

## **Tentative Plans for the University of Missouri “Stone Soup” Case Database**

### Overview

The University of Missouri’s Center for the Study of Dispute Resolution is exploring the feasibility of developing a searchable database of descriptions and analyses of actual cases.

The database would be like a variation of Westlaw and SSRN. Like Westlaw, it would include accounts of actual cases but it would focus on empirical accounts of what happened, not analyses of legal issues. Like SSRN, it would depend on contributions by our community, though the contributions would be accounts and/or analyses of cases rather than other types of scholarly articles.

The source of cases would be course assignments in which students interview people about actual cases and then write reports including narratives of the cases. The reports would include some standard elements to permit efficient searches but otherwise, faculty would design the assignments as they wish. The reports could focus on disputes, transactions, and other decision-making processes and the processes covered could include negotiation, mediation, arbitration, litigation, and many others. The database project would use procedures to ensure compliance with ethical requirements and good research practices.

Students generally would be required to submit the papers to satisfy course requirements (though some students could write up cases for extra-credit, independent studies, law review notes, dissertations, etc.). Students would *not*, however, be required to have their papers submitted to the database. In addition, interview subjects could agree to have the interviews used for the course assignment but not the database. There would be an agreement specifying intellectual property rights, providing that the students would retain the copyright to their reports and specifying the rights of the University of Missouri and database users.

### Potential Uses and Benefits

#### In General

The database would be a network connecting a wide range of people and entities interested in dispute resolution, defined broadly. Stakeholders would include faculty, students, researchers, theorists, practitioners, educational institutions, and professional associations. The database would use some basic standards of analysis (reflected in the database fields and instructions) to promote more common understandings, though faculty would have great discretion to focus the analysis as desired. The stakeholders would span various disciplines, promoting communication across disciplinary as well as national boundaries. The case reports would provide information enabling readers to assess their persuasiveness.

Some of the following uses and benefits may not materialize at all or may take time to develop. If a substantial number of faculty participate in the database project, it would evolve over time and could produce benefits we can't anticipate now.

### Faculty

At minimum, faculty would use the assignments to learn about issues of particular pedagogical interest. Students' reports and class discussion would permit comparison of academic doctrine and theory with empirical accounts. Faculty could include cases from the database as reading assignments.

Faculty could coordinate with colleagues in other classes and schools to use parallel assignments, permitting comparisons between geographic areas, practice settings, etc.

### Students

This assignment would provide students with the opportunity to learn about actual cases from practitioners, parties, or others involved in dispute resolution processes. Students would practice interviewing, a critical skill for lawyers and other practitioners. In particular, this assignment would require students to develop rapport with their subjects, elicit sensitive information, and protect confidentiality. Students would learn the important discipline of objectively obtaining information, assessing credibility, and reporting information using a fairly standard protocol. Students would also learn from class discussion, comparing their experiences and data with their classmates'.

Some students may want to collect data for individual projects, such as independent study courses, law review notes, other publications, or more extensive projects like theses and dissertations. Those who want to publish analyses of the reports they collect might defer submitting the reports to the database until they publish their analyses. In some of these situations, students would need to obtain approval from their institutional review board.

The reports could (but need not) include the students' names, enabling them to get some credit for this work, which might be included in resumes as appropriate. The reports would be designed so that they could be cited individually and thus students' reports may be cited in others' publications, course syllabi, etc.

Regardless of whether students are in a course requiring them to conduct interviews about cases, they would have access to the database and could use it as a resource for their research, much as they do for cases in Westlaw or other data sources.

### Researchers and Theorists

The database would constitute a great source of data for researchers and theorists to use, reducing or eliminating the need to collect their own data for some projects. Taking advantage of the searchable variables to categorize the reports, researchers and theorists could identify particularly suitable cases and develop comparison groups for

analysis. The database could enable them to develop hypotheses to be tested by additional data collection. While the cases may be of particular value to theorists focusing on empirical data analysis, those seeking to develop doctrinal theories could use database cases much like court cases or other accounts. The database would enable authors to circulate their papers based on database cases.

### Practitioners

Practitioners could be both sources and users of reports in the database. Practitioners can be a valuable source of data given their intimate experience with cases. Given their experience as repeat-players, they could compare cases they describe with other cases in their experience. Many practitioners would value the opportunity to be interviewed so that they could share their experiences in a responsible way. Some practitioners might use the database to research how others have handled challenging problems that they are grappling with.

### Educational Institutions

Educational institutions could benefit from collaborating with practitioners to enhance students' educations and faculty's research by incorporating more knowledge about actual dispute resolution experiences. This project could help educational institutions deepen relationships with their alumni and relevant professional associations.

### Professional Associations

Professional associations (such as the ABA Section of Dispute Resolution, American Arbitration Association, International Institute for Conflict Prevention and Resolution, National Association of Arbitrators, and many more) could strength connections between professionals and academics. These organizations' members could benefit as described above. The organizations and academics could collaborate to study issues of mutual interest.

### Logistics

The database project would institute quality control procedures so that users could confidently rely on the data. The database would be designed so that there would be variables for filtering searches as well as open-ended keyword searches. The project would develop materials and procedures for use in:

- collecting data (e.g., solicitation language to obtain informed consent, protocols for collecting and reporting data, maintaining confidentiality, sample case reports)
- submitting data (e.g., IRB certification from source school, verification by faculty submitting data, publication agreement)
- accessing data (e.g., requirement that users register and provide certain identifying information)

## Board of Advisors

The project would assemble a prestigious board of advisors to help plan the database. We would invite:

- *Tower of Babel* symposium speakers
- empirical researchers
- ABA Section of Dispute Resolution scholarship award winners
- leaders of major organizations in the field
- other prominent figures in the field

Members of the board of advisors would be asked to do the following:

- Give written feedback on database plan and model documents
- Participate in a conference call, if possible
- Add their name to a roster of respected leaders on the board
- [Faculty:] Consider using assignment requiring students to write case reports
- [Faculty:] Use their communication networks to inform colleagues about the database and encourage them to use assignment requiring students to write case reports
- [Faculty:] Inform students of availability of database as resource for writing papers
- [Organizational Leaders / Practitioners:] Encourage colleagues to be interviewed, time permitting
- [Organizational Leaders / Practitioners:] Use their communication networks to inform colleagues about the database and inform them how they might use it
- After launching the database, periodically provide feedback and suggestions. There probably would not be additional conference calls, but they might be scheduled if needed.

## Tentative Schedule of the Feasibility Analysis Process

May 8 – solicit members of the board of advisors, including materials for review  
May 26 – deadline for board of advisors to submit written comments  
June 2 – conference call with board of advisors  
June 8 – solicit commitments from faculty to use the assignment  
June 19 – deadline for faculty responses so that we can decide whether to proceed  
June 23 – announce decision whether we will proceed

If we proceed, we would provide documents and assistance for faculty to begin using the course assignments in the Fall 2017 semester. The database would be unveiled early in 2018.

May 6, 2017