Seminar on ADR Syllabus
Spring 2009
Peter N. Thompson

Office 209E
pthompson@hamline.edu
651-523-2983

Course Description

Is ADR a Better Way?
The modern era of the ADR movement began at the Pound Conference in 1976 when Chief Justice Warren Burger decried the delay, expense and unnecessary technicality in the judicial system. ADR promised a better way to resolve disputes. Over the last thirty years ADR processes have proliferated both within the public judicial system and in a developing new industry of private dispute resolution. At the same time the civil jury trial has nearly disappeared. This seminar will explore the development of ADR processes and attempt to assess the extent to which ADR processes provide a better way of resolving disputes in the context of court annexed ADR. Have the idealistic goals of the process been swallowed up in the practicality of our adversarial litigation system? We will study Mediation, Transformative Mediation, Collaborative Practices, Restorative Justice and Arbitration. There will be assigned readings and group discussion for the first part of the seminar. Students will be asked to prepare an in depth research paper on a subject of their choice relating to dispute resolution. In addition students will be asked to conduct one class session relating to the subject of their research paper. The final grade will be based on the two drafts of the research paper and class participation. There is no examination.

Course Requirements

1. Students will prepare an in-depth research paper including original analysis and footnotes or endnotes with proper citation form. You will prepare an advanced draft to be discussed in class and a final draft. The final paper must include a bibliography of authorities cited and authorities consulted but not cited. Students will provide a one to two page critique of at least three advanced drafts submitted by other students. You may write on an aspect of an issue that you are currently researching or have researched for work or in another class, but you must clear that with me first. Obviously you cannot get credit twice for the same effort.

2. Each student will lead a class session involving some aspect of the student's paper topic. Research papers shall be sent to Twen at least 36 hours before the presentation.

3. There will be no final examination.

4. Attendance is mandatory. Missing more than two of the class sessions is excessive and will affect your grade. Coming in substantially late or leaving substantially early will be treated as an absence.
5. Laptop Computer Policy- There is little need to take extensive notes in this seminar. If you really want to bring in a laptop you may, but you may use it in class only for class related matters.

6. The Final grade will be determined as follows:
   a. Class participation, class presentation of paper topic, attendance, critiques of other papers--25%.
   b. Advanced draft-- 25%. The advanced draft is not a rough draft. It should be something in good enough shape to be reviewed by your colleagues. You may have a section not quite completed, and you likely will need additional research on some points. Most of the paper should be in close to final form.
   c. Bibliography and depth of research- 10%. The preliminary bibliography must be submitted by email and include eight to ten sources with a very brief description about how you believe these sources will relate to your thesis.
   d. Final Redraft- 40%.

7. The grade on late papers will be lowered.

8. Due Dates
   a. Paper topic – February 2
   b. Preliminary Bibliography – February 9
   c. Advanced Draft due – 36 hours before presentation but no later than April 14th
   d. Final version of paper – May 18

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Assignments

Class Session 1

Pound Conference – Vanishing Trial


Class Session 2 - Mediation

Sarah R. Cole, Craig A. McEwen & Nancy H. Rogers, Mediation: Law, Policy & Practice, 2d Ed. Chapter 5


Owen M. Fiss, Against Settlement, 93 YALE L.J. 1073 (1984)

Baruch Bush, What Do We Need a Mediator For?: Mediation’s Value-Added For Negotiators, 12 OHIO ST. J. ON DISP. RESOL. 1 (1996)

Class Session 3 – Justice in Mediation


Class Session 4 – Conciliation in the Adversary System


Class Session 5 – Transformative Mediation

Class Session 6 – Collaborative Practice

TBA

Class Session 7 – Restorative Justice

TBA

Class Session 8 – Arbitration

TBA

The remaining class sessions will include student presentations of research topics.