

THE C-DRUM NEWS

A Publication of The Center for Dispute Resolution
at the University of Maryland Francis King Carey School of Law (C-DRUM)
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C-DRUM WELCOMES NEW FACULTY DIRECTOR

Deborah Thompson Eisenberg joins the University of Maryland Francis King Carey School of Law as Assistant Professor of Law and Faculty Director of C-DRUM. Professor Eisenberg comes to the law school after fifteen years of experience in complex civil litigation, civil rights, and employment law. Throughout her legal career, she represented clients in mediation and arbitration and served as a mediator in employment law and civil cases. She also has been a visiting professor at the Carey School of Law since 2007, teaching civil procedure, employment law, legal analysis and writing, and a Workers' Rights Clinic. Her research and writing interests include employment law, alternative dispute resolution, and civil procedure.



Deborah Thompson Eisenberg

LAWYERS AS CREATIVE PROBLEM-SOLVERS

by Deborah Thompson Eisenberg, Assistant Professor of Law and Director, Center for Dispute Resolution

I am honored and humbled to have the opportunity to be joining the faculty at the Carey School of Law and serving as Faculty Director of C-DRUM. Under the leadership of Emeritus Professor Roger Wolf and Managing Director Toby Treem Guerin, C-DRUM has earned a national reputation of being on the cutting-edge of alternative dispute resolution and established an impressive legacy of peacemaking. C-DRUM has been a leader in providing conflict resolution training to government leaders, policymakers, law students, educators, businesses, judges, and community members. C-DRUM has worked in collaboration with many others to research and design effective conflict resolution systems and to promote alternative methods of resolving disputes.

Now more than ever, C-DRUM's connection to the law school is critical. Most courts, especially in Maryland, have well-established and growing alternative dispute resolution programs. ADR is no longer "alternative" but an integral component of the legal process. Law students must be trained to think broadly and creatively—and beyond litigation remedies and adversarial posturing—to help their clients resolve conflicts.

Of course, the idea of the lawyer as a problem-solver

and peacemaker is not a new concept. As well-respected attorney Abraham Lincoln once advised: "Discourage litigation. Persuade your neighbors to compromise whenever you can. As a peacemaker the lawyer has a superior opportunity of being a good [person]. There will still be business enough."

Law students at the Carey School of Law already have a wealth of opportunities to build conflict resolution and negotiation skills. For several years, our students have competed in the ABA Law Student Division Negotiation Competition and the Section on Dispute Resolution's Representation in Mediation Competition, winning the national title in 2010. Since 1995, Mediation Clinic students have been trained to be mediators and effective advocates in mediation in a variety of fora. The law school offers a rich array of courses in negotiation, alternative dispute resolution, and related topics taught by distinguished full-time faculty and outstanding adjunct faculty.

As C-DRUM starts a new chapter and approaches its tenth anniversary, we will deepen our study of conflict resolution and enhance our teaching of law students—as well as the broader legal community—to be creative problem-solvers.

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C-DRUM FACILITATES INITIATIVE ON OUTPATIENT TREATMENT

by Anastasia W. Smith, Director, Special Projects

The involuntary treatment of persons with mental illness elicits strong opinions from those affected—patients, providers, family members, advocates and policy makers. The issue challenges the core of our communal concepts of public health and individual liberty. Yet there is one aspect on which most stakeholders will agree: Maryland's current system needs improvement. In 2011, C-DRUM brought together policy makers to discuss whether changes to the state outpatient mental health system might be appropriate and possible. The initiative is jointly supported by the Francis King Carey School of Law, and the Schools of Medicine and Social Work of the University of Maryland, and sponsored by the Maryland Mediation and Conflict Resolution Office (MACRO), the Law & Health Care Program, and the Rueben Shiling Mental Health Law Fund within UM Carey Law.

The impetus for this discussion came from the Maryland Public Policy Conflict Resolution Fellows Program, a joint effort of C-DRUM and MACRO that brings together an influential group of Maryland leaders each year to expand their negotiation, conflict resolution, and consensus building skills. Graduates of the Fellows Program are encouraged to suggest critical public policy issues or conflicts that could benefit from deeper analysis.

Dr. Steven Sharfstein, CEO Sheppard Pratt Health System and graduate of the 2011 Fellows Program, wanted to convene a collaborative discussion about the status of assisted outpatient treatment in Maryland. The first event, on April 25, 2011, at the law school, "Balancing Public Health and Individual Liberties: Exploring New Options in Outpatient Treatment," was a day-long meeting which explored various issues surrounding assisted outpatient treatment, including the outcomes of this approach in states that have measured its implementation, and alternative approaches. The conveners sought consensus among interested parties about a way to improve access to care in Maryland.

Dr. Marvin Swartz, Professor of Psychiatry at Duke University School of Medicine, reviewed the outcomes of assisted outpatient treatment in several states that have studied this intervention. Next, Professors Amanda Pustilnik

and Richard Boldt from the Carey School of Law provided the legal landscape on assisted outpatient treatment options and alternatives. In the afternoon, participants met in small work groups to discuss a framework for agreement. The groups considered the principles and goals to improve access to care in Maryland, including the possibility of new legislation to accomplish these goals.

Building upon the ideas generated in April, a subgroup met in early June and divided the project into three subcommittees. The Program Subcommittee, chaired by Jane Plapinger, President and CEO of Baltimore Mental Health Systems, Inc., will design a model project that provides support to individuals with serious mental illness whom the system has had difficulty engaging. This project will be patient-centered and promote system accountability by service providers. It will identify individuals who meet selected criteria and address their care management, treatment, housing and other critical service needs.

Dr. Jay Unick, Assistant Professor at the University of Maryland School of Social Work, will chair the Data Subcommittee and will study the data currently available to assist in the design of the model program and a program evaluation. The Legal Subcommittee, chaired by Larry Fitch, Director of the Office of Forensic Services at the Mental Hygiene Administration, will examine whether the existing conditional release statute in Maryland could be used to provide services and promote system accountability, and identify other legal issues relating to sharing of patient information among medical and other providers. This committee may recommend changes to statutes, regulations, or governmental or institutional policies.

C-DRUM will continue to facilitate this interdisciplinary project into the fall of 2011.

Anastasia Smith, Director Special Projects, serves as project manager and provides support for the interdisciplinary chairpersons of this project.



Roger Wolf, Barbara Hull Francis, and Susan Sugar Nathan participate in a meeting of the Legal Subcommittee at UM Carey Law on August 30, 2011.

UM CAREY LAW HOSTS FORUM FOR NATIONAL ADR LEADERS

On November 15, 2010 the University of Maryland Francis King Carey School of Law hosted national and local alternative dispute resolution academics, researchers, program managers, judges, and court personnel for a day-long meeting to explore a groundbreaking research project examining the effectiveness of ADR in Maryland. The purpose of the meeting was to obtain valuable feedback on the draft research design, gain insight from the attendees, and identify potential challenges for the project moving forward.

The three-year research project, funded by the Maryland Administrative Office of the Courts and the State Justice Institute, will include an analysis of the costs, benefits, and effectiveness of court-affiliated ADR processes in Maryland. This will be the first cost benefit study of ADR performed by a state. It will analyze the cost effectiveness of ADR and examine distinguishing factors in mediation such as the mediator's approach, mediation forum, and the type of mediation or ADR technique being conducted. This project will provide a more comprehensive and in-depth analysis than many prior ADR studies.

Given the large scope and potential impact of the study, input from national experts in the field of ADR was essential to develop a comprehensive and realistic research design and methodology. At the meeting, the researchers presented the current version of the research design. Participants provided valuable feedback to the researchers on issues and potential challenges, such as data collection, availability of resources, methodology, and data integrity. Currently, the researchers are exploring data availability and collection options and identifying potential jurisdictions for the study. Pending approval from the Maryland Judiciary, the researchers plan to move forward with project implementation in late 2011.

The research project is part of a statewide university-based consortium under the leadership of the Administrative Office of the Courts and involves C-DRUM and the Center for Conflict Resolution at Salisbury University. The project will also involve the expertise of Dr. Lorig Charkoudian, Executive Director of Community Mediation Maryland.



Jamie Walter, Maryland Administrative Office of the Courts, Court Research and Development, engages in a discussion with court personnel.



Toby Guerin and Diane Hoffmann of UM Carey Law along with Dr. Lorig Charkoudian, Executive Director of Community Mediation Maryland, present the research design at the meeting.

OFFICE OF ADMISSIONS AND C-DRUM LAUNCH PIPELINE PROGRAM

by Jessica Hurtado, Admissions Officer, UM Carey Law Office of Admissions

The Center for Dispute Resolution, in collaboration with the Office of Admissions at the University of Maryland Francis King Carey School of Law, developed a new pipeline program for middle school peer mediators designed to facilitate an understanding of the American legal system and alternative dispute resolution (ADR). Initiated during the 2010-2011 school year, the program started with visits from two Maryland public school grant recipients in C-DRUM's Schools Conflict Resolution Education Program, (a state wide program funded through the Maryland Judiciary's Mediation and Conflict Resolution Office) Eastern Middle School in Montgomery County (November 2010) and Piccowaxen Middle School in Charles County (March 2011). Each school brought a cadre of students for an individualized half-day visit at the Law School where students were introduced to the various tools lawyers use when resolving conflicts.

Jessica Hurtado and Katrin Hussmann of the Office of Admissions began both visits with a discussion of the importance of laws and how they are enacted, challenging students to interpret what the laws mean to people in their everyday lives. The program then transitioned into a discussion about viable methods for solving conflicts. The first portion of the presentation focused on litigation as a more formal approach to conflict resolution. By portraying the roles of lawyers and judges, the students actively engaged in a mock litigation and learned to analyze the law through a series of different case scenarios.

Since the majority of the middle school students in both visits had been trained in the skills of peer mediation; the program transitioned to the role of ADR in resolving conflicts, building on students' existing mediation skills and techniques. Led by C-DRUM's Director of School Programs, Barbara Grochal, together with Kara Boyle from the School of Law's Mediation Clinic, students analyzed mock student conflict scenarios and engaged in role play



Keyonta Bonds (middle) and Shannon Johnson (left) from Piccowaxen Middle participate in simulations during their visit to UM Carey Law.

exercises with feedback designed to help them hone their mediation techniques.

Bill Marchione, School Counselor of Piccowaxen Middle School, shared that his students found the visit "a really positive experience and came back talking about the different activities they did." C-DRUM and the Office of Admissions staff involved found introducing middle school students to the law school environment and ADR concepts an exciting undertaking. "We hope to build and strengthen this collaboration with C-DRUM to expose students both to the importance of laws in society and to the value of mediation within our legal system," said Connie Beals, Assistant Dean of Admissions. The Office of Admissions and C-DRUM will continue to explore opportunities for additional school visits to the Carey School of Law for future attorneys and mediators.

CONFLICT RESOLUTION EDUCATION LENDING LIBRARY AVAILABLE!

A small collection of books on conflict resolution in schools is available at the University of Maryland Francis King Carey School of Law's Thurgood Marshall Law Library (www.law.umaryland.edu/marshall). The books purchased with support from the Maryland Mediation and Conflict Resolution Office, may be borrowed through the standard interlibrary loan channels at your local school or public library. For a complete list of titles see www.cdum.org.

ALTERNATIVE DISPUTE RESOLUTION TEAM CONCLUDES ITS FIRST YEAR

by Max Siegel, 3L

Last year was an exciting time to take part in the Alternative Dispute Resolution Team. As co-captain for the team, I had the privilege to attend two different negotiation competitions and watch the team's ranks more than double in number. Overall, the team's sixteen members represented the school in three different competitions

During fall 2010, Beth Grasso, Jessica Cates-Bristol, Brittany Harvey, and Jacquin Milhouse competed in the American Bar Association's Law Student Division annual Negotiation Competition, in Virginia Beach, Virginia. I was lucky to attend the event, as an alternate along with two pairs of competitors and three additional alternates from Maryland. This was an excellent opportunity to observe my teammates compete, develop an understanding of the judges' values in real-world negotiation, and learn techniques for future competitions.

The team participated in two different competitions in the spring. First, I had the privilege to compete in Liberty University's second annual Negotiation Competition in Lynchburg, Virginia alongside my teammates Tattiana Goluskin, Natalie Amato, and Jessica Russell. Ms. Goluskin and I finished first in our bracket and gained valuable new insight into negotiation that we hope will propel us forward in next year's competition.

Later in the spring, team members Ranjit Hatti, Nathan Horne, James Getz, and Jacob Lilien competed in the American Bar Association's Section on Dispute Resolution Representation in Mediation Competition at American Uni-

versity School of Law in Washington D.C. Maryland took home the prize in the national mediation competition in 2010. The Maryland Team of Jacob Lilien and Ranjit Hatti advanced to the regional finals losing in the final round to the host team. For the first time, the ADR Team will now have a pair of returning competitors who are poised to apply what they learned about mediation in next year's competition.

Also in the spring, the team coordinated its second annual intra-school negotiation competition. The team leveraged the competition to select new members and engage the broader student body in dispute resolution. Gabriel Scott and Andrew Kraus, winners of the intra-school competition, joined fourteen other students as new members of the ADR Team, bringing the team's ranks to twenty-two.

The ADR Team members continue to benefit from the excellent guidance of coaches and local practitioners and alumni Barry Gogel and Nick Scull and our faculty supervisor Toby Guerin, along with law school faculty and staff. My co-captain Tattiana Goluskin and I anticipate another rewarding and challenging year as the ADR Team enters its second year.

Max Siegel is a third-year student at the University of Maryland Francis King Carey School of Law where he is the returning co-captain of the Alternative Dispute Resolution Team. He has years of experience in the nonprofit sector and a passion for social justice issues that he hopes to apply to serving the public interest after graduation.

2011-2012 UM CAREY LAW ADR TEAM

Max Siegel, *Co-Captain*

Tattiana Goluskin,
Co-Captain

Lena Beery

Brittainy Boessel

Allison Bogsted

Peter Cooch

Mike Damiano

Anna Hadjitheodosiu

Ranjit Hatti

Fahim Hemani

Mario Hernandez-Gerety

Brendan Hogan

Nathan Horne

Andrew Kraus

Nancy Lineman

Vivian Ling

Alvaro Llosa

Jessica Russell

Maram Salaheldin

CJ Santos

Gabriel Scott

Dimitri Tagaropulos

GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION PROVIDES GRANT TO EXPAND TRUANCY MEDIATION

Emerging research confirms that good attendance is critical to academic success. Students who are truant are more likely to drop out, become involved with the juvenile justice system, and become victims of crime. Moreover, patterns of truancy begin early and are highly predictive of future academic and social struggles.

School attendance has a profound impact not just on a child's immediate academic progress, but also on the academic progress of the other students in the classroom, and on the development of the entire community. Students who are chronically absent—meaning they are missing more than 10% of school—fall behind academically, have higher rates of alcohol and drug use, and are more likely to become the victims or perpetrators of crime. High school dropouts have a far lower employment rate, lower overall earnings, and place heavy demands on public services. Unfortunately, even as the research continues to emphasize the importance of attendance, school systems and courts remain limited in the resources they can bring to bear on the problem.

Recognizing the connection between truancy and crime, the Governor's Office of Crime Control and Prevention

(GOCCP) provided C-DRUM with a one-year grant to continue its truancy mediation work in Baltimore City and expand truancy mediation to three other Maryland counties. To accomplish this mission, C-DRUM has partnered with Community Mediation Maryland (www.marylandmediation.org) and its affiliate community mediation centers.

Together with local community mediation centers, C-DRUM and CMM staff will introduce the program to school system personnel in the new jurisdictions, and seek their commitment to support the project and assist in identifying schools of need. The expansion of the program to other parts of the state will enable more families and schools to build connections and identify the causes of truancy for each student and family through mediation. C-DRUM is excited to work with its new partner CMM to bring truancy mediation to jurisdictions beyond Baltimore City. By expanding to new jurisdictions, C-DRUM will explore the replicability of the BSMART model and gather information on sources of attendance challenges throughout the state.



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Managing Director & Clinical Law Instructor

Barbara Sugarman Grochal
Director, School Programs

Anastasia W. Smith
Director, Special Projects

Roger C. Wolf
Founder and Professor Emeritus

Angela Tate
Administrative Assistant

NEWS AND NOTES

General News

Peer Mediation Train-the-Trainers Workshops, Annapolis, Maryland (November 3-4, 2010 and April 11-12, 2011)

Joint Presentations to Middle School Peer Mediator Students Groups in collaboration with University of Maryland Admissions Office, Baltimore, Maryland (November 9, 2010 and March 18, 2011)

Host, National ADR Research Meeting: Maryland Alternative Dispute Resolution Research Design, University of Maryland School of Law, Baltimore, Maryland (November 15, 2010)

Negotiation Workshop, Maryland State Bar Association Leadership Academy Fellows, Baltimore, Maryland (February 15, 2011)

Schools Conflict Management Winter Training, Annapolis, Maryland (February 15, 2011)

Advanced Fellows Program Training in collaboration with MACRO, Annapolis, Maryland (April 20, 2011)

Host and facilitators, "Balancing Public Health and Individual Liberties: Exploring New Options in Outpatient Treatment," University of Maryland Schools of Law, Medicine and Social Work, Baltimore, Maryland (April 25, 2011 and June 1, 2011)

Co-presenter, "How to Keep Kids in School: Truancy Mediation in Ohio and Maryland," 4th International Conference on Conflict Resolution Education, Cleveland, Ohio (June 11, 2011)

Summer Conflict Management Training for Schools, Annapolis, Maryland (June 27 -28, 2011); Arbutus, Maryland (June 29-30, 2011)

40-hour Workplace Mediation Training, Johns Hopkins University, Baltimore, Maryland (September 13-15 and 19-20, 2011)

Deborah Thompson Eisenberg

"Money, Sex and Sunshine: A Market-Based Approach to Pay Discrimination," 43 ARIZONA STATE LAW JOURNAL (forthcoming 2011)

"Shattering the Equal Pay Act's Glass Ceiling," 63 SMU LAW REVIEW 17 (2010) (article selected for reprint in *Women and the Law* (West 2011))

Panelist, "Hot Topics in Unemployment Insurance," Labor and Employment Relations Association 63rd Annual Meeting, Denver, Colorado (January 7, 2011)

Interview, WBAL-TV, Investigative Report about Equal Employment Opportunity Commission case (February 15, 2011)

Moderator, Works-in-Progress Session about Clinical Pedagogy, American Association of Law Schools Clinical Law Conference, Seattle, Washington (June 15, 2011)

Toby Treem Guerin

Co-presenter, "Let's Make a Deal: Elements of Conveying an Offer in Mediation," Maryland Mediator's Convention, Linthicum Heights, Maryland (December 10, 2010)

Presenter, "Team Building and Effective Communication Skills," Anne Arundel Commission for Women, Annapolis, Maryland (August 22, 2011)

Barbara Sugarman Grochal

Member, Planning Committee Team, Maryland Bullying Prevention Conference, Severn, Maryland, (November 5, 2010)

Member, Planning Team Committee, Peer Helper's Conference, Ocean City, Maryland (December 8-10, 2010)

Co-presenter, "Conflict Resolution in School Communities: A Microcosm," Maryland Mediator's Conference, Linthicum Heights, Maryland (December 10, 2010)

Trainer, "Putting a Halt to Bullying," Baltimore City Public Schools Hall Monitor Training, Baltimore, Maryland (January 25, 2011)

Member, University of Maryland Baltimore Strategic Planning – Interprofessional Workgroup, Baltimore, Maryland (February-July 2011)

Co-presenter, "Peer Mediation Training," Dunbar High School, Baltimore, Maryland (March 7, 2011)

Guest Speaker, "Mediation: The Future and Beyond!" Mervo High School, Baltimore, Maryland (April 5, 2011)

Co-facilitator, "Building Campus Community Partnerships and Peace and Conflict Studies: Thinking Globally Acting Locally," World Café, Cleveland, Ohio (June 9, 2011)

Member, Event Planning Committee, 4th International Conference on Conflict Resolution Education, Cleveland, Ohio (June 11, 2010)

Presenter, "Communication and Conflict: The Resolution See-Saw," Future Farmers of America State Conference, Linthicum Heights, Maryland (June 21-22, 2011)

Anastasia Watson Smith

Trainer, "Best Practices in Elementary/Middle School Attendance," Baltimore City Department of Social Services Family Preservation Network, Baltimore, Maryland, (September 19, 2011)



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Possessing more than 30 years of combined experience, C-DRUM provides mediation services, facilitation, and conflict resolution training in a variety of settings.

CELEBRATING CONFLICT RESOLUTION MONTH

The month of October is conflict resolution month and C-DRUM is promoting awareness of appropriate methods of dispute resolution through a variety of events.

- **Walk for Peace:** C-DRUM joined the District Court of Maryland ADR Office and the Maryland Mediation and Conflict Resolution Office to raise awareness about the many peaceful conflict resolution options in Maryland. The three kilometer walk around Baltimore's Inner Harbor and event related ceremonies kicked off conflict resolution month on October 1.
- **Mediation Open House:** Mediation Clinic students partnered with the District Court of Maryland ADR Office to answer questions and provide informational materials to the public on October 7 at the Baltimore City District Court- civil division
- **Lunchtime Panel Discussion:** C-DRUM and UM Carey Law hosted "What Every Lawyer and Law Student Needs to Know about ADR" on October 24. The panelists, Magistrate Judge Susan Gauvey of the United States District Court of Maryland, Judge Diane Leasure of the Circuit Court of Maryland, Judge Dorothy Wilson of the District Court of Maryland and Chair of the Alternative Dispute Resolution Committee, and Professor Deborah Eisenberg answered student questions and shared their perspectives about the impact of ADR on the courts.