

Pepperdine Dispute Resolution Law Journal

Volume 10

Issue 3

*Taking It Upstream: Collaboration, Consensus
Building & Sustainable Development- A Green
Leadership (Un)Conference*


Article 1

4-1-2010

Foreword

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Recommended Citation

Steve Zikman, *Foreword*, 10 Pepp. Disp. Resol. L.J. Iss. 3 (2010)

Available at: <https://digitalcommons.pepperdine.edu/drlj/vol10/iss3/1>

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PEPPERDINE DISPUTE RESOLUTION LAW JOURNAL

FOREWORD

Taking It Upstream: Collaboration, Consensus Building & Sustainable Development—A Green Leadership (Un)conference was held at Pepperdine University's Graziadio Conference Center on September 25, 2009. In the spirit of collaboration, the symposium marked the first event jointly sponsored by the Straus Institute for Dispute Resolution and the Geoffrey H. Palmer Center for Entrepreneurship & the Law.

It was especially fitting that this gathering took place at Pepperdine University's Malibu campus for it was here, three years before on September 27, 2006, that Governor Arnold Schwarzenegger signed California Assembly Bill 32 (AB 32), the Global Warming Solutions Act, on a bluff overlooking the Pacific Ocean. AB 32 was followed on September 30, 2008, with the signing of California Senate Bill 375 (SB 375).

Regarding both of these bills, Pete Peterson, executive director of Common Sense California and one of the principal organizers of the symposium, wrote:

At the heart of these laws is the connection between land use planning decisions and climate change. But while the content of this pioneering legislation was formulated with some clarity in Sacramento, the *process* by which the decisions will be made throughout California remains to be answered. Like no other time in the history of California, relationships between government agencies, and between those agencies and vested "stakeholders," are being re-constituted. We have entered a new era in governance—one that demands greater transparency, collaboration, and participation. To be successful, leaders (both public and private sector) will need to learn and hone the skills necessary for this new policy-making world.

As a Straus Fellow, I first proposed the idea for the *Taking It Upstream* symposium in April 2008. My intention was to explore how we might use collaborative techniques such as consensus building, dialogue and deliberation, civic engagement, and environmental mediation to create more sustainable communities. More particularly, I wanted to examine how (and when) we should do this "upstream," at an early stage, *before* a crisis develops.

Much happened in the year leading up to the symposium that made the *substance* of the symposium timely—most notably, a new president focused on sustainability and more robust forms of civic engagement, and a massive financial crisis.

Beyond the content of the symposium, I also wanted to utilize a highly interactive approach for how participants (both the "panelists" and the

“audience”) would engage with another (the *process* of engagement). My intention was to avoid the more traditional boring panel format, where panelists face the audience (instead of one another), where each panelist offers a 5-10 minute soliloquy on the topic at hand, and where attendees are left with 2-3 minutes (if that) for a quick Q & A. Instead, I wanted each moment to be as engaging as possible, to allow for a direct and dynamic conversation from the “get-go.” I also wanted to honor the wisdom of the entire room, to value the expertise of the audience, and bring them fully into the conversation.

In this way, the overall experience would be similar to the notion of an *unconference*, where the traditional format is challenged, where the walls between those on the podium and those in the audience are intentionally torn down, or at least blurred. Unconferences focus on audience-centered participation. The room is the panel. The main job for those on the podium is to draw out the wisdom in the room. Unconferences work best when the topic is emerging, when the wisdom is still forming—as is the case with the current conversation around climate change.

One of the underlying themes of unconferences is that “everyone is an expert.” For those working in emerging fields, our peers are the ones leading the way forward. The intention is to recruit ideas and encourage cross-pollination from the people who are forming the wisdom—*informally*. Unconferences bring the hallway conversations back into the main tent by supporting the emergence of unparalleled peer-to-peer learning opportunities and dynamic, participant-driven discussions.

To this end, the morning framing panels were held “in the round” so that panelists would more inclined to having real conversation with each other as opposed to addressing, or pandering to, the “audience.” Questions from the audience were relayed to the panel moderator who would do their best to bring the questions into the discussion at appropriate points in the conversation. Additionally, we employed a variety of innovative interactive engagement techniques (World Café, Movers & Shakers, and Focused Roundtables)¹ to provide for more intimate conversations over lunch and in the afternoon among the various panelists, moderators, and audience members.

My hope was that this approach would help attendees explore the substance of the symposium more effectively, and more richly. My hope was that participants would share in a series of respectful and insightful conversations to shed light on the challenges that lie ahead and to move our practices, and our communities, forward.

1. See *infra* pp. 363-365, for my discussion regarding these techniques in “South Pasadena: A Dialogue on Dialogue.”

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Taking It Upstream also marked the first occasion that the Straus Institute's Pepperdine Dispute Resolution Law Journal and the Palmer Center's Journal of Business, Entrepreneurship & the Law have collaborated to feature the same symposium. In this spirit, the two journals have created special symposium editions comprised of papers authored by a number of the panelists, reflecting important trends in the evolution of conflict management and dispute resolution in the areas of multi-party environmental, land use, and public policy matters.

In "Getting the Green Light for Senate Bill 375: Public Engagement for Climate-Friendly Land Use in California," Greg Greenway analyzes the approach to public participation outlined in SB 375, and argues that a critical success factor is the design and execution of strategies by local governments to engage citizens in the implementation of the legislation. The article concludes with an examination of a recent initiative in San Mateo County that offers a promising approach to engaging the public in land use decisions.

Alana Knaster's piece, "Resolving Conflicts Over Climate Change Solutions: Making the Case for Mediation," canvasses the role that mediation can play in resolving the conflicts that are likely to emerge in the climate change arena. She also provides some observations and takeaways from the symposium in this context.

Beth Dorris examines how new environmental measures produce adverse and largely unanticipated impacts of their own, and how legal liability is allocated. The article, "It's Not Easy Being Green: Evolving Legal Frameworks to Address the Unanticipated Consequences of New Climate Change and Sustainability Programs," then evaluates legal frameworks available to reduce the risks of such liabilities.

I have also contributed a paper entitled "South Pasadena: A Dialogue on Dialogue" which was the project I completed for my LL.M. at the Straus Institute and which I am proud to say received the award for best academic paper by the California Dispute Resolution Council (due in large part to the exquisitely detailed guidance of my faculty advisor, Alana Knaster). The piece explores how communities can improve the ways in which they engage with each other concerning controversial land use issues early on in the process—before the parties are in full crisis mode—through a series of facilitated dialogues.

At the commencement of the *Taking It Upstream* symposium, I described our day together as a journey. With the publication of these two special journal editions, the quest continues and these four thoughtful pieces

serve as powerful departure points for further inquiry and revelation. Thank you for joining us, and for participating.

In closing, I would like express my gratitude to Professors Thomas Stipanowich and Peter Robinson, co-directors of the Straus Institute, as well as Professor Janet Kerr, executive director at the Palmer Center. At every step of the way, they and their staff (especially Lori Rushford, Jeannie Jakstis and Shellee Warnes) helped steer this symposium to reality while honoring the integrity of my intentions for the Fellowship. I would also like to offer a heartfelt appreciation to my fellow symposium organizers, Alana Knaster and Pete Peterson, whose caring insight and creativity were invaluable. Finally, I would like to thank journal editors Steven Hwang and Joshua Krebs for committing the symposium and its prescient theme to the written page for further study and collaboration.

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