

GAINING PROMINENCE IN DISPUTE RESOLUTION

By Jill Yesko



Third-year students Stephen Demos, Joseph Damiano, and Samriti Madan, along with C-DRUM Director of Special Projects Stacy Smith (left to right) head into the District Court of Maryland to observe a docket of rental disputes as part of the Mediation Clinic.

“ANYONE WHO IS A PRACTICING ATTORNEY THESE DAYS NEEDS TO BE INVOLVED IN DISPUTE RESOLUTION,” SAYS TOBY TREEM GUERIN ’02, MANAGING DIRECTOR OF MARYLAND CAREY LAW’S NATIONALLY-RANKED CENTER FOR DISPUTE RESOLUTION (C-DRUM). “Even in less traditional legal fields such as policy and business, attorneys need dispute resolution skills.”

The vast majority of legal cases are handled through an Alternative Dispute Resolution (ADR) process, with “only about two percent being resolved by a judge or jury,” making ADR a core competency for law students, adds C-DRUM Director and Professor Deborah Thompson Eisenberg.

For some, finding a career in ADR often blends a variety of legal interests. When C-DRUM fellow Jason Rubinstein ’15 entered law school, he didn’t know anything about ADR or mediation. “I came to the best environmental law school I could find,” he says. After trying out for the ADR team his first year, he soon realized that he could meld his love for environmental law with mediation and conflict resolution.

“My long-term career goal is to mix environmental law and ADR by mediating multi-party disputes, such as those involving [toxic waste] dumping,” says Rubinstein. “C-DRUM and the law school provided me with an avenue to get started in mediation.”

SHAPING THE ADR LANDSCAPE

A cornerstone of the Center’s efforts, ADR offers a range of processes that can be customized for the dynamics of specific conflicts and goals of the parties. Eisenberg explains that “while negotiating agreeable solutions to conflict isn’t always easy, the process used to solve a problem is just as important as the substance of the negotiation.”

Since its formation in 2002, C-DRUM has been a leader in the growth of ADR in Maryland and beyond, helping to shape conflict resolution policy in the courts. It also has developed customized conflict-management programs and training classes in mediation, negotiation, and effective communication for students, workplaces, and public agencies.

“The work we are doing in ADR is ahead of the curve,” says Guerin. “Our faculty helped to shape the ADR landscape in Maryland, and our curriculum provides students with rich ADR experiential learning opportunities.”

Roger Wolf, professor emeritus and founder of C-DRUM, partnered early on with courts and other stakeholders to develop ADR rules and standards, including ethical codes for mediators

and a state law protecting mediation confidentiality. He saw C-DRUM’s potential “as a resource for law students, the bar, and the community to learn about alternative ways to resolve conflicts without litigation.”

In an analysis of Maryland’s ADR landscape, C-DRUM found that there has been a 714 percent growth in court-affiliated ADR programs since 1999.

“For years, Maryland has been a leader in the responsible institutionalization of ADR”

Groundbreaking research about the costs and benefits of ADR by the Maryland Judiciary also found that when people engage in a dispute resolution process they have more confidence in the legal system. They are also less likely to return to court for enforcement of their actions than individuals who go through a trial.

“For years, Maryland has been a leader in the responsible institutionalization of ADR,” says Nancy Welsh, professor at Penn State Dickinson Law and incoming president of the American Bar Association Dispute Resolution Section. “This empirical research provides us with important insights regarding the

combinations of interventions that mediators actually use, the effects of those interventions, and which of these interventions help us achieve some of mediation’s most important goals.”

As a partner in the Judiciary’s research, C-DRUM convened local and national ADR experts to provide input into the initial study design and hosted a symposium in 2016 to review the outcomes.

“Our mission is to combine intensive study of ADR with real-world application of these powerful processes to make a meaningful difference in institutions—such as courts and schools—and in the lives of individuals,” says Eisenberg. In other words, “we use ADR to empower and transform.”

APPLYING ADR IN THE COMMUNITY

As one of its many community initiatives, C-DRUM has been integrating ADR into schools since 2004. “We plant seeds for better conflict management, which can grow into a climate more conducive to learning,” says Director of C-DRUM’s School Conflict Resolution

Education Program Barbara Sugarman Grochal, who has spearheaded trainings for nearly every school district in Maryland.

Under the leadership of Stacy Smith, director of special projects, C-DRUM also developed an attendance mediation program to reduce chronic truancy and expanded the program to community mediation centers across the state.

School administrators report positive results after altering their approach to student conflicts. At one elementary school in West Baltimore where C-DRUM introduced restorative practices, student suspensions fell from 78 to 23 in just one year, and students reported increased feelings of belonging and safety at school.

“We would begin each [mediation] session by sharing particular instances of conflict and how we used conflict resolution skills to defuse the situation,” says Molly Boyd ’16, who worked through Maryland Carey Law’s Mediation Clinic to teach K-12 students to be peer mediators. “Knowing what these kids encountered on a daily basis only increased the respect that I already had for them.”

Realizing the role of leaders in solving critical public policy issues, C-DRUM’s



Maryland Carey Law, Vol. 2016 [2016], Art. 12

Maryland Carey Law's vast network of alumni are using their legal education to expand and improve ADR in Maryland. Many hold top positions in the state, including (left to right): Maryland Court of Special Appeals ADR Program Director Mala Malhotra-Ortiz '04, Maryland Court of Special Appeals ADR Program Deputy Director Scottie Reid '82, MACRO Director Jonathan Rosenthal '91, C-DRUM Managing Director Toby Treem Guerin '02, MACRO Director (retired) Rachel Wohl '88, and District Court of Maryland ADR Program Deputy Director Maureen Denihan '04.

professional trainings include the Maryland Public Policy Conflict Resolution Fellows Program. Sponsored by the Maryland Judiciary, and in partnership with the University of Maryland, Baltimore, the program brings together a diverse group of top Maryland leaders, including school principals and decision makers, to enhance their consensus-

building and strategic negotiation skills. "From the highest levels of government, these trainings are important because a large portion of what people in leadership do is mediate conflict," says Guerin. "We provide tools for parties to find a lasting, durable resolution."

FOSTERING FUTURE LEGAL EXPERTS IN ADR
As part of a 12-year partnership with the Maryland Judiciary, law students in Maryland Carey Law's Mediation Clinic help hundreds of parties achieve self-determined outcomes.

Third-year student Stephen Demos describes his mediation

experience in the clinic as "the most rewarding work I have done since entering law school." While teaching peer mediation to middle school students, Demos says he was "constantly amazed by the students' perceptiveness and desire to grow. By the end of the year, we had learned a great deal from them as well." The work of the clinic to

mediate civil small claims cases, as well as community-referred disputes, has earned high praise. "The District Court values the participation of law students as mediators in the ADR Program," says Jonathan Rosenthal '91, director of the Mediation and Conflict Resolution Office (MACRO) for the Maryland Judiciary. "Maryland Carey Law students are well prepared, professional, and always working toward providing the highest quality services possible."

This fall, Eisenberg will co-teach a legal theory and practice course exploring the school-to-prison pipeline with Professor and

and address a complex and difficult societal problem," says Eisenberg. "We want our students to be actively involved in problem solving."

The class will integrate traditional legal work, such as representing students in suspension hearings and filing amicus briefs in courts, with conflict resolution processes, such as dialogue circles and restorative justice conferences with youth, and policy advocacy.

For law students, ADR courses can be transformational. "My experience in the Mediation Clinic completely changed the way I perceive conflict," says Laura Merkey '16, who won a

"We would begin each [mediation] session by sharing particular instances of conflict and how we used conflict resolution skills to defuse the situation. Knowing what these kids encountered on a daily basis only increased the respect that I already had for them."

Co-Director of the Clinical Law Program Michael Pinard. The new offering will build on C-DRUM's longstanding work in school conflict resolution and Pinard's work in criminal justice issues.

Consistent with C-DRUM's goal of using dispute resolution processes as instruments of social change, "the course will engage Maryland Carey Law students in employing a web of strategies to identify

Missouri Law Review writing competition in 2015 for her paper proposing restorative justice as an avenue to improve police-community relations following the events in Ferguson, Mo.

"I no longer see conflict as a necessarily negative event, but an opportunity, if handled well, to grow, learn, and create positive change both on an individual and community level."

A Life Dedicated to Mediation

RONNA K. JABLOW MEDIATION FELLOWSHIP

Ronna Jablow worked for several years in private practice before finding her true calling in 2004 when she made the transition to dispute resolution. "In mediation, she found a profession that was a near-perfect match for her best, and most prominent, qualities: a keen intellect, an open mind, and an ability to accept and appreciate the widest variety of people without judgment or undue criticism," says Jablow's husband, Matt.



Photo credit: The Jablow Family

A graduate of Brooklyn Law School, Jablow went on to become director of the Alternative Dispute Resolution program for the Baltimore City Circuit Court. Judge Pamela J. White had the opportunity to work with Jablow for seven years, recalling that "her good will, her sense of fairness, her good humor in all sorts of trying situations was her hallmark."

The Ronna K. Jablow Mediation Fellowship, established in loving memory of Jablow on February 10, 2016, will provide annual fellowship support for Maryland Carey Law students with a demonstrated interest in mediation studies to work with a community mediation center, and will help continue Jablow's work in advancing the cause of alternative dispute resolution. "This is a really special opportunity for our students to see mediation in a different context, and to help individuals solve their disputes," says Dean Donald B. Tobin.

"I am very excited about the fellowship. I think it brings together two things that were really important to Ronna," says Professor Deborah Thompson Eisenberg, director of the Center for Dispute Resolution at Maryland Carey Law, who will be responsible for selecting fellowship recipients. "One is the education of law students and second is expanding community mediation and making that partnership between the law and community."

For more information on the Ronna K. Jablow Fellowship, please contact Assistant Director for Donor Relations and Stewardship Sarah Jackson at 410-706-5458, or visit www.law.umaryland.edu/ronnajablowfellowship.



Terese Brown '06 (left) and Joslin Feinauer '07 (right) discuss a mediation case while at the District Court of Maryland in Baltimore.



Megan Hindle '14 (far right) and Nina Gleiberman '14 (second from right) listen to students at Sligo Creek Elementary School, in Silver Spring, Md., as part of C-DRUM's school-based mediation programs.