

Alternatives



CPR

International Institute for
Conflict Prevention & Resolution

TO THE HIGH COST OF LITIGATION

INTERNATIONAL INSTITUTE FOR CONFLICT PREVENTION & RESOLUTION VOL. 23 NO. 7 JULY/AUGUST 2005



Alternatives

Publishers:

Thomas J. Stipanowich
International Institute for Conflict Prevention & Resolution

Susan E. Lewis
John Wiley & Sons, Inc.

Editor:

Russ Bleemer

Jossey-Bass Editor:
David Famiano

Production Editor:
Chris Gage

Alternatives to the High Cost of Litigation (Print ISSN 1549-4373, Online ISSN 1549-4381) is a newsletter published 11 times a year by the International Institute for Conflict Prevention & Resolution and Wiley Periodicals, Inc., a Wiley Company, at Jossey-Bass. Jossey-Bass is a registered trademark of John Wiley & Sons, Inc.

Editorial correspondence should be addressed to *Alternatives*, International Institute for Conflict Prevention & Resolution, 366 Madison Avenue, New York, NY 10017-3122; E-mail: alternatives@cpradr.org

Copyright © 2005 International Institute for Conflict Prevention & Resolution. All rights reserved. Reproduction or translation of any part of this work beyond that permitted by Sections 7 or 8 of the 1976 United States Copyright Act without permission of the copyright owner is unlawful. Request for permission or further information should be addressed to the Permissions Department, c/o John Wiley & Sons, Inc., 111 River Street, Hoboken, NJ 07030-5774; tel: 201.748.6011, fax: 201.748.6008; or visit www.wiley.com/go/permissions.

For reprint inquiries or to order reprints please call 201.748.8789 or E-mail reprints@wiley.com.

The annual subscription price is \$190.00 for individuals and institutions. International Institute for Conflict Prevention & Resolution members receive *Alternatives to the High Cost of Litigation* as a benefit of membership. Members' changes in address should be sent to Membership and Administration, International Institute for Conflict Prevention & Resolution, 366 Madison Avenue, New York, NY 10017. Tel: 212.949.6490, fax: 212.949.8859; e-mail: info@cpradr.org. To order, please contact Customer Service at the address below, tel: 888.378.2537, or fax: 888.481.2665; E-mail: jbsubs@josseybass.com. POSTMASTER: Send address changes to *Alternatives to the High Cost of Litigation*, Jossey-Bass, 989 Market Street, 5th Floor, San Francisco, CA 94103-1741.

Visit the Jossey-Bass Web site at www.josseybass.com. Visit the International Institute for Conflict Prevention & Resolution Web site at www.cpradr.org.

ABOUT THE CPR INSTITUTE FOR DISPUTE RESOLUTION

ORGANIZED BY PROMINENT CORPORATE COUNSEL, THE CPR INSTITUTE FOR DISPUTE RESOLUTION

has become a leader in developing uses of private alternatives to the costly litigation confronting major corporations and public entities. The membership of CPR, a nonprofit organization, consists of large companies, leading U.S. law firms, academics and judges. See "Membership" at our Web site, www.cpradr.org.

TO ITS MEMBERS, CPR OFFERS EXTENSIVE BENEFITS AND SERVICES,

including research access to CPR's unique ADR database; training and counseling; a complete library of ADR practice tools and model procedures; and semi-annual conferences.

WOULD YOU LIKE FURTHER INFORMATION ABOUT CPR?

See our Web site at www.cpradr.org or complete this form:

Name: _____

Organization: _____

Title: _____

Address: _____

Telephone: _____

RETURN TO: Membership and Administration, International Institute for Conflict Prevention & Resolution, 366 Madison Avenue, New York, NY 10017. Tel: (212) 949-6490. Fax: (212) 949-8859. E-mail: info@cpradr.org

CPR NEWS • CPR NEWS • CPR NEWS

THE CPR INSTITUTE IS NOW THE INTERNATIONAL INSTITUTE

The CPR Institute for Dispute Resolution in June changed its official name to the International Institute for Conflict Prevention & Resolution. Shorthand, it will still be called the CPR Institute.

The organization, a membership alliance of large global corporations, law firms, scholars, and public institutions was founded by corporate general counsel in 1979 as the Center for Public Resources. It has played a leading role in promoting more appropriate and effective ways of managing conflict among businesses and their counsel. It promotes excellence and innovation in public and private dispute resolution, and serves as a multinational resource for avoidance, management and resolution of business-related and other disputes.

The CPR Institute maintains Panels of Distinguished Neutrals and provides neutrals selection and conflict resolution support assistance. Its committees have produced rules and reports, and have worked on improving alternative dispute resolution practices for decades, emphasizing negotiation and mediation over courtroom fights.

And it has continually expanded its international work. Last year, the CPR Insti-

tute, in partnership with the China Council for Promotion of International Trade, established the U.S.-China Business Mediation Center in New York and Beijing. It also held its first members' meeting in Europe.

Since 1983, the CPR Institute has provided *Alternatives*, which is now published with Jossey-Bass, a unit of John Wiley & Sons, Inc. The monthly newsletter is available via hard copy and electronic subscriptions. CPR members receive both versions as part of their membership.

CPR President Thomas J. Stipanowich, who also is *Alternatives'* publisher, says, "For a quarter of a century, CPR has been a central factor in changing the culture of conflict management, an area that is evolving rapidly around the world. We have already taken many important steps toward embracing the challenges of globalization. As we look forward to the next 25 years, we wanted a new name and logo that would most clearly reflect our worldwide capabilities in addition to projecting a more contemporary and sophisticated image. We believe that we have done just that."

Information on all of CPR's products and services is available on CPR's newly redesigned Web site at www.cpradr.org.

DOI 10.1002/alt.20082

(For bulk reprints of this article, please call (201) 748-8789.)

ADR RESOURCES

EDITORIAL BOARD

CHAIRMAN

THOMAS J. STIPANOWICH

International Institute for Conflict Prevention & Resolution

W. REECE BADER

Orrick, Herrington & Sutcliffe

JOHN J. BOUMA

Snell & Wilmer

JAMIE BRODER

Paul, Hastings, Janofsky & Walker

A. STEPHENS CLAY

Kilpatrick Stockton

CATHY A. COSTANTINO

Federal Deposit Insurance Corp.

ROBERT A. CREO

Law Offices of Robert A. Creo

LAURA EFFEL

LeClair Ryan Flippin Densmore

LAWRENCE J. FOX

Drinker, Biddle & Reath

MARC GALANTER

University of Wisconsin Law School

WHITMORE GRAY

Fordham University School of Law/University of Michigan Law School

JEFF KICHAVEN

Jeff Kichaven, A Professional Corporation

JEFFREY KRIVIS

First Mediation Corp.

HARRY N. MAZADOORIAN

Quinnipiac Law School

CARRIE MENKEL-MEADOW

Georgetown University Law Center

ROBERT H. MNOOKIN

Harvard Law School

PAUL J. MODE JR.

Citigroup

JAMES M. RINGER

Clifford Chance US LLP

A. JAMES ROBERTSON II

Superior Court of California

NANCY ROGERS

Ohio State University College of Law

DAVID L. SANDBORG

City University of Hong Kong

FRANK E.A. SANDER

Harvard Law School

IRENE C. WARSHAUER

Fried Epstein LLP

MELVYN I. WEISS

Milberg Weiss Bershad & Schulman

GERALD R. WILLIAMS

Brigham Young University



Publishers:

Thomas J. Stipanowich
International Institute for Conflict Prevention & Resolution

Susan E. Lewis

John Wiley & Sons, Inc.

Editor:

Russ Bleemer

Jossey-Bass Editor:

David Famiano

Production Editor:

Chris Gage

Alternatives to the High Cost of Litigation (Print ISSN 1549-4373, Online ISSN 1549-4381) is a newsletter published 11 times a year by the International Institute for Conflict Prevention & Resolution and Wiley Periodicals, Inc., a Wiley Company, at Jossey-Bass. Jossey-Bass is a registered trademark of John Wiley & Sons, Inc.

Editorial correspondence should be addressed to *Alternatives*, International Institute for Conflict Prevention & Resolution, 366 Madison Avenue, New York, NY 10017-3122; E-mail: alternatives@cpradr.org

Copyright © 2005 International Institute for Conflict Prevention & Resolution. All rights reserved. Reproduction or translation of any part of this work beyond that permitted by Sections 7 or 8 of the 1976 United States Copyright Act without permission of the copyright owner is unlawful. Request for permission or further information should be addressed to the Permissions Department, c/o John Wiley & Sons, Inc., 111 River Street, Hoboken, NJ 07030-5774; tel: 201.748.6011, fax: 201.748.6008; or visit www.wiley.com/go/permissions.

For reprint inquiries or to order reprints please call 201.748.8789 or E-mail reprints@wiley.com.

The annual subscription price is \$190.00 for individuals and institutions. International Institute for Conflict Prevention & Resolution members receive *Alternatives to the High Cost of Litigation* as a benefit of membership. Members' changes in address should be sent to Membership and Administration, International Institute for Conflict Prevention & Resolution, 366 Madison Avenue, New York, NY 10017. Tel: 212.949.6490, fax: 212.949.8859; e-mail: info@cpradr.org. To order, please contact Customer Service at the address below, tel: 888.378.2537, or fax: 888.481.2665; E-mail: jbsubs@josseybass.com. POSTMASTER: Send address changes to *Alternatives to the High Cost of Litigation*, Jossey-Bass, 989 Market Street, 5th Floor, San Francisco, CA 94103-1741.

Visit the Jossey-Bass Web site at www.josseybass.com. Visit the International Institute for Conflict Prevention & Resolution Web site at www.cpradr.org.