Status Report
March 2018
Stone Soup Dispute Resolution Knowledge Project
hosted by the University of Missouri School of Law
Center for the Study of Dispute Resolution

The Stone Soup Dispute Resolution Knowledge Project is a collaboration of faculty, students, scholars, practitioners, and professional associations to produce, disseminate, and use valuable knowledge about actual practice.

Dispute resolution is defined broadly and includes dispute system design, conflict management, organizational decision-making, dispute prevention, and transactional negotiation, among other things. Moreover, the Project is not limited to traditional concepts of dispute resolution, recognizing that legal practice generally is oriented to dispute prevention and resolution.

Although the initial focus was primarily on dispute resolution in American law schools, we hope to include participants from other disciplines and countries.

This report describes the Project's activities to date, including use of Stone Soup course assignments, continuing education programs using Stone Soup techniques, and conference presentations about the Project. It begins by describing the genesis of the Project and ends by listing some possible future initiatives.

Genesis of the Project

The Stone Soup Project grew out of the "Tower of Babel" symposium – *Moving Negotiation Theory from the Tower of Babel Toward a World of Mutual Understanding* – at the University of Missouri School of Law in October 2016. David Matz and Adrian Borbély advocated the development of more book-length accounts of actual negotiations to remedy deficiencies in negotiation theory. John Lande recommended developing a database including shorter case studies of real negotiations as well.

In early 2017, University of Missouri Professors John Lande and Rafael Gely, the co-directors of the Project, announced a plan to explore the feasibility of developing a database of accounts of actual cases based on interviews with lawyers or others involved in the cases. The primary focus was to create a resource for research and teaching. The case reports would be generated through course assignments, which would provide students the valuable benefit of learning from the interviews that they would conduct.

The vision for the Project included development of more and better empirical research, a focus on development of qualitative data for theory development, improvement of legal education by incorporating more knowledge of actual practice, and increased collaboration between academics and practitioners.

In June 2017, after consulting with the Stone Soup Board of Advisors, we decided that it would have been too ambitious to develop a single, centralized database at the outset. Instead, the Project would promote a decentralized set of efforts to produce knowledge about actual practice. Faculty would conduct a wide variety of activities, which would usually focus more on teaching than the production of scholarly knowledge.

The Project developed a website collecting materials to help faculty use Stone Soup in their courses, often using posts from the Indisputably blog. During the summer of 2017, the Project produced a Stone Soup "mini-course" for interested faculty. It discusses the nature of knowledge and the value of qualitative research, including examples of valuable qualitative research. It includes materials that faculty could use in developing Stone Soup assignments for their courses. The Project also created a listserv for communication with interested faculty.

Use of Stone Soup Assignments in Law School Courses

The inaugural cohort of Stone Soup faculty started using Stone Soup assignments in the Spring 2017 semester. The Project has engaged almost 1000 students in 40 classes covering 12 subjects, taught by 32 faculty from 25 schools in 3 countries. Most of the courses were traditional ADR courses, but faculty also used Stone Soup assignments in other courses including Access to Justice, Evidence, Relational Lawyering, Resolving Community Civil Rights Disputes, and Trusts and Estates. Faculty could use them in almost any course, such as Labor Law, Employment Discrimination, Professional Responsibility, Civil Procedure, and Criminal Law.

Although there are many reasons why faculty might not want to make changes in their courses, many faculty have received the benefits of incorporating Stone Soup into their courses. They see the improvements in students' learning and find it easy to use.

Most of the assignments involved interviews of advocates, neutrals, or parties, though some assignments involved observations of ADR or court proceedings instead of or in

addition to interviews. Faculty have used similar assignments in the past; the Stone Soup Project is a collaborative effort to systematically develop knowledge and pedagogical techniques.

Faculty have great discretion to tailor courses to fit their goals and circumstances, including deciding:

- whether students will be assigned to conduct interviews and/or observe cases

- who will be interview subjects or what types of cases will be observed

- whether students will focus on specific cases and/or general practices and philosophies

- whether all students will be required to do Stone Soup, it will be one option for completing a required assignment, or it will be an optional, extra-credit assignment

- whether faculty will give students wide discretion in their choice of topics and questions or whether faculty will require them to focus on certain issues

- whether students will complete assignments individually, in small groups, or as part of a class-wide project

- whether to require students to write a paper and, if so, the length of the paper

- the deadline for completing assignments

- whether faculty will discuss students' experiences in class

- whether the assignment will be graded and, if so, the proportion of the grade

- whether faculty will use "focus group classes" in which they have structured conversations with guest speakers

The Project produced materials to help faculty develop interview assignments, including general advice, a model assignment, guidance for students in conducting and summarizing interviews, a model invitation for an interview, and a summary of professional ethics rules regarding confidentiality of interviews. The material on confidentiality illustrates that lawyers and neutrals are permitted to discuss cases if they do not provide information that could reasonably lead to identification of the parties.

Because preparation is very important in law and dispute resolution, the Project developed a set of questions students could ask to learn about how people evaluate

cases to prepare for negotiation and mediation cases. This list could be adapted to learn about preparation for arbitration and litigation procedures.

Some faculty used the model Stone Soup materials with little or no modification and others developed their own materials.

This table displays the decisions that faculty have made in designing their assignments.

Stone Soup faculty have shared exemplary student papers (with the students' permission) in Negotiation, Trusts and Estates, and Evidence courses.

Stone Soup faculty have written assessments of their courses, identifying what worked well, what students learned that they would not have learned without the assignment, and what faculty would do differently in the future. Here's a collection of their assessments of their courses. This document summarizes their experiences and offers specific suggestions for interested colleagues. Faculty generally did not seek approval from research ethics boards because the assignments were for teaching and not research. Even so, faculty used procedures to get subjects' permission and protect the confidentiality of the information that students obtained.

Faculty consistently reported results that have been outstanding, far exceeding expectations. Stone Soup has provided many benefits including:

● 	increasing students' exposure to the real world of practice

● 	helping students develop critically-important interviewing and analysis skills

● 	identifying how theory does and doesn't map well onto actual practice

● 	supplementing faculty's knowledge, especially for faculty who haven't practiced in the subjects they are teaching – or haven't practiced at all

● 	increasing students' and faculty's enjoyment of the courses

Faculty who used Stone Soup assignments in their courses generally plan to use Stone Soup again with little or no change. Their experiences yield some general suggestions for using Stone Soup. In particular, faculty should require students to complete interviews or observations as soon as appropriate in a course, and should schedule time in class to discuss what students learned. This provides a base of experience that everyone can refer to throughout the rest of the course. Students generally were able to arrange for interviews or observations on their own, but faculty should be prepared to help students identify interview subjects or cases to observe if needed.

Use of Stone Soup Techniques in Continuing Education Programs

Practitioners attending continuing education programs, including trainings and conferences, have a lot of valuable experience and insights to share about actual practice. Typically, these programs normally do not elicit this knowledge, record, and disseminate it.

The Stone Soup Project piloted a process to systematically obtain information from audiences as part of the educational process. This involves planning to ask certain questions of the audience, take notes of the discussion, and distribute insights from the program. This post illustrates some questions that might be used.

This post describes the process used in a two-hour continuing education program and this post presents the insights obtained from the process.

This post describes a more elaborate process used in two days of mediation trainings, which included a survey conducted before and during the trainings. This post presents the learning that resulted from the trainings.

At the upcoming American Bar Association Section of Dispute Resolution annual conference, this process will be used to develop and share knowledge from the conference programs.

Conference Presentations About the Stone Soup Project

In October 2017, there was a presentation about the Project at the Works-in-Progress Conference of the Association of American Law Schools ADR Section. The discussion identified some misconceptions about the Project; some people believed that it was still developing a database of standardized case reports. This post summarizes these misconceptions and the current strategy of promoting a decentralized initiative for faculty to tailor Stone Soup techniques in their courses to fit their varied instructional goals and circumstances.

At the Legal Educators' Colloquium of the American Bar Association Section of Dispute Resolution annual conference in April, there will be a program entitled *Lessons From the Stone Soup Project and Ideas for the Future*. It will feature faculty describing their Stone Soup experiences in Mediation Theory and Practice, Mediation Clinic, Externship, and Access to Justice courses. It will solicit suggestions for further development of the Project and encourage faculty to use Stone Soup assignments in 2018-2019.

There will be a similar presentation in June at the conference of the Association for Canadian Clinical Legal Education and the Canadian Association of Law Teachers. These organizations are counterparts of the Clinical Legal Education Association and the Association of American Law Schools in the US.

Next Steps

On June 12, the Stone Soup Board of Advisors will hold a conference call to review the Project's activities to date and discuss possible future initiatives. The Project welcomes feedback and suggestions from anyone interested.

Some possible next steps include, but are not limited to, the following:

● develop additional materials to help faculty use Stone Soup assignments, possibly including "action research" in which student assignments result in useful products

● develop interview and/or observation protocols for particular courses, possibly adapting elements of the tentative database structure initially contemplated

● recruit more faculty to use Stone Soup assignments both in traditional dispute resolution courses and other courses

● recruit more faculty from countries outside the US

● recruit faculty from disciplines other than law

● encourage faculty to use the same assignments in different schools or disciplines

● develop a system for sharing good student papers (which might be a precursor to a database of Stone Soup products)

● encourage schools to take greater advantage of learning opportunities from student competitions

● encourage professional organizations to routinely use Stone Soup processes to generate and distribute knowledge from their continuing education programs

● encourage faculty to conduct qualitative research about actual practice to improve theory

● focus particularly on parties' perspectives, including in lawyer-client relationships

Because the Project is a collaboration of numerous stakeholders, decisions about future plans will depend, in part, on the interest of stakeholders to work on particular initiatives.