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He tackles the arbitration process

By Olivia Clarke

Stanley P. Sklar says he believes that much of the legal profession has lost sight of the original purpose of arbitration.

Arbitration was started by different trade groups that didn't want to work within the court system to handle an issue, but wanted help from experts in their specific field to solve a problem, Sklar said.

"It started out in terms of, 'If I've done something wrong I want to be judged by my peers, not by someone I have to educate about the process,'" Sklar said. "Over the years it's changed and morphed.... It has been hijacked by trial attorneys and they have turned the process into an alternative form of litigation, which was never how it was supposed to be in the first place."

Sklar, who recently retired from what was then Bell, Boyd & Lloyd LLP, has a reputation in the legal community as one of the preeminent construction law lawyers. He has been doing arbitration for the past 25 years.

He recently was named executive director of arbitration studies at the DePaul University College of Law's Center for Dispute Resolution.

Glen Weissenberger, dean of DePaul's law school and a professor there, said Sklar wants to put this program on the map as the leading program of its kind in the United States. Weissenberger said he believes Sklar and Katheryn M. Dutenhaver, director of the CDR, will work together to make that happen.

"He has such standing in the community that he will definitely lend a great deal of credibility to the program; a program that already has a great deal of credibility," Weissenberger said. "The addition of Stan is just a wonderful thing for us."

Throughout his career Sklar has introduced alternative dispute resolution methods to the practices of construction and real estate law. He plans to draw on his skills to create an educational forum within the Center for Dispute Resolution that addresses current issues in the commercial arbitration field.

"I have some strong thoughts on the



David Durochik

It's been 25 years since Stanley P. Sklar began conducting arbitration in construction law cases, and he's now lending his expertise to the DePaul University College of Law's Center for Dispute Resolution.

arbitration process," Sklar said. "For someone who enjoys public speaking and enjoys teaching, to me this opportunity opened up a whole new world of putting together courses for law students, and putting together courses for ADR practitioners, industry professionals and lawyers in terms of advocacy and arbitration."

Arbitration is a process that does not involve the courts. Parties engaged in a dispute agree to submit to one or more intermediaries or arbitrators who make a binding decision on the disagreement, according to DePaul.

Historically, arbitration was the accepted method for resolving commercial disputes in many major industries, including construction, insurance, energy and franchising. It also has been used to settle contract disputes in the United States and abroad.

Sklar first got involved in arbitration during the days when arbitrators received a

fixed fee of \$500 a day for a case — no matter the amount of time involved. He got interested in arbitration because he believed it would help him hone his construction litigation skills. But over the years he's gotten more and more involved.

A 1964 Northwestern University School of Law graduate, Sklar has arbitrated domestic and international cases, and written and lectured extensively on the effective use of arbitration techniques.

Sklar has executed all key roles in the ADR process including arbitrator, mediator, advocate and expert witness. He has chaired more than 40 separate panels for construction cases concerning delay or construction defects claims in excess of \$1 million.

In 2004, Sklar received the American Bar Association's Cornerstone Award for his outstanding contributions to construction

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law. He is a past president of both the American College of Construction Lawyers and the Society of Illinois Construction Attorneys.

He is a certified mediator and arbitrator for the American Arbitration Association and a member of its National Panel for Large Complex Disputes. He serves as an officer and board member of the College of Commercial Arbitrators, an invitation-only group of commercial arbitrators.

"[Arbitration] enables me to take the skills and knowledge I picked up over the years and deal in a setting where you are doing a service for the parties and the law profession," Sklar said. "I am a firm believer in payback to the profession."

Arbitration will never replace the courtroom because certain cases, such as those involving social issues, belong in the court of law, he said. But arbitration works well in business disputes where the parties do not want to get involved in the long court process, and have assessed the risks to taking this path, he said.

Sklar said he hopes his new position will allow him to help bring arbitration back to the way it was before, and allow him to teach students what arbitration should mean.

He likes the challenges involved in the

'I enjoy the battle that goes on in any adversary proceeding. I enjoy listening to a good case being put on by either side. It is challenging to sit down and sift through all the testimony and come to a decision.'

arbitration process. A good arbitrator must have patience, knowledge of the area being dealt with and a desire to be fair and even-handed under the most trying circumstances, he said.

"I enjoy the battle that goes on in any adversary proceeding," Sklar said. "I enjoy listening to a good case being put on by either side. It is challenging to sit down and sift through all the testimony and come to a decision."

Founded in 1996, DePaul's Center for Dispute Resolution was created to offer mediation certificate courses to practicing lawyers and other professionals. The CDR offers certificate courses in mediation, negotiation and arbitration. It also sponsors symposiums, discussions and seminars on

current dispute resolution issues.

Dutenhaver, director of the CDR, said law schools around the country have been emphasizing mediation and other non-binding resolution processes for the last 15 years, but there must also be a focus on arbitration.

One thing that has happened slowly, but consistently, is the arbitration process has become more like the litigation process, and when that happens it is no longer a distinct process, Dutenhaver said.

Sklar will be in a position to encourage research and educational programs concerning arbitration, she said. Problems exist in any system or field of practice, she said, and Sklar will lead the effort to solve those problems found in today's arbitration.

"Because of his background and experience as an arbitrator, as someone who has been very active in training programs and panel discussions all over the country, as well as his work as a lawyer, we knew he would bring a wealth of knowledge and experience about arbitration," she said. "Stan is so highly regarded and there is a reason why he is highly regarded. We are just very fortunate to have him join us."