

**A Modest(ish) Proposal:**  
**Enhancing Impact Through Joint Spring Conferences**  
Theory-of-Change Symposium  
[indisputably.org/2019/09/theory-of-change-symposium-part-1](http://indisputably.org/2019/09/theory-of-change-symposium-part-1)  
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[Brian Farkas](#) argues that our field's largest annual gathering, the ABA Section of Dispute Resolution's spring conference, is too insular. To expand the field's impact and broaden our base, he suggests that we should change its structure by collaborating with a different ABA section each year. He is an adjunct professor at Cardozo School of Law.

The [goals](#) for the future of the dispute resolution field, identified after the [Past-and-Future Conference](#), are ambitious, to put it mildly. My contribution to this Theory-of-Change Online Symposium is far more modest: an honest discussion on bar associations, conferences, and the way we gather together. Specifically, I'd like to reflect on the field's "Super Bowl" – the American Bar Association (ABA) Section of Dispute Resolution's [spring conference](#).

In short, I worry that DR is too siloed and needs more intentional collaboration with practitioners beyond its walls. To address this, I propose a structural shift whereby "our" Section would jointly host its annual spring conference with another rotating ABA section. This shift would promote greater idea-sharing and collaboration across legal specialties, and also grow our Section's audience. Intentional collaboration would create the context in which the substantive goals for the field's future could be most productively addressed. Crazy? Maybe. Let me explain.

### Two Disclaimers at the Outset

First and foremost, I want to be clear that this piece is *not* meant to critique any prior spring conference, nor is it meant to critique the (ridiculously) hardworking ABA staff, dedicated volunteers, or devoted Section Council members. Rather, these reflections are offered in the spirit of possible reforms for the DR field to meet the needs of the future legal landscape. Over the long term, DR cannot be effective unless it grows in tandem with other areas of law, informing their development.

Second, I should disclose that I'm no stranger to the Section of Dispute Resolution. I'm a shameless fan of our Section and its members. My friends constantly tease me for the number of DR Section tote bags that manage to follow me wherever I go. I attended my first spring conference in 2011 as a student at Cardozo School of Law (where I now teach). I've attended every spring conference since then. I read each issue of *Dispute Resolution Magazine*; my bookshelf is filled with Section-published books; and I sit on several Section committees. So this piece is from the perspective of a loyal member and volunteer.

With those disclaimers, let's delve into my perception of the problem and my proposed solution.

## Are We Talking to Ourselves?

Lately, I've wondered whether the spring conference provides sufficient cross-pollination of people and ideas. That issue is two-fold: First, are we in the DR world being sufficiently exposed to happenings beyond DR? Second, are we doing enough to evangelize DR processes and research to the broader legal community?

There is obvious value to "talking among friends" – those already inside the informed community of DR scholars, neutrals, lawyers, and other professionals. Sharing the latest DR practices and research within our family is critical. As the DR field has matured in recent decades, there is no shortage of opportunities to do just that. Neutrals can attend events organized by the College of Commercial Arbitrators, Association for Conflict Resolution, or International Academy of Mediators (among many other professional groups). Professors can attend the American Association of Law Schools (AALS) [Section of Alternative Dispute Resolution](#) events, including its annual [Works-in-Progress Conference](#). DR scholars and DR practitioners regularly mix and mingle at the annual symposia hosted by leading law school DR programs. This list doesn't even include the countless programs organized across the country by the American Arbitration Association, JAMS, NAM, NAA, and the ABA Section of Dispute Resolution itself.

With all these DR-themed events, what makes the Section's spring conference distinctive within the field? Yes, the conference is much larger than the events I've just mentioned. Yes, it's informative to meet DR enthusiasts from beyond our immediate communities. And yes, it's invigorating to see our friends in new cities. (Karaoke night with those friends in new cities is particularly invigorating...).

But is there more value that could be claimed from the Section's role within the American Bar Association? I think the answer is yes.

## The Broader ABA Context

Another layer to this is economic. It's no secret that the ABA is [struggling for membership](#) and experiencing dramatic declines in [dues revenue](#). A [recent report](#) by the ABA Division for Bar Services shows similar trends among state and local bar associations.

There are many theories for these trends: a shrink in the overall profession, a preference for online CLE programming, and the high costs of membership.

I won't speculate on these wider trends. Anecdotally, though, I'm somewhat of an anomaly among my millennial friends in my enthusiasm for bar associations (hence the

tote bag teasing). I try hard to get friends to join the ABA and (for those who practice litigation) attend the DR Section's spring conference. I pitch the importance of negotiation, mediation, and arbitration. But the reactions are often tepid. Some prefer to complete their CLEs online. Some don't have the bandwidth to travel. Some simply don't want to spend their free time mingling with lawyers (which ... fair enough).

One common response I hear, which is perhaps most instructive, is that their employers won't pay for multiple bar associations and conferences each year. They certainly won't pay for conferences in fields outside of their particular practice area. We know that DR processes transcend essentially all practice areas. But to employers and junior-level attorneys, that value proposition isn't so clear. Attending the spring conference can cost well over \$1,000, factoring in the hotel, the flights, and the registration fees. How can we justify that cost to employers and individuals who aren't full-time DR professionals? How can we enhance the appeal of the spring conference? And how can we get new voices in the room, both to speak and to listen?

### **A Modest(ish) Proposal: Hosting Joint Section Conferences**

Here's my idea, which is simultaneously bold and modest: Each year, the Section of Dispute Resolution hosts its spring conference in conjunction with another ABA section. Ideally, both sections would hold their annual conferences in a single city, occupying either one large hotel or two physically adjacent hotels. Folks from "our" Section would serve jointly on planning a number of programs with "their" section, holding joint panels and networking receptions. Both conference agendas would have a unified "track" of these joint programs to ensure that attendees spot them. Anyone who registers for one section's conference could attend events of the other without additional charge.

The [Section of Litigation](#) is one obvious group that screams for our collaboration. But the potential options are endless. The ABA has sections dedicated to [Construction Law](#), [Criminal Justice](#), [Environment, Energy & Resources](#), [Labor & Employment](#), and [Family Law](#), among [dozens](#) of others with clear connections to DR.

I see three primary benefits of this new spring conference model:

1. DR practitioners and scholars who typically attend the spring conference would benefit from exposure to another practice area. Intellectual benefits would come from joint panels addressing legal issues from different perspectives. Networking benefits could result from exposing practitioners to neutrals involved in our Section, who might then be fresh on their minds when they need to hire a mediator or arbitrator. And economic benefits could result (from the Section's perspective) by creating greater justification for lawyers to become involved with our events.
2. Members of the "other" section would benefit from exposure to DR processes and procedure. As we all know, lawyers don't always appreciate the methods, research, and best practices that the DR field has developed. We often lament

that lawyers in different practice areas lack basic familiarity with DR. Well, here's a perfect opportunity. A lawyer who innocently registers for her annual Section of Business Law conference would suddenly find herself invited to various DR programs. Leading lights from each section would speak on panels together. Members of that section would almost surely come away with greater appreciation for the ways in which DR processes could influence their day-to-day work.

3. Collaborating with a different section would create novelty for each year's spring conference. Right now, the primary novelty (beyond the varied programming and location) is the annual "theme." In my view, the "themes" are a bit silly. They are too general to mean much to the average attendee. Recent themes have included "Innovation, Improvisation, and Inspiration" (2020), "Shining the Light on Parties" (2019), "Dispute Resolution in Complex Times" (2018) and "Developing Skills, Finding Meaning, Pursuing Justice" (2017). Each year, speakers contort their program proposals into somehow reflecting these lofty words. The annual theme should always be "dispute resolution." But the added twist would be the topics, speakers, and practice areas that would spring from the section collaboration. One year might have an emphasis on intellectual property issues in DR, another year might have an emphasis on insurance issues in DR, and another year might have an emphasis on criminal justice issues in DR.

Importantly, not every program would be a joint program. Perhaps only 10-20% of the programming in a given year would reflect the collaboration with the "other" section. This limitation will prevent our Section from losing its core membership of DR neutrals, scholars, and professionals – many of whom may not care very much about the particular section with which we are collaborating. But that 10-20% of collaborated programs would create tremendous new energy and idea-sharing.

We would also still want many aspects of the conference to remain our own. Our award ceremonies, our symposium on ADR in the courts, and our legal educators' colloquium could all remain virtually unchanged. The only addendum, perhaps, would be that folks from the "other" section could be drawn into these events as speakers and attendees. For example, imagine that we coordinate with the Section of Litigation. Wouldn't it be terrific to have those who teach trial advocacy and pre-trial practice participate in the legal educators' colloquium? Wouldn't the judges in the [Judicial Division](#) have a fantastic perspective at the court ADR symposium? Attracting more people into the room with different perspectives will allow our Section to bolster its impact on the profession.

#### **A Lighter Alternative: Inviting Another Section to Co-Sponsor and Create a Dedicated "Track"**

I can already imagine the anxiety that the above paragraphs would cause at the ABA. The logistics of this joint venture would surely put additional pressure on the already-hardworking staff and volunteers. The administrative headaches – finding suitable

venues, picking dates, coordinating programming, sharing costs – are not insignificant. Undoubtedly, merging two sections' conferences would be a massive logistical undertaking.

Let me propose another approach that accomplishes the same goals of intentional collaboration with somewhat less effort. (And here I must credit John Lande, who devised this intermediate proposal during our conversations about this issue). Rather than hosting full-blown joint conferences, we could invite another ABA section to "co-sponsor" our spring conference. A planning committee of "their" leaders could develop a track of programs within our agenda, and the conference would be marketed to members of both sections. With relatively little effort, other than coordinating the volunteers and soliciting program proposals, we could integrate another section into our conference each year.

Similarly, the DR Section could offer to do the same for another section's conference. That is, we could assemble a working group to plan DR-infused programming during the Section of Bankruptcy's annual conference (for example), collaborating with their members to highlight ways in which our fields intersect.

While not quite as ambitious as joint conferences, this co-sponsorship model would allow healthy cross-pollination with a new section each year.

### **Challenges and Conclusions**

Would this new approach to spring conferences be easy? Certainly not. Coordinating with another section adds a whole host of new challenges. But after some initial growing pains, this new model would force an annual interdisciplinary reflection. Those within the DR world would need to think anew about how dispute resolution scholarship and practice fits into different areas of law and modes of conflict.

Moreover, this approach would create a pathbreaking new role for our Section within the larger project of the ABA. No longer would it exist primarily to support DR professionals; its mission would expand to more systematically supporting the work of the broader legal profession. Lawyers who don't identify as "DR professionals" would learn more about how our work intersects with theirs, and vice versa.

Many participants in this Theory-of-Change Online Symposium, thoughtfully curated by John Lande, will surely have bigger and bolder proposals on the substantive future of DR. Admittedly, the configuration of an annual bar meeting isn't the sexiest of changes. But in its own way, shifting the structure of the spring conference could provide the collaborative context to allow us to more holistically address bigger challenges.

Simply put, meaningful and structural collaborations in conferences across ABA sections could have both intellectual and economic benefits. Indeed, it could accomplish what many of us regularly preach in our classrooms: expanding the pie.