Title of Course – ADR and Technology

Description of Course – This course examines how technology can facilitate dispute resolution. It was the first full-semester, fourteen week ADR and Technology course taught in an American law school and still is one of the only, if not the only, course of its nature. Students will analyze online dispute resolution platforms that already exist and each student will have an opportunity to resolve disputes using those platforms.

Professor Larson was one of the founders of the International Competition for Online Dispute Resolution (ICODR) competition and law schools from around the world participated, providing a unique cross-cultural international dispute resolution opportunity for the students. Participants' names and the competition results were published internationally on the website www.odr.info. (The website is maintained by the Center for Information Technology and Dispute Resolution (CITDR) at the University of Massachusetts.)

Since 2007, however, ICODR has taken a sabbatical and there may not be an ICODR international competition this year. We are fortunate, however, because this year students from both the Concord Law School and the Hamline University School are enrolled in the course. Students will be able to participate in truly intercollegiate dispute resolution simulations in a frequency and manner that generally cannot be duplicated in other law schools.

Students first will be introduced to different traditional off-line dispute resolution processes. Students then will: use and critically evaluate different audio, video, and text based technologies that can assist in resolving disputes; become familiar with several existing dispute resolution software programs that are available commercially; study and discuss current literature concerning technology mediated dispute resolution; (and) be expected to use video and audio technology to make a presentation to the entire class.

There are two required textbooks for this course. Each student will be expected to attend the "live classes" scheduled for modules 5, 7, 10 and 13. Every student must have, or have ready access to, a web camera (webcam) as well as a sufficiently fast internet connection to allow the student to participate in a direct negotiation via webcam. Students also will be required to participate in dispute resolution simulations using e-mail and Instant Messaging. All students will prepare a formal presentation that must be completed before the final two scheduled classes. The student may select a particular subject that he or she finds interesting (subject to the approval of Professor Larson). The students are encouraged to use the technology and media that they believe will support their presentation. The presentation will be part of the participation grade. There will be four short essays that will receive grades, two quizzes that will be graded, and a participation grade (based on your presentation, Bulletin Board assignments, non-graded essays, and live classroom participation).

Two required textbooks

1) Cyberjustice by Lucille M. Ponte and Thomas D. Cavenagh, Prentice Hall, ISBN 0-13-098636-4 (2005)

2) Online Dispute Resolution: Resolving Disputes in Cyberspace by Ethan Katsh and Janet Rifkin, Jossey-Bass, ISBN 0-7879-5676-7 (2001)

Grading Policy –

The modules in this course build upon one another and it is important that assignments be completed in a timely manner. There is some flexibility, however. All written assignments (graded and pass/fail) and bulletin board assignments can be uploaded at an earlier time, but ideally should be uploaded no later

than 12;00 midnight pacific time on the last day of the week (Saturday) that corresponds with that module. For example, the assignments for the tenth module should be submitted by 11:59 PST on the Saturday (the last day) of the tenth week in order to be eligible for grading. Likewise, the assignments for the tenth module must be submitted by 11:59 PST on the Saturday (the last day) of the tenth week in order to be eligible for grading.

If a written assignment; bulletin board assignment, or e-mail, IM, or webcam negotiation has a specific completion date, however, than the assignment must be completed by 11:59 PST on that date.

Understanding, however, that we all can face unforeseen professional and personal deadlines or disruptions, each student will be allowed two extensions. You must notify Professor Larson via the contact Concord function on the Concord home page 24 hours before the assignment is due that you are requesting an extension. The extension provides 3 extra days to complete the assignment. IN ORDER TO BE FAIR TO ALL STUDENTS, THERE WILL BE NO ADDITIONAL EXTENSIONS GRANTED FOR ANY REASON. Hopefully these two extensions will provide more than enough flexibility to allow you to fulfill the requirements of this course.

Additionally, the final student presentations must be submitted no later than 11:59 PST on the last day of the 14th week of the semester. All of the students will be expected to review each presentation. To allow time for each student to review all of the presentations, those presentations must be submitted by this date and there can be no extensions regarding the presentations. Accordingly, please do not wait until the last minute to submit your presentations.

Your grade in this course will be based on the four Writing Assignments that are graded (40% of your grade), 2 Quizzes (30% of your grade), and Class Participation (30%). The Class Participation portion of your grade will be based on the Writing Assignments that are not graded but instead are pass/fail (as identified on the syllabus), your presentation at the end of the semester, and your participation in regard to the Bulletin Board assignments and the Live Classes.

Module 1 ---Introduction to Alternative Dispute Resolution (ADR) (Begin Jan. 15, 2009)

Module Learning Objectives

By the end of the module, students will be able to:

1. Understand what we are describing when we use the term "negotiation."
2. Understand generally accepted definitions of "mediation."
3. Appreciate that mediation models and processes can differ and that the purpose and goal of mediation can vary.
4. Understand what is meant by the term "arbitration".

Audio Introduction
Time to Complete: 0.4 hours

Professor Larson will present an introduction explaining both the goals of the course and his own experience with ADR and technology mediated dispute resolution (TMDR).   He will explain why we need to be familiar with traditional off-line, face-to-face dispute resolution processes before focusing on Online Dispute Resolution (ODR) and Technology Mediated Dispute Resolution (TMDR). He also briefly will describe negotiation, mediation, and arbitration.

Reading Assignments
Time to Complete: 2 hours

1) "About Mediation and Other Methods of Dispute Resolution"
http://bostonlawcollaborative.com/blc/faqs/about-mediation-and-other-methods-of-dispute-resolution.html

2) "Arbitration Answers" http://www.arbitrationanswers.com/home/Arbitrationincontracts.aspx (please click through all the links and sub-links on the left column of the pages)

3) "Getting Help with ADR: A Guide to the Main Players,"
http://www.adrforum.com/rcontrol/documents/ResearchStudiesAndStatistics/200101DawsonStevensonBusinessLawToday.pdf

4) "Frequently Asked Questions About ADR," http://www.usdoj.gov/odr/article2.pdf

Bulletin Board Assignments
Time to Complete: 0.5 hours

Please go to the classroom bulletin board and introduce yourself. Please describe whether you are employed full-time, part-time or whether you are a full-time student; where you are from, and what you hope to get out of the class. Please also describe any experience you have had concerning negotiation, mediation, or arbitration.

Module 2 – Compare/Contrast ADR processes and Introduction to Technology Mediated Dispute Resolution (TMDR)

Module Learning Objectives

By the end of the module, students will be able to:

1. Describe the advantages and disadvantages of different ADR processes
2. Begin to identify different technologies that can facilitate dispute resolution and problem solving

Writing Assignments
Time to Complete: 5 hours

Based primarily upon your reading from Module 1, please write and upload an essay that addresses the following: Alternative Dispute Resolution processes increasingly are perceived as an attractive alternative to civil litigation. Please explain why parties may prefer ADR to litigation. Compare the relative advantages and disadvantages of both arbitration and mediation as compared to each other and also as compared to litigation. This essay must to be at least 1000 words in length. Any footnotes that you include should be counted as among the 1000 words.
This essay will receive a grade and must be completed before moving on the next module.

Lectures
Time to Complete: 1.5 hours

Professor Larson will present a PowerPoint presentation introducing the class to Technology Mediated Dispute Resolution (TMDR).

Module 3 ---Technology Mediated Dispute Resolution (TMDR)

Module Learning Objectives

By the end of the module, students will be able to:

1. Begin to explain how the introduction of technology can change ADR processes
2. Begin to explain how the expansion and proliferation of technology throughout everyday life will affect ADR processes

Audio Introduction
Time to Complete: 0.3

Professor Larson briefly will discuss the assigned reading and explain how those readings will be used in this course.

Reading Assignments
Time to Complete: 5.0 hours

1) Read Online Dispute Resolution: Resolving Disputes in Cyberspace by Ethan Katsh and Janet Rifkin - Introduction and Chapters 1 – 3.

2) Technology Mediated Dispute Resolution (TMDR): A New Paradigm for ADR

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=944932 (not prepared for the Concord Law class)

(Please make certain that you download the entire article and not merely the abstract.)

Module 4 ---Different TMDR mediums – a negotiation exercise via asynchronous e-mail

Module Learning Objectives

By the end of the module, students will be able to:

1. Discuss the positives and negatives of using asynchronous e-mail for direct negotiation

Audio Introduction
Time to Complete: 0.3

Professor Larson will discuss the goals of this module and provide instructions as to how you should proceed.

Writing Assignments
Time to Complete: 4.0 hours

1) Conduct a direct negotiation with your partner using e-mail using the hypothetical simulation provided. Professor Larson will assign negotiating partners.

2) When you are finished, please describe the positive and negative aspects of using e-mail as the medium for this negotiation. Your essay should be at least 500 words. **This essay will not receive a separate grade. It will be considered as part of your Class Participation Grade.**

Module 5 ---Technology Can Enhance and Alter ADR Processes

Module Learning Objectives

By the end of the module, students will be able to:

1. Explain how technology becomes a new, "fourth party," in a mediation or arbitration process

Reading Assignments
Time to Complete: 3.5 hours

1) Finish reading Online Dispute Resolution: Resolving Disputes in Cyberspace by Ethan Katsh and Janet Rifkin - Chapters 3 - 6.

Live Classes
Time to Complete: 1 hour
During this class we are going to discuss the reading assignments that you have completed so far, including the assignment for this module. We will pay particular attention to the Katsh and Rifkin book, Online Dispute Resolution. The book now is a few years old and some of the examples clearly are dated. But be prepared to discuss whether the idea of the fourth party still is relevant and, in particular, the significance and application of the "Convenience, Trust and Expertise," triangle.

Module 6 --- I-courthouse: litigation in Cyberspace

Module Learning Objectives

By the end of the module, students will be able to:

1) Explain the pros and cons of litigating a case in a virtual courthouse, in particular, icourthouse

Reading Assignments
Time to Complete: 1.5 hours

1) Go to www.icourthouse.com and register

2) Take the entire "icourthouse tour." Click and carefully review all of the eleven links on the left hand side of the page from "Plaintiff's Opening Statement" through "Verdicts"

3) Look for a three cases where the parties have completed trial notebooks (which tend to be the more credible cases) and review the trial notebooks. Then submit your verdict for all three cases. Choose cases that appear to be genuine disputes. Review the trial notebook of case number 2008-11618, for instance.

Writing Assignments
Time to Complete: 4.0 hours

Please evaluate your experience using icourthouse. Explain the positive and negative aspects of using icourthouse to resolve disputes and explain specifically how you believe icourthouse could be improved. This essay must be at least 500 words including any footnotes. **This essay will receive a grade and must be completed before moving on the next module.**

Quizzes
Time to Complete: .75 hours

In order to complete this module, students must finish a multiple choice quiz consisting of fifteen questions. The quiz will cover all of the readings that have been assigned thus far. In other words, the quiz will cover all of the readings in modules one through six. This is an open book quiz but, because students will have only forty-five minutes to complete the quiz, students should be familiar with the assigned reading material before they begin the quiz. It is anticipated that students will not have time to search for the answers in the reading assignments for all of the fifteen questions if they have not previously read the assignments. **Students must complete this quiz before moving on to the next module.**

Module 7 --- Different TMDR mediums – Instant Messaging versus e-mail and TMDR opportunities and dangers

Module Learning Objectives

By the end of the module, students will be able to:

1. Compare and contrast using e-mail and instant messaging for negotiating
2. Begin to identify some of the dangers in relying on technology for dispute resolution

Audio Introduction
Time to Complete: 0.3 hours

Professor Larson will provide a brief introduction to Cyberjustice and explain how he would like the class to use the textbook.

Reading Assignments
Time to Complete: 4 hours

1) Please read chapter 1 in Cyberjustice by Lucille M. Ponte and Thomas D. Cavenagh (2005)

2) Please read Technology Mediated Dispute Resolution (TMDR): Opportunities and Dangers

Bulletin Board Assignments
Time to Complete: 1 hour

1) Please turn to the Quick Clicks section on p. 15 of Cyberjustice. Analyze the online forum selection clauses and choice of law clauses for an online merchant with whom you have shopped and follow the instructions in the Quick Clicks section.

2) Please turn to the Quick Clicks section on p. 22 of Cyberjustice and follow those directions.

3) Post your response on the Bulletin Board.

Live Classes
Time to Complete: 0.7 hours

We will compare and contrast our negotiation experience using asynchronous e-mail and synchronous instant messaging. Please be prepared to discuss which medium you prefer and please provide specific reasons as to why you prefer one medium rather than the other.

In this class please be prepared to describe the positive and negative aspects of using IM as the medium for this negotiation. Please be specific. Compare this experience to your earlier experience using e-mail for your negotiation. If time permits, then we also briefly will discuss the two reading assignments.

Additional Assignment

Time to Complete: 1.5 hours

1) We will engage in a direct negotiation using IM (Instant messaging). Professor Larson will assign negotiating partners.
To ensure that everyone will be able to communicate with each other, please go to http://www.aim.com/download.adp. We will use AOL instant messaging for this negotiation exercise.

Module 8 ---Compare/Contrast TMDR with ADR and technology mediated negotiation

Module Learning Objectives

By the end of the module, students will be able to:

1. articulate in greater detail how TMDR differs from traditional off-line alternative dispute resolution
2. understand what several currently existing technology mediated negotiation platforms offer as compared to traditional face-to-face negotiations

Reading Assignments
Time to Complete: 2 hours

1) Please read chapter 2 and chapter 3 in Cyberjustice by Lucille M. Ponte and Thomas D. Cavenagh (2005)

Bulletin Board Assignments

Time to Complete: 2 hours

1) Please turn to the Quick Clicks section on p. 22 of Cyberjustice, follow those directions and post your response. Internet based service providers often appear and disappear with little or no notice. If you cannot find an appropriate internet service provider, then you can look at www.smartsettle.com.

2) Please turn to the Quick Clicks section on p. 57 of Cyberjustice, follow those directions and post your response.

Module 9 --- Technology Mediated Mediation and Arbitration

Module Learning Objectives

By the end of the module, students will be able to:

1. describe advantages and disadvantages of technology mediated mediation
2. describe advantages and disadvantages of technology mediated arbitration

Lectures
Time to Complete: 0.5 hours

Professor Larson will discuss the International Competition for Online Dispute Resolution (ICODR), a competition that he co-founded and will discuss online mediation and arbitration generally.

Reading Assignments
Time to Complete: 2.0 hours

1) Please read chapters 4 and 5 in Cyberjustice by Lucille M. Ponte and Thomas D. Cavenagh (2005)

Writing Assignments
Time to Complete: 3.0 hours

1) Please turn to the Quick Clicks section on p. 78 of Cyberjustice and follow those directions. Search the website for the page that has the legal agreements that can be downloaded.

2) Please turn to the Quick Clicks section on p. 96 of Cyberjustice and follow those directions.

3) **These responses will not receive a separate grade. They will be considered as part of your Class Participation grade.**

Module 10 --- A closer look at online juries and artificial intelligence

Module Learning Objectives

By the end of the module, students will be able to:

1. explain the comparative strengths and weaknesses of several different virtual courthouses
2) explain how artificial intelligence devices can be used in TMDR

Reading Assignments
Time to Complete: 4.0 hours

1) Please read chapter 6 in Cyberjustice by Lucille M. Ponte and Thomas D. Cavenagh (2005)

2) Please read "Artificial Intelligence: Robots, Avatars, and the Demise of the Human Mediator," available for download at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1461712 (not prepared for the Concord Law class) As always, make certain that you download the entire article and not merely the abstract.

Writing Assignments
Time to Complete: 3.0 hours

1) Please turn to the Quick Clicks section on p. 113 of Cyberjustice. This page has two Quick Click sections. Please review the range of jury research offerings at www.decisionquest.com. Then please go to www.legalvote.com and either render a verdict or give a damage award (as described in Cyberjustice on page 113.)

2) Next please complete a written assignment comparing and contrasting www.legalvote.com to other online dispute resolution platforms we have reviewed (especially www.icourthouse.com and www.virtualjury.com), stating what you believe is good (or favorable) about legalvote.com, what is bad (or does not seem effective), whether you believe legalvote can be improved and specifically how it could be improved.

3) Your essay should be at least 500 words in length. **This essay will receive a grade and must be completed before moving on the next module.**

Live Classes
Time to Complete: .7 hours

Be prepared to discuss what you believe is the value and shortcomings of virtualjury.com and legalvote.com. Also be prepared to describe your own experience using these websites.

Also be prepared to discuss whether you believe that artificial intelligence devices can be integrated successfully into ADR processes and why.

Module 11 --- TMDR Design and negotiating via webcam

Module Learning Objectives

By the end of the module, students will be able to:

1. identify factors important to determining whether to create a technology mediated dispute resolution system
2. explain specific concerns that should be addressed once the decision has been made to create a technology mediated dispute resolution system

Reading Assignments
Time to Complete: 1 hour

1) Please read chapter 7 in Cyberjustice by Lucille M. Ponte and Thomas D. Cavenagh (2005)

Bulletin Board Assignments
Time to Complete: 1.0 hours

1) Please turn to the Quick Clicks section on p. 133 of Cyberjustice and follow those directions. Post your summary of the dispute resolution program you reviewed here. Determine if it posts statistical reports or actual decisions. If possible, please try to find a trustmark or seal program different than the ones already posted on the bulletin board.

Module 12 --- Negotiating via webcam

Module Learning Objectives

By the end of the module, students will be able to:

1. begin to be comfortable negotiating via webcam and consider relative advantages and disadvantages of negotiating using webcams

Additional Assignment
Time to Complete: 4.0 hours

1) We will engage in a one party to one party direct negotiation using webcams. Professor Larson will assign negotiating partners. It is recommended that students use Skype. (For technical assistance please contact Skype technology support.)

Writing Assignments
Time to Complete: 3.0 hours

1) Please prepare a written essay comparing your experiences negotiating via webcam, IM, and e-mail. What are the strengths and weaknesses of each of these mediums?

2) Your essay should be at least 500 words in length.

3) **This essay will receive a grade.**

Module 13 --- Expanding and Regulating TMDR

Module Learning Objectives

By the end of the module, students will be able to:

1. identify and discuss existing codes that attempt to regulate TMDR
2. identify developments that are necessary if TMDR is to expand
3) explain whether and why the ABA E-Commerce and ADR Task Force recommended approach is the most desirable approach

Reading Assignments
Time to Complete: 4.0 hours

1) Please read chapter 8 in Cyberjustice by Lucille M. Ponte and Thomas D. Cavenagh (2005).

2) Please read the Recommended Best Practices in Appendix A of Cyberjustice.

3) Please read the entire ABA E-Commerce and ADR Task Force Report available at:
http://www.abanet.org/dispute/documents/FinalReport102802.pdf

Quizzes
Time to Complete: 1.0 hours

In order to complete this module, students must finish a multiple choice quiz consisting of fifteen questions. The quiz will cover all of the readings that have been assigned after module six. In other words, the quiz will cover all of the readings in modules seven through thirteen. This is an open book quiz but, because students will have only forty-five minutes to complete the quiz, students should be familiar with the assigned reading material before they begin the quiz. It is anticipated that students will not have time to search for the answers in the reading assignments for all of the fifteen questions if they have not previously read the assignments.

Live Classes
Time to Complete: 0.8 hours

1) Professor Larson will discuss his experience as a member of the American Bar Association E-Commerce and ADR Task Force.

2) Please be prepared to discuss whether you believe the approach recommended by the ABA E-Commerce and ADR Task Force is the proper approach. Why or why not?

3) Please read the Quick Click section on page 149. You will be asked to provide the information during this live classroom discussion.

Module 14 --- Student Presentations

Module Learning Objectives – Student presentations

By the end of the module, students will be able to:

1. have a better understanding of TMDR possibilities

Reading Assignment

Please open this tab to receive instructions for presentations

Live Classes
Time to Complete: 4.0 hours

Students will make final presentations to their classmates.

Module 15 --- Student Presentations

Module Learning Objectives

By the end of the module, students will be able to:

1. have a better understanding of TMDR possibilities

Live Classes
Time to Complete: 4.0 hours

Students will make final presentations to their classmates.