

The ADR Newsletter

Alternative Dispute Resolution Section of the State Bar of Michigan

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Best Practices in ADR: Mediation and ADR in Ohio

— by *Mary A. Bedikian & William L. Weber Jr.*

OVERVIEW

The mediation movement started in Ohio in 1989 when Governor Richard Celeste created the Governor's Peace and Conflict Commission to develop new initiatives to help Ohioans better resolve their disputes. The Commission was comprised of influential lawyers, judges and citizens from all walks of life. The Commission focused on four primary areas: primary and secondary education, higher education, the courts and community and public policy. In its final report the Commission recommended that the state of Ohio create a permanent Commission which is now called the Commission on Dispute Resolution and Conflict Management with the objective of teaching people how to resolve disputes without resorting to lawsuits.

Two other organizations, the Ohio Supreme Court and the Ohio State Law School, were also instrumental in this movement. These three groups are active today and operate like the spokes on the mediation wheel. They coordinate their mediation efforts so that the mediation "word" is spread throughout Ohio.

THE SUPREME COURT OF OHIO

Chief Justice Thomas Moyer stepped forward to

become the real champion of the mediation movement. In 1989, he established a committee with judges and attorneys in order to highlight the importance of opening Ohio's courts to the use of ADR. Twelve of the original 34 members of the committee are still active on the committee. Today, throughout the 88 counties in Ohio, more than 50% of the courts of general jurisdiction (common pleas courts) have full time mediators assigned to the court. The principal guru overseeing and implementing the Court's mediation program nearly since inception was Eileen Pruett, the former Mediation Program Manager. Her successor is Bruce Heckman.

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In 1990 Judge Howard Zwelling, a Municipal Court Judge, convinced the Supreme Court Committee to fund a mediation program for select Municipal Courts in four small Ohio cities. Shirley Cochran was hired by the Supreme Court Committee to be a "Circuit Rider" for these cities (Zanesville, Marietta, Cambridge and Lancaster) and provide the training of volunteer mediators. She also prepared a mediation manual and provided training for 43 municipal judges. Two more courts were later added to the original four municipal courts.

In 1996, the Supreme Court Committee implemented a pilot program in three common pleas courts. A mediator was employed by the local court to mediate cases and oversee the court's case

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Mr. Weber has been engaged in the practice of law for over 40 years. He was an antitrust lawyer for the FTC in Washington, D.C. and a former Assistant General Counsel for General Motors Legal Staff. He currently is of counsel to the law firm of Daniels & Kaplan, P.C. and specializes in arbitration and mediation with offices in Bloomfield Hills, Michigan. Mr. Weber is on the Oakland County Bar Association list of approved mediators and is member of the Board of Directors of the Dispute Resolution Association of Michigan. He taught ADR at Thomas M. Cooley Law School during 2001-2002.

management system. The Office of Criminal Justice Services funded this project. The purpose of the pilot was to determine whether greater use of ADR mechanisms in the Ohio courts would improve the administration of justice.

Due to the success of the pilot program, the Committee launched a \$1 million per year program in 12 additional courts in the state through a funding mechanism provided by the Ohio General Assembly. Phase I of this program was funded for three years. Phase 2 involved 10 more courts with two-year grants (1998-2000). Six additional courts were added in the year 2000, constituting Phase 3. Each new court program is now funded for a period of two years, after which the local court must provide its own funding. The goal of the Supreme Court Committee is to have mediation programs in all of the 88 Ohio counties.

For those courts that participate in the mediation program, the court costs are set by local court rule. The mediation add-on cost varies from \$10 to \$60 whether the mediation process in any given case is used or not. The judges decide which cases go to mediation; on occasion attorneys may request mediation rather than litigation. The Supreme Court Committee determines which courts receive mediation grants. The grants may be for as much as \$100,000 and these funds are used to pay the mediator and any staffing expenses. Once the funds from the grant are exhausted the local court will seek funding by adding on mediation fees to the cost of court filing fees. County commissioners normally provide the budget to support mediation for the local court.

COURT RULES

The Supreme Court of the State of Ohio has passed two court rules dealing with ADR processes. **Rule 15** covers arbitration and provides that courts of common pleas, municipal and county courts may adopt a plan for the mandatory arbitration of civil cases. The judges make their appointments from a list of qualified attorneys and three arbitrators may be requested. Juvenile and domestic relations cases are eligible for arbitration.

Rule 16 enables the court of common pleas to adopt a plan for mediation of disputes over the allocation of parental rights of minor children. A mediator does not have to be an attorney but needs a bachelor's degree or equivalent educational experience. As far as training is concerned, a mediator must have at least 12 hours of basic mediation training or equivalent training that is satisfactory to the court plus 40 hours of specialized family or divorce mediation training approved by

the Supreme Court.

According to Jim Readey, a Columbus, Ohio practicing attorney, there is no formal training requirement for mediation of civil cases and a select few practitioners have the bulk of the business. The courts do not have an approved list of mediators for state courts except in the domestic relations field. Ron Rimelspach, current Chairman of the Ohio Commission on Dispute Resolution and Conflict Management, estimated that there are as many as 5000 volunteer mediators throughout the state.

In addition to state court rules, the federal district courts in the southern, northern and western districts of Ohio also have rules governing mediation and the settlement of cases. It should be noted that the southern district is the most active in mediation work. It has an annual settlement week that is very popular with the judges and attorneys. The magistrate judges select cases from their dockets and the settlement week coordinator will assign mediators. Practicing attorneys may also recommend cases to be included in settlement week.

LEGISLATION

There are several statutory provisions dealing with mediation. These include authorizing the promulgation and use of ADR [including mediation] by municipal courts (Ohio Rev. Code Ann. Sec. 1901.262); whether and to what extent communications in mediation are privileged (Ohio Rev. Code Ann. 2317.023 will change to 2710.02 on 10/29/05); appointing an ombudsman to resolve environmental matters (Ohio Rev. Code Ann. 3706.19); and, authorizing the director of the Ohio EPA to advise, consult and cooperate with other agencies, the federal government and industry groups (Ohio Rev. Code Ann. Sec. 3745.01 c).

Ohio House Bill 303 tailored after the Uniform Mediation Act (UMA) passed the Legislature and was signed into law by Governor Taft on January 28, 2005. The new law takes effect on October 29, 2005. The UMA is intended to provide uniformity in the disclosure of documents and communications that are part of the mediation process. It was drafted over the course of five years by the National Conference of Commissioners on Uniform State Laws (NCCUSL) and the American Bar Association's Section of Dispute Resolution. The basic purpose of UMA is to have the courts recognize the need for keeping communications disclosed during the mediation process confidential with only a very few defined exceptions.

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THE COMMISSION ON DISPUTE RESOLUTION AND CONFLICT MANAGEMENT.

In 1989 the Ohio Legislature created the Ohio Commission on Dispute Resolution & Conflict Management. Ohio Rev. Code Ann. Sec. 179.02-04. Located in Columbus, Ohio it has a small staff and 12 volunteer Board Members appointed by all three branches of state government - the Governor, the Chief Justice of the Supreme Court, the House Speaker and the President of the Senate. Commission members include attorneys, businessmen, educators, community leaders and labor representatives. The Executive Director of the Commission is Maria Mone. Promotional literature describes the Commission as the most comprehensive state dispute resolution program in the country.

The Commission works with the court and community organizations to encourage the growth of conflict resolution services to the Ohio citizenry and state and local government. The Commission staff provides training and consultation to state agencies and to communities in general and today the principal purpose of the Commission is to provide training and networking for those organizations and individuals participating in the ADR process. One notable effort of the Commission relates to the schools. Over 1,200 schools in Ohio have conflict resolution programs. These programs start with pre-school and continue through grade 12. A program that has received a lot of favorable publicity is the Truancy Prevention Mediation Project, which brings the schools and parents together to help reduce truancy problems.

The Commission currently operates on an annual budget of \$470,000. It is interesting to note that when Governor Taft cut out the funding for the Commission, a number of influential persons pleaded with the Legislature to provide sufficient funds to operate the Commission. The successes, which the Commission has enjoyed in recent years, enabled the Legislature to restore the funds.

LAW SCHOOL INVOLVEMENT

Capital Law School in Columbus was a pioneer in charting a path for mediation and ADR in Ohio and drafted the first manual for generic mediation. The Ohio State University Law School followed the same path and is now recognized as one of the academic leaders in this field. In addition to the traditional law review associated with most law schools, the Ohio State University Law School publishes the Ohio State Journal on Dispute Resolution. This publication is solely devoted to

articles on dispute resolution. Dean Nancy Rogers is a strong proponent of ADR and has assigned two professors to promote the publication of dispute resolution articles.

Dean Rogers worked closely with Chief Justice Thomas Moyer before she was appointed Dean of the Law School and both of these individuals are given credit by the practicing bar for stimulating the mediation process in Ohio. The faculty of the Law School has taken a leadership role in dispute resolution by cultivating a strong working relationship with the practicing lawyers in Ohio and this effort has paid off by stimulating the spread of mediation in the Ohio court system, particularly in the common pleas courts.

The law school has four full time ADR professors and students electing to specialize in ADR receive a certificate upon completion of 15 class hours of courses. Professor Josh Stulberg reported that forty students are currently taking Dispute Resolution as a specialty. The U.S. News and World Report grades this specialty and OSU Law School was ranked # 1 in 2000. Other schools well known for dispute resolution curriculums are Harvard, University of Missouri at Columbia, Pepperdine, Hamlin and Cardoza.

CONCLUSIONS - OHIO

Ohio has one of the best statewide court mediation programs in the nation. This is due in large part to the leadership of Chief Justice Thomas Moyer and Dean Nancy Rogers of the Ohio State University Law School. These two individuals put together the framework from which the mediation program in Ohio was built. In addition to community and private mediation, the three phase implementation strategy for mediation in the court system paved the way for the state to have a steady growth of acceptance by the judiciary, the lawyers and the public. Of course, the Ohio Legislature has played a key role of providing the funds to the Ohio Supreme Court so that the courts selected for mediation programs get training for mediators with the knowledge that the funding for the local courts would last only 2-3 years and then they were expected to be self sufficient. This strategy has worked very well. ❄❄



Mary A. Bedikian is Professor of Law in Residence and Director of the ADR Program at Michigan State University College of Law. She also is a trained mediator and arbitrator and she is a former chair of the ADR Section of the State Bar of Michigan.

“Ohio has one of the best statewide court mediation programs in the nation.”

Bylaw Amendments

— by Susan D. Hartman



Susan D. Hartman provides mediation and facilitation through PeaceTalks, in Ann Arbor. She is an approved mediator on the Washtenaw County Civil and Domestic Mediation Panels and on the Wayne County Probate Mediation panel. She provides training in civil, community and adult guardianship mediation. She is a member of the ADR Section Council.

Pursuant to Article VIII, Section 2, of the Bylaws of the ADR Section of the State Bar of Michigan, the Section Council is publishing the following proposed amendments to its Bylaws, which will be considered at the Section's Annual Meeting on September 9, 2005. The ADR Section Council recommends adoption of these amendments.

Summary of Changes

At the last two annual meetings, we have made changes to various parts of the Section Bylaws. The Council decided this year to review the entire Bylaws and to propose amendments reflecting current and proposed effective practice for the ADR Section and Council. Proposed changes are found in Articles III, V, and VII and fall into four categories.

First, obsolete provisions, such as sections defining the initial officers and organizational meetings have been removed. (See Article III, old Sections 6-9).

Second, the membership and election of the Section Council, Executive Committee, and officers have been clarified and slightly changed. In Article III, Sections 3 and 4, proposed language provides that Executive Committee Members are chosen from the Section Council. This helps assure that Executive Committee members are also active in Council leadership. Section 4 fixes the number of voting Council members at 24, including the Chairperson, Chairperson-Elect and Immediate past Chairperson. The Council believes that this represents a workable size and that a fixed number eases procedure for nominations and will help assure a full active Council. Section 5 (Nominating Committee) reflects these changes as well. Sections 7 and 8 are modified to confirm current practice that a person elected to the position of Chairperson-Elect will stay on the Council for three years, serving as Chairperson, Chairperson-Elect and Immediate past Chairperson.

Third, several proposed amendments give the Council flexibility to meet changing needs. Article V Section 2 eliminates specific committee names. In addition, the new language clarifies that all Section members--not only Council members--are eligible to serve on committees. This year has seen several active committee members who are not on the Council, which adds a welcome depth to our activities. Article V Section 8 authorizes Council votes by email. Article VII Section 3 clarifies that while officers and Council members receive no compensation for their service in those roles, they are not excluded from receiving compensation, with

approval of the Council, for serving the Section in other capacities. For example, if the plenary speaker at the annual ANDRI conference (cosponsored with ICLE) is also a Council member, that speaker would not be excluded from receiving the usual plenary speaker compensation. Article VII Section 6 is modified to provide that the Council has discretion to treat three consecutive absences from Council meetings as a resignation.

Fourth, several clerical changes have been made to correct spelling, grammatical, and reference errors. Sections have been renumbered and reordered as needed.

Proposed Amended Bylaws of the Alternative Dispute Resolution Section of the State Bar of Michigan:

ARTICLE I • NAME AND PURPOSE

SECTION 1. NAME. This section shall be known as the Alternative Dispute Resolution Section of the State Bar of Michigan.

SECTION 2. PURPOSE. This Section shall concern itself with (a) the study, application and use of alternate dispute resolution procedures including, but not limited to, arbitration, court annexed dispute resolution mechanisms, mediation, conciliation, unique settlement techniques and other methods of resolving disputes outside the courts, (b) educating members of the State Bar of Michigan and the public regarding alternate methods of dispute resolution through a variety of approaches such as sponsoring meetings, institutes and conferences and by preparation and dissemination of pamphlets and brochures with respect thereto, and by publishing legal writings in the field, (c) analysis, consideration and initiation of proposed legislation, court rules or other rules regarding alternate methods of dispute resolution and providing its input and recommendations regarding such matters, (d) design and implementation of ADR modules for use in the private and public sectors, (e) promoting the use of alternate dispute resolution procedures by members of the State Bar and the public, and (f) conducting such other activities as are consistent with the goals and purposes of the Section and the State Bar of Michigan.

ARTICLE II • MEMBERSHIP

[This article remains unchanged.]

ARTICLE III • NOMINATION AND ELECTION OF OFFICERS AND SECTION COUNCIL

SECTION 1. OFFICERS. The officers of this Section shall be the Chairperson, Chairperson-Elect, Secretary and Treasurer. The Chairperson and the Chairperson-Elect shall serve in their respective capacity for only one Committee Year (defined as beginning on the day of the Annual Meeting of the Section and ending at the next Annual Meeting). The Chairperson shall, with Executive Committee approval, select Executive Committee member(s) to perform the duty of Secretary and the duty of Treasurer during each Committee Year.

SECTION 2. SUCCESSION TO CHAIR BY CHAIRPERSON-ELECT. The Chairperson-Elect shall be elected at the same time that Council and Executive Committee members are elected. That person will succeed to the office of Chairperson for the ensuing Committee Year.

SECTION 3. EXECUTIVE COMMITTEE. An Executive Committee shall be elected each Committee Year, which shall consist of

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no fewer than five (5) or more than seven (7) Section members, shall be elected each Committee Year. The Chairperson and Chairperson-Elect shall comprise two (2) of the five (5) to seven (7) Executive Committee members and remaining members shall be elected from Section membership. Council membership for a term of one Committee Year.

SECTION 4. COMPOSITION OF SECTION COUNCIL. There shall be a 24-26 member Section Council consisting of 24 voting members as follows: Chairperson; Chairperson-Elect; immediate past Chairperson; and 21 members of the Section. The terms of office shall be staggered so that seven (7) members of the Council shall be elected at each annual meeting of the Section for terms of three (3) Committee Years, the following persons: Chairperson, Chairperson-Elect, and the other Executive Committee Members (all of whom shall be members of the Section); plus 18 members of the Section, depending upon the number of Executive Committee Members serving in the relevant Committee Year. Additionally, the last retiring Chairperson shall remain a voting member of the Council for one (1) year immediately following the expiration of his or her term as Chairperson and shall be counted for the purposes of determining a quorum. All other former Chairpersons shall be Ex-officio members of the Council. Except for the last retiring immediate past Chairperson, former chairpersons Chairpersons shall not be included in determining whether a quorum is present at any meeting, and they shall have no right to vote on matters brought before the Council.

SECTION 5. NOMINATIONS. Prior to each annual meeting of the Section, the Chairperson, with the approval of the Council, shall appoint a nominating committee of three (3) members of the Section, to make and report nominations to the Section for members of the Council to succeed those whose terms will expire, for the Chairperson-Elect, for Executive Committee Members, and to fill vacancies then existing for unexpired terms and Executive Committee Members. Other nominations for the Council may be made from the floor.

SECTION 6. ELECTIONS. New Council members, the Chairperson-Elect, and the Executive Committee members shall be nominated and elected at each annual meeting of the Section, or if the election does not take place at the annual meeting of the Section, it shall be held at the next meeting of the Section. It is intended, however, that all such elections shall coincide with the Annual Meeting of the Section, and the provision for elections at other times exists only in the event of some unforeseen event or emergency. The term of office of each person elected shall begin, and the predecessor officer's term shall terminate, at the close of the Section meeting at which they are elected.

SECTION 7. ORGANIZATIONAL MEETING OF MEMBERS. An organizational meeting shall be held on April 27, 1991, at 10:00 a.m., at the State Bar of Michigan Headquarters in Lansing, Michigan at which all persons who are enrolled in the Section on or before April 13, 1991, are eligible to attend and vote. The purpose of this meeting is to elect an interim Council and interim Officers who shall serve until the close of the 1991 Annual Meeting of the State Bar of Michigan. Bylaws shall also be adopted at the organizational meeting. The Board of Commissioners of the State Bar of Michigan has appointed Harvey Berman of Ann Arbor, Michigan as Acting Chairperson of the proposed Alternate Dispute Resolution Section to serve until the first annual meeting of the members of the Section.

SECTION 8. ORGANIZATIONAL MEETING OF COUNCIL. Immediately following the organizational meeting of the members of the Section, an organizational meeting of the interim Council shall be held for the purpose of conducting such other business as shall come before the Council.

SECTION 9. FIRST OFFICER TERMS AND VACANCIES. At the first annual meeting of the Section to be held at the 1991 Annual Meeting of the State Bar of Michigan, six (6) members of the Council shall be nominated and elected to serve for one (1) year, six (6) for two (2) years, and six (6) for three (3) years. "Year," as herein used, means a term beginning at the close of the Annual Meeting of the State Bar of Michigan at which they shall have first been elected and ending at the close of the first, second or third succeeding Annual Meetings of the State Bar of Michigan, respectively. The period between the election at the organizational meeting and the election at the 1991 Annual Meeting of the State Bar of Michigan shall not count for the purpose of calculating any time periods under these Bylaws, including terms of office. At each Annual Meeting thereafter, an election will be held to fill

the vacancies arising as a result of the expiration of terms that year. Those elected shall serve for terms of three (3) years beginning at the close of the Annual Meeting of the State Bar of Michigan at which they have been elected or such other meeting at which they may have been elected. The initial position of Acting Chairperson for the period between the organizational meeting and the 1991 Annual Meeting of the State Bar of Michigan shall not be considered when calculating the term of office or membership on Council of said person and shall not prevent said person from being elected to any position or office in the future.

SECTION 10. BEGINNING AND END OF A TERM. Immediately following each Annual Meeting of the Section, each Officer shall assume the position to which he or she has been elected. The term of his or her position shall begin at the close of the Section meeting at which the election takes place, and such term shall end at the close of the Section meeting at which a successor is elected unless a successor is sooner appointed in accordance with these Bylaws.

SECTION 11. LIMITATION ON COUNCIL TERMS. Except as otherwise provided herein, no person shall be eligible for election to the Council if he or she has served without interruption for two (2) full consecutive terms (a total of six years), immediately preceding the term for which the election is held, provided, that if a person is elected as Chairperson-Elect in the last year of eligibility for service on the Council, his or her term as a member of the Council shall be automatically extended for two (2) years through his or her service as immediate past Chairperson. Term limits shall not apply to Executive Committee members who are elected on an annual basis.

8. ELECTION OF COUNCIL MEMBER TO CHAIRPERSON-ELECT. If a Council member is elected to the position of Chairperson-Elect before the expiration of his or her 3-year term, his or her Council seat shall be deemed vacant and filled according to the provisions of these Bylaws.

SECTION 12. CONDUCT OF ELECTIONS. All Elections elections may be by written ballot or show of hands of those in attendance at a meeting unless otherwise ordered by resolution duly adopted by the Section at the Annual Meeting at which the election is held.

SECTION 13. LAW STUDENT MEMBERS. Law Student members of the Section shall not be eligible for election to the Council. However, the Law Student Section shall be entitled to appoint a law student member of this Section as a liaison representative to sit as an observer at all meetings of the Section Council.

ARTICLE IV • DUTIES OF OFFICERS/EXECUTIVE COMMITTEE

[This article remains unchanged.]

ARTICLE V • DUTIES AND POWERS OF THE COUNCIL

SECTION 1. DUTIES AND POWERS OF COUNCIL. The Council shall have general supervision and control of the affairs of the Section, subject to the Supreme Court Rules Concerning the State Bar of Michigan and the Bylaws of the Section and the Bylaws of the State Bar of Michigan. It shall specifically authorize all commitments or contracts which entail the payment of money, and shall authorize the expenditure of all monies appropriated for the use or benefit of the Section. It shall not, however, without prior approval of the State Bar Board of Commissioners, authorize commitments or contracts which shall entail the payments of more money during any fiscal year than the total of: (a) the amount received in Section dues for such fiscal year; and (b) any unexpended funds remaining in the Section treasury from prior years.

SECTION 2. COMMITTEES. The Chairperson, with the approval of Council, may appoint Committees including but not limited to the following: Bylaws, Education/Programs, Nominations, Membership, Publications and Legislative Committees, committees and their chairpersons from Section membership to perform such duties and exercise such powers as the Council may direct. The Chairperson of the Section shall appoint the Chairperson and members of such Committees and may -- or on direction from the Council shall --

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remove any ~~Chairperson~~chairperson or member from such committees and fill any vacancies on such committees created ~~from time to time~~by removal or resignation.

SECTION 3. FILLING COUNCIL VACANCIES. The Council, during the interim between annual meetings of the Section, may fill vacancies in its own membership or in the Executive Committee (including the Chairperson or ~~Chairperson-elect~~Chairperson-Elect). Members of the Council so selected shall serve until the closed of the next annual meeting of the Section, at which the vacancies shall be filled for the remainder of their respective terms by a special election conducted concurrently with the regular elections as provided in Article III herein.

SECTION 4. REGULAR MEETINGS. Regular meetings of the Council shall be held at times and locations to be determined by the Chairperson, and to the extent possible, the schedule of regular meetings for each fiscal year shall be published in advance at each annual meeting of the Section. At least four regular meetings of the Council shall be held in each Committee Year.

SECTION 5. SPECIAL MEETINGS. Special meetings of the Council may be called by the Chairperson or by a majority of the voting members of the Council at such times and places as either may determine.

SECTION 6. QUORUM. Nine (9) voting members of the Council present in person or by phone or by other simultaneous 2-way electronic media shall constitute a quorum at both regular and special meetings of the Council.

SECTION 7. MAJORITY VOTE. The Council shall act pursuant to a majority vote of those persons present at regular and special meetings of the Council. When absent, a member of the ~~Committee~~Council may communicate his or her vote, in writing, upon any proposition, to the Secretary, and have it counted, with the same effect as if cast personally at such meeting, or may act pursuant to the provisions of Section 8 of this Article.

SECTION 8. VOTING BY CONSENT. The Chairperson of the Section may, at any time, or upon the request of any three (3) voting members of the Council shall, submit or cause to be submitted in writing or by email, to each of the members of the Council, any proposition upon which the Council may be authorized to act; and the members of the Council may vote upon such proposition or propositions so submitted by communicating their vote thereon in writing over their respective signatures or by email from the email address recorded in the Council records, to the Secretary, who shall record upon the minutes each proposition so submitted; when, how, at whose request it was submitted; and the vote of each member of the Council thereon; and he or she shall retain on file such written and signed votes as the Council deems appropriate. Action supported by a majority of the entire Council with respect to a proposition submitted in that manner shall constitute binding action of the Council.

SECTION 9. NOTICE OF MEETINGS. Written notice of meetings of the Council shall be provided at least seven (7) days in advance of any such meeting, by facsimile, email, first-class mail postage fully prepaid, or by any other method permitted by law. In the event the Bylaws of the State Bar of Michigan require a greater notice, such greater notice shall be provided. In the event of an emergency, notice of a meeting may be given by telephone or facsimile transmission upon twenty-four (24) hours prior notice. The presence of a person or his or her written proxy shall constitute waiver of notice of such meeting.

ARTICLE VI • SECTION MEETINGS

SECTION 1. ANNUAL MEETING. The annual meeting of the Section shall be held during the same time and place as the annual meeting of the State Bar of Michigan, or at such other place or time as may be arranged by the Council and shall include programs and such order of business as may be specified by the Council.

SECTION 2. SPECIAL MEETINGS. Special meetings of the Section may be called by the Chairperson, or by a majority of the voting members of the Section, at such times and places as either may determine.

SECTION 3. QUORUM. Twenty (20) members of the Section physically present at any Section meeting shall constitute a quorum for the transaction of business.

SECTION 4. CONTROLLING VOTE. Provided there is a quorum present, all actions of the Section, other than the amendment of the Bylaws, shall be taken pursuant to a majority vote of the members present at a meeting of the Section.

SECTION 5. NOTICE OF MEETINGS. Written notice of meetings of the Section shall be provided at least seven (7) days in advance of any such meeting, by first-class mail, postage prepaid, or by any other method permitted by law. In the event the Bylaws of the State Bar of Michigan require a greater notice, such greater notice shall be provided.

ARTICLE VII • MISCELLANEOUS PROVISIONS

SECTION 1. FISCAL YEAR. The fiscal year, which may be different ~~than~~from the "Committee Year" of the Section, shall be the same as that of the State Bar of Michigan.

SECTION 2. DEBTS. All debts incurred by the Section, before being forwarded to the Treasurer or to the Executive Director of the State Bar of Michigan for payment, shall first be approved by the Chairperson or by the Treasurer, or both.

SECTION 3. COMPENSATION. ~~No salary or compensation of any kind shall be paid to any Officer, Subcommittee member or Section member, officer, committee member, or Council member may receive compensation or fees for services rendered as an officer, committee member, or Council member of the ADR Section, excepting reimbursement of out-of-pocket expenses as allowed by the State Bar of Michigan in the ordinary course of representing the Council of a State Bar Section. Nothing herein shall be construed to preclude any officer, committee member, or Council member from serving the Section in any other capacity separate and apart from services rendered as an officer, committee member, or Council member, and receiving compensation therefor as approved by the Section Council.~~

SECTION 4. APPROVAL. Any action by this Section must be approved by the Board of Commissioners or the Representative Assembly of the State Bar of Michigan before it becomes effective as an official act of the State Bar of Michigan. No public statement of a Section or Council position may be made unless in full compliance with the provisions of Article ~~IX~~XXVIII of the Bylaws of the State Bar of Michigan. Any resolution adopted or action taken by the Section may, on request of the Section, be reported by the Chairperson of the Section to the Board of Commissioners or Representative Assembly of the State Bar of Michigan for action.

SECTION 5. EFFECTIVE DATE. The provisions of these Bylaws shall, other than those governing the organizational meetings of the Section which become effective upon adoption by the Board of Commissioners, become effective immediately upon their adoption by the Section at the organizational meeting, and the approval thereof by the Board of Commissioners of the State Bar of Michigan.

SECTION 6. ~~UNEXCUSED~~ ABSENCES. In the event any member of Council shall have three (3) consecutive ~~unexcused~~ absences from attendance in person or by teleconference at regular meetings of the Council, such absences, ~~shall~~ upon motion and approval of the Council, shall be deemed to constitute a resignation from the Council, and the resulting vacancy shall be filled in accordance with the procedures specified in these Bylaws.

ARTICLE VIII • AMENDMENTS

SECTION 1. AMENDMENTS. These Bylaws may be amended at any annual meeting of the Section by a two-thirds (2/3) vote of the members of the Section physically present and voting, provided there is a quorum, and provided further that any such proposed amendment shall first have been submitted to the Section's Council for its recommendation and provided further that no amendment so adopted shall become effective until approved by the Board of Commissioners of the State Bar of Michigan.

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SECTION 2. PROCEDURES. Any proposed amendment of these Bylaws shall first be submitted in writing to the Section's Council in the form of a petition signed by at least ten (10) members of the Section and then considered by the Council at a regular or special meeting prior to the annual meeting of the members of the Section at which it is to be

addressed. The Council's recommendations, together with a complete and accurate text of the proposed amendments, shall be published in the Michigan Bar Journal or Section newsletter or Section announcement at least thirty (30) days prior to the annual meeting of the Section at which the amendment is to be considered. ❄❄

Upcoming Mediation Trainings

General Civil

The following 40-hour mediation trainings have been approved by SCAO to fulfill the requirements of MCR 2.411(F)(2)(a):

Mt. Clemens: **October 5, 7-8, 12, 14-15**

Training sponsored by The Resolution Center

Contact: Craig Pappas at 586-469-4714

Plymouth: **October 27-29, November 4-5**

Plymouth: **April 20-22, May 12-13, 2006**

Training sponsored by Institute for Continuing Legal Education

Register online at www.icle.org/mediation, or call 1-877-229-4350.

Domestic Relations

The following 40-hour mediation trainings have been approved by SCAO to fulfill the requirements of MCR 3.216(G)(1)(b):

Ann Arbor: **August 1-5**

Ann Arbor: **November 30, December 1-2, 7- 8**

Training sponsored by Mediation Training and Consultation Institute:

Register online at www.learn2mediate.com, or call 1-800-535-1155

Plymouth: **January 24-29, 2006**

Training sponsored by Institute for Continuing Legal Education

Register online at www.icle.org/mediation, or call 1-877-229-4350.

Domestic Violence Screening

The following training has been approved by SCAO to meet its requirement that domestic relations mediators complete a 4-hour program on domestic violence to be eligible for domestic relations mediator court rosters:

Bloomfield Hills: **October 7**

Training sponsored by Oakland County Bar Association

Contact: Shirley Robertson, (800) 827-4390, www.mediation-om.org

Advanced Mediation Training

Mediators on court rosters are required to obtain 8 hours of advanced mediation training every two years. MCR 2.411(F)(4); MCR 3.216(G)(3).

Lansing: **September 16** - "Caucus: Tool or Model?"

Lansing: **October 7** - "Mediation: Negotiating Under Fire"

Training sponsored by Dispute Resolution Center of Central Michigan

Contact: Karen Beauregard, 517-485-2274,

drcm.beauregard@tds.net

Petoskey: **October 14** - "Ten Ways Mediators Could Get Sued"

Training sponsored by Northern Community Mediation

Contact: Jane Millar, 231-487-1771

Bloomfield Hills: **September 13** - "Ethical Issues in Mediation"

Training sponsored by Mich. Council for Family & Divorce Mediation

Contact: Shirley Robertson at

Shirley@familymediation.com

Guardianship/Family Caregiver Mediation Training

Ann Arbor: **October 17-19**

Training sponsored by The Center for Social Gerontology (TCSG) and PeaceTalks

This training is designed for mediators who wish to expand their practice to include mediation of issues or disputes that arise when guardianship over an adult is being considered, and/or when elders and their families are being confronted with difficult decisions regarding the care of a vulnerable family member. The training is also available to a limited number of persons who are interested in establishing guardianship/caregiver mediation programs, and includes a half day specifically on developing case referral sources and on setting up guardianship/caregiver mediation services so that they are effective and well-coordinated with the courts, the private bar and the aging and disability networks.

Contact: Penny Hommel, TCSG Co-Director, (734) 665-1126, phommel@tcs.org or Susan Hartman, PeaceTalks. (734) 623-8255,

mediatesh@yahoo.com ❄❄

The ADR Newsletter is published by the ADR Section of the State Bar of Michigan. The views expressed by contributing authors do not necessarily reflect the views of the ADR Section Council. This newsletter seeks to explore various viewpoints in the developing field of dispute resolution.

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www.michbar.org/adrs/home.html



The ADR Newsletter

August, 2005

Register Now for the Annual Meeting of the Michigan ADR Section of the State Bar of Michigan Thursday & Friday, September 8-9, 2005, at the Soaring Eagle Casino & Resort, Mt. Pleasant. Registration form enclosed.

The ADR Section has had a busy year. We invite you to join us at our Annual Meeting at the Soaring Eagle Casino and Resort in Mt. Pleasant and share in the fruits of our labors, camaraderie with your friends in the Section and all the amenities of a first class resort. Come hear nationally-renowned ADR

specialist Bob Creo instruct and entertain us with insights gleaned from years of mediating and arbitrating; learn from a panel of arbitrators who share what they have learned in arbitration; and much more! **

Meeting & Activity Schedule:

Thursday, Sept. 8, 2005

- 3:00 - 4:00 p.m.** Registration
- 4:00 - 6:00 p.m.** Robert A. Creo: **"Influence of the Mediator: Mediator Strategies, Part I"** — Deliberate mediator choices; effective bargaining techniques; negotiation strategies
- 6:00 - 7:00 p.m.** Panel discussion: **"Lessons Learned in Arbitration,"** including pros/cons of hybrid processes, e.g., med/arb
- 7:00 - 8:00 p.m.** A complimentary cocktail hour hosted by the American Arbitration Association
- 8:00 p.m.** Dinner and Award presentations. Distinguished Service Award recipient: Lynwood Beekman

Friday, Sept. 9, 2005

- 8:00 - 9:00 a.m.** Annual Business Meeting and continental breakfast
- 9:00 - 9:45 a.m.** **"Effective ADR Practices: The national picture — what's next for Michigan?"** — Mary Bedikian and William Weber
- 10:00 a.m. - Noon** Robert A. Creo: **"Influence of the Mediator: Mediator Strategies, Part II"** — dealing with emotions; challenges of protecting confidentiality; transparency of the mediator
- Noon** Adjournment for lunch, Golf tournament, tennis, and other activities of choice with family and friends
- 1:45 p.m.** Golf scramble, Pohl Cat Golf Course
- 7:30 p.m.** Informal Dinner at Water Lily Restaurant (dinner costs not included in registration fee).