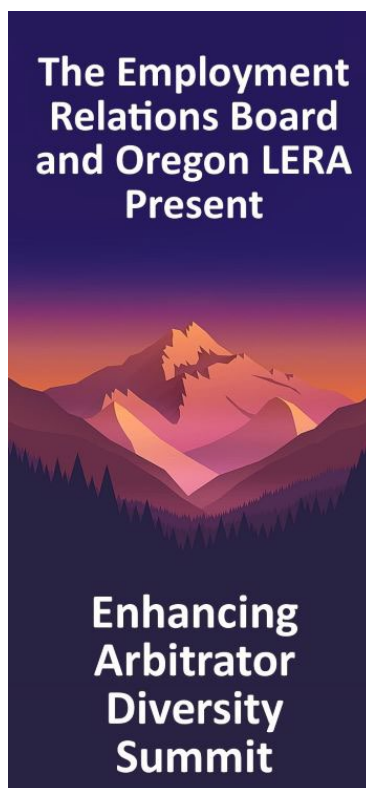


# Summary of Proceedings at the 2022 Summit on Enhancing Arbitrator Diversity

September 14, 2022



*Oregon LERA and Oregon ERB thank the members of the Summit Planning Committee:* Arbitrator Barbara Diamond; Sabrina Dunsworth, Mediation and Election Coordinator, Oregon ERB; Arbitrator Dorothy Foley; Shirin Khosravi, Board Member, Oregon ERB; Arbitrator Howell Lankford; Aruna Masih, Bennett Hartman LLP; Arbitrator Shianne Scott; Arbitrator Sandra Smith Gangle; Lisa Umscheid, Board Member, Oregon ERB; Hadley Underwood, University of Oregon School of Law, Conflict & Dispute Resolution Masters Candidate, 2023; Alex Wheatley, Fisher Phillips LLP.

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## **Background**

On September 14, 2022, the Oregon Employment Relations Board and the Oregon Chapter of the Labor and Employment Relations Association (Oregon LERA) convened the Summit on Enhancing Arbitrator Diversity. The Summit was a follow-up to an earlier conference sponsored by Oregon LERA in June 2021 on arbitrator diversity, which sparked a broad conversation in the Oregon labor relations community about the pressing need to increase the diversity of the labor arbitrator pool available to parties in Oregon. After that 2021 Oregon LERA conference, the Oregon Employment Relations Board held two well-attended public meetings in July 2021 with its stakeholders (public sector labor organizations and employers) to explore further how the Oregon arbitration profession can diversify to include arbitrators from traditionally underrepresented groups. Based on those discussions, Oregon LERA and Oregon ERB convened the 2022 Summit with a goal to generate ideas about how to increase the diversity of labor arbitrators available to parties in Oregon.

At the Summit, 51 people—including arbitrators, labor union representatives, and employer representatives—gathered to consider the current situation and brainstorm ideas for new initiatives. After hearing presentations, Summit participants were divided into four breakout groups. Each breakout group was asked to generate ideas about one of the following topics: (1) ideas to increase the pipeline of diverse arbitrators; (2) ideas to increase the selection rate of diverse arbitrators; (3) ideas to increase diversity, equity, and inclusion awareness in new and established arbitrators; and (4) suggestions for arbitrator roster keepers and professional organizations about how to increase arbitrator diversity.

## Summary of Initiatives and Projects Underway

### **The Ray Corollary Initiative**

The Ray Corollary Initiative (RCI) is a broad diversity initiative of the alternative dispute resolution community at the national level. The RCI's goal is to increase diversity, equity, and inclusion in the selection of neutrals in labor-management and employment law disputes, as well as other alternative dispute resolution processes. The RCI is a product of Homer C. La Rue and Alan Symonette's article, *The Ray Corollary Initiative: How to Achieve Diversity and Inclusion in Arbitrator Selection*, 63 How. L.J. 215 (2020). A copy of that article is attached to this report.

The RCI seeks to improve the appointment of diverse neutrals by encouraging supporters to sign an RCI pledge. The RCI pledge requires its signatories to seek to ensure that at least 30 percent of each arbitrator roster is made up of diverse neutrals. The RCI defines "diverse" candidates as Black, Latinx, Indigenous, Asian American Pacific Islander, other people of color, women, persons of the LGBTQ community, and persons living with disabilities. The 30 percent metric is based on studies demonstrating that candidates from underrepresented groups are substantially more likely to be selected if they are part of a candidate pool that includes at least 30 percent diverse candidates.

The RCI describes itself as the "natural outgrowth" of the American Bar Association House of Delegates Resolution 105, which was adopted in 2018. That resolution, introduced by the Section of Dispute Resolution, provides:

RESOLVED, That the American Bar Association urges providers of domestic and international dispute resolution to expand their rosters with minorities, women, persons with disabilities, and persons of differing sexual orientations and gender identities ("diverse neutrals") and to encourage the selection of diverse neutrals; and

FURTHER RESOLVED, That the American Bar Association urges all users of domestic and international legal and neutral services to select and use diverse neutrals.

See [www.americanbar.org/content/dam/aba/images/abanews/2018-AM-Resolutions/105.pdf](http://www.americanbar.org/content/dam/aba/images/abanews/2018-AM-Resolutions/105.pdf) for the text of the Resolution and its accompanying report. In their law review article, Arbitrators La Rue and Symonette highlighted a portion of the report in support of Resolution 105 as particularly important:

To enhance diversity and inclusion in Dispute Resolution, it is essential to shine a spotlight on the low level of diverse representation on neutral rosters and the special challenges created by the combination of the network-based culture within the profession, implicit bias, and the confidentiality that tends to obscure the degree to which Dispute Resolution lags behind the legal profession as a whole. By explicitly

linking ABA Goal III to Dispute Resolution, this Resolution provides precisely the spotlight needed to encourage active engagement on the part of all stakeholders with the ability to move the needle to increase representation of diverse neutrals on rosters, and to enhance their likelihood of success in the selection process.

See La Rue and Symonette, *The Ray Corollary Initiative: How to Achieve Diversity and Inclusion in Arbitrator Selection*, 63 How. L.J. at 241 (quoting American Bar Association, *Section of Dispute Resolution Report to the House of Delegates 105*, ABA (2018)).

The RCI achieved a number of notable accomplishments in 2021. The National Academy of Arbitrators adopted the RCI. A majority of Amtrak labor organizations agreed to include the 30 percent metric advocated by RCI in their agreements. The City of Philadelphia and the Fraternal Order of Police declared their intention to increase diversity in their selection of arbitrators, using a 40 percent metric. Also in 2021, the 130,000-member National Board of the National Rural Letter Carriers' Association unanimously adopted the RCI pledge. These and other developments in 2021 are included in RCI's year-end report for 2021, which is attached to this report, along with copies of the RCI pledges.

### **National Academy of Arbitrators Initiatives**

The National Academy of Arbitrators (NAA), through its Outreach Committee, is focusing on enhancing diversity by expanding the pipeline of aspiring arbitrators. The NAA is using a "salon" model, in which NAA arbitrators convene a "salon" of established arbitrators, new arbitrators, and aspiring arbitrators for the purpose of mentoring and training. Experienced arbitrators also introduce new or aspiring arbitrators to advocates, invite them to NAA meetings and events, and assist them in developing their practices. The NAA's "salons" operate through regional chairs. Arbitrator Elizabeth Wesman is the Regional Chair for the region encompassing Oregon. Arbitrator Howell Lankford is involved in the leadership of the Northwest Region Salon and is a valuable resource for new and aspiring arbitrators. Arbitrator Andrea Dooley has been actively involved in the Northern California Salon and is also a valuable resource.

The NAA has also pledged its support to the Ray Corollary Initiative.

### **Federal Mediation & Conciliation Service Mentoring Program**

Once having completed the FMCS course "Becoming a Labor Arbitrator (BALA)," a candidate for the FMCS Roster can join the *mentoring program*, shadowing a member(s) of the National Academy of Arbitrators (NAA). This is intended as both a learning experience for the candidate and a chance to appraise the candidate's potential as a labor arbitrator. The candidate accompanies the mentor arbitrator(s) to hearings in at least three cases (only two are required if the candidate has been evaluated and approved for the mock award written following the FMCS Institute BALA Course).

The mentor has at least one initial meeting or conversation with the candidate to discuss the background of the candidate, specific learning goals, and the arbitrator's general approach to labor arbitration. The discussion can also address mutual expectations and any geographic and scheduling parameters for hearing locations that will meet the mutual needs of the supervisor and the candidate.

When shadowing an arbitrator, the candidate is expected to keep careful notes at the hearing. At appropriate times during the hearing process, as well as after the conclusion of the hearing, and/or after receipt of briefs, the candidate and the arbitrator discuss the case, including procedural and substantive aspects. After the close of the record, the candidate writes a *shadow* opinion and award in the case and sends it to the arbitrator, who reviews and critiques it. The arbitrator also shares the actual written award in the case. Each shadow award becomes part of the candidate's application package and replaces the requirement for submission of awards issued as the arbitrator of record.

### **Oregon Employment Relations Board Resources for Arbitrator Mentoring**

The Oregon Employment Relations Board, which maintains an arbitrator panel for parties to labor disputes in the public sector in Oregon, is actively working to enhance labor arbitrator diversity.<sup>1</sup> Oregon ERB seeks to create and maintain a diverse panel of arbitrators so that it can meet the needs of labor organizations, public employers, and public employees who request arbitrator lists. Oregon ERB seeks to include arbitrators who are members of groups traditionally underrepresented in the arbitration profession. Qualified individuals from all background are encouraged to apply for membership on the ERB arbitration panel. The Oregon Conciliation Service, part of Oregon ERB, is available to answer questions from aspiring and newer arbitrators about how to become listed on the Oregon arbitrator roster.

Oregon ERB is working to facilitate mentoring and networking among arbitrators to ease entry into the profession by diverse arbitrators. Oregon ERB asks the arbitrators on its panel whether they are willing to mentor new and aspiring arbitrators and publishes that information to facilitate mentoring. State Conciliator Janet Gillman is also available to assist new and aspiring arbitrators who seek mentorship by introducing them to established arbitrators who are willing to serve as a mentor.

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<sup>1</sup>See OAR 115-040-0030 for information about the Oregon arbitration panel, and <https://www.oregon.gov/erb/Pages/ArbPanel.aspx> for information about qualifying and applying for the Oregon panel.

## **Summary of Ideas Generated at the Summit**

Listed below are ideas mentioned by speakers and panelists, as well as ideas generated by participants in the breakout groups.

### **Ideas to Increase the Pipeline of Diverse Arbitrators**

- Acknowledge and seek to change the fact the system is presently too circular—arbitrators are not included on panels until they are well-known and have issued decisions, but arbitrators cannot become well-known and issue decisions until they are on panels
- Establish formal mentoring programs for arbitrators (similar to the mandatory mentoring program for new Oregon lawyers to complete their admission to the Oregon State Bar)
- Employers and labor organizations explicitly agree to use diverse arbitrators (similar to the agreements between owners and contractors that require the use of diverse subcontractors and suppliers)
- Employers and labor organizations can jointly plan and sponsor an Arbitrator Diversity Project similar to the Oregon Mediator Diversity Project (<https://www.omdp.org/>). Such a project could, like the OMDP, include (a) skills training to become a neutral, (b) a supportive resource network for project alumni, and (c) commitments from parties to use diverse neutrals
- Increase awareness and use of contract language requiring the use of diverse arbitrators (see sample contract language attached to this report)
- Create formal arbitrator apprenticeship programs in which apprentice arbitrators write awards
- Educate aspiring arbitrators about the requirements to join arbitrator panels. Some requirements are being re-examined by roster keepers to ensure that new arbitrators are not excluded from membership on panels merely because they are new (for example, some roster keepers may count selection letters, in lieu of written decisions, to satisfy eligibility)
- Introduce new arbitrators to established arbitrators and to the parties
  - The salons through the NAA are a model
  - The “Meet the Arbitrator” program in Northern California, in which arbitrators attend full-day conferences to discuss arbitration-related topics, is a model
  - Use the resources available from Oregon ERB, such as its newsletter, to link arbitrators seeking a mentor with arbitrators willing to mentor
- Start this work at the law school level
- Include non-lawyers in all this work
- Introduce new arbitrators to established lawyers and parties

### **Ideas to Increase the Selection Rate of Diverse Arbitrators**

- Parties can use contract language requiring the selection of diverse arbitrators (see sample contract language attached to this report)

- Parties can agree to use different panels for different types of cases (for example, disciplinary warning and suspension grievances could be heard by arbitrators newer to the profession, while more experienced arbitrators hear termination and contract interpretation grievances)
- Publicize and encourage advocates and law firms to sign the RCI pledge for advocates.
- Parties can seek lists from roster keepers that contain at least 30 percent diverse arbitrators.<sup>2</sup>

### **Ideas to Increase Diversity, Equity, and Inclusion Awareness in New and Established Arbitrators**

- Create new institutions that create belonging from the beginning
- Offer or encourage training in basic DEI skills to create awareness (for example, training on implicit bias, equity, and inclusion)
- Offer or encourage trauma-informed training, particularly in the areas of discharge, sexual harassment, and other problematic workplace situations
- Create awareness of instances in which arbitrators are repeating systems that exacerbate inequity or discourage inclusion
- LERA and the National Academy of Arbitrators can collaborate more closely and offer training and skills development in this area
- Involve the labor and employment section of the Oregon State Bar in providing skills development and training
- Involve other organizations for outreach<sup>3</sup>
- Acknowledge, question, or interrupt when an established arbitrator is creating a barrier for new arbitrators
- Encourage the National Academy of Arbitrators to allow non-NAA members to attend meetings to encourage access and professional development
- Start this work at the law school level
- Include non-lawyers in all this work
- Introduce new lawyers to established lawyers and parties

### **Suggestions for Arbitrator Roster Keepers and Professional Organizations**

- Organize and sponsor video gatherings of arbitrators to meet one another
- Ask arbitrators to provide self-identify as diverse

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<sup>2</sup>Several participants noted the importance of making sure that arbitrators who are added to rosters receive adequate training and mentoring.

<sup>3</sup>Other professional organizations involved in work that touches labor relations include the Labor Education & Research Center at the University of Oregon (<https://lerc.uoregon.edu/>), the Oregon Public Employer Labor Relations Association (<https://or.npelra-states.org/>), the Oregon Chapter of the International Public Management Association for Human Resources (IPMA-HR) (<https://ipmaoregon.org/About-Us>), the Oregon State Bar Labor and Employment Section, and the Local Government Personnel Institute (<https://www.lgpi.org/lgpi>).



- Collect demographic information about arbitrators
- Collaborate with Oregon’s affinity bar associations<sup>4</sup>
- Collaborate with FMCS and maintain regional lists of arbitrators
- Create communication channels between professional organizations (such as LERA) and roster keepers (such as ERB) to encourage referrals to arbitrator lists and create professional development opportunities for arbitrators and aspiring arbitrators
- Provide lists of diverse arbitrators
- Develop ways to disseminate information about how to become an arbitrator
- Explore funding for roster keepers to supply arbitrators at discounted rates to parties (to alleviate the economic burden on new arbitrators starting their practices)

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<sup>4</sup> Oregon’s affinity bar associations include the Northwest Indian Bar Association (NIBA), OGALLA—Oregon’s LGBTQ Bar Association, the Oregon Asian Pacific American Bar Association (OAPABA), the Oregon Chapter of the National Bar Association (OC-NBA), the Oregon Chinese Lawyers Association (OCLA), the Oregon Filipino American Lawyers Association (OFALA), the Oregon Hispanic Bar Association (OHBA), Oregon Minority Lawyers Association (OMLA), the Oregon Muslim Bar Association (OMBA), Oregon Women Lawyers (OWLS), the South Asian Bar Association (SABA-Oregon), and the Oregon Arab Iranian Bar Association.

## Resources and Information

### Sample Documents

#### Sample Contract Language

Upon demand for arbitration, both parties shall immediately petition the Federal Mediation & Conciliation Service for the names of seven (7) arbitrators. Such list must contain at least 30% of diverse arbitrators as defined by Resolution 105 of the ABA House of Delegates. If the list does not comply, each party must add one diverse arbitrator and within seven (7) calendar days from receipt of the list (or the addition of two diverse arbitrators), the two (2) parties shall select one (1) name from it by alternatively crossing off a name until one (1) remains, with the grieving party striking first. This process for selecting an arbitrator need not be followed if both parties agree on any person as impartial arbitrator.

Submitted by Todd A. Lyon

Any dispute arising out of or relating to this contract, including the breach, termination or validity thereof, shall be finally resolved by arbitration in accordance with the International Institute for Conflict Prevention and Resolution (“CPR”) [Rules for Administered Arbitration](https://www.cpradr.org/resource-center/model-clauses/arbitration-model-clauses/diversity-focus) (the “Administered Rules” or “Rules”) by (a sole arbitrator) (three arbitrators, of whom each party shall designate one, with the third arbitrator to be appointed by CPR) (three arbitrators, of whom each party shall designate one, with the third arbitrator to be designated by the two party-appointed arbitrators) (three arbitrators, of whom each party shall designate one in accordance with the screened appointment procedure provided in Rule 5.4) (three arbitrators, none of whom shall be designated by either party). The parties agree that however the arbitrators are designated or selected, at least one member of any tribunal of three arbitrators shall be a member of a diverse group, such as women, persons of color, members of the LGBTQ community, disabled persons, or as otherwise agreed to by the parties to this Agreement at any time prior to appointment of the tribunal. Where CPR is to nominate or select the arbitrators, CPR will convene the parties to discuss the selection. In the event the parties desire multiple qualifications, if CPR is unable to accommodate a qualification specified by the parties and diversity, CPR may use its discretion to nominate or appoint a diverse candidate or candidates to serve on the tribunal. [The arbitrator(s), and not the court, shall have primary responsibility to hear and determine challenges to the jurisdiction of the arbitrator(s). OR The court, and not the arbitrator(s), shall have primary responsibility to hear and determine challenges to the jurisdiction of the arbitrator(s).] The arbitration shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1 et seq., and judgment upon the award rendered by the arbitrator(s) may be entered by any court having jurisdiction thereof. The place of the arbitration shall be (city, state).

<https://www.cpradr.org/resource-center/model-clauses/arbitration-model-clauses/diversity-focus>

*The parties agree that, wherever practicable, they will seek to appoint a fair representation of diverse arbitrators (considering gender, ethnicity and sexual orientation), and will request*

*administering institutions to include a fair representation of diverse candidates on their rosters and list of potential arbitrator appointees.*

<https://www.jamsadr.com/inclusion-clause>

### **Article 3: Arbitrator roster, selection, qualifications and disclosure**

1. Not later than 90 days after the signing of their enforceable brand agreement, parties shall agree on a standing roster of no less than ten potential arbitrators with specific expertise in international human rights, labor rights, and labor standards. Parties may also take into account expertise in sub-specialties such as occupational safety & health, employment discrimination, freedom of association, collective bargaining systems, gender justice, labor standards enforcement, migrant labor, prevailing labor and commercial practices of the relevant industry, familiarity with labor laws of the host country, labor contract interpretation, and others that parties consider relevant. Parties shall make every effort to establish a roster reflecting balance among gender, ethnicity, country or region of origin, language, and other diversity considerations among candidates with the requisite expertise.

<https://laborrights.org/sites/default/files/publications/%20Model%20Arbitration%20Clauses%20for%20the%20Resolution%20of%20Disputes%20under%20Enforceable%20Brand%20Agreements.pdf>

### **Sample Diversity Pledges and Resolutions**

“The parties agree that, wherever practicable, they will seek to appoint a fair representation of diverse arbitrators (considering gender, ethnicity and sexual orientation), and will request administering institutions to include a fair representation of diverse candidates on their rosters and list of potential arbitrator appointees.” (JAMS Proposed Pledge for Diversity and Inclusion)

RESOLVED, That the American Bar Association urges providers of domestic and international dispute resolution services to expand their rosters with minorities, women, persons with disabilities, and persons of differing sexual orientations and gender identities (“diverse neutrals”) and to encourage the selection of diverse neutrals; and RESOLVED, That the American Bar Association urges all users of domestic and international legal and neutral services to select and use diverse neutrals. (ABA Resolution 105)

“We ask that our outside law firms and counterparties include qualified diverse neutrals among any list of mediators or arbitrators they propose. We will do the same in lists we provide.” (CPR Proposed Diversity Pledge)

As a group of counsel, arbitrators, representatives of corporates, states, arbitral institutions, academics and others involved in the practice of international arbitration, we are committed to improving the profile and representation of women in arbitration. In particular, we consider that women should be appointed as arbitrators on an equal opportunity basis. To achieve this, we will take the steps reasonably available to us – and we will encourage other participants in the arbitral process to do likewise – to ensure that, wherever possible:

- committees, governing bodies and conference panels in the field of arbitration include a fair representation of women;
- lists of potential arbitrators or tribunal chairs provided to or considered by parties, counsel, in-house counsel or otherwise include a fair representation of female candidates;
- states, arbitral institutions and national committees include a fair representation of female candidates on rosters and lists of potential arbitrator appointees, where maintained by them;
- where they have the power to do so, counsel, arbitrators, representatives of corporates, states and arbitral institutions appoint a fair representation of female arbitrators;
- gender statistics for appointments (split by party and other appointment) are collated and made publicly available; and
- senior and experienced arbitration practitioners support, mentor/sponsor and encourage women to pursue arbitrator appointments and otherwise enhance their profiles and practice. (The “Equality in Arbitration” Pledge)

<https://journals.library.wustl.edu/lawreview/article/4435/galley/21268/view/>



# RAY COROLLARY INITIATIVE, INC.

## Mission Statement

The mission of RCI Inc. is to increase the diversity, equity, and inclusion in the selection of arbitrators, mediators, and other ADR neutrals. It will do this by encouraging commitment to the RCI Pledge and otherwise providing research and tools to support the selection of diverse neutrals.

## RCI™ Pledge Preamble

The American Bar Association has been a leader in promoting diversity, equity, and inclusion efforts, specifically regarding the elimination of bias and enhancing diversity in the legal profession. In 2018, the ABA's House of Delegates adopted Resolution 105,<sup>5</sup> which was aimed at increasing diversity in dispute resolution because parties, society and justice are best served when neutrals reflect the broader community.<sup>6</sup>

In response to the call to action of ABA Resolution 105, the Ray Corollary Initiative™ was launched to encourage ADR providers and selectors to strive for their slates or rosters of proposed neutrals for any given matter to include at least 30% of diverse neutral candidates (defined as Black, Hispanic, Latino/a/x, Indigenous, Asian American Pacific Islander ("AAPI"), other people of color, women, persons of differing sexual orientations and gender identities, and persons living with disabilities) and drive accountability by tracking selections from those slates or rosters.

Social Science empirical research has demonstrated that when 30% or more of a final slate of candidates is diverse, the statistical chance of selecting a diverse candidate is disproportionately higher. The converse is true: when less than 30% of the slate is diverse, the chance of selecting a diverse candidate diminishes nearly to zero (collectively, the "30% metric"). Meeting the 30% metric has been shown in other contexts to have the effect of expanding and promoting diverse persons in positions of importance.<sup>7</sup>

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<sup>5</sup> In part, ABA Resolution 105 "... urges providers of domestic and international ... dispute resolution to expand their rosters ... to encourage the selection of diverse neutrals; and ... urges all users of domestic and international ... neutral services to select and use diverse neutrals." [105.pdf \(americanbar.org\)](#).

<sup>6</sup> See ABA Dispute Resolution Section, ABA Resolution 105 Report to House of Delegates at 1 (Aug. 2018).

<sup>7</sup> Stefanie K. Johnson, David R. Hekman, & Elsa T. Chan, *If There's Only One Woman in Your Candidate Pool, There's Statistically No Chance She'll Be Hired*, HARVARD BUS. REV. REPRINT H02U2U at 2-3, 6.



## **RCI™ PLEDGE FOR ARBITRATION SERVICE PROVIDER<sup>8</sup>**

**In furtherance of our commitment to diversity, equity, and inclusion**

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**(Name of Organization)**

**pledges to set as a goal to include at least 30% diverse neutrals (defined consistently with ABA Resolution 105 as persons who are Black, Hispanic, Latino/a/x, Indigenous, AAPI, other people of color, women, persons of differing sexual orientations and gender identities, and persons living with disabilities) as candidates on any list (three or more) from which the neutrals for a given matter are ultimately selected. We will ask our outside law firms and counterparties to do the same.**

**To further drive accountability, we will track the percentage of diverse neutrals proposed in matters where we propose a roster of arbitrators from which neutrals will ultimately be selected. To the extent possible, we will track the percentage of diverse neutrals that are appointed in matters where we propose or appoint neutrals.**

Organization/Firm	
Organization/Firm Website	
Signatory	
Job Title	
Email	
Commit to the RCI™ Pledge	We commit to the RCI™ Pledge.
Date of Commitment	

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<sup>8</sup> The language of the Pledge will be modified to identify the entity taking the Pledge.



## **RCI™ PLEDGE FOR ADR USERS<sup>9</sup>**

**In furtherance of our commitment to diversity, equity, and inclusion**

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**(Name of Organization)**

**pledges to set as a goal to include at least 30% diverse neutrals (defined consistently with ABA Resolution 105 as persons who are Black, Hispanic, Latino/a/x, Indigenous, AAPI, other people of color, women, persons of differing sexual orientations and gender identities, and persons living with disabilities) as candidates on any list (three or more) from which the neutrals for a given matter are ultimately selected. We will ask our outside law firms and counterparties to do the same.**

**To further drive accountability, we will track the percentage of diverse neutrals proposed in matters where we propose a roster of arbitrators from which neutrals will ultimately be selected. To the extent possible, we will track the percentage of diverse neutrals that are appointed in matters where we propose or appoint neutrals.**

Organization/Firm	
Organization/Firm Website	
Signatory	
Job Title	
Email	
Commit to the RCI™ Pledge	We commit to the RCI™ Pledge.
Date of Commitment	

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<sup>9</sup> The language of the Pledge will be modified to identify the entity taking the Pledge.



## **RCI™ PLEDGE FOR LAW FIRMS<sup>10</sup>**

**In furtherance of our commitment to diversity, equity, and inclusion, and subject to the direction of the parties we represent,**

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**(Name of Organization)**

**pledges to set as a goal to include at least 30% diverse neutrals (defined consistently with ABA Resolution 105 as persons who are Black, Hispanic, Latino/a/x, Indigenous, AAPI, other people of color, women, persons of differing sexual orientations and gender identities, and persons living with disabilities) as candidates on any list (three or more) from which the neutrals for a given matter are ultimately selected.**

**To further drive accountability, we will track the percentage of diverse neutrals proposed and/or appointed in any matters where we represent any Party.**

**With permission of our clients, we will also help our clients track the percentage of diverse neutrals proposed and/or appointed in their matters where we represent them.**

Organization/Firm	
Organization/Firm Website	
Signatory	
Job Title	
Email	
Commit to the RCI™ Pledge	We commit to the RCI™ Pledge.
Date of Commitment	

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<sup>10</sup> The language of the Pledge will be modified to identify the entity taking the Pledge.



## **Articles and Reports**

[“The Ray Corollary Initiative: How to Achieve Diversity and Inclusion in Arbitrator Selection,” 63 How. L.J. 215 \(2020\)](#)

[Ray Corollary Initiative Inc. End-of-Year Report, 2021](#)

[NAA, “Diversity, Equity, Inclusion, and Belonging: A Strategic Plan, Special Committee Report to the Board of Governors,” January 26, 2022](#)

## Summit Presenter and Panelist Biographies

### **Trevor Caldwell**

Trevor Caldwell is an attorney at Miller Nash LLP in Portland. He represents public and private employers in labor relations and employment law matters. His labor relations practice focuses on negotiating collective bargaining agreements, contract administration, arbitration, and representing clients before state and federal agencies. Trevor provides labor relations advice and counsel to clients with the understanding that parties to a collective bargaining agreement, whether in the private or public sector, are in an ongoing relationship that will outlast the disputes that invariably arise. Trevor previously served on active duty as a captain in the U.S. Army and has been a member of the Oregon National Guard since leaving active duty. He currently serves as an attorney in the Office of the Staff Judge Advocate (JAG).

### **Barbara Diamond**

Barbara J. Diamond (she/they) is a labor arbitrator and mediator with over 35 years of experience in labor & employment law based in Portland, Oregon. She is on the panels of the American Arbitration Association, the Oregon ERB, the Washington PERC, the Washington PERC police discipline panel, the LA ERB, and FMCS. She focuses on resolving disputes in the public sector, police & fire, health care, and K-12/University settings. In addition, she provides diversity training and consulting to both labor & management. Her current research is on the application of trauma-informed principles to the field of alternative dispute resolution. She is a proud graduate of the NYU School of Law and Binghamton University.

### **Andrea Dooley**

Arbitrator Andrea Dooley hears cases throughout California, Nevada and Alaska. Arbitrator Dooley has broad experience with parties in the public and private sectors, including healthcare, education, higher education, building services, building trades, entertainment, shipping, transportation, and service industries. Arbitrator Dooley is a member of the National Academy of Arbitrators. Prior to becoming an arbitrator, Arbitrator Dooley represented unions and trust funds and practiced as management counsel to labor organizations and nonprofits. Arbitrator Dooley has experience in labor-management partnerships, national contract negotiations, interest-based bargaining, and occupational safety and health. Arbitrator Dooley received her bachelor's and master's degrees from the University of Chicago and her JD from Chicago-Kent College of Law, where she specialized in Labor and Employment Law. Arbitrator Dooley is a Lecturer at Berkeley Law and the author of *The Beginner's Guide to Labor Arbitration Practice* and *The Labor Arbitration Career*.

### **Dorothy Foley**

Dorothy Foley is a labor arbitrator based in Tualatin, Oregon. She is listed on several arbitration panels including Oregon, Washington, California and the Federal Mediation and Conciliation Service. For approximately 30 years she was assigned to the Newark, NJ office of the National Labor Relations Board, moving from field attorney to supervisory attorney to deputy regional

attorney where she investigated and tried numerous cases alleging violations of the National Labor Relations Act. She received her BA from Fairleigh Dickinson University, her MA in English from Northeastern University, her MA in Political Science from Fairleigh Dickinson University and her JD from the Benjamin N. Cardozo School of Law of Yeshiva University.

### **Janet Gillman**

Janet is the State Conciliator with the Oregon Employment Relations Board (ERB) where she serves as program administrator and chief mediator for the Conciliation Services Division, providing mediation for public sector collective bargaining disputes, contract grievances, unfair labor practice complaints, state personnel action appeals, and other worksite issues. She also provides training and facilitation for interest based bargaining and other labor-management problem solving processes. Janet began her career in labor relations in Oregon's public sector over twenty years ago and served as an ERB Mediator for 5 years prior to being appointed State Conciliator in 2013. She holds a BS in Sociology and Psychology from Portland State University and an MS in Industrial Relations from the University of Oregon.

### **Isela Ramos Gonzalez**

Isela Ramos Gonzalez has dedicated over 15 years of her labor and employment career to law, policy, and organizing. She is proud to have been selected by the National Labor Relations Board as an Honors Attorney and to have been a two-time recipient of the Peggy Browning Fellowship while in law school. She has served as in-house counsel and staff attorney to Oregon labor unions and now works at the Oregon Bureau of Labor and Industries. She is a graduate of Wellesley College and Northeastern University School of Law. She is admitted to practice law in Oregon and her home state of California. During the pandemic, she joined a founding group now known as the Oregon Mediator Diversity Project board. In the spring 2022, she and a class of diverse attorneys participated as the first inaugural cohort of the project's 40-hour mediation training; the project is featured in the August/September 2022 OSB Bulletin.

### **Steve Irvin**

Steve Irvin has been a State Mediator for the Oregon Employment Relations Board in Salem since 2019. He moved to Oregon from Washington state, where he was a mediator and hearing examiner for the Public Employment Relations Commission in Olympia. Following a 25-year career as a newspaper editor and reporter in Oregon, Nevada and California, he entered the labor relations field in 2010 after completing his Masters degree in Conflict and Dispute Resolution at the University of Oregon School of Law.

### **Phil Johnson**

Phil Johnson is a State Mediator with the Oregon Employment Relations Board. Phil assists public employers and unions throughout Oregon resolve disputes concerning labor relations. He provides mediation services to help resolve collective bargaining disputes, grievances under collective bargaining agreements, and unfair labor practice cases. Phil also provides joint trainings for labor and management representatives and provides facilitation services as needed. Prior to joining

ERB, Phil was ADR Coordinator for Right of Way within the Oregon Department of Transportation (ODOT). In that role he assisted ODOT resolving condemnation, access management, and outdoor advertising disputes with property owners. Phil started his career in state government with the Building Codes Division of the Department of Consumer and Business Services (BCD). He was a union steward and served on the bargaining team. Prior to his time in state government, Phil was a Deputy District Attorney and also represented clients in litigation and arbitration in private practice. Phil is a member of the Labor and Employment Relations Association Oregon Chapter and the Oregon Mediation Association. He received his JD and Certificate in Dispute Resolution from Willamette Law School in Salem.

### **Howell Lankford**

Howell L. Lankford has been in private practice as a full-time labor relations arbitrator and mediator since 1984 (after being an ALJ for the Oregon Employment Relations Board from 1979 to 1984). He is a past Governor, a past Northwest Regional Chair, and past national Membership Committee Chair of the National Academy of Arbitrators, a past Chair of the Oregon State Bar Labor & Employment Law Section, founder and past Editor of the *Washington Labor Law Digest*, past Editor of the annual University of Oregon PERC Casebooks and of the LERC Monograph series, including *Individual Statutory Rights of Represented Employees*, author of the Oregon State Bar *Public Sector Labor & Employment Law* CLE chapter on enforcing public sector collective bargaining agreements (1990, 1994, 1997, 2002, & 2011). He is on the public panels of the FMCS, AAA and of labor relations agencies in Washington, Oregon, Montana, and Hawaii and is on a variety of limited panels throughout the Northwest, including: State of Alaska & APEA; State of Alaska & ASEA; State of Washington & WFSE; State of Oregon & SEIU (sole classifications arbitrator between those parties); Anchorage School Dist. & Teamsters; Oregon State Hospitals (nurse units) & AFSCME; Oregon Health Science University & AFSCME; Oregon Health Science University & Oregon Nurses Assn.; University of Washington & SEIU; IAM and Boeing; and ATC & The FAA (Prearb Panel). He holds a BA from Reed College, an MA (K.Phil.) from Northwestern University (Evanston, IL), and a JD from the University of Oregon and has taught philosophy (University of Alabama) and labor law and arbitration (University of Oregon LERC, FMCS, and AAA). He presents workshops throughout the year for any interested organization, on either side of the isle, at no cost other than expenses.

### **Aruna Masih**

Aruna Masih is a partner with the law firm of Bennett Hartman LLP, where she practices labor and employment law from the union/employee side. She currently serves on the Board of Directors of the Multnomah Bar Association (MBA) and as the Vice President for the South Asian Bar Association of Oregon (SABA). She is the child of a Punjabi Indian father and British mother who spent her formative years in India and returned to this country in High School. She has previously served as the Chair of the Oregon State Bar's Advisory Committee for Diversity and Inclusion (ACDI) and of the Labor & Employment Section Executive Committee.

### **Arthur Pearlstein**

Arthur Pearlstein is the Director of Arbitration and the Director, Office of Shared Neutrals at the Federal Mediation & Conciliation Service in Washington, D.C. FMCS Director of Arbitration; Director, Office of Shared Neutrals. He previously served FMCS as a field mediator, as general counsel, and as head of the Agency's ADR and International Program. Arthur was also inaugural director of the Werner Institute for Negotiation and Dispute Resolution and Professor of Law at Creighton University in Omaha. He is co-author of a textbook on dispute resolution and the author of the chapter on arbitration (*Dispute Resolution: Readings and Case Studies*, 3rd Ed. 2011, Edmond Montgomery pub.) He was a contributing author of *The Legal Guide to Human Resources* (West pub.) and wrote sections on dispute resolution. He has presented on arbitration as well as conflict systems at a variety of conferences, programs, and trainings across the United States and overseas. Arthur is a Fellow with the College of Labor and Employment Lawyers. Arthur received his J.D. with honors from Harvard Law School, holds a master's in dispute resolution from the Straus Institute for Dispute Resolution at Pepperdine University in California, and a B.A. from Haverford College in Pennsylvania.

### **Liani Reeves**

Liani Reeves is a shareholder and President of Bullard Law, a boutique management-side labor and employment law firm in Portland, Oregon. Liani's current practice includes representing public and private employers in litigation, providing advice and training to employers, and conducting investigations into sensitive and high-profile matters, including sexual misconduct, government ethics violations, and harassment and discrimination. Liani has extensive experience working with public clients. As the former General Counsel to the Oregon Office of the Governor, Liani advised on a wide range of legal issues, including employment, government transparency, First Amendment issues, public safety, and government ethics. She managed all of the Governor's Office public records requests, the State's most high-profile litigation, and triaged the myriad of legal issues that flow through the Office of the Governor. She understands the need to balance legal, policy, and public relations interests in decisions involving a highly scrutinized client. Prior to working for the Governor, she spent almost a decade as an Assistant Attorney General and Deputy Chief Trial Counsel for the Oregon Department of Justice Trial Division, primarily handling employment matters for large state agencies. Liani devotes significant time to issues involving women and minorities in our community. She serves on the board of The Immigrant Story, a nonprofit organization that documents, narrates, and curates stories about immigrants in the United States in an effort to promote empathy and an inclusive community. She is the former past president of the Oregon Asian Pacific American Bar Association and the former co-chair of the Oregon Minority Lawyers Association. In 2020, she served as the Oregon State Bar President, the first woman of color and first Asian American to hold that position.

### **Adam Rhynard**

Adam Rhynard is the Chair of the Oregon Employment Relations Board. Adam was first appointed to the ERB by the Governor as a Board Member effective March 15, 2013. He was reappointed to a four-year term effective October 1, 2015, and subsequently was appointed as the Chair effective

October 1, 2016. Before being appointed to the ERB, he worked for the Oregon Workers' Compensation Board. Before that, he practiced extensively in the areas of labor, employment, and campaign finance law, primarily in New York. He received his J.D. from Northeastern University School of Law, and his B.F.A. and M.A. from the University of Arizona.

### **Shianne Scott**

Shianne Scott has over twenty-five years of combined labor/employment experience. Ms. Scott is currently a labor arbitrator and mediator and principal of Scott Dispute Resolution. Ms. Scott previously worked as an Administrative Law Judge for the State of Oregon and is the former Civil Service Board Administrator and Labor Relations Coordinator for the City of Portland.

### **Sandra Smith-Gangle**

Sandra Smith Gangle earned her JD degree at Willamette University in 1980. She practiced law in Salem from 1980 to 2017, serving as partner with Depenbrock and Gangle from 1986 to 1996. She was approved as a labor arbitrator in 1985 and decided labor grievances throughout the Pacific Northwest and California until her retirement in 2017. She served as City of Keizer land use hearings officer from 1985 to 1991 and was a court connected mediator in Marion County. Gangle published many articles on labor relations topics for professional journals and published her memoir, "Madam Arbitrator," in 2021.

### **Whitney Stark**

Whitney Stark is a partner at Albies, Stark & Guerriero where she represents employees in a wide range of cases, including employment discrimination, wage and hour violations, and class actions. She also exclusively counsels labor unions, in both the public and private sector, providing advice and representation on negotiations, grievances, arbitrations, and other matters unique to labor.

### **Elizabeth Wesman**

Elizabeth Wesman is a full-time labor arbitrator, based in Camas, Washington. She is also an Emeritus Professor from the Martin J. Whitman School of Management at Syracuse University, where she taught Labor Relations, Arbitration and Human Resource Strategy courses for 20 years. She was admitted to the National Academy of Arbitrators in 2001 and is listed on several labor arbitration panels, including the Federal Mediation and Conciliation Service, the American Arbitration Association, the National Mediation Board, the Oregon Employment Relations Board, and the Washington Public Employment Relations Commission. Ms. Wesman is past President of the NAA Research and Education Fund and past President of the National Association of Railroad Referees. She holds a Ph.D. from the New York State School of Industrial and Labor Relations at Cornell University. Her academic research and published works have been primarily in the areas of conflict resolution, employment discrimination, and arbitration of Title VII disputes. She has also lectured at numerous management and labor training programs. and in the School of Professional Psychology at Pacific University in Portland Oregon.

**Alexander Wheatley**

Alex Wheatley is a partner in Fisher Phillips' Portland and Seattle offices. Alex's practice focuses on employment litigation, labor management relations, and counseling employers on Oregon and Washington employment and labor issues. He has substantial experience working with employers of all sizes to create and implement legally compliant policies and practices, provide counsel with respect to discipline and termination decisions, and defend against lawsuits and administrative complaints. Alex is a regular speaker at employment conferences and before trade groups. Alex is also an avid researcher and writer, has authored numerous articles for various publications, and is a contributing editor to *The Developing Labor Law*.

**Diana Winther**

Diana Winther is both a member of and General Counsel for the International Brotherhood of Electrical Workers, Local 48, which has jurisdiction in Oregon and Southwest Washington. She assists with contract negotiations and grievances, as well as advises her client in its role as an employer. Diana also acts as a representative of her Union in various roles, including as the current President of the Oregon Labor and Employment Relations Association, as a Trustee on the Harrison Electrical Workers Trust Fund, and as President of the Cowlitz-Wahkiakum Central Labor Council. She also served on the Management-Labor Advisory Committee for Workers' Compensation (MLAC) from 2016 until 2021, including as the Labor Co-Chair from 2017 until the end of her term, and on the Public Service Advisory Committee for the Oregon State Bar from 2015 to 2018. Diana received her J.D. from Lewis and Clark, and while there received credit for externships with the ACLU of Oregon, the Northwest Workers' Justice Project, the Oregon Education Association, the Labor Education and Research Center at the University of Oregon, and clerked for a year at St Andrew Legal Clinic, which serves low-income families with their family law needs.