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*American Justice at a Crossroads: A Public and Private  
Crisis*

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## Foreword

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PEPPERDINE DISPUTE RESOLUTION LAW JOURNAL

## FOREWORD

The Symposium entitled *American Justice at a Crossroads: A Public and Private Crisis* was held at Pepperdine University School of Law on April 15, 2010, under the joint sponsorship of the Straus Institute for Dispute Resolution, the Pepperdine Dispute Resolution Law Journal, and the International Institute for Conflict Prevention and Resolution (CPR). It brought together a distinguished group of speakers and panelists to discuss dissatisfaction with the American justice system caused by increased delays, rising litigation costs, and decreased access to justice; and creative ways being used to address these concerns. The program included a keynote address by Rebecca Love Kourlis, Executive Director of the Institute for the Advancement of the American Legal System (IAALS), and a series of roundtable discussions about the current state of the American justice system, rethinking and reforming litigation, and rethinking and reforming commercial arbitration. Panelists included Kenneth Starr, former Dean of Pepperdine School of Law; the Honorable Barbara Rothstein, U.S. District Judge for the Western District of Washington; the Honorable Tim McCoy, Los Angeles County Superior Court; the Honorable Vaughn R. Walker, U.S. District Judge for the Northern District of California; Kathleen Bryan, President and CEO of the International Institute for Conflict Prevention and Resolution; Daniel B. Winslow, Duane Morris LLP; the Honorable Benjamin Tennille, North Carolina Business Court Judge; Thomas J. Stipanowich, Pepperdine University School of Law; Lisa Kloppenberg, Dean of University of Dayton School of Law; Jack Coe, Pepperdine University School of Law; and Michelle Leetham, Manager of Litigation at Bechtel Corporation. This special symposium issue of the Journal consists of several papers and lectures presented at the event, which reflect important issues facing the American justice system.

There is widespread dissatisfaction with the American justice system among both lawyers and clients. Several recent surveys have been conducted by the American College of Trial Lawyers and the Institute for the Advancement of the American Legal System that show more than half of litigants do not trust the system to achieve a fair result and believe the system needs a complete overhaul. Lawyers suggest that a case is not worth litigating unless the amount in controversy is more than \$100,000. As a result, some meritorious cases are not brought or settle because litigants cannot afford to litigate. Existing alternatives to litigation, particularly arbitration, are becoming just as expensive and time consuming as litigation.

This Symposium presented some solutions that are being utilized across the country to address the dissatisfaction with the American justice system. Some states, such as Oregon and Arizona, have reformed their Rules of Civil Procedure to place limits on discovery and tighten pleading standards. Others, such as North Carolina, have created specialized courts to reduce delay. Litigants and lawyers are experimenting with contractually limiting discovery while still allowing a judge to decide the merits of a case through Economical Litigation Agreements. These are just some of the ideas currently being experimented with to alleviate the strain on the justice system. We hope this Symposium has brought a greater awareness of the issues facing the American justice system and will lead to greater discussion on how to improve our system so that it truly offers justice for all.

The Pepperdine Dispute Resolution Law Journal would like to thank Professor Thomas Stipanowich and Professor Peter Robinson, co-directors of the Straus Institute, as well as Professor Maureen Weston, Faculty Advisor of the Journal, for their unwavering support of the Journal. Without their assistance, this Third Annual Symposium would not have happened.

*Jeffrey D. Hoyle*  
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*Pepperdine Dispute Resolution Law Journal*