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Law center makes the case for dispute-resolution study

Nationally recognized MU program trains future attorneys in the ways of alternative mediation.

By **JOSH FLORY** of the Tribune's staff

Published Saturday, November 29, 2003

There's a squad of all-Americans on the loose at the University of Missouri, but not at the Hearnes Center.

Instead, this nationally recognized team makes its nest at Hulston Hall, home of the MU School of Law. Nearly 20 years after its founding, the school's Center for the Study of Dispute Resolution, or CSDR, has earned wide renown as a leader in a cutting-edge legal niche.



Don Shrubshell photo

Phillip Harter, a professor at the University of Missouri-Columbia School of Law, introduces a speaker to a class studying arbitration law.

In the most recent set of rankings by U.S. News and World Report, MU's dispute resolution program was billed as the second-best in the country - one spot behind Pepperdine and one spot ahead of Harvard.

"The bottom line is you're dealing with a faculty who are the ones who have written the textbooks on the subject," said St. Louis attorney Robert Litz.

While in one sense all lawyers specialize in dispute resolution, the field sometimes called "alternative dispute resolution" focuses on more specific practices, including arbitration and mediation. The idea, according to MU officials, is to make sure budding lawyers have a variety of "tools" in their legal toolbox so they can offer the best service to their clients.

Sitting in a law school conference room on a recent Wednesday morning, the center's associate director, Jim Levin, explained that arbitration and mediation were used in labor law for years. It wasn't until the late 1970s and early 1980s that the techniques came into vogue in general practice.

Around that time, officials and faculty at the law school were trying to stake out an area of expertise that would not only benefit the practice of law generally but could help MU gain a national reputation. In 1984, the school launched the CSDR - the first such program in the nation, current director Tim Heinsz said - and hired Len Riskin as the first director.

One of Riskin's priorities was to establish a presence for dispute resolution in the school's general curriculum. Every class for MU's first-year law students was shaped to include some form of dispute-resolution training, and this year the model has been changed to one in which every first-year student will take a class on dispute resolution.

But the changes didn't stop there. In 1999, MU created the nation's first Master of Laws degree - an advanced law degree - in dispute resolution. That program now attracts a large number of international students from as far as China, Uganda and Brazil.

Levin said that just as MU's journalism school is known for drawing students from outside the state, law school officials see the dispute resolution programs as a magnet for law students from around the world.

In the process of transforming legal education, the CSDR has attracted a stable of scholars who cast long shadows in their field. One administrator at a competing institution referred to Riskin as the "godfather of the dispute resolution-law school-academic world"; Professor Philip Harter is called the father of a specialized field known as regulatory negotiation, or

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"reg-neg"; and while no one used a paternal nickname to describe him, Richard Reuben is editor of the American Bar Association's Dispute Resolution Magazine.

Meanwhile, the CSDR's influence is felt both locally and globally. MU students get first-hand mediation experience from small claims cases originating at the Boone County courthouse. Associate Circuit Judge Chris Kelly said he regularly asks litigants if they're willing to discuss their cases with a mediator, calling the partnership with the CSDR a "smashing success."

"I betcha they settle half of them," he said.

"A lot of small claims cases will work out if people talk about them," Kelly said. "And besides, the operational principle ought to be that the parties themselves ought to solve their own problems ... before they involve the government."

Law students also mediate cases referred by the U.S. District Court for the Western District of Missouri and the Missouri Commission for Human Rights.

But the center's sphere of influence also extends to global affairs. Javier Caravedo, who earned a Master of Laws from the CSDR in 2002, helped draft the recent report of a Peruvian commission that examined murders, disappearances and cases of torture that took place in Peru during the 1980s and 1990s.

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Heinsz took over as director of the CSDR last year, and before that he served as dean of the law school. Despite the center's national reputation, Heinsz's efforts to raise money for it weren't always met with enthusiasm.

"Either the alumnis' eyes would glaze over or they'd be hostile," he said.

Many lawyers felt that if alternative resolution systems began to catch on, their own practices would be negatively affected. "It was, when I came here, seen as very countercultural in the legal culture," Riskin said. "Many lawyers in 1983 didn't know what mediation was, and many lawyers and a few judges saw it as threatening. And most law schools didn't teach anything about this."



Don Shrubshell photo
Jim Levin, left, associate director of the Center of the Study for Dispute Resolution at the university, talks with Tim Heinsz, director.

Heinsz said that culture is changing. Lawyers are beginning to understand that alternative methods boost their practices because they have more tools to make clients happy.

So what are the benefits of arbitration and mediation? MU officials are quick to emphasize that they're no substitute for traditional litigation, saying that some cases can be solved no other way.

But Jim Levin, the associate director of the CSDR, cited two benefits of the alternative methods: efficiency and self-determination. Arbitration and mediation are usually cheaper than trying a case in court, and the two sides in the case have greater leverage to decide how the process will work.

In arbitration, for instance, the sides generally choose their own "judge," an arbitrator or arbitrators with binding authority to decide the case. That approach can be useful in a complex, highly technical case when the parties want a "judge" who speaks the language of construction, labor or another specialized field.

Mediators, on the other hand, have no decision-making authority but work to find common ground that can lead to a solution. As Heinsz describes it, arbitration is closer to litigation, while mediation is closer to negotiation.

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Today, the CSDR has three main areas of focus: improving legal education, offering continuing education programs for practicing attorneys and fostering academic research in dispute resolution.

A good example of the first goal came on the Friday before Thanksgiving break. That morning, a group of law students gathered in Hulston Hall for a dispute resolution class taught by Harter. With the holiday break looming, students heard from a guest speaker, Columbia attorney Brad Lear, a 2001 graduate who went on to represent brokerage firms in securities arbitration cases.



Don Shrubshell photos

Above, Brad Lear, a Columbia lawyer who practices arbitration law, lectures to law students at the MU law school. Below, MU law students, from left, Matt Brown, Nicole Greeson, Cassie Parks, Allison McWhorter and Jake Williams listen to Lear speak about arbitration resolution.



In an informal lecture, Lear mixed technical descriptions of the arbitration process - how arbitrators are chosen, what the atmosphere is like - with water-cooler war stories. In one interlude, he regaled students with the tale of a woman who represented herself at arbitration, conducted a four-day hearing and subpoenaed the CEO of the brokerage firm in question.

The students asked a variety of questions and gained insight into a process that by Lear's description is cheaper and less formal than squaring off in front of a judge.

The second focus - continuing legal education - is aimed at the professional ranks; a good example of the CSDR's contribution came last week at the Missouri Bar's fall meeting.

One seminar during the meeting was devoted to the Uniform Mediation Act, a model mediation law drafted in 2001 as a template for states. Richard Reuben, an associate professor at the law school, was involved in that national project, and he served as a presenter.

Robert Litz, the St. Louis attorney, cited Reuben's presence at the seminar as an example of the benefits provided by the CSDR. "That is a perfect example of the kind of resource we as Missouri lawyers have, to tap into the law school's brain trust," he said.

The third focus of the center is academic research, and CSDR faculty are leaders in that area as well. Recent publications by MU faculty include an article by associate professor John Lande in the UCLA Law Review that examined ways to avoid "bad-faith" mediation tactics. Another is Reuben's upcoming article in Duke's Law and Contemporary Problems journal examining the democratic character of dispute resolution.

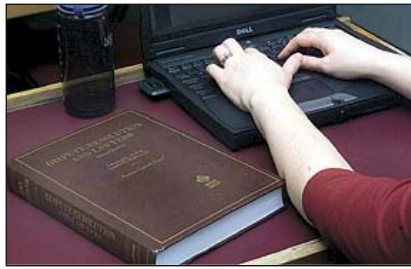
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As for future goals, Heinsz said he'd like to see the CSDR augment its international presence, which is already substantial. Recently, for instance, Heinsz and other faculty members taught a course in dispute resolution at South Africa's University of Western Cape. Center officials have also worked with researchers in Ireland on projects related to racial, ethnic and religious identity-based conflicts.

But the center has already come much further than its founders envisioned. Riskin, the first director, said he

anticipated some of the curricular changes but didn't have a clear idea of the growth that would take place in the field generally or at the center in particular.

"It's much more than I ever anticipated it would be," he said.



Don Shrubshell photo

An MU law student takes notes during her Dispute Resolution and Lawyers class.

Reach Josh Flory at (573) 815-1719 or jflory@tribmail.com.

SECOND THOUGHTS: This story about the Center for the Study of Dispute Resolution at the University of Missouri-Columbia should have said the program was tied for first in the nation in recent rankings published by U.S. News and World Report.

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