The Center for the Study of Dispute Resolution at the University of Missouri has a long and distinguished tradition in advancing, through scholarship, our understanding of this ever changing field of study. Leaders in the field, such as Len Riskin, Phil Harter, Bobbi McAdoo, Josh Stulberg, Jean Sternlight, and Chris Guthrie, among others have over the years produced some of the most innovative and impactful scholarship in the field. That same tradition of excellence and innovation, continues today with a different, but equally talented and productive group of scholars. In this issue of our eNewsletter, we showcase a sample of our most recent scholarly efforts.

Campus Free Speech Issues and Dispute Resolution

Although the free exchange of ideas is fundamental to every university’s mission, events on many of our nation’s campuses in recent years vividly demonstrate that preserving and promoting this principle in a university community presents enormous challenges. Members of the CSDR at the University of Missouri have had to deal with this type of conflict at a different level. In 2015, we were touched closely by events such as the shooting of Michael Brown by a police officer in Ferguson, Mo., a number of racially motivated incidents on our own campus, and the protests by students following those incidents, which, in turn, resulted in the resignations of high-profile campus leaders.

While perhaps Missouri played the role of the proverbial “canary in the coal mine,” confrontations like the one we experienced in 2015 soon emerged in other campuses across the U.S. Opposing narratives developed describing these events. One narrative portrays today’s students as hypersensitive and intolerant as they seek protections against offensive words and ideas, which results in the sacrifice of both intellectual rigor and First Amendment values. A counter-narrative posits that the rise in verbal abuse and violence against historically persecuted groups requires the prohibition or limitation of hateful, intolerant, or threatening speech on our campuses, as learning becomes impossible in an environment where members of the community feel unsafe.

Motivated by those experiences, Prof. Robert Jerry, who served as the dean of the law schools at the University of Florida and the University of Kansas for a combined total of 16 years, and who teaches and writes in dispute resolution among other subjects, and Prof. Chris Wells, who is one of the leading First Amendment scholars in the country and teaches in the dispute resolution area, have organized the 2017 CSDR/Journal of Dispute Resolution Symposium along this topic. The symposium, which is titled “The First Amendment on Campus: Identifying Principles for Best Practices for Managing and Resolving Disputes,” will explore the complex intersection between free expression and conflict at universities.

In what is likely a first-of-its-kind-effort, the program will bring together free speech scholars, dispute resolution experts, and university leaders with experience with free expression conflict, with the goal of advancing our understanding of how university leaders can remain true to both the mission of the university and the values of the First Amendment.

The timing of the symposium is particularly propitious for us, as it coincides with the arrival of our new Dean Lyrissa Lidsky, who is also an expert in First Amendment Law and has written on the topic of campus speech issues.
Expanding Access to Justice through ODR

At one time, transactions between merchants and consumers were often sealed with a handshake. This handshake was more than a kind gesture—it helped reassure both parties that the other was committed to the deal and would correct any problems. As more transactions occur online, finding fair and efficient resolution of problems that arise can be challenging. In her new book with Colin Rule of Tyler Technologies, Prof. Amy J. Schmitz argues that using technology to enhance access to remedies is in the best interest of both retailers and consumers. In their book, *The New Handshake: Online Dispute Resolution and the Future of Consumer Protection*, Schmitz and Rule propose a design for this using Online Dispute Resolution (ODR) to establish a new virtual handshake for the online world. Their proposed process uses a single platform that merchants and consumers would access to resolve disputes. The platform would have a single set of guidelines, would abide by agreed due process standards, and would include means for alerting regulators regarding suspected fraud or unsafe products. It would utilize forward thinking encryption and coding to ensure privacy and coordinate with other consumer remedy processes throughout the world. Indeed, the EU has established its own ODR platform, UNCITRAL has pursued global ODR, and new ODR programs continually emerge in the wake access to justice movements.

The proposal is a collaboration between Schmitz, a consumer advocate and founder of MyConsumertips.info; and Rule, a high-tech entrepreneur who had directed ODR for eBay. In this way, the project aims to create a win-win for consumers and businesses. “Our goal is to rebuild trust in the business-to-consumer marketplace and provide a

Making Stone Soup

The Stone Soup Dispute Resolution Knowledge Project is designed to promote collaboration by faculty, students, scholars, practitioners, educational institutions, and professional associations to produce, disseminate, and use valuable qualitative data about actual dispute resolution practice.

Professors John Lande and Rafael Gely are the co-directors of the project, which grew out of the Center’s 2016 symposium, *Moving Negotiation Theory from the Tower of Babel Toward a World of Mutual Understanding*. Several symposium speakers criticized the current state of negotiation theory and argued that more empirical research about actual negotiations is needed to advance negotiation theory.

Faculty have multiple ways to participate in the project. For example, they may use their courses to generate knowledge about dispute resolution. As part of their course requirements, students may interview professionals and/or laypeople about actual cases. Some faculty may conduct “focus group classes” in which they systematically ask selected guest speakers about actual cases. Faculty may use these assignments and activities in a wide variety of courses including those that do not specifically or exclusively focus on dispute resolution.

The project encourages schools to take advantage of practitioners’ perspectives by conducting general debriefing of student competitions. Faculty may also take advantage of talks at continuing education programs to obtain data from practitioners. For more information, see law.missouri.edu/drle/stone-soup.

In this inaugural year of the project, it should engage at least 800 students in 48 classes covering 17 subjects, taught by 29 faculty from 24 schools in three countries.
Empirical research has long been a mainstay of dispute resolution scholarship, and the members of the CSDR continue to generate ground-breaking and influential work. Some recent work in this field was conducted by Prof. S.I. Strong in her article "Realizing Rationality: An Empirical Assessment of International Commercial Mediation," 73 Washington and Lee Law Review 1973 (2016), which included the first-ever large-scale international study of international commercial mediation. Preliminary findings from that project were provided to the United Nations Commission on International Trade Law (UNCITRAL) to support efforts to adopt a new international instrument relating to the enforcement of settlement agreements arising out of commercial mediation.

Prof. Strong, with Prof. Rafael Gely, CSDR director, is currently working on a new project funded by a $25,000 grant from the American Arbitration Association-International Center for Dispute Resolution (AAA-ICDR) Foundation. The project seeks to expand the understanding of arbitrator reasoning in international commercial disputes by conducting a multi-phased empirical study. The first prong of the research involves a series of semi-structured interviews with leading arbitrators working in the area of national and international commercial arbitration so as to identify the goals arbitrators that are seeking to achieve when writing reasoned awards and how arbitrators believe they are fulfilling those aims. The second prong of the study involves an international survey of commercial arbitrators and judges. This material will seek to confirm information gleaned during the interviews and to identify additional supplemental material. The third prong is doctrinal in nature and involves an empirical analysis of publicly available arbitral awards gleaned from enforcement proceedings in court or published in arbitral reports and judicial decisions gleaned from case reports in the United States and elsewhere. After identifying the relevant awards and decisions, the materials will be coded for various attributes and analyze the data to determine whether there are any differences between national and international commercial awards on the one hand fully reasoned arbitral awards and judicial decisions on the other.

Prof. Gely is also undertaking a separate strand of empirical research looking at how is the arbitration process portrayed in the mainstream media. Motivated through a partnership with the National Academy of Arbitrators, Prof. Gely and his collaborators, and drawing from the work of scholars in communications and journalism, the research project is seeking to collect and analyze data taken from news reports about arbitration. The goal of the project is to better understand how the media is reporting about arbitration. A preliminary article discussing the research project ("What and How Journalists are Reporting About Arbitration") was published in Proceedings of the Sixty-Ninth Annual Meeting of the National Academy of Arbitrators, Arbitration 2016: Arbitration in Practice.