

The Future of Dispute Resolution is Here

BRIDGET M. MCCORMACK TALKS ABOUT THE FUTURE OF ARBITRATION AND HER ROLE AS PRESIDENT & CEO OF AMERICAN ARBITRATION ASSOCIATION.

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BRIDGET McCORMACK
AMERICAN ARBITRATION ASSOCIATION

► **Bridget M. McCormack talks about the future of arbitration and her role as President & CEO of American Arbitration Association.**

Please tell us what led you to join the American Arbitration Association and take on your current role?

I was finishing my term as the Chief Justice on the Michigan Supreme Court. The Michigan Supreme Court has a strong norm that the chiefs who are selected by their peers serve two two-year terms, and I was finishing my second term. And so I was actively thinking about my next professional challenge at the same time that the American Arbitration Association (AAA) was looking for a new leader. AAA is such an important institution in Alternative Dispute Resolution and its role in delivering on the mission of access to justice.

The AAA was founded to help the courts deliver on their important mission and that made it an exciting opportunity for me. Luckily, the AAA Board of Directors thought so too, and here I am. I went from running a public dispute resolution system to running a private dispute resolution system that supports the public one. I care deeply about our public dispute resolution systems functioning well. That's where most people have to go to manage their disputes. But the private dispute resolution infrastructure that supports the public dispute resolution system is a critical part of the ecosystem; it's exciting to be able to serve this part of the ecosystem.

Please share some insight into your leadership style and who or what has influenced you along the way.

When people ask me about my leadership style, it always seems to me it might make more sense to ask the people with whom I work. They'd have a more accurate answer I



bet! My leadership style simply reflects my personality; I don't have the bandwidth to try and be somebody at work that doesn't align with who I am not at work. I'm authentic, collaborative, curious, and really interested in hearing from people across my organization--and not just the ones who are on my calendar week to week. I like input from as many people as possible. I am always more successful when collaborating with others.

What's influenced me along the way has been observing lots of examples of effective leaders and less effective leaders. I've had four "career chapters," and they've all been significantly different. Each one has given me opportunities to see leadership that works very well as well as some that works less well. I don't need to name names, but I consider myself lucky to have had all those different opportunities in different contexts to see what makes leaders effective

Please talk to us a little bit about the qualities you look for when you're putting your team together or amending your team.

It depends on the team and the organization. Sometimes there are just gaps, gaps in my knowledge or skills that I need to fill. For example, there are a lot of people who have worked at AAA for a long time who have real expertise in our organization and our industry that I don't have yet, so they're an important part of the leadership team. I appreciate having people on my leadership team who are comfortable disagreeing with me--they are excellent thought partners in making all of our ideas better. I want to hear when one of my ideas might not be a great idea. The ability to tell me that is an important quality in the people on my team.

I like people who are curious and interested in thinking about whether we've always done things a certain way because that's the best way. I have a slide that I use in presentations titled "Just because we've always done it that way, doesn't mean it's not incredibly stupid," that has a picture of somebody running with the bulls. AAA actually is tremendously innovative, with a continuous improvement organizational mindset, so it's an exciting organization in

that way. That's one of my biggest surprises about it--that it has such a strong culture of innovation. Innovation is often hard in courts, for lots of understandable reasons--public funding, elected leaders, lagging infrastructure. I like to have people around me who question orthodoxy.

We've just finished innovation training for every AAA staff member, a big segment of which is about idea flow--how the more ideas you generate, the more likely you are to come up with a good one. There's good data on that--the importance of numerosity of idea generation to successful innovation.

Please talk to us a little bit about the culture of the organization.

The culture of an organization is so fundamental because, as you know, culture eats strategy for lunch (or breakfast or whatever your favorite meal is). It just does. It doesn't matter how good your strategy is if your culture is going to devour it. I inherited a great culture to build on and build from-- a culture of innovation, a culture of curiosity, a caring and kind culture, and one that values upstream thinking.

That's a luxury, because it means you have a strong foundation from which to build and grow. We can focus on what our customers need, instead of fixing a broken culture before turning to our core business.

So we can focus on the upstream ways we can help our customers. We can think about where is the puck headed in dispute resolution. We're excellent at managing today's disputes. But so much is changing in our industry, that we are also prepared to go where the puck is headed. A strong organizational culture is critical to doing that well. More critical than the specific strategic plan that ends up on paper.

Can you share any advice you've received throughout your career that has impacted your leadership style?

I don't remember any specific advice I've ever gotten, but I end up giving it a lot. I mentored a lot of law clerks, and lots of law students too, as I have taught on a law school faculty

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since 1996. My career has been a series of lucky accidents. For example, my first job out of New York University School of Law was as a Legal Aid Society lawyer trying cases in Manhattan. The legal aid lawyers were in a union and in 1994, we went on strike. On the second day of the strike, the mayor of the city of New York canceled the Legal Aid Society's contract. We all got fired, so I had to go get a different job.

That led me to my first job in legal education, a teaching job at Yale Law School. Law school teaching had not been on my radar! I started a very happy academic career because I had been fired. That job led me to a tenure track position at the University of Michigan. And from there, I was elected to the Michigan Supreme Court. In other words, it was a series of accidents.

Not having too much of a plan can actually be an effective plan. I always tell the students and the clerks that I mentor to be a little bit open to calling an audible and to give yourself space to see opportunities that come along and surprise you.

The average career is almost never linear. When you have a plan, it probably is unlikely to work out the way you expect. If you hold on to your expectations too closely, you might be disappointed when you don't need to be. There may be a really fantastic opportunity that's just not in your planned sight line. It's in your peripheral vision, and your peripheral vision can serve you well. That's more true now than ever, because the legal profession has changed so much in the last three years. The pandemic brought more change than has any other disruption in the last century. And the disruption we're about to see from generative AI to the business and the practice of law, and therefore, to those of us who serve

lawyers and their clients, is going to be tremendous. I tell law students that right now is the most exciting time to be entering the legal industry, even though it might feel terrifying because of all of the change that's upon us. But there are so many new opportunities for new lawyers. I kind of wish I was just graduating from law school right now. Not really--I love what I'm doing. But my second choice would be graduating from law school right now at this really exciting time.

What changes would you like to see within the profession?

Oh, how much time do we have? There is a massive market failure in the civil justice system. The Legal Services Corporation's most recent Justice Gap report found that [92% of our neighbors have to navigate their civil justice problems without legal help](#) because they can't afford it. They have to do it in a forum that uses a language they don't speak. That's a fundamental threat to the rule of law. The rule of law is just a set of ideas that depends on the public's confidence in them. When 92% of our neighbors can't navigate their civil justice problems, they might think that the rules don't account for them. If people don't believe the rules account for them, they stop caring about the rules.

This justice gap is the top-line issue that needs fixing because the public's confidence in our justice system, and therefore the rule of law, depends on it. Legal information should be democratized. In a world where of universal legal



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information, where everybody could know what the law requires of them and also what it provides for them, we could grow confidence in our justice system. Today, most people don't have any way of figuring out what the law is, and most can't afford a lawyer to help them find out. That's crazy.

Alternative dispute resolution (ADR) has an important role to play in addressing this fundamental problem, too. The public justice systems are buried in people trying to navigate justice problems without any help or resources. They have limited funding and other resources, and they're swamped. We saw during the pandemic that upstream ADR systems made a tremendous difference in justice-delivery across certain civil justice dockets, where people largely navigate their problems without lawyers. One example was the eviction diversion programs that sprung up all around the country. In a pandemic you have to be creative to figure out how to deal with the large number of people who are going to be evicted at a time when that was going to cause tremendous problems for them and their families, as well as a large impact on the public health emergency. Courts across

the country, stood up statewide eviction diversion programs with American Rescue Plan funding.

Instead of having those cases go to the traditional litigation docket, we sent them all to mediation. We worked out solutions collaboratively, and we kept people in their homes and got landlords their payments. It was a great example of how ADR can play a critical role supporting our public justice delivery system. Obviously at AAA, we've known the benefits of alternative ways to resolve disputes for a long time--they're faster and cheaper and in B2B disputes get businesses get back to work. But it's also the case that in lots of other areas, people, organizations, and businesses prefer to have better choices for resolving their disputes--especially if those choices get them resolved faster, preserve relationships, and let them get back to living their lives and doing what they want to do. The role that ADR can play in the dispute resolution ecosystem is enormous and growing. It's only going to get more important to give people, businesses and other organizations more and better options. ■