

ROBERT HARRIS MNOOKIN

PERSONAL DATA:

Born: February 4, 1942
Married: Dale Seigel Mnookin
Children: Jennifer Leigh (born 6/67)
Allison Heather (born 4/70)

PRESENT POSITION:

*Samuel Williston Professor of Law, Harvard Law School
Chair, Program on Negotiation, Harvard University
Director, Harvard Negotiation Research Project*

Fellow, Center for Advanced Studies in the Behavioral Sciences (2006-07)

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SCHOLARLY AND TEACHING INTERESTS:

Dispute resolution (negotiation, mediation and arbitration), the legal profession, contracts and family law.

PROFESSIONAL EXPERIENCE:

- 2006-2007: Fellow, Center for Advanced Study in the Behavioral Sciences, Stanford, California
- 1993-present: Samuel Williston Professor of Law, Harvard Law School; Chair, Steering Committee, Program on Negotiation, Harvard University; Director, Harvard Negotiation Research Project
- 2006 Franquai International Chair, Catholic University of Leuven, Belgium
- 2000: University of Virginia School of Law, John M. Olin visiting Professor
- 1998: Visiting Professor of Law, Columbia Law School
- 1989-1993: Adelbert H. Sweet Professor of Law, Stanford Law School
- 1988-1993: Director, Stanford Center on Conflict and Negotiation, Stanford University
- 1990-91: Visiting Professor of Law, Harvard Law School
- 1986-89: Arbitrator, IBM Corp. v. Fujitsu, Ltd.
- 1981-89: Professor of Law, Stanford Law School
- 1981-82: Fellow, Center for Advanced Study in the Behavioral Sciences, Stanford, California
- 1980-81: Visiting Professor of Law, Stanford Law School
- 1975-81 Professor of Law, Boalt Law School, University of California, Berkeley
- 1978: Visiting Fellow, Centre for Socio-Legal Studies, Wolfson College, Oxford University

- 1972-74: Director, Childhood and Government Project Earl Warren Legal Institute University of California, Berkeley (Responsible for multi-disciplinary, foundation-supported research project dealing with government policies that affect children.)
- 1972-74: Acting Professor of Law, Boalt Law School, University of California, Berkeley
- 1970-72: Associate Attorney, Howard, Rice, Nemerovski, Canady, Robertson & Falk San Francisco, California
Of Counsel, 1972-present
- 1969-70: Law Clerk to Justice John M. Harlan Supreme Court of the United States
- 1968-69: Law Clerk to Judge Carl McGowan United States Court of Appeals for the District of Columbia Circuit

HONORS AND AWARDS:

- Fellow, Center of Advanced Study in the Behavioral Sciences, Stanford, California (2006-07).
- 2006 Francqui International Chair, Francqui Foundation, Leuven Belgium
- 2000 Center for Public Resources, Inc.; CPR Awards for Excellence in Alternative Dispute Resolution 2000 Book Prize: *Beyond Winning: Negotiating to Create Value in Deals and Disputes*
- 1995 Center for Public Resources, Inc.; Award for Excellence and Innovation in Alternative Dispute Resolution: Book Prize, *Barriers to Conflict Resolution*.
- 1995 - Fellow, American Academy of Arts and Sciences
- 1993 Center for Public Resources, Inc.; Award for Excellence and Innovation in Alternative Dispute Resolution: First Prize for Professional Article, "Why Negotiations Fail: An Exploration of Barriers to Conflict Resolution."
- 1993 American Sociological Association; William J. Goode Book Award for the most outstanding book length contribution of the year to family scholarship, *Dividing the Child*.
- 1987 Endowed Professorship, Adelbert H. Sweet Professor of Law (first recipient).
- 1986 National Center for Youth Law and Youth Law Center; Award for Outstanding Leadership in the Protection of Children's Rights.

1983 American Psychological Association Division of Child, Youth and Family Services;
Award for Distinguished Contributions to Child Advocacy, (first recipient).

Fellow, Center of Advanced Study in the Behavioral Sciences, Stanford, California (1981-82).

Fulbright Scholar, Econometric Institute, Netherlands, School of Economics, Rotterdam, Holland
(1964-65).

EDUCATION:

Harvard Law School, LL.B., Magna Cum Laude (1968). Associate Editor, *Harvard Law Review*; Joint Student Faculty Committee; Lincoln's Inn Society; Prize for best brief in Spring Round first year Ames Moot Court Competition (with S. Marcuss).

Econometric Institute, Netherlands, School of Economics, Rotterdam, Holland (1964-65).
Fulbright Scholar.

Harvard College, A.B., Magna Cum Laude – Economics (1964). Hasty Pudding Institute of 1770. Honors: National Science Foundation Graduate Fellowship (refused); Leverett House Senior Common Room Award.

Pembroke County Day School
Kansas City, Missouri, 1955-60.

MEMBERSHIPS, PROFESSIONAL AND CIVIC ACTIVITIES:

Admitted to California Bar and District of Columbia Bar.

Member of California Bar Association, American Bar Association, American Law Institute.

Fellow, American Academy of Arts and Sciences

Center for Public Resources, National Panel.

Member Asia/Pacific Center for Resolution of International Business Disputes.

Harvard Overseer's Committee to Visit the Law School (1972-78).

Member, Board of Trustees, Berkeley Public Library (1972-80); Vice-chairman (1976-78); Chairman (1974-76).

Member, Board of Trustees, Head-Royce School (1979-80).

Family Impact Seminar, George Washington University (1976-82).

National Academy of Sciences, Committee on Child Development Research and Public Policy (1979-84).

Executive Council, The International Society of Family Law (1981-85).

National Academy of Sciences, National Research Council, Panel on Adolescent Pregnancy and Childbearing (1984-89).

Chair, Jewish Community Federation, Stanford University (1984-86).

Executive Board, Stanford Hillel Foundation, Palo Alto, California (1986); President (1989).

Member, Board of Directors, New Israel Fund (1993-); Treasurer (1999-)

Editorial Board, *Children and Youth Services Review* (1994).

Member, Board of Directors, Consensus Building Institute (1994-).

Member, Board of Directors, Program for Young Negotiators (1995-).

PUBLICATIONS:

Books:

Child, Family and State: Problems and Materials on Children and the Law, (with K. Weisberg) (5th ed.) Aspen, Gaithersberg (2005).

Beyond Winning: Negotiating To Create Value in Deals and Disputes (with S. Peppet and A. Tulumello) Harvard University Press (2000).

Child, Family and State: Problems and Materials on Children and the Law, (with K. Weisberg) (4th ed.) Aspen, Gaithersberg (2000).

Negotiating on Behalf of Others: Advice to Lawyers, Business Executives, Sports Agents, Diplomats, Politicians and Everybody Else (with L. Susskind and P. Foster, eds.) Sage Publications, Inc., Thousand Oaks, CA (1999).

Barriers to Conflict Resolution (with K. Arrow, et al. eds.) W. W. Norton & Company, New York (1995) reprinted by PON Books (2004)

Child, Family and State: Problems and Materials on Children and the Law, (with K. Weisberg) (3rd ed.) Little, Brown & Co., Boston (1995).

Dividing The Child: Social and Legal Dilemmas of Custody, (with E. Maccoby), Harvard University Press, (1992).

Child, Family and State: Problems and Materials on Children and the Law, (with K. Weisberg) (2th ed.) Little, Brown & Co., Boston (2005).

In the Interest of Children: Advocacy, Law Reform & Public Policy, W.H. Freeman & Co., New York (1985). Paperback edition issued by PON Books, Cambridge, Mass., (1996).

Child, Family, and State: Problems and Materials on Children and the Law, Little, Brown & Co., Boston (1978).

Selected Publications -- Dispute Resolution, Economics or Regulation:

"The Information Value of Demand Equation<" (with H. Theil) 74 J. Pol. Econ. 34 (1966).

"Transportation Pricing and the Theory of the Second Best," IN TECHNIQUES OF TRANSPORT PLANNING: PRICE AND PROGRAM EVALUATION (John R. Meyer, ed.) (1970).

"An American Lawyer's Views of Section 40 of the Trade Practices Act," 1 U. NEW SOUTH WALES L. J. 121 (1975).

"Bargaining in the Shadow of the Law: The Case of Divorce" (with L. Kornhauser), 88 YALE L.J. 950 (April 1979).

Bargaining in the Shadow of the Law: A Testable Model of Strategic Behavior," (with R. Cooter and S. Marks) 11 J. LEGAL STUD. 225 (1982).

"Winners and Losers in the Manville Bankruptcy," (with J. Bulow and T. Jackson) Op Ed in WALL ST. J., NOV. 4, 1982.

ANTITRUST: GILBERT LAW SUMMARY, (with T. Jorde) (8th ed.) (1983-84).

"Spreading the Word About Spreadsheet Software," (with William J. Kelley III), 4 CAL. Law. 5 No. 4 (June 1984).

"Dividing the Pie: An Economic Inquiry into Law Firm Profit Sharing," (with R. Gilson) 19 STAN. LAW. 4 No. 1 (Fall 1984).

"Sharing Among the Human Capitalists: An Economic Inquiry Into the Corporate Law Firm and How Partners Split Profits," (with R. Gilson) 37 STAN. L. REV. 313 (1985).

"The Mystery of the Texaco Case," WALL ST. J., NOV. 27, 1987.

"Coming of Age in a Corporate Law Firm: The Economics of Associate Career Patterns," (with R. Gilson), 41 STAN. L. REV. 567 No. 3 (February 1989).

"Rational Bargaining and Market Efficiency: Understanding Pennzoil v. Texaco," (with R. Wilson) 75 U. VA. L. REV. No. 2 (March 1989).

"Beyond Litigation," 23 STAN. LAW. 3 No. 2 (1989).

"The Implicit Contract for Law Firm Associates: *Ex Post* Opportunism and *Ex Ante* Bonding," (with R. Gilson), in THE FIRM AS A NEXUS OF TREATIES (O. Williamson, B. Gustafsson and M. Aoki, eds.) Sage Publications, London (1990).

Commentary for Centennial Issue, "The Most Cited Articles from The Yale Law Journal," (Fred Shapiro, Ed.), 100 YALE L.J. 1494 (1991).

"Saddam's Folly: Playing Chicken With George Bush," (with R. Birke), 8 NEG'N J. 41 No. 1 (January 1992).

"Creating Value Through Process Design: The IBM - Fujitsu Arbitration," ARB. J. (September 1992).

"Water Reform Beyond the Drought," (with T. Melling) Op Ed in the S.F. CHRON. A20 (March 13, 1993).

"Why Negotiations Fail: An Exploration of Barriers to the Resolution of Conflict," 8 OHIO ST. J. ON DISP. RESOL. 235 No. 2 (1993).

"Disputing Through Agents: Cooperation Between Lawyers in Litigation" (with R. Gilson), 94 COLUM L. REV. 509 No. 2 (March 1994).

"Foreword: Business Lawyers and Value Creation for Clients," (with R. Gilson) 74 OR. L. REV. 1 No. 1 (Spring 1995).

ANTITRUST: GILBERT LAW SUMMARY, (with T. Jorde and M. Lemley) (9th ed.) (1995).

"Cooperation and Competition in Litigation: Can Lawyers Dampen Conflict?," (with R. Gilson), chapter in BARRIERS, (K. Arrow et al, Eds.), W. W. Norton & Company, Inc. New York, (June 1995).

"Scaling the Stonewall: Retaining Lawyers to Bolster Credibility" (with D. Croson) 1 HARV. NEG'N L. REV. 65 (Spring 1996).

"Foreward" (with F. Sander) 1 HARV. NEG'N L. REV. 1 (Spring 1996).

"The Tension Between Empathy and Assertiveness" (with S. Peppet and A. Tulumello) 12 NEG'N J. 217 (July 1996).

"Does Disputing Through Agents Enhance Cooperation? Experimental Evidence" (with R. Croson) 26 J. LEGAL STUD. No. 2 (June 1997).

"Commentary: Negotiation, Settlement, and the Contingent Fee," 47 DEPAUL L. REV. No. 2 (Winter 1998).

"A Model of Efficient Discovery," (with R. Wilson) 25 GAMES AND ECONOMIC BEHAVIOR (1998).

"Alternative Dispute Resolution," contribution to THE NEW PALGRAVE DICTIONARY OF ECONOMICS AND THE LAW (P. Newman, ed.) Grove Dictionaries, Inc., New York (1998).

"Lessons of the IBM-Fujitsu Arbitration: How Disputants Can Work Together to Solve Deeper Conflicts" (with J. Greenberg) 4 DISPUTE RESOLUTION MAGAZINE No. 3 (Spring 1998).

"Strategic Barriers to Dispute Resolution: A Comparison of Bilateral and Multilateral Negotiations," 159 JOURNAL OF INSTITUTIONAL THEORETICAL ECONOMICS No.1 (March 2003); 8 HARVARD NEGOTIATION LAW REVIEW 1 (2003)

"Retablir le dialogue social au sein del lOrchestre symphonique de San Francisco," PERSONNEL MENSUEL No.438 (Mars-Avril 2003).

"When Not Negotiate: A Negotiation Imperialist Reflects on Appropriate Limits," 20 UNIVERSITY OF COLORADO LAW REVIEW 101 (2003).

Conference Report "The Internal Israeli Conflict: The Past, Present, and Future of the Jewish West Bank and Gaza Settlements," Negotiation Journal, Volume 21, Number 2 (April 2005)

"Discord 'Behind the Table': The Internal Conflict Among Israeli Jews Concerning the Future of Settlements in the West Bank and Gaza, 1 J. of Dispute Resolution 11 (2005) (with Ehud Eiran)

"Barriers to Progress at the Negotiation Table: Internal Conflicts Among Israelis and Among Palestinians," 6 Nevada L. J. 299 (2005/2006) (with Ehud Eiran and Sreemati Mitter)

“What We Have Learned About Teaching Multiparty Negotiation,” (with Larry Susskind, Lukasz Rozdeiczer, and Boyd Fuller), *Negotiation Journal*, Volume 21, Number 3 (July 2005).

“Foreword” (with F. Sander) 10 *HARV. NEG’N L. REV.* 1 (Spring 2006).

“When Not to Negotiate,” in *The Negotiators Fieldbook* (A. Schneider and C. Honeyman, eds) (2006) (with Gabriella Blum)

Articles and Chapters (Family Law and Children and the Law, including dispute resolution relating to divorce):

"Foster Care: In Whose Best Interest?" 43 *HARV. EDUC. REV.* 599 No. 4 (Nov. 1973), reprinted in *THE RIGHTS OF CHILDREN*, Harvard Education Review, Cambridge, Mass. (1974), and in *HAVING CHILDREN: PHILOSOPHICAL AND LEGAL REFLECTIONS ON PARENTHOOD* (O. O'Neill & W. Ruddick, eds.) Oxford University Press, New York (1978).

"Was stimmit nicht mit der Forml 'Kindeswohl'?" *FAMILIENRECHT* at 1 (January 1975).

Review, "Beyond the Best Interests of the Child", 14 *J. AM. ACAD. CHILD PSYCHIATRY* No. 1 (Winter 1975).

"Child Custody Adjudication: Judicial Functions in the Face of Indeterminacy," 39 *LAW & CONTEMP. PROBL.* 226 No.3 (1975).

"Foster Care Reform," *ALL IN THE FAMILY*, December 1976, No. 4 (AALS Family and Juvenile Law Section).

"Toward A Theory of Children's Rights," (with J. Coons) 28 *HARV. L. SCH. BULL.* 18 No. 3 (Spring 1977).

"Reforming Foster Care," *ACLU CHILDREN'S RIGHTS REPORT*, Vol. 1, No. 6 (March 1977).

"Children's Rights: Legal and Ethical Dilemmas," 41 *THE PHAROS* 2 No. 2 (April 1978).

"Children's Rights: Beyond Kiddie Libbers and Child Savers," 8 *J. CLINICAL CHILD PSYCHOL.* 163 No. 3 (Fall 1978).

"Bargaining in the Shadow of the Law: The Case of Divorce" (with L. Kornhauser), 88 *YALE L.J.* 950 (April 1979).

"The 'Kid-Vid' Crusade," (with S. Foote), THE PUBLIC INTEREST 90 No. 612 (Fall 1980).

"Using Jail for Child Support Enforcement," 48 U. CHI. L. REV. 338 (1981).

"The Public/Private Dichotomy: Political Disagreement and Academic Repudiation," 130 U. PA. L. REV. 1429 (1982).

"The Best Interests Syndrome as the Allocation of Power in Child Care," (with E. Szwed), chapter in PROVIDING CIVIL JUSTICE FOR THE CHILD, (H. Geech & E. Szwed, eds.), Edward Arnold, London (1984).

"Two Puzzles," Symposium on Severely Handicapped Newborns, ARIZ. ST. L.J. 667 (1984).

"Bellotti v. Baird: A Hard Case," in IN THE INTEREST OF CHILDREN: ADVOCACY, LAW REFORM & PUBLIC POLICY, W.H. Freeman & Co., New York (1985).

"Divorce Bargaining: The Limits on Private Ordering," 18 U. MICH. J.L. REF. 1015 (Summer 1985), published as chapter in ALTERNATIVE METHODS OF RESOLVING FAMILY DISPUTES (J. Eekelaar & S. Katz, eds.) Butterworths (1984).

"Child Advocacy: A Look at Test-Case Litigation," 20 STAN LAW. 15 No. 6 (Spring 1986).

"Children's Rights," 1 ENCYCLOPEDIA CONST. L. 246 L. Levy, K. Karst & D. Mahoney, eds.)(1986).

"Juvenile Proceedings," Id. At 1090.

"In Re Gault," Id. At 835

"Ginsberg v. New York," Id. At 846.

"Custody of Children Following Divorce," (with E. Maccoby and C. Depner), in IMPACT OF DIVORCE, SINGLE PARENTING, AND STEPPARENTING ON CHILDREN (M. Hetherington & J. Arasten, eds.) Lawrence Erlbaum Associates, Hillsdale, New Jersey (1988).

"The Guardianship of Phillip B.: Jay Spears' Achievement", 40 STAN. L. REV. 4 (April 1988).

"Does Joint Legal Custody Matter?," (with C. Albiston and E. Maccoby), 2 STAN. L. & POL'Y REV. 168 (Spring 1990).

"Private Ordering Revisited: What Custodial Arrangements Are Parents Negotiating?," (with E. Maccoby, C. Depner, and C. Albiston) in DIVORCE REFORM AT THE CROSSROADS (S. Sugarman & H. Kay, eds.) Yale University Press, New Haven (1990).

"Puzzling over Children's Rights," (with S. Sugarman & J. Coons), B.Y.U. L. REV. 307 No. 1 (1991).

"Post-Divorce Roles of Mothers and Fathers in the Lives of Their Children," (with E. Maccoby, C. Buchanan, and S. Dornbusch), 7 J. FAM. PSYCHOL. 24 No. 1 (1993).

"Deciding What's Best for Children," (with J. Coons & S. Sugarman), 7 NOTRE DAME J.L. ETHICS & PUB. POL'Y 465 No.2 (1993).

"Enforcing Divorce Settlements: Evidence from Child Support Compliance and Award Modifications," (with H. Peters, L. Argys, E. Maccoby), 30 DEMOGRAPHY 719 No. 4 (November 1993).

"Die Schwierigkeiten der Sorgerechtsregelung" 42 FAMRZ No. 1 (January 1995).

"Divorce," contribution to THE NEW PALGRAVE DICTIONARY OF ECONOMICS AND THE LAW (P. Newman, ed.) Grove Dictionaries, Inc., New York (1998).

"Facing the Dilemmas of Child Custody," (with Eleanor Maccoby), 10 THE VIRGINIA JOURNAL OF SOCIAL POLICY AND THE LAW No.1 (Fall 2002).