

# The Institute for Advanced Study

presents

## Prof. Nancy A. Welsh

Spring 2016 Visiting Fellow at the Institute for Advanced Study



### **Consumer Arbitration Clauses: An Opportunity for *Real* Dispute System Design and Procedural Justice?**

Between 1998 and 2003, a group of banks, companies and lawyers engaged in a complicated series of meetings and exchanges that ended with approximately 87% of consumers' credit card transactions subject to mandatory pre-dispute arbitration clauses and class action waivers. Recent empirical research reveals that consumers are unaware that they have "agreed" to give up their ability to access the courts or use class actions. The Consumer Financial Protection Bureau (CFPB) has now proposed to prohibit class action waivers in agreements for the purchase of financial products or services and to require reporting regarding consumer arbitration filings and outcomes. Did the meetings and exchanges from 1998 to 2003 represent an example of "dispute system design?" If yes, who were the "designers" and did they comply with the principles of either dispute system design or procedural justice? Do the CFPB's recent proposals create the opportunity for a real dispute system design process? If yes, where should dispute resolution professionals and organizations fit in any such process?

**Friday, March 25, 2016  
12 - 1:30 PM**

**PV 272, SPEA (School of Public & Environmental Affairs)**

Professor's Welsh's talk is open to the IU community and the general public. Attendees are requested to RSVP to [ias@indiana.edu](mailto:ias@indiana.edu) by Tuesday, March 22.

**Nancy A. Welsh** is the William Trickett Faculty Scholar and a Professor of Law at Penn State University, Dickinson School of Law. An internationally recognized scholar and leader in dispute resolution and procedural law, she has written over 60 articles and chapters, is the co-author of a leading textbook, and conducted research in the Netherlands as a Fulbright Scholar. Professor Welsh is the Chair-Elect of the ABA Dispute Resolution Section. Previously, she directed a dispute resolution organization, was appointed by the Minnesota Supreme Court to its ADR Review Board, and practiced corporate litigation with Leonard, Street and Deinard. She earned her B.A. *magna cum laude* from Allegheny College and her J.D. from Harvard Law School.



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