

# CITY BAR CENTER FOR CLE



PACE LAW SCHOOL  
P A C E U N I V E R S I T Y

## THE RESOLUTION OF ENVIRONMENTAL INTEREST DISPUTES AN EMERGING AREA OF PRACTICE

*Co-Sponsored with: The Kheel Center\* on the Resolution of Environmental Interest Disputes  
Pace University School of Law*

Monday, November 10th, 2008 / 9:00 a.m. to 4:30 p.m.

This program will examine the role of lawyers in the resolution of environmental interest disputes. Panels will discuss the use of alternative dispute resolution in traditional institutional settings such as the New York State court system, federal court litigation regarding environmental liability, local land use decision-making agencies, and State of New York DEC administrative law judge proceedings. In these settings, alternative dispute resolution techniques are frequently and successfully employed by attorneys for the affected parties. The skills and techniques lawyers use in these traditional settings will be described and discussed as a prelude for examining the resolution of critical environmental, land, and resource conflicts that are not adjudicated in these familiar settings. The program will concentrate on the management and resolution of environmental conflicts where rights are less well developed, the conflicts are new and rapidly evolving, the stakeholders many, and where there are less obvious forums for conflict resolution. Panelists and participants will discuss this emerging area of practice. There will be ample time for conversation, questions, and answers.

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### CLE Credit:

7.0 credits in professional practice.

This live program provides New York & California transitional/non-transitional credit to all attorneys.

*Illinois credit differs as it is based on a 60 minute credit hour.*

**Sponsoring Association Committees:** Alternative Dispute Resolution, Daniel Weitz, Chair & Environmental Law, Christine Fazio, Chair

**Participating Sponsor:** Environmental Law Institute

\*Theodore Kheel, Founder

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## Program Co-chairs

**Rachel E. Deming**  
Scarola Ellis LLP  
New York, NY

**Pamela R. Esterman**  
Sive, Paget & Riesel, P.C.  
New York, NY

**Christine Fazio**  
Carter Ledyard & Milburn LLP  
New York, NY

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## Luncheon Speaker

**Dean John D. Feerick**  
Founder & Director  
Feerick Center for Social Justice and Dispute Resolution  
Fordham University School of Law  
Chair, New York State Commission on Public Integrity  
New York, NY

**Robert J. Kheel**  
Willkie Farr & Gallagher LLP  
New York, NY

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## Faculty

**David C. Batson**  
Senior ADR Specialist  
US Environmental Protection Agency  
Washington, DC

**Gail Bingham**  
President, Resolve  
Washington, DC

**Barry A. Brooks**  
Paul, Hastings, Janofsky & Walker LLP  
New York, NY

**Thomas C. Collier**  
Stephoe & Johnson LLP  
Washington, DC

**Amy L. DuVall**  
Director  
Regulatory & Technical Affairs  
American Chemistry Council  
Arlington, VA

**Stephen J. Friedman**  
President, Pace University  
New York, NY

**Ridgway M. Hall, Jr.**  
Crowell Moring LLP  
Washington, DC

**William H. Hyatt, Jr.**  
K & L Gates LLP  
Newark, NJ

**Michael K. Lewis**  
Mediator & Arbitrator  
JAMS  
Washington, DC

**Eric R. Max**  
Director  
Office of Dispute Settlement  
New Jersey Public Advocate Department  
Trenton, NJ

**Honorable James T. McClymonds**  
Chief Administrative Law Judge  
New York State Department of  
Environmental Conservation  
Office of Hearings  
Albany, NY

**Steven M. Morgan**  
Vice President & Assistant General Counsel  
Regulatory/Health, Environment and Safety  
Waste Management  
Houston, TX

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The Kheel Center on the Resolution of  
Environmental Interest Disputes  
Pace University School of Law  
New York, NY

**Sean F. Nolon**  
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Associate Professor of Law  
Vermont Law School  
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Senior Attorney & Regional Alternative  
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**Michelle Simon**  
Dean  
Pace University School of Law  
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**Linda Singer**  
President  
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**John J. Suloway**  
Vice President  
Project Development, Licensing &  
Compliance  
New York Power Authority  
White Plains, NY

**Edna R. Sussman**  
Hoguet Newman Regal & Kenney, LLP  
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**James T.B. Tripp**  
General Counsel  
Environmental Defense Fund  
New York, NY

**Honorable Curtis E. von Kann**  
Arbitrator & Mediator  
JAMS  
Washington, DC

**Daniel M. Weitz**  
Coordinator, ADR Programs  
New York State Unified Court System  
Office of Court Administration  
New York, NY

**Peter H. Woodin**  
Mediator & Arbitrator  
JAMS  
New York, NY

**Usha Wright**  
Visiting Scholar  
Environmental Law Institute  
Former Senior Vice President  
ITT Corporation  
Piermont, NY

# **THE RESOLUTION OF ENVIRONMENTAL INTEREST DISPUTES: AN EMERGING AREA OF PRACTICE**

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## **Agenda**

- 9:00 - 9:15 **Welcome & Introductions**  
*Stephen J. Friedman, John Nolon, Kathy Robb, Michelle Simon & Daniel M. Weitz*
- 9:15-10:15 **What Rights-Based Litigation Can Teach Us About the Successful Settlement of Environmental Interest Disputes**  
The traditional rights based litigation process will be described so that attendees can discover and discuss settlement successes in rights based-proceedings that can be adopted when resolving environmental interest disputes where rights are less defined and causes of action are less clear.  
Introduction: *Rachel E. Deming*  
Moderator: *Ridgway M. Hall, Jr.*  
*Eric R. Max, Linda Singer, Hon. Curtis E. von Kann, Daniel M. Weitz & Usha Wright*
- 10:15-10:30 **Break**
- 10:30-11:30 **Effective Advocacy of Environmental Disputes Before Administrative Tribunals**  
Many environmental disputes, including private sector permit requests, are resolved before administrative tribunals instead of courts. Learn how you can receive positive results when representing clients in administrative forums, including the use of collaborative processes.  
Introduction: *Pamela R. Esterman*  
Moderator: *William H. Hyatt, Jr.*  
*David C. Batson, James T. McClymonds, Steven M. Morgan, & Sean Nolon*
- 11:30 - 12:30 **Resolving Environmental Disputes in Non-Institutional Settings**  
Learn how to create or invoke new forums within which conflicts can be resolved and then use dispute resolution methods to settle them using the skills and techniques that you employ in traditional litigation settings. Negotiated rule making proceedings, administratively and legislatively declared policies, the development of local comprehensive land use plans or zoning laws, and collaborative groups created to present multi-stakeholder resolutions to legislatures or administrative bodies are examples of unofficial contexts that can be created within which conflicts can be resolved. The panel will draw on the experience of lawyers in more traditional institutional settings to present ideas for resolving interest-based disputes in contexts that supplement existing institutions.  
Introduction: *Christine A. Fazio*  
Moderator: *Peter H. Woodin*  
*Gail Bingham, Joseph Siegel, Edna R. Sussman & James T. B. Tripp*
- 12:30 - 1:30 **Luncheon**  
Will discuss issues Affecting the Lawyers' Involvement in Environmental Interest Dispute Resolution  
*Dean John D. Feerick & Robert J. Kheel*
- 1:30 - 2:45 **Breakout Session**  
Participants will break out with facilitators to discuss issues covered in Dean Feerick's luncheon presentation and to develop perspectives on the unique role of the lawyer in fact gathering and the resolution of environmental interest disputes.
- 2:45 - 3:00 **Break**
- 3:00 - 4:00 **Resolving Environmental Disputes in Non-Institutional Settings (Continued)**  
Panelists in this session will continue to describe the role of the attorney in non-institutional interest-based dispute resolution.
- 4:00 - 4:30 **Closing Remarks**  
*David Batson, Barry A. Brooks, Michael K. Lewis & John R. Nolon*

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**Live Program (includes materials):**

\$425 Member     \$545 Nonmember

**Walk in Registration (includes materials):**

\$450 Member     \$570 Non-member

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California     Illinois

### Registration Information

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**New York City Bar**  
 42 West 44th Street, New York, NY 10036

**To Register:** Call (212) 382-6663 or fax (212) 869-4451; mail registration form to the City Bar Center for CLE, 42 West 44th Street, New York, NY 10036 or register online at [www.nycbar.org](http://www.nycbar.org). Scholarships & Discounts: Financial scholarships are available; please call (212) 382-6663 for an application. All applications must be submitted 3 weeks prior to the program. 50% discounts off of member and non-member prices are available for government and public interest attorneys, students and academics. A 20% discount off of member and non-member prices are available for firms and corporations that register 4 or more people for a combination of programs or video replays.

**\*Non-legal Professionals Receive the Member Rate.**

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**Advance registration is advised. An additional fee of \$25 will be charged for "walk-in" registrations--those received later than 3:00 p.m. one business day prior to the program. Please allow 3-5 weeks for delivery of Tapes, CDs, DVDs and course materials. International orders will be sent by traceble means, and an additional charge for shipping will be named by the recipient.**

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