

The future of legal education and legal practice

BY PROF. MICHAEL C. BRYCE

Legal Practice in the United States is evolving. It is moving toward a new approach to dispute resolution. As over 98% of cases in litigation are settled before trial, it is becoming more apparent that a different approach to legal disputes can result in better resolutions than those hammered out on the last day when approaching the steps of the courthouse. If, in fact, most every case is going to settle anyway, maybe sitting down and talking with each other at an earlier stage is a good idea. And if the parties are finding it difficult to sit down and negotiate up front, possibly mediation, evaluation, arbitration, medarb or even mini trials can provide an alternative avenue toward resolution.

As a litigator, I admit my former biases against ADR. I preferred the idea that attorneys should "advocate" markedly in any negotiation in order to get what they wanted and of course litigate otherwise. The concept of win-win depended on who was winning and how well. It did not encompass the idea of both parties necessarily getting a beneficial result by working together toward a resolution.

Nevertheless, the more I now learn about mediation and ADR in general, the more I recognize the benefits of pursuing results through alternative or appropriate dispute resolution. And I have had some pretty good teachers recently in the form of our Medi-

ation Skills faculty at UDM School of Law. Howard Lischeron and Matt Vititoe of NRC Mediation Services in Wayne County and Barbara Johannassen, the current president of the State Bar ADR section, conduct mediation training courses at the Law School for an enthusiastic group of students. These courses include the 40 hour training that is required by Michigan SCAO in order to become a court-approved mediator. The courses also contain an academic component that includes the book "Getting to Yes" along with additional research assignments and writings about mediation techniques.

These courses are truly revolutionizing legal education because of their significant interaction between faculty members and students and the varied learning styles used to ensure that what is taught is caught. Each course includes analysis, role play, feedback, media learning, modeling and case studies. In line with Michigan requirements, each course also instructs on what mediation is; how to initiate it; the techniques for information gathering, how to conduct a negotiation, and the people skills necessary to bring people together. Many of the students participating in the mediation training class state that it not only prepared them to mediate, but significantly improved their ability to deal with general life issues, including family relationships. Mediation students who later participate in litigation clinics, find that mediation

learning provided them with an added ability to analyze cases and develop strategy (i.e., judgement). Law Graduates who return to the Law School praise the Mediation Training course, stating it was one of the best building blocks they took from law school to their everyday practice.

Another outstanding Mediation Skills faculty member is Marty Reisig, former president of the Oakland Bar Assn., ADR section. Marty is also a former trial practice instructor at UDM, but now finds he has a greater affinity for ADR. Professor Reisig established and now runs UDM's Mediation Clinic. The Clinic is made up of students who have already taken the mediation training course and are in a position to do solo mediations in District courts throughout the metropolitan area. Students also participate in advanced class every week, where they examine how to approach difficult conversations and how to bring accord into a room of disputing parties.

The combination of taking Mediation Training and Mediation Clinic allows a law student to graduate with excellent mediation learning and significant abilities for going out into a world of practice that is increasingly utilizing ADR.

The future of legal practice and of legal education is here and now.

Professor Michael C. Bryce oversees the work of the Urban Law Clinic and the growth and creation of the Immigration Clinic, Mediation Clinic, SADO Clinic, and the Externships.