

ADR
Spring 2015
Jon Hyman

Civil Procedure Project

During the week of March 30, you will be assisting the students in the Civil Procedure classes in a role-play exercise in settling civil litigation. The students in each class will be divided into groups of lawyer who will try to settle the assigned matter. Each of you will be assigned the task of either serving as a negotiation coach for one of the groups, or as the court-assigned mediator trying to help them settle.

The work will be done during a regular class session in the Civil Procedure classes. The role-play should take up a substantial part of the class time, but enough time should be left at the end for the entire class to come back together to discuss their experience. You will be responsible for leading that discussion.

Before Spring Break, we will assign the ADR students to one of the Civ Pro classes, and also decide which ADR students will act as negotiation coaches and which will act as mediators.

The classes and problems are as follows:

Prof. Kim

Session: Monday March 30 – 2:30-3:45 pm

Problem: Carpenter v. Dee et al. This is a wrongful death action brought by the widow of the decedent, who was killed when the jeep in which he was a passenger rolled over making a turn. The defendants include the driver (a friend of the decedent), the auto shop that sold the driver the equipment that he used to raise the jeep's suspension, thereby arguably making it less stable and causing it to roll over, the City of Lowell, whose police officers stopped the Jeep but didn't take it off the road, and the garage that inspected the Jeep but let it pass.

The casebook (Subrin et al, a red Aspen casebook that some of you may have used) contains substantial excerpts from the pretrial work in the matter. The Civ Pro students will have access to that to make their claims and defenses and to bargain.

Prof. Noll

Session: Thursday April 2 – 7:00 – 8:00 pm (an evening session)

Problem: This is a case by a truck driver against a warehouse to which he was making deliveries. The warehouse asked him to wait across the street in an allegedly dangerous neighborhood. While parked there, he was shot in the face by

assailants who tried to rob him. The case appears in the casebook on the question of whether the complaint alleged sufficient facts to withstand a motion to dismiss. We will change the facts enough to give the plaintiff a good chance to survive the motion and thus bring the parties to the question of how to settle the matter.

Prof. Leubsdorf

Session: Either Tuesday March 31, Wednesday April 1, or Thursday April 2 – 2:30-3:45 pm (the exact day is to be selected)

Problem: This is a defamation action brought by a student who was suspended from college against a professor who accused him during the disciplinary hearing of having used crack cocaine. Prof. Leubsdorf also uses the problem as an exercise for the students to draft a complaint.

Prof. Paradise

Session: Monday March 30 – 2:30-3:45 pm

Problem: Carpenter v Dee, see Prof. Kim, above.