OHIO STATE JOURNAL ON DISPUTE RESOLUTION VOLUME 38 Issue 5

THE OHIO STATE UNIVERSITY MORITZ COLLEGE OF LAW

OFFICERS OF ADMINISTRATION

Kristina M. Johnson, PhD, President of the University
Melissa L. Gilliam, MD, MPH, Executive Vice President and Provost of the University
Lincoln L. Davies, B.S., J.D., Dean of the College and Frank R. Strong Chair in Law
Cinnamon P. Carlame, B.A., B.C.L., M.S., J.D., Assoc. Dean for Faculty & Intellectual Life, Robert J. Lynn Chair in Law
Kathy S. Northem, B.A., J.D., Assoc. Dean for Diversity & Inclusion and Robert M. Duncant Jones Day Designated Assoc. Prof. of Law
Anne E. Ralph, B.A., J.D., Assoc. Dean for Academic Affairs & Morgan E. Shipman Prof. in Law
Paul Rose, B.A., J.D., Assoc. Dean for Strategic Initiatives & Robert J. Watkins/Procter & Gamble Prof. of Law
Exec. Director, Law, Finance & Governance at Ohio State, and J. Gilbert Reese Chair in Contract Law
Tra Pham, PhD, Assist. Dean for International and Graduate Affairs and Adjunct Prof.
Sara A. Sampson, B.S., M.S., J.D., Assist. Dean for Information Services, Director of Law Library, and Senior Lecturer
Darren Nealy, B.A., J.D., Assist. Dean for Academic Affairs and Adjunct Prof.
Gregory Roseboro, B.A., J.D., Assist. Dean for Admissions, Financial Aid and Diversity Initiatives

FACULTY EMERITI

Mary Beth Beazley, B.A., J.D.
Michael Braunstein, B.A., J.D.
Sanford N. Caust-Ellenbogen, M.C.R.P., J.D.
Martha Chamallas, B.A., J.D.
Albert L. Clovis, B.A., M.A., Lt.B.
Sharon L. Davies, B.A., J.D.
Ellen E. Deason, B.A., M.S., J.D.
Joshua Dressler, B.A., J.D.
Gordon E. Gee, B.A., Ed.D, J.D.
David A. Goldberger, B.A., J.D.

Arthur F. Greenbaum, B.A., J.D.
Louis A. Jacobs, A.B., J.D., LL.M.
Bruce S. Johnson, B.A., J.D., M.L.S.
Michael Kindred, B.A., J.D., M.C.L., D.E.S.
Joan M. Krauskopf, A.B., J.D.
Deborah Jones Mernit, A.B., J.D.,
Dale A. Oesterle, B.A., M.P.P., J.D.
John B. Quigley, A.B., M.A., LL.B.
Rhonda R. Rivera, B.A., M.P.A., J.D.
Nancy H. Rogers, B.A., J.D.

Michael D. Rose, B.A., J.D., L.L.M. Allan J. Samansky, B.A., M.A., J.D. Peter M. Shane, A.B., J.D. Joseph B. Stulberg, B.A., J.D., M.A., Ph.D. Gregory M. Travalio, B.A., J.D., LL.M. Vincene F. Verdun, B.A., J.D. Douglas J. Whaley, B.A., J.D. Charles E. Wilson, B.S., J.D.

FACULTY

Amna Akbar, B.A., J.D., Charles W. Ebersold and Florence Whitcomb Ebersold Professorship Douglas A. Berman, A.B., J.D., Newton D. Baker-Baker & Hostetler Chair

in Law
Micah Berman, B.A., J.D., Assoc. Prof. of Public Health and Law
Emily Brown, B.A., J.D., Visiting Assist. Clinical Prof.
Gregory A. Caldeira, B.A. A.M., Ph.D., Distinguished Univ. Prof., Ann and
Deurrell Dreher Chair in Pol. Commun. and Policy Thinking and Prof. of

Law Felix Chang, B.A., J.D., Visiting Prof. of Law Bryan H. Choi, A.B., J.D., Assoc. Prof. of Law and Engineering Daniel C.K. Chow, B.A., J.D., Frank E. & Virginia H. Bazler Chair in

Business Law
Sarah Rudolph Cole, B.A., J.D., Praint E. & Virginar II. Business Law
Sarah Rudolph Cole, B.A., J.D., Michael E. Moritz Chair in Alternative
Dispane Resolution
Ruth Colker, A.B., J.D., Distinguished Univ. Prof. and Grace Fern Heck
Faust Chair in Constitutional Law
Olwyn Conway, B.A., J.D., Assoc. Clinical Prof. of Law
Elizabeth Ilgen Cooke, B.A., J.D., Frank C. Woodside III Clinical Prof. in
Trial Advocacy
Terri L. Enns, B.A., J.D., James W. Shocknessy Professor of Law, Clinical
Professor of Law, Senior Fellow, Election Law at Ohio State
Katherine Hunt Federle, B.A., J.D., L.M., Joseph S. Platt-Porter Wright
Morris & Arthur Prof. of Law and Policy Studies
Edward B. Foley, B.A., J.D., Charles W. Ebersold & Florence Whitcomb
Ebersold Chair in Constitutional Law and Director of Election Law at
Moritz

Moritz
William Froehlich, B.A., J.D., Langdon Fellow in Dispute Resolution
César Cuauhtémoc García Hemández, A.B., J.D., Gregory Williams Chair
in Civil Rights & Civil Liberties
Larry T. Garvin, B.A., B.S., M.S., J.D., Lawrence D. Stanley Prof. of Law
Halle Hara, B.A., J.D., Senior Lecturer and Externship Director
L. Camille Hébert, B.A., J.D., Carter C. Kissell Prof. of Law
Mohamed S. Helal, B.A., M.A., LL.B., LL.M., S.J.D., Assoc. Prof. of Law
Sean Hill, A.B., J.D., Assist. Prof. of Law

Dennis D. Hirsch., B.A., J.D., Prof. of Law, Director of Prog. on Data and

Governance
Steven F. Huefner, A.B., J.D., C. William O'Neill Prof. in Law and Judicial
Administration, Senior Fellow of Election Law at Moritz and Director of

Administration, Senior Fellow of Election Law at Moruz and Inrector of Clinical Prog.
Creola Johnson, B.S., J.D., President's Club Prof. of Law
Kimberly Jordan, B.S., J.D., Clinical Prof. of Law and Director of Justice
for Children Project
Katherine S. Kelly, B.A., M.A., J.D., Clinical Prof. of Law
Margaret B. Kwoka, A.B., J.D., Lawrence Herman Prof. in Law
Katrina J. Lee, B.A., J.D., John C. ElawVorys Sater Prof. in Law, Director,
Program on Dispute Resolution
Alan C. Michaels, A.B., J.D., Dean Emeritus and Edwin M. Cooperman
Chair in Law

Chair in Law
Effhimios Parasidis, B.A., M.B.E., J.D., Chief Justice Thomas J. Moyer
Professorship for the Administration of Justice and Rule of Law
Patrick Perkins, B.A., J.D.; Jeff & Cynthia Harris Fellow
Courtlyn Roser-Jones, B.A., J.D., LL.M., ASJ.D., Joanne Wharton
Murphy/Class of 1965 and 1973 Professorship in Law
Dakota Rudesill, B.A., J.D., Assoc. Prof. of Law
Amy Schmitz, B.A., J.D., John Deaver Drinko-Baker & Hostetler Chair in
Law
Colleen Garrity Settineri R.S. B.A. J.D. Assoc. Clinical Prof. of Law

Colleen Garrity Settineri, B.S., B.A., J.D., Assoc. Clinical Prof. of Law Ric Simmons, B.A., M.A., J.D., Jacob E. Davis and Jacob E. Davis II

Ric Simmons, B.A., M.A., J.D., Jacob E. Davis and Jacob E. Davis In Chair in Law

Monte Smith, B.A., J.D., Assist. Clinical Prof. of Law

Marc S. Spindelman, B.A., J.D., Isadore & Ida Topper Prof. of Law

Todd A. Starker, B.A., M.B.A., J.D., Clinical Prof. of Law

David Stebenne, B.A., M.B.A., J.D., Clinical Prof. of Law

Paige L. Wilson, B.A., J.D., Assoc. Clinical Prof. of Law

Rebecca Wolftz, B.A., J.D., Assist. Prof. of Law

Ruqaijjah Yearby, J.D., MPH., Kara J. Trott Prof. in Health Law

Patricia J. Zettler, B.A., J.D., Assoc. Prof. of Law

ADJUNCT FACULTY

Claudia Andre

Zaki Anwar Zaki Anwar Elizabeth L. Anstaett David T. Ball Nikki Baszynski Allison Binkley Matthew Birkhold Amy Bittner Rachel Bloomekatz Ben Bodamer Ben Bodamer
Joseph Boeckman
Joseph M. Caliguri
Sophia Chang
Kwame Christian
Erica L. Cook
Daniel Conway Matt Cooper Lorenzo Corte Jonathan E. Coughlan Dave DeVillers Marjorie Duffy

Marjorie Duffy Scott E. Failor Laura Fernandez-Alvarez Laura Fernandez-Alva Rebecca Fordon Gates Garrity-Rokous Henrique Geigel Franz Geiger Chris Glaros David W. Grauer Christopher Hagale Christopher Hammond Michael Hendershot Robb Hem Hon. John E. Hoffman Jr. Barton Hubbard Caryn Kaufman Marya C. Kolman Michael Kolsen Natasha Landon Jonathan Leiken George Limbert

Emma MacGuidwin Susan Malloy Hon. Algenon L. Marbley Patrick McCarthy Richard M. Mescher Richard M. Mescher Anne Miles Caitlin Miller Robert J. Miller John Mills Maria Mone Robert Moormann Martha Motley Norman Nadorff Caroline O'Connell Matt Palmer Matt Palmer Matt Painter
Kinal Pattel
Frank Ray
Matthew Richardson
John Rockenbach
Blake Rohrbacher Dan Sabol

Dan D. Sandman Hon, Edmund A. Sargus Hon, Jennifer L. Sargus Hon, Jennifer L. Sargi Jim Saywell Donald Scheetz Edward M. Segelken Amy Sellars Andrea Shemberg Scott V. Simpson Carl Smallwood Lindeay Keeps Stance Lindsay Karas Stencel Bob Stinson Hon, Jeffrey S. Sutton James Thomas Jessica Tobias Jessica 100ias
Hon, Chelsey M. Vascura
Jonathon Viriocur
Laura Vlieg
Bradley Walent
Robert Ward
Hon Michael H. Waten

Hon, Michael H. Watson

Robert Weiler Terrence Wheeler Megan Whited Hannah Wilson Mary Beth Young Stephanie Ziegler

OHIO STATE JOURNAL ON **DISPUTE RESOLUTION**

Volume 38

2022-2023

Issues I-V

EDITOR-IN-CHIEF Sophia Yano

EXECUTIVE EDITOR

Jordan Kulbarsh

CHIEF MANAGING EDITOR Jamie Vieson

Hannah Firestone

CHIEF ARTICLES EDITOR

CHIEF NOTE EDITOR

CHIEF ONLINE EDITOR Danielle Kaminski

BUSINESS EDITOR Caroline Barber

NOTE EDITORS Eric Abels Morgan Davis **Brooke Pauley**

Tyler Hopkins

COMMUNITY RELATIONS EDITOR Lydia Wendel

SOURCE EDITOR Whitney Smelly

Madison Pemberton

ARTICLES EDITORS

MARKETING EDITOR Allyssa Kimbler

Lila Appaya Sadie Boyer Jocelyn Groll

MANAGING EDITORS

Lee Ann Forgrave Sophia Fremont Kitty Sorah

SYMPOSIUM EDITOR Shynelle Kissi

Chloe Koon Stephan Laboy Jennifer Polito

ASSOCIATE EDITORS Kendall Beard

Alicia Herman Kasey Redding

STAFF EDITORS

Ali Alfonso Alexandra Bond Georgia Byers Allyson Croxton Anna Croyts Diego De La Vega Emma Dennis Timothy Giessner

Aaron E. Gonzalez Juliana Harris Camryn Hughes Cameron Justice Theodore Khabiri Samantha Lamka Olivia LeRoux Helen Lohre

Amy Mildebrath Grace O'Malley Vince Sears David Urbancic Kyle Walker Madison Weaver Katherine Weinzierl Eleanor K. Werner

FACULTY ADVISORS Sarah Rudolph Cole and Katrina Lee

Published by Students at The Ohio State University Moritz College of Law

The Ohio State Journal on Dispute Resolution (JDR) is the official law journal of the American Bar Association Section of Dispute Resolution. The JDR, which is published three to five times a year, serves as an exchange of information between scholars, who develop and comment upon theoretical models of dispute resolution, and practitioners, who are involved in implementing models as actual arbitrators, mediators, and judges. The opinions and conclusions of the articles published in this issue are those of the authors and do not necessarily reflect the position of the JDR or The Ohio State University.

EDITORIAL AND GENERAL OFFICES: Located at 55 West 12th Avenue, Columbus, Ohio 43210-1391. The JDR can be contacted by phone at (614) 292-7170, by facsimile at (614) 292-3442, and by email at osu-jdr@osu.edu. Information may also be obtained online at http://moritzlaw.osu.edu/jdr.

SUBSCRIPTIONS: Domestic, \$50.00 per volume; \$15 per regular issue. Foreign, \$60.00 per volume; \$20.00 per regular issue. Members of the ABA Section of Dispute Resolution receive a special discounted rate of 50% off the standard subscription price. Please enclose check with order made payable to the *Ohio State Journal on Dispute Resolution*. All subscriptions are for the volume year and will be renewed automatically unless the subscriber provides timely notice of cancellation. All business or subscription inquiries, and changes of address should be directed to the Business Editor, *Ohio State Journal on Dispute Resolution*, 55 West 12th Avenue, Columbus, Ohio 43210-1391.

SINGLE ISSUES: Issues in the current volume and Volume 38 are available from the *JDR* for \$15.00 domestic and \$20.00 international. Back stock, reprint, and microform editions of the JDR are available through William S. Hein & Co., Inc., 1285 Main Street, Buffalo, New York, 14209-1987. The William S. Hein & Co. can be contacted by phone at (800) 828-7571 or by facsimile at (716) 883-8100.

SUBMISSIONS: The *JDR* welcomes the submission of unsolicited manuscripts, articles, and book reviews for possible publication. The text and footnotes of all manuscripts should be double spaced. Please send submissions in hard copy to Ohio State Journal on Dispute Resolution, 55 West 12th Avenue, Columbus, Ohio 43210-1391 or electronically in MS Word format to osu-jdr@osu.edu. Manuscripts will not be returned.

CITATION: Please cite to the JDR as follows: 38 Ohio St. J. on Disp. Resol. (2023).

COPYRIGHT INFORMATION: Copyright © 2023 by the Ohio State Journal on Dispute Resolution. Please direct copyright inquiries to Editorial and General Offices address listed above.