project 2: Drafting a Model Clause with Diversity Language**

Attendees at the Task Force meeting also mentioned that they had not encountered a model clause that included language encouraging the selection of diverse neutrals. One member suggested language that would require at least one-third of the panel of arbitrators be diverse or that the two party-appointed arbitrators appoint a diverse chair.

Attendees agreed that it would be necessary to discuss drafting such a model clause in greater depth, as it might engender a few controversial issues, by, for example, triggering challenges to arbitrations. The members discussed whether defining “diversity” for purposes of such a model clause would be necessary. Many members mentioned that their experiences attempting to define diversity in the past proved unsuccessful. The general consensus was not to attempt to define diversity for purposes of the model clause.

A sub-committee was created to further this project. Ms. Laura Kaster and Mr. Bennett Picker volunteered to act as Co-Chairs of this Sub-Committee and Louise Barrington, Noah Hanft, Deborah Hylton, Judge Lewis and Lisa Love volunteered to participate. This subcommittee will meet telephonically before the next Task Force meeting on July 24, 2019 and will report back to the larger Task Force at that time.

If you are interested in participating in the Model Clause for Diversity Sub-Committee, please e-mail Anna Hershenberg at [ahershenberg@cpradr.org](mailto:ahershenberg@cpradr.org).

## **c. Co-sponsorship of July 24<sup>th</sup> panel and networking event with the National Bar Association and Debevoise & Plimpton**

CPR and the National Bar Association will be collaborating for the first time to put on a panel and networking event on diversity in ADR and the issues around the Jay-Z case. This Task Force agreed to co-sponsor the event. The event will be by invitation-only and held on July 24, 2019 at Debevoise & Plimpton LLP in New York. Members of the CPR Diversity in ADR Task Force are invited to attend. If you are interested in attending this event, please e-mail Anna Hershenberg at [ahershenberg@cpradr.org](mailto:ahershenberg@cpradr.org) or Zoe Chanin at [zchanin@cpradr.org](mailto:zchanin@cpradr.org). A meeting of CPR’s Diversity in ADR Task Force will immediately precede this event, beginning at 3:30 pm at Debevoise & Plimpton’s New York offices.

## **d. Solicitation of other Project Ideas from the Task Force**

During the open discussion, many additional suggestions were made, which are listed below:

- Incorporate into the Outside Counsel Guidelines of various companies a sentence that outside counsel must consider diverse neutrals and that in-house counsel will have active participation in the neutral selection process.
- Make sure the people selecting neutrals at companies and law firms have a list of qualified, diverse neutrals. It was suggested that part of the problem is that people who want to select diverse neutrals don’t know how to find them. It was agreed that CPR’s female neutrals brochure ([available here](#)) is a great model.
- Implement a CPR Policy of always including diverse individuals on lists of potential neutrals. (It was noted that this is already being done in practice. CPR has a higher diverse selection rate than its competitors and CPR’s neutral nomination letter includes a diversity and inclusion statement, which encourages parties to consider the benefits of

diversity on the quality of decision-making and the role of implicit bias at the time they are selecting neutrals.)

- Ask corporate counsel for data and a list of every diverse neutral they engaged during the last 10 years. There is a CPR Questionnaire sent to law firms with a similar question.
- Encourage companies and/or law Firms to write open letters regarding their commitment to select diverse neutrals.

#### **Useful Resources:**

- Ms. Conna Weiner mentioned that the American Bar Association Resolution 105 is a terrific template for this issue. It includes a number of suggested initiatives for law firms and other stakeholders. It can be accessed [here](#). There is a CPR Speaks publication discussing the Resolution [here](#). Ms. Weiner further suggested that the Task Force reach out to the ABA Steering Committee promoting the Resolution.

### **III. Suggestions for Possible Uses of Diversity Funds**

CPR has received approximately \$2,000 in donations for its Diversity Projects and Initiatives and is currently looking for suggestions and possible uses of these funds. One suggestion was to provide a free Mediation Training for people of color. Further suggestions will be discussed at the July 24<sup>th</sup> Task Force meeting. If you have suggestions in the interim, please e-mail Anna Hershenberg at [ahershenberg@cpradr.org](mailto:ahershenberg@cpradr.org).

Judge Lewis and Noah Hanft closed the meeting by reiterating the importance of the Task Force's work and focusing on concrete, achievable results.

### **IV. CPR Announcements**

Ms. Anna Hershenberg reminded the Task Force that membership is not limited to CPR Members and asked for suggestions for potential members. She then announced some of CPR's upcoming events, as follows:

- [Philadelphia 2019 Regional Meeting](#), right after this meeting at 2:00 p.m. at the Union League of Philadelphia.
- IP Committee Meeting, which will take place on May 1, 2019.
- [CIArb & CPR Joint International Arbitration Training](#), which will take place from May 3 to May 5 in Detroit. Training will be preceded by CPR's Cocktails and Conversation panel and networking event on May 2, 2019.
- [CPR Arbitration Committee Meeting](#), which will take place on May 6, 2019, at 12:30 p.m. in New York City.
- [Banking & Financial Services Committee Meeting](#), which will take place on May 7, 2019, at 12:30 p.m. in New York City.
- [CPR Environmental Committee](#), which will take place on May 21, 2019 via Webinar Access and Dial-In.
- [CPR Mediation Committee Meeting](#), which will take place on July 17, 2018 in New York City