

## **Elayne E. Greenberg's Webpage**



**Director of the Hugh L. Carey Center for Dispute Resolution  
Professor of Legal Practice**

**Faculty Director of the Hugh L. Carey Center for Dispute Resolution.**

Elayne E. Greenberg became the first Director of The Hugh L. Carey Center for Dispute Resolution at St. John's in 2009. She offers an unmatched breadth and depth of experience in dispute resolution. She is a mediator and conflict management consultant who has developed programs, educated, trained, written and lectured internationally on the subject of negotiations, mediation, hybrid dispute resolution processes, dispute resolution ethics and advocacy in dispute resolution.

Professor Greenberg's deep involvement in the field is evidenced by the innovative dispute resolution programs that she has developed and implemented including: ABI-St. John's Bankruptcy Mediation Training, the first national bankruptcy mediation program; Ghana Mediation Training Program to help implement Ghana ADR Act (co-developer and trainer); OSHA's Whistleblower Mediation Program (consultant); Court-connected mediation programs in Queens, Nassau and Manhattan; a divorce mediation program for Catholic Charities; a client-focused system for a network of shelters for the homeless designed to help transition those individuals living in shelters to independent living; and the first parenting coordination program in New York State.

Professor Greenberg's scholarship focuses on dispute resolution and its broad applicability in multiple contexts. Her scholarship is distinguished by her interdisciplinary approach to deepening our understanding of conflict etiology to help design more pragmatic interventions. Professor Greenberg incorporates this interdisciplinary approach in her recent works on the intersection of implicit bias and dispute resolution and her current work on informed consent. Professor Greenberg's emphasis on interdisciplinary understanding grows out of her deep involvement with the innovative interdisciplinary dispute resolution programs that she has helped develop and implement.

As a mediator, Professor Greenberg has mediated cases for the Department of Justice, Occupational Safety & Health Administration, Equal Employment Opportunity Commission, New York Unified Court System Surrogate's Court. Professor Greenberg has also mediated cases with disputes involving the following industries: real estate; entertainment; health care; food; transportation; social service; education and retail.

Professor Greenberg has also influenced public policy, shaping the development of Alternative Dispute Resolution in a variety of positions, including:

- Chair-elect, AALS Section of Dispute Resolution
- Member of Chief Justice DiFiore's ADR Advisory Committee, Chair of Subcommittee promoting and educating about ADR
- Member, Plea Bargaining Task Force
- Executive Committee Member, AALS Section of Dispute Resolution
- Executive Committee Member, NYS Bar Entertainment and Sports Law Section
- Co-chair, NYS Bar Entertainment and Sports Law Committee on ADR
- Task Force Member, ABA Section of Dispute Resolution Legal Education, ADT, and Problem-Solving (LEAPS) Task Force
- Member, ABA Section of Dispute Resolution Ethics Committee
- Subcommittee on Education: Integrating ADR on the New York Bar Exam
- Subcommittee on Education of NYSBA Section of Dispute Resolution Chair, New York State Bar Association Committee on Alternative Dispute Resolution;
- Chair, Ethics Committee of the New York State Bar Section of Dispute Resolution;
- Board Member, Advisory Board, Manhattan Surrogate's Court Pilot Mediation
- Board Member, Association of Conflict Resolution of Greater New York, Association of Family and Conciliation Courts (AFCC) Advisory Council;
- Editorial Board, Family Court Review;
- Board and Founding Member, New York Chapter of AFCC;
- Barrister, New York Family Law American Inn of Court
- Founding Member and Co-chair, Parenting Coordinator's Association of New York.

In recognition of her dispute resolution leadership, Professor Greenberg has been selected by Best Lawyers in America as among the top New York lawyers in the field of Alternative Dispute Resolution every year since 2005. In the spring of 2014, ABI presented Professor Greenberg with its Annual Service Award, the organization's highest membership award for her extraordinary contributions in developing and conducting the first-ever nationally recognized bankruptcy mediation training program. In 2014, Professor Greenberg was recognized by the American Registry as among the top 5% of America's Most Honored Professionals, a cross-industry and cross-profession award to successful professionals recognized for professional excellence. In 2016, she was recognized as one of the top three women in Dispute

Resolution in New York. In 2017, she was acknowledged as one of the top three Women of Influence in New York.

Prior to coming to St. John's, Professor Greenberg taught at Hofstra Law School and Hofstra's Graduate Program in Psychology; Yeshiva University REITs Fellow Program; and CUNY School of Law.

## Selected Publications

### Law Review

[High Anxiety: Racism, the Law, and Legal Education](#), 29 WASH. & LEE J. CIV. RTS. & SOC. JUST. 129 (2023).

[Blinding Justice and Video Conferencing?](#) Stetson Law Rev. Vol. 52.2 (2023).

[Unshackling Plea Bargaining from Racial Bias](#), Journal of Criminal Law and Criminology Volume III, Issue 1, St. John's Legal Studies Research Paper 20-0011(May 2021).

[Designing Binge-Worthy Courses: Pandemic Pleasures and COVID-19 Consequences](#), Negotiation Journal 36(4), 535-560 (2020).

[Strengthening Online Dispute Resolution Justice](#), Washington University Journal of Law and Policy, Vol. 63, 65-117(Aug 2020).

[Hey, Big Spender: Ethical Guidelines for Dispute Resolution Professionals when Parties are Backed by Third-Party Funders](#), Published in Arizona State Law Journal Spring 2019, St. John's Legal Studies Research Paper No. 19-0002 (May 2019).

[What Dinosaurs Can Teach Lawyers About How to Avoid Extinction in the ODR Evolution](#), St John's Legal Studies Research Paper No. 19-0004 (January 2019).

[...Because 'Yes' Actually Means 'No': A personalized Prescriptive to Reactualize Informed Consent in Dispute Resolution](#), St John's Legal Studies Research Paper No. 17-0003 (June 2017), Marquette Law Review (Forthcoming).

[Bridging our Justice Gap With Empathic Processes that Change Hearts, Expand Minds about Implicit Discrimination](#), 32 Ohio St. Dispute Res. J. 425 (2017).

[Fitting the Forum to the Pernicious Fuss: A Dispute System Design to Address Implicit Bias and 'Isms in the Workplace](#), 17 CARDOZO J. OF CONFLICT RESOL. 75 (2015).

['Whimsy Little Contracts' with Unexpected Consequences: An empirical Analysis of Consumer Understanding of Arbitration Agreements](#), 75 Maryland Law Review 1 (2015)

[We Can Work It Out: Entertaining a Dispute Resolution System Design for Bankruptcy Court](#), ABI Law Review, Volume 17, p. 545, 2009.

## Book Chapters

ADR's Place At the Justice Table (Chapter in Discussions in Dispute Resolution: The Foundational Articles (Art Hinshaw, Andrea Kupfer Schneider, & Sara Rudolph Cole, ed. 2021) \*\*\* Winner of the CPR Outstanding Book Award.

["Meeting the Parties Separately"](#) in Mediation Ethics: A Practitioner's Guide (June 30, 2021). Omer Shapira, ed., ABA Publishing, St. John's Legal Studies Research Paper Forthcoming.

[Please Ask, Please Tell: Disclosing Third-Party Funding in Mediation](#), Arizona State Law Journal Vol. 51 No. 1 (2021).

[What They Really Want: Bringing Objective Evaluations into Mediation](#), American Bankruptcy Institute (August 25, 2016).

[Starting Here, Starting Now: Using the Lawyer as Impasse Breaker During the Pre-Mediation Phase](#), Definitive Creative Impasse-Breaking Techniques in Mediation, Editor, Molly Klapper, J.D., Ph. D., 2010.

[The Defining Ingredient: Transformative Mediation Ideology in Parenting Co-ordination Practice](#), 2010.

## ADR Ethics Column

[Ethical Compass: Hats for Sale: Efficiency, Economics, and Integrity](#), NYSBA New York Dispute Resolution Lawyer (2023, Vol. 16 No.1).

[Ethical Compass: Zooming in on Neutrals' Implicit 'isms](#), NYSBA New York Dispute Resolution Lawyer (2022, Vol. 15, No.2).

[Ethical Compass: Settlement Fever: Lawyers, Have you Updated You Updated Your Philosophical Map?](#), NYSBA New York Dispute Resolution Lawyer, Vol. 14, No. 2 (2021).

[Ethical Compass: Three Different Judicial Treatments for Settlement Fever](#), NYSBA NY Dispute Resolution Lawyer (2021).

[July 4, 2020: How Will We Celebrate?](#), Jurist: Commentary (July 4, 2020).

[How Much Justice Can You Afford?](#), The FinReg Blog, Duke University School of Law, (February 7, 2020).

[How Much Justice Can You Afford](#), Alternatives to the High Cost of Litigation, June 9, 2020.

[Adding Value to Conversations about Criminal Reform](#), ABA Dispute Resolution Magazine, January 1, 2020.

[Ethical Compass: Up Close and Personal: Whether or Not You Decide to Report a Confidentiality Exception](#), NYSBA New York Dispute Resolution Lawyer, Fall 2019.

[When the Price of Settlement is Ethically Prohibitive: Non-Disparagement Clauses that Apply to Lawyers](#), NYSBA, New York Dispute Resolution Lawyer, Fall 2014, Vol. 7, No. 2.

[Ethics Meets the "O" in DR](#), NYSBA, New York Resolution Lawyer, Fall 2018, Vol. 11, No. 2.

[The Power of Empathy](#), NYSBA New York Dispute Resolution Lawyer, Vol. 9, No. 3, Fall 2016, St. John's Legal Studies Research Paper No. 17-0006 (Jun 2017).

[The Changed BATNA](#), NYSBA New York Dispute Resolution Lawyer, Spring 2019, Vol. 12, No. 1 , St. John's Legal Studies Research Paper No. 19-0016 (May 2019).

[Acts Like a Lawyer, Talks Like a Lawyer...Non-Lawyer Advocates Representing Parties in Dispute Resolution](#), NYSBA, New York Resolution Lawyer, Spring 2018, Vol.11, No. 1.

[When Worldviews Collide – Strategic Advocacy v. a Mediators Ethical Obligations](#), NYSBA, New York Resolution Lawyer, Fall 2017, Vol 10, No. 2.

[When the Empty ADR Chair is Occupied by a Litigation Funder](#), NYSBA, New York Dispute Resolution Lawyer, Spring 2017.

[... Because It's Not Just about Money](#), NYSBA, New York Dispute Resolution Lawyer, Summer 2016, Vol. 9, No.2

[The Defining Ingredient: Transformative Mediation Ideology in Parenting Coordination Practice](#), NYSBA, New York Dispute Resolution Lawyer, Spring 2015, Vol. 8, No. 1.

[What Sally Soprano Teaches Lawyers About Hitting the Right Ethical Note in ADR Advocacy](#), NYSBA, New York Dispute Resolution Lawyer, Fall 2013, Vol. 6, No. 2.

The Ethical Compass: Confidentiality: The Illusion and the Reality – Affirmative Steps for Lawyers and Mediators to Help Safeguard Their Mediation Communications, NYSBA, New York Dispute Resolution Lawyer, Spring 2013, Vol. 6, No. 1.

The Ethical Compass: Show Me The Money: Part Two, Monetizing the “Value Added” of Attorneys Who Serve as Mediators and Arbitrators, NYSBA, New York Dispute Resolution Lawyer, Fall 2012, Vol. 5, No. 2.

The Ethical Compass: Show Me the Money: Part One, NYSBA, New York Dispute Resolution Lawyer, Spring 2012, Vol. 5, No. 1.

The Ethical Compass: The Globalized Practice of Law: Part Two, It's A Small World After All: Cultural Competence with Your International Brethren, NYSBA, New York Dispute Resolution Lawyer, Fall 2011, Vol. 4, No.3.

The Ethical Compass: It's A Small World After All: Cultural Competence for Advocates in Dispute Resolution Processes, NYSBA, New York Dispute Resolution Lawyer, Spring 2011, Vol. 4, No. 1.

Truth and Consequences: What Should A Mediator Ethically Disclose About Her Mediation Style? How Might A Mediator's Style Compromise a Mediator's Neutrality? NYSBA, New York Dispute Resolution Lawyer, Spring 2009, Vol. 2, No. 1.

“The Uniform Mediation Act and Mediation in NY,” NYSBA ADR Committee Report, Subcommittee chair, co-author (November 2002).