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"Alternative 'Deal' Resolution: The Facilitated Negotiation of Transactions"

Albany Law School Research Paper No. 45

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Third Party Neutrals can add value to the negotiation of transactions just as they add value to the negotiation of litigation settlements. Regardless of whether the objective is to resolve a litigation matter, establish an employment relationship, or to form a complex, multi-national, multi-party, multi-billion dollar joint venture, a deal is a deal. The issues that most often lead to impasse in any negotiation usually include personal dynamics, conflicting negotiation styles, unrealistic expectations, or miscommunication. An experienced Neutral is uniquely positioned to help the parties to resolve these issues and build relationships regardless of the subject matter of the negotiation. The objective of all negotiations is either to reach agreement or to learn sooner rather than later that no agreement is possible. Transaction attorneys and other agents can use Third Party Neutrals to accomplish these objectives more efficiently. This article will explore the option of utilizing Neutrals to facilitate the negotiation of problematic transactions. It will discuss the ways in which Deal Facilitation or Deal Mediation compares favorably to Alternative Dispute Resolution Mediation and can produce similar results. It also addresses the most common objections to the use of Third Party Neutrals in transactional practice.

"Feeding the Locavores, One Chicken at a Time: Regulating Backyard Chickens"

Albany Law School Research Paper No. 46

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As the local and regional food shed movement and the urban agriculture movement continue to grow, uses once considered only found on the rural farm are now finding their ways into urban and suburban communities. As a result, municipalities across the country are now facing the challenge of regulating the keeping of chickens in residential districts. From nuisance law to zoning regulations addressing the number of hens that may be kept on parcels, whether roosters are allowed, the size and location of coops and other issues, this article reviews the rapidly developing trends in this area of land use law.

"Integrating Sustainable Development Planning and Climate Change Management: A Challenge to Planners and Land Use Attorneys"
Planning and Environmental Law, Vol. 63, p. 3, March 2011
Albany Law School Research Paper No. 47

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This essay is based on our new book, Climate Change and Sustainable Development Law in a Nutshell (West 2011) which describes the close relationship between sustainable development and climate change management. It begins with a discussion of recent discussions and agreements at the international level and it provides a brief history of sustainable development and climate change policy. The article then explores national and local strategies to address sustainable development goals. Local planning and zoning, transit oriented development, energy efficiency and green infrastructure issues are also addressed.

"Disasters and Ecosystem Services Deprivation: From Cuyahoga to the Deepwater Horizon"
Albany Law School Research Paper No. 48

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On April 20, 2010, an explosion on the Deepwater Horizon oil rig resulted in the release of substantial amounts of oil into the Gulf of Mexico, threatening the viability of some of the world’s most essential ecosystems. Due to both the scale of the damage and the circumstances regarding the risks involved, the event has been appropriately labeled as a disaster. However, the Deepwater Horizon incident has also mobilized a large-scale investigation into the living technology through which the Gulf of Mexico and its ecosystems provide essential, life-supporting ecosystem services. This essay explores the manner in which environmental disasters require us to adapt our understanding of nature to a changed environment, forcing us to face the loss of valuable services provided by functioning ecosystems. This essay discusses the role of environmental disasters in the development of environmental law, then focuses on the opportunities provided by ecosystem services research in calculating the ecological, social, and economic value of natural resources impaired in such circumstances.

"Admissibility of Patient’s Statements in Medical Record"
Albany Law School Research Paper No. 49

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The New York state Appellate Divisions have recently decided on three cases has created a new exception to the hearsay rule for admissions in medical records. Previously, CPLR 4518(a) had been understood to permit admissions of a party opponent written in a medical record only if the information was germane to the patient’s medical treatment. Under the new rulings in Preldakaj v. Alps Realty of NY Corp., 69 A.D.3d 455 (1st Dept. 2010), Coker v. Bakkal Foods Inc., 52 A.D.3d 765 (2d Dept. 2008), lv. den. 11 N.Y.3d 708 (2008), and Smolinski v. Smolinski, 2010 NY Slip Op. 08468 (Nov. 19, 2010), entries in a party's medical record made upon information provided by the party, which are inconsistent with a position taken by the party at trial, are admissible as an admission of the party even if they are not germane to treatment or diagnosis.

This article discusses the latest decisions on this matter in their relation to Williams v. Alexander, 309 N.Y. 283 (1955), which set the previous rule.

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