Pepperdine’s Straus Institute for Dispute Resolution has been awarded a $250,000 grant by the Financial Industry Regulatory Authority (FINRA) Investor Education Foundation. The grant will establish a Securities Investor Advocacy Clinic at Pepperdine.

The Securities Investor Advocacy Clinic will provide legal representation for underserved investors involved in securities disputes. FINRA funds these clinics to fill the gap in representation for investors who have small claims and lack the financial resources to obtain legal counsel.

Longtime attorneys Robert Uhl and Judith Hale Norris will oversee the clinic. Students must take the Arbitration Law in the Securities Industry course, taught by Uhl in the fall, in order to be eligible for the clinic. The clinic will begin this spring semester with five students.

“If you’re interested in representing investment brokers, this is the way to go about learning how,” says Uhl, who has 20 years of experience in securities arbitration. “It’s also a tremendous opportunity to provide legal service to the community. Many investors have lost under $100,000, which is considered a small claim. Lawyers often won’t take their cases, and the investors often don’t have the money to pay for legal counsel.”

The securities investor advocacy clinic will become Pepperdine’s fifth clinical program joining the Pepperdine Legal Aid and Family Law clinics at the Union Rescue Mission, the Special Education Advocacy Clinic, and the Asylum Clinic.

The U.S.-China Legal Cooperation Fund awarded a grant for the Straus Institute to teach Chinese professors the Straus approach to teaching mediation. The in-country partner for this project, the Beijing Arbitration Commission (BAC), reports that law schools in China are being encouraged to teach more ADR courses and that there are currently very few courses focusing exclusively on mediation. China has a very rich history with mediation and it is utilized extensively because of the cultural importance of maintaining harmony. BAC reports that this cultural norm has not impacted commercial disputes since mediation is rarely utilized once lawyers are retained. BAC has taken a lead in introducing and promoting mediation for commercial disputes in China. More than 60 members of its panel, including many law professors, have completed Straus mediation training. The program to train Chinese law professors about the Straus approach to teaching mediation will be taught by Straus Institute managing director Peter Robinson in January. Much of the Straus mediation training material has already been translated into Mandarin for workshops presented with the BAC. Participants will be equipped and authorized to utilize those materials.
Stipanowich's Work Named CPR BEST PROFESSIONAL ARTICLE

Professor Tom Stipanowich (piersed, far right), William H. Webster Chair in Dispute Resolution and academic director of the Straus Institute for Dispute Resolution, received an award from the International Institute for Conflict Prevention & Resolution (CPR) on January 13. His articles, “Arbitration: The ‘New Litigation,” and “Arbitration and Choice: Taking Charge of the ‘New Litigation,” were jointly named Best Professional Article for 2009. This marks the second time Stipanowich has received the award, which is among the most prestigious writing awards in the field of dispute resolution.

Stipanowich is a prolific writer whose many publications include coauthorship of a leading treatise, Federal Arbitration Law: Agreements, Awards, and Remedies, cited by the U.S. Supreme Court and many other federal and state courts, and which was named Best New Legal Book by the Association of American Publishers. In 2006 he coauthored Resolving Disputes: Theory, Practice, and Law, a popular text book for law school courses.


In response to mounting complaints that commercial arbitration has become as slow and costly as litigation, the College of Commercial Arbitrators in 2008 called for a national summit on business-to-business arbitration to identify the chief causes of the problem and explore practical steps that can be taken now to remedy them. The concept of a national summit sprang from two key insights: (1) lengthy, costly arbitration results from the interaction of business users, in-house attorneys, the institutions that provide arbitration services, outside counsel, and arbitrators; and (2) all of these “stakeholders” must collaborate in identifying and achieving desired efficiencies and economies in arbitration. In addition to its own Fellows, the college invited to the national summit in-house counsel from major companies that use arbitration, skilled advocates, and individuals who occupy key positions in leading institutional providers of arbitration services.

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The perceived importance of the summit was reflected in the fact that theStraus Institute and five principle conflict resolution organizations—


joined the college as co-sponsors of the summit.

More than 180 individuals participated in the summit, which was
design as a structured “conversation” to elicit participants’ input on
cases presented by practicing arbitrators. The summit concluded with a “Town Hall” meeting during which
electronic voting devices were used to gauge the opinion of
summit participants concerning specific action steps.

Professor Stipanowich and his coeditors thoroughly analyzed the
results of the national summit along with many other
recommendations. The resulting Protocols for Expedient, Cost-
Effective Commercial Arbitration are intended to provide clear and
concrete guidelines for making arbitration more efficient and more
expeditious—speaking directly to business users, lawyers, arbitrators, and
providers of arbitration services.

Stipanowich Serves as Editor of NEW PROTOCOLS FOR ARBITRATION

Professor Tom Stipanowich, the William H. Webster Chair in Dispute Resolution and Straus academic director, is spending the Fall 2010 semester at Pepperdine’s London campus, where in addition to a full, law teaching load, he has several other commitments and planned presentations. He was invited by international law firm Wilmshurst to be a Scholar-in-Residence with that firm’s international arbitration group. Scholars include professors, lecturers, and other academics who collaborate with the firm’s international arbitration team on both professional matters and academic projects, and to contribute generally to the intellectual life of the office.

Planned speaking commitments include a guest lecture on international commercial arbitration at Oxford University, a program on the evolution of commercial mediation with Lord Wood, former Lord Chief Justice of England and Wales; and a symposium at the University of Utrecht.

Coe and Stipanowich Work on the INTERNATIONAL COMMERCIAL ARBITRATION RESTATEMENT PROJECT with the American Law Institute

The International Commercial Arbitration Restatement project of the American Law Institute (ALI), in which Professors Coe and Stipanowich are involved, is moving forward at pace within the ALI peer-review process. The work was commissioned by ALI approximately three years ago and is intended to supply black-letter guidance to courts and lawyers. A first chapter is expected to receive ALI Council approval in October. Both professors continue to participate in conferences exploring issues raised by, or related to, international commercial arbitration. In a related development, Professor Coe has been reappointed as the ABA International Law Section’s liaison to the ALI.
TEACHING MEDIATION AROUND THE WORLD

For International Judges

Mediation trainers from around the world, including retired judges mediating at the Los Angeles Superior Court and adjunct Straus professor, the Honorable Louise Otis, a retired judge from the Quebec Court of Appeal; attorney Alain Laraby, from Paris, France; the Honorable Robert Levy, U.S. District Court for the Eastern District of New York; and John "Jay" Welsh, the executive vice president and general counsel for the Judicial Arbitration and Mediation Services (JAMS), took part in the six-day course that was taught by three judges and four retired judges from 21 countries.

The mediation skills training focused on the mediation process, identifying and working with different mediation styles, and facilitating problem solving for pending court cases. Other topics included managing attorney advocates, the parameters of confidentiality, and how judicial philosophies and ethics inform this area of practice. The program offered participants the opportunity to practice mediating simulated disputes and to observe judges and retired judges mediating at the Los Angeles Superior Court, JAMS, ARC (Alternative Resolution Centers), ADR Services, Judicate West, and IVAMS Arbitration Services.

The six-day course was taught by three judges and four mediation trainers from around the world, including Peter Robinson, managing director at the Straus Institute and associate professor at the Pepperdine School of Law; Denise Madigan, mediator for ADR Services and adjunct Straus professor; the Honorable Alexander Williams III, a retired judge from the Los Angeles Superior Court and adjunct Straus professor (currently with ADR Services); and the Honorable Louise Otis, a retired judge from the Quebec Court of Appeal; attorney Alain Laraby, from Paris, France; the Honorable Robert Levy, U.S. District Court for the Eastern District of New York; and John "Jay" Welsh, the executive vice president and general counsel for the Judicial Arbitration and Mediation Services (JAMS).

The countries represented included Argentina, Australia, Bangladesh, Belgium, Brazil, Bulgaria, Canada, France, Germany, Haiti, Indonesia, Japan, Netherlands, Romania, Russia, Rwanda, Spain, Switzerland, Tanzania, Uganda, and the United Kingdom.

The Conference for International Mediation for Justice is an NGO committed to the advancement of mediation among the judiciary around the world. Pepperdine’s Straus Institute for Dispute Resolution has been ranked the No. 1 program for dispute resolution by U.S. News & World Report for the past six years.

Straus Institute Travels TO RWANDA TO LEAD MEDIATION TRAINING PROGRAM

This past summer the Straus Institute for Dispute Resolution organized, “Mediation Skills for International Judges,” in conjunction with the JAMS Foundation and the Conference for International Mediation for Justice (CIMJ). Through this program the Straus Institute provided free mediation training to 33 judges from 21 countries.

The conference focused on mediation techniques and philosophies. The course imposed on the participants an expectation of a spectrum of mediation styles and philosophies. The course imposes on the participants the responsibility to formulate their approaches, which leaves room for cultural and context adaptation. Teaching a vast variety of mediation approaches creates a rich menu of mediation techniques. Once experienced professionals are aware of their mediation techniques options, they appreciate that Straus defers to their judgment about when and how to use the various methods.

In order to register these titles the Rwandan government is going village to village conducting land surveys and documenting land rights. They are also creating a dispute resolution program to handle land disputes as they arise. Pepperdine provided mediation skills training to 28 employees of the Ministry of Justice who staff a network of “Access to Justice” centers which serve as legal aid clinics in the area. These employees are then responsible for resolving 12,000 village elders in mediation skills. According to Freundlich, “The first day was tough because they were not familiar with our concepts and material and were very skeptical that our style of mediation could be used here in Rwanda.” As the training progressed the participants were very appreciative of Straus’ practical approach with a focus on mediation skills. The minister of justice drove two hours to attend the closing ceremony where he stated that this effort was critical to the delivery of justice for the average citizen. Special thanks must be expressed to Straus Institute students Veronique Fraser and Chantal Francois who volunteered to translate the 50-page mediation workbook into French.

The Mediating the Litigated Case format has been well received when taught around the world because it begins with acknowledgment of a spectrum of mediation styles and philosophies. The course imposes on the participants the responsibility to formulate their approaches, which leaves room for cultural and context adaptation. Teaching a vast variety of mediation approaches creates a rich menu of mediation techniques. Once experienced professionals are aware of their mediation techniques options, they appreciate that Straus defers to their judgment about when and how to use the various methods.

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The Malaysian Institute of Arbitrators invited the Straus Institute for Dispute Resolution to present the Mediating the Litigated Case program in Kuala Lumpur, Malaysia, on September 23-28, 2010. The Malaysian Institute of Arbitrators recruited participants from members of its panel, as well as leaders in the Malaysian bench and bar. Mohanadass Kanagasabai, the president of the Malaysian Institute of Arbitrators, heard about the program when 40 judges from Thailand attended the program in Malibu last summer.

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For the fourth consecutive year the Straus Institute has attracted prestigious international Fulbright Scholars from around the world to study dispute resolution at Pepperdine. This fall Olesia Safulko from Ukraine and Yosra Abid from Tunisia began their studies in the LL.M. in dispute resolution program.

Yosra Abid joins Pepperdine’s community from the Fulbright's AMIDEAST Program in Tunisia. Abid received her LL.B. in legal studies from the Faculty of Judicial, Political, and Social Sciences in Tunisia, and a master’s degree in European law practice from Le Havre University in France. She is a member of the Arbitration International Association and the ICC Young Arbitrator’s Forum, and came to Pepperdine to study international commercial arbitration. After completing her LL.M. in dispute resolution, Abid hopes to return to Tunisia to establish an international center that specializes in academic and professional thinking in dispute resolution.

Olesia Safulko has a bachelor of law from Ivan Franko National University of Lviv and a master’s degree in administrative law. Safulko’s interest is in reforming the Ukrainian public sector through the development of dispute resolution systems. Safulko spent two semesters at the University of Hamburg where she received a master’s in German corporate law and interned with a German law firm specializing in mediation and international commercial arbitration. Her hope is to study the American way of implementing mediation and arbitration into legislation, and to create an NGO in Ukraine that provides mediation services.

In 2009 Pepperdine hosted a Fulbright Scholar from Panama, Benito Vega (LL.M ’10). Vega worked for the Attorney General’s Office in Panama, and taught penal law and contract courses at American University in Panama. His interest is to expand his courses at American University to include dispute resolution courses and to develop community mediation and judicial mediation programs in Panama.

Additionally, Pepperdine hosted Fulbright Scholars from Egypt and El Salvador in 2008, from Germany in 2007, and from the Czech Republic in 2000. The Fulbright Program was established by U.S. Congress in 1946 and is the largest U.S. international exchange program for students, scholars, and professionals pursuing advanced study, research, and teaching in the United States.

In addition to the Fulbright Scholarship program, Pepperdine has hosted a Muskie Fellow from Moldova in 2008, and three Weinstein International Fellows from Jordan, Nepal, and Ecuador in 2009 sponsored by the JAMS Foundation.

Each year, the Straus Institute welcomes international students as part of its thriving global presence. Current students had from countries such as Ghana, Italy, Korea, Germany, New Zealand, Saudi Arabia, and Venezuela.

This past academic year the Straus Institute for Dispute Resolution graduated 150 students from its academic programs including the certificate in dispute resolution, the master of dispute resolution (M.D.R.), and the LL.M. in dispute resolution programs. The 102 certificate graduates included 63 J.D. students and 32 MBA students who used their electives to take dispute resolution courses and earn a certificate in dispute resolution. The remaining seven certificate graduates included an engineer, an attorney, a judge, a university student life administrator, and students from other law schools.

Thirty-two students graduated with the master of dispute resolution, including nine Pepperdine J.D. students and mediators, business professionals, an airport administrator, a health care professional, an accountant, a U.S. State Department employee, an attorney, a construction professional, and a public policy administrator.

Lastly, 16 students graduated from the LL.M. in dispute resolution program. These graduates included commuters traveling across the nation to participate in the LL.M. program on a part-time basis from Nevada, Tennessee, North Carolina, Alabama, and Arizona. The LL.M. program also graduated international students from Nepal, Brazil, China, Canada, and a Fulbright Scholar from Panama.

All three academic programs can be pursued on a part-time or full-time basis so the number of graduates in the program changes from year to year.
Over the past 30 years there has been a dramatic rise of religious extremism and militancy in the Middle East that is being driven by intense theological convictions which contribute to exclusive visions of the future, as well as intense hostility toward a sovereign Jewish state in the Israeli/Palestinian theatre. Lack of theological sophistication by many earnest and sincere peace-makers in the region has led to analyses and forms of intervention that have failed to grasp the growing complexity of the conflict and the nature and influence of religious extremism and militancy on any possible future negotiated settlement between Israel and the Palestinians.

This January 2010 we reached the fifth year mark of the Middle East Faith-Based Reconciliation Project and the third year of the PACIS Project in Faith-Based Diplomacy’s involvement in that work. During these years PACIS has established many of the essential ingredients for a strategic long-term approach to the Middle East peace process.

One important PACIS initiative in the shaping of a nascent “people movement” in Palestine in partnership with the Municipalities of Jerusalem, based on Abrahamic core values. The towns of Bethlehem, Beit Sahour, and Beit Jala are the focus for this people movement among the next generation of Palestinian leaders. We are now working with the third group of 20 community-identified emerging leaders from within Palestinian society and across borders.

Straus Mediates Conflict Between THE COMMUNITY AND HOMELESS PROGRAM

Twenty-five years ago a nonprofit organization in Los Angeles, California, began providing dinner on a street corner every night for the homeless. About a year ago, an elderly resident near the street corner was murdered and police concluded that the murderer was probably one of about 150 transients served by the food program. The residents organized a “neighborhood watch” to make the community more secure. The leaders of the neighborhood watch began questioning whether feeding the homeless on a street corner was an appropriate social service strategy to assist the homeless. The neighborhood watch leaders soon found that an organization of businesses in the area had similar concerns.

The residential and business neighbors impacted by the nightly gathering of about 150 homeless asked the police to disperse what they perceived was an unlawful assembly. The trash, human excrement, trespassing, and petty crimes to private property and persons caused the neighbors to perceive this humanitarian service as creating a nuisance. In response, the police began regular visits to the street corner asking for identification and determining if those present had outstanding warrants. The leaders of the homeless food program contacted Public Counsel, a public interest legal aid program, which notified the police that they were violating the civil rights of the homeless. Public Counsel threatened to file a lawsuit if the police did not immediately stop alleged intimidation of the homeless at this corner. The police ceased their efforts to discourage participation in the nightly food program. This was a watershed between the residential-business neighbors and the nonprofit feeding the homeless, with unresolved miscommunication and animosity.

The lead attorney for this project at Public Counsel had completed Straus’ Mediating the Litigated Case program 10 years ago. She contacted Straus Institute’s managing director Peter Robinson and suggested that this scenario was ripe for an extended mediation effort. Robinson recruited current mid-career students Dawn Osborne, Adams and Maria deCarlin to assist him in the mediation. There was a mutual interest from both sides and an interest in exchanging mutual commitments to work collaboratively in the future. The most visible meeting consisted of more than 50 participants consisting of local residents, business owners, and volunteers from the nonprofit.

There are still stark contrasts in the preferred solutions of each group. The residential and business neighbors wish that the food program would take more responsibility for how their humanitarian efforts are impacting the neighborhood; they would prefer the group provide a more comprehensive program inside a building at a different location. The nonprofit wishes the community would view its program as a community asset and support it by donating money, in-kind resources, and time.

Over the years of conversations, each group has realized that the other groups are capable advocates for their interests and will not abandon this dispute. While their differences in ideal solutions persist, they have partnered on a variety of measures to improve the current operation. Concrete measures include: a local businessperson donated the money so the nonprofit could purchase a sidewalk steam cleaner for once a week washings. The nonprofit group has done a better job of collecting and removing the garbage at the corner each night; the nonprofit has organized neighborhood clean-up days when the homeless and volunteers clean up the streets and public areas for blocks around the distribution corner. Projects that are still in the collaborative planning stage include finding a donor to provide for the delivery and removal of a trailer with toilets every evening and posting and enforcing new ordinances.

In addition to the tangible progress, the residential and business neighbors have better communication and a better understanding of the core values of the nonprofit. The nonprofit has made specific commitments to partner with the police to identify and remove the people coming to the corner who are participating in illegal activities. The police captain has provided a private phone number to the leaders of the nonprofit so they can request police support when illegal behavior is occurring at the distribution corner. The nonprofit volunteers have agreed to sign witness statements and testify in such cases.

This project may continue for a few years. Trust and cooperation are slowly replacing suspicion and hostility among the leaders of this neighborhood.

Our strategy empowers these emerging leaders to identify their own and their community’s circumstances and interests around eight Abrahamic core values shared by Islam, Christianity, and Judaism. It also challenges and directs these individuals to recognize “the other’s” circumstances and interests around the same faith-based core values. This is accomplished in three phases over approximately 18 months. The first phase is a “Desert Encounter” where members of the two communities retreat together into a severe desert environment and learn to live with and help each other in demanding physical circumstances, the bonding and friendships which develop over a short week in this phase are extraordinary and largely permanent. The second phase is also a week’s retreat where those that completed the “Desert Encounter” study together the origins, significance, and application of the eight Abrahamic core values. These include principles like pluralism, peacemaking, healing the wounds of history, forgiveness, and submission to God—all necessary for reconciliation. The third phase is a retreat experience in problem-solving that grows from the friendships and solidarity established during the first and second phases. Emerging from a critical analysis exercise during the second phase, the two communities identify where they have given and where they have received offense from the other community. From this effort a shared, common list of prioritized problems emerges that the participants are, at that time, prepared to address and problem-solve together. This has resulted in the creation of an appropriately Palestinian “Manifesto” outlining and endorsing a new spiritual and socioeconomic paradigm of reconciliation rather than the tired and unsuccessful win-lose advocacy model.

The PACIS Project is both honored and humbled to provide leadership in this new social and spiritual paradigm formation. Our prayer is that when these emerging leaders come in to their own in their faith communities, in their school systems, in their political parties, in their places of business, and in their social relations, they will continue to promote and build on the ancient model of Abrahamic Reconciliation both within their own Palestinian society and across borders.

Please visit our Web site at law.pepperdine.edu/straus/academics/pacis for detailed reports of our activities through 2010.

Visit us on Facebook @ PACIS Project in Faith-Based Diplomacy
Straus Institute Offers
ROBUST MCLE OPPORTUNITIES

The Straus Institute offers Mediating the Litigated Case, a six-day program designed to provide participants with mediation skills. This program has been held in various locations, including Kuala Lumpur, Malaysia, and Beijing, with plans for future programs in Washington, D.C., Irvine, and Malibu.

Participants are also encouraged to attend intensive academic courses at the Malibu and Irvine campuses during the summer and winter intensive programs. For more information or to register, visit law.pepperdine.edu/strasus.

Full-Time FACULTY UPDATES, 2009–2010

ROGER ALFORD
The Future of Investment Arbitration (with Catherine Rogers) (Oxford Univ. Press 2009).

TOMAS J. STIPANOVICE

ANTHONY MILLER

MAUREEN WESTON

PETER ROBINSON
Settlement Conference Judge—Legal Issues and Problem-Solving, Eastern Dist. Of New York: An Empirical Documentation of Judicial Settlement Conferences and Practices and Techniques. The Straus Institute offered Mediating the Litigated Case and have included participants from 39 states and 13 countries including Germany, Italy, Ecuador, Hong Kong, Nigeria, Norway, Uganda, England, Wales, Japan, Korea, Canada, and Switzerland.

This year’s offerings started with our Malibu program August 2 – 7, 2010, with 83 participants. The Straus Institute offered Mediating the Litigated Case in Kuala Lumpur, Malaysia, September 23 – 28, 2010, and will be offering the program in Washington, D.C., November 2 – 4, and 17 – 19, 2010; and in Irvine, California, January 20 – 22, and February 3 – 5, 2011.

The Summer Professional Skills program in Malibu, and the East Coast Professional Skills program in Vermont provide participants with an additional opportunity to receive basic to advanced training while receiving 18 hours of MCLE credit.

Participants are also able to audit intensive academic courses at the Malibu and Irvine campuses during our summer and winter intensive programs. For more information or to register for our training programs, visit law.pepperdine.edu/strasus.

AAA Library and Information Center UPDATE

New dispute resolution materials are continually being added to the AMERICAN ARBITRATION ASSOCIATION LIBRARY AND INFORMATION CENTER COLLECTION. If you would like to use the collection, or if you have suggestions (or donations) of materials for inclusion in the collection, please contact Gina McCoy at 310.506.4919 or gina.mccoy@pepperdine.edu.
Upcoming Events:

September 23 – 28, 2010
MEDIATING THE LITIGATED CASE
Kuala Lumpur, Malaysia

October 14 – 16, 2010
4TH ANNUAL EAST COAST PROFESSIONAL SKILLS PROGRAM
Woodstock, Vermont
Six stimulating workshops including:
» STAR Mediation
» Court-Based Mediation of Family Law Matters
» Advanced Mediation
» Mediating in the Red Zone
» Mindfulness for Dispute Resolvers
» Transforming Distressed Systems

November 2 – 4 and 17 – 19, 2010
MEDIATING THE LITIGATED CASE
Washington, D.C.

January 3 – 7, 2011
WINTER INTENSIVE ACADEMIC PROGRAM
Malibu, California
Six academic courses including:
» Negotiation Theory and Practice
» Psychology of Conflict
» Cross-Cultural Conflict and Dispute Resolution
» Communication and Conflict
» Divorce and Family Mediation
» Environmental and Public Policy Dispute Resolution

January 20 – 22 and February 3 – 5, 2011
MEDIATING THE LITIGATED CASE
Irvine, California

February 15, 2011
APPLICATION DEADLINE FOR CERTIFICATE, M.D.R., AND LL.M. PROGRAMS

January 13-17, 2011
TEACHING MEDIATION IN LAW SCHOOLS
Beijing, China

May 23 – July 30, 2011
SUMMER ACADEMIC COURSES
22 intensive courses

May 24 – June 2, 2011
LONDON/GENEVA STUDY TOUR

June 21-22, 2011
TEACHING ADR IN LAW SCHOOLS
Malibu, California

June 23 – 25, 2011
24TH ANNUAL PROFESSIONAL SKILLS PROGRAM
Malibu, California

August 8-13, 2011
MEDIATING THE LITIGATED CASE
Malibu, California