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# The ADR Newsletter

Alternative Dispute Resolution Section of the State Bar of Michigan

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## Michigan Business Mediation Program is Gaining Momentum

by Tony Braun, Chair, ADR Section Access Task Force

**M**ichigan Business Mediation Program (MBMP) is a collaborative effort to provide Michigan businesses with a process to resolve disputes when they arise through mediation as an alternative to litigation, if they so choose. The parties who are working together to build this program include the ADR Section's Access Task Force, The Dispute Resolution Association of Michigan (DRAM), Michigan's Community Dispute Resolution Program (CDRP), MSU's College of Law and key players within the business community.

As we all know, conflicts arise even among the best-run businesses. There are times when litigating these disputes is the only answer. Some cases deserve to be aggressively litigated. However, it is no secret that 98% of litigated cases eventually settle. Frequently these settlements are achieved in the course of mediation under the new Court Rules, MCR 2.410 and 2.411, at the end of contentious litigation.

As eloquently stated by Richard Hurford, Director of Litigation for Masco and immediate past Chair of our ADR Section:

*Why avoid the inevitable until late in the litigation cycle when the vast majority of transactional costs have already been incurred? The vast majority of cases are ripe, at an*

*early stage, for a mutually agreeable resolution that is in the best interests of both parties. Litigation is not a profit center. A balance must be struck as to when to resolve and when to litigate aggressively.*

*In my opinion, the Michigan Business Mediation Program being developed by the Community Dispute Resolution Program and the State Bar ADR Section is one of the crucial initiatives that businesses in Michigan can favorably embrace in attempting to strike that balance. It will provide Michigan businesses with an appropriate "off ramp" from the litigation highway that can be intelligently and appropriately taken at an early time in the dispute resolution process when transactional costs can be minimized, business relationships can be preserved, and the parties to a dispute can be empowered to formulate "their own" resolution rather than having a resolution imposed upon them by a court, jury or arbitrator.*

Needless to say, Masco is one of the business champions presently supporting the program.

### HOW DOES IT WORK?

The MBMP is designed to provide businesses with a specific mechanism to reap the benefits of early mediation while at the same time providing support to the non-profit Community Dispute Resolution Program. Businesses who wish to join may first register without cost or obligation.

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*Tony Braun is a principal member in Dickinson Wright PLLC located in Detroit. He earned his JD Cum Laude from Detroit College of Law in 1976. Mr. Braun specializes in commercial litigation, dispute resolution, product liability litigation and risk management. He has served as an Adjunct Professor in teaching Detroit College of Law's first Litigation and Trial Advocacy Seminar and, more recently, Dispute Resolution and Problem Solving at Michigan State's College of Law. Braun currently serves on the Council for the State Bar's ADR Section as Treasurer, member of the Executive Committee and Chair of the Access and Business Mediation Task Forces. He served as a moderator at the Fourth Annual ANDRI in 2005.*

***“[W]e are seeking to identify individual businesses in key segments of the market who would be interested in serving as champions of this program among their peers....It is our hope that these champions will be ambassadors for the program in their own marketplaces.”***

Members will also have the opportunity to sign a pledge stating that they agree, in the interest of reducing the costs of traditional litigation and producing a mutually satisfactory solution for all concerned, to work toward resolving business disputes before litigation through mediation in *appropriate cases*. In the event mediation does not resolve the matter, signators retain the option to pursue other avenues, including litigation. DRAM will connect the parties with one of the 20 CDRP Centers located throughout the state, based upon location and preference of the parties. DRAM will also provide the parties with a roster of experienced business mediators who will provide mediation services at their regular rates. We are asking our mediators to charitably donate 10% of their fee to DRAM for distribution to the CDRP Centers to support dissemination of mediation services to the public.

### **HOW IS THE MBMP PROGRAM BEING PRESENTED TO BUSINESSES AND THEIR LAWYERS?**

The MBMP is being offered as a service to businesses. Our focus is to address their interests, concerns and needs when it comes to the resolution of business disputes by offering a *process* which is often better, faster, cheaper and more efficient than traditional litigation. If they are interested, we are asking them to sign onto the program. There is no cost to register! They may also sign the pledge, send it in and advise DRAM when they have a business dispute in need of mediation. See the MBMP package of materials on the DRAM website, [michiganresolution.org](http://michiganresolution.org) and click onto Michigan Business Mediation. These materials provide the registration form, pledge, rules of procedure, and a description of the program as well as articles and other information.

Why do we think mediation fits the bill for business disputes in particular? Because typically the relationship between the parties is an extremely important factor in business disputes. Mediation, of course, focuses upon solutions rather than positions. Further, often-times there are business considerations underlying the dispute which can benefit both sides. Mediation has the flexibility to deliver innovative solutions which a lawsuit cannot provide. Further, any business which has experienced protracted litigation knows that it can involve large transactional costs, not only in dollars but also as a distraction from the core business. The bottom line: Businesses are becoming increasingly aware that it is frequently in their own best interests to resolve disputes early

in the process. The MBMP provides them with this opportunity and a specific mechanism to do so.

We are inviting interested businesses to join us in building the program within their own industries. In this way we will be able to address specialized concerns which may arise within different business segments.

### **HOW ARE WE GETTING OUT THE WORD AND INVITING BUSINESSES TO PARTICIPATE?**

The first wave now underway is distribution of articles describing MBMP to various trade groups/associations and their attorneys. These articles are simply designed to bring this program to the attention of their constituents. Next, we are partnering with these and other organizations to provide short “live” presentations to interested members. Thus far our article introducing the program (posted on the DRAM website referenced above) has been published in the Michigan Manufacturers Association’s quarterly magazine; Detroit Regional Chamber of Commerce’s *Tips4Biz*; *Smart Business Detroit*; the Detroit Metropolitan Bar’s *Detroit Lawyer*; the *Detroit Legal News*; *Michigan Lawyers Weekly*; and the *Oakland County Legal News*. We have also approached Automation Alley, Original Equipment Suppliers Association, Detroit Regional Chamber of Commerce and Small Business Association of Michigan to broadcast the program in their publications and to give presentations to their members. In addition, we are now scheduled to appear before the State Bar of Michigan Business Law Section to acquaint their members with the MBMP at their annual meeting in early June.

Further, we are seeking to identify individual businesses in key segments of the market who would be interested in serving as champions of this program among their peers. These business segments include automotive suppliers, commercial real estate, construction, financial services, health services, manufacturing, retail and technology. It is our hope that these champions will be ambassadors for the program in their own marketplaces. After all, the wider the participation among their peers, the greater the benefit!

We are also working on a newsletter article for law firms to consider in broadcasting the MBMP to their firm members and clients. And we are giving consideration to production of a live link on the website if this would be helpful to ADR Section members in discussing MBMP with interested business associations and/or entities and their counsel all over the state.

Continued from Page 2

## ARE THERE SIMILAR PROGRAMS IN OTHER STATES?

Yes! We have not actually conducted a survey of other states. However, we did learn from Nina Meierding, keynote speaker at the most recent ANDRI, that she, Randy Lowry, Peter Robinson, and others built a very similar program in southern California a few years ago. Their program also involves paid mediators collaborating with the non-profit community dispute resolution centers. It now enjoys widespread use and has worked very well in providing businesses and other professionals with the opportunity to resolve their disputes as well as providing an important stream of income to the centers.

## WHAT IS ON THE HORIZON FOR TRAINING BUSINESS TO BUSINESS MEDIATORS?

Under the capable leadership of Mary Bedikian, MSU College of Law has a newly approved concentration Alternative Dispute Resolution. We are delighted to announce that the MSU College of Law ADR Program will provide specialized mediator training for business to business disputes. The first 12 hour session is tentatively scheduled for June 9 and 10 at the MSU Management Training Center in Troy, Michigan. The cost will be \$350. Mediators who are interested in joining the program should calendar this training event and look for announcements to come. Class size will be limited to 30-35. You may e-mail Mary Bedikian at [bedik@law.msu.edu](mailto:bedik@law.msu.edu) to reserve a spot..

## WHY SHOULD YOU CARE?

We believe the MBMP is the definition of a win/win/win for the business community, DRAM, CDRP and business mediators. If you are interested in helping to build this program, come ahead! We need help from attorneys, business leaders and mediators who share our belief that this program will deliver value to all concerned. Commercial litigators and in-house counsel: Consider bringing us your next case for mediation. Our roster will include the mediators you will likely want to use in any event. Business lawyers: Be sure to counsel your clients on the benefits of early mediation in resolving disputes and please tell them about this program and how to sign up. Mediators handling business cases:

Will you suggest utilizing this program in one of your upcoming cases?

This program brings more than an idea to the table. It will provide (1) a specific mechanism/program to bring parties into mediation; (2) a neutral intake process; (3) a neutral site; (4) experienced and specially trained mediators in business disputes; and (5) a program which will promote and develop the mediation process in business cases. We believe this program will only get better as more and more businesses in each segment sign up and commit to early mediation as an integral part of their dispute resolution process.

We are anticipating that MBMP will have statewide application with participating CDRP Centers all over the state. We are also actively recruiting ADR Section members who will help in identifying, broadcasting and/or presenting to business associations and entities statewide.

If you have any contacts with business associations and/or entities whom you believe would benefit from this program, please let us know! We are especially interested in working with the Michigan Chamber of Commerce and its local chapters and the Small Business Association of Michigan.

We are also actively recruiting mediators who have background, training and/or experience in mediating business disputes. The initial criteria for mediators will be that you are qualified for SCAO-approved court mediation. Interested mediators should e-mail Tony Braun (e-mail address shown below) and attach their CV and rate schedule. Hopefully, you will be able to join us at the first business mediation training session, June 9 and 10. And, of course, we would welcome hearing any questions, comments or concerns you might have. Please contact Dave Gruber, DRAM's Director at (517) 485-2274, e-mail: [resolve@tds.net](mailto:resolve@tds.net) or Tony Braun at (313) 223-3575, e-mail: [rbraun@dickinsonwright.com](mailto:rbraun@dickinsonwright.com). \*\*

***“This program brings more than an idea to the table. It will provide (1) a specific mechanism...; (2) a neutral intake process; (3) a neutral site; (4) experienced and specially trained mediators...; and (5) a program which will promote and develop the mediation process in business cases.”***



Lee Hornberger, [www.leehornberger.com](http://www.leehornberger.com), is an arbitrator, mediator, and attorney in Traverse City. Lee is a mediator with Circuit Courts, EEOC, MDCR, and community mediation services, and an arbitrator with the AAA, NASD, NAF, National Futures Association, and NYSE. Lee is Treasurer of the Grand Traverse-Leelanau-Antrim Bar Association, and a Hearing Officer with the Grand Traverse Band of Ottawa and Chippewa Indians.

# Police and Fire Department Compulsory Arbitration

by Lee Hornberger

This is a brief overview of the Michigan Compulsory Arbitration of Labor Disputes for Police and Fire Departments Act. MCL 423.231 et seq.

The Compulsory Arbitration Act provides for possible ultimate compulsory arbitration of unresolved collective bargaining agreement disputes in police and fire departments operated by public agencies. Because public employer police and fire department employees are forbidden from striking, public policy requires an alternative, effective and binding procedure for the resolution of disputes to maintain employee morale and the efficient operation of the departments. Capitol City Lodge No 141, Fraternal Order of Police v Ingham Co Bd of Commr's, 155 Mich App 116, 117-118; 399 NW2d 463 (1986); lv den, 428 Mich 870 (1987). Also covered by the Act are emergency medical services personnel and emergency telephone operators employed by a public police or fire department.

The Arbitration Act is the final step in the collective bargaining process. The Act provides that thirty days after presentation of a collective bargaining dispute to mediation, either the public employer or the union may begin a Compulsory Arbitration Act proceeding. MCL 423.233. Good faith bargaining to impasse is not a precondition to compulsory arbitration. *Manistee v Manistee Firefighters Ass'n*, 174 Mich App 118, 124; 435 NW2d 778 (1989); lv den, 434 Mich 864 (1990).

The arbitration procedure can be started by either party's filing a Petition for Arbitration with the Michigan Employment Relations Commission. MCL 423.233. The parties submit to the Employment Relations Commission a copy of the last offer of settlement by each party. R 423.505.

Within ten days of filing the Arbitration Petition, the union and the public employer each selects one person as its delegate to serve on the three-member arbitration panel required by the Act. MCL 423.234.

The Commission then selects three individuals from its pre-existing arbitrator list and provides these nominees' names to the parties. The employer and

the union each then have five days to strike one name from the list. The Commission designates one of the remaining nominees as the impartial member. The impartial member serves as the arbitration panel chair. MCL 423.235; and R 423.506. Alternatively, before the Commission makes its appointment of the impartial member, the parties may mutually agree to select an individual from the Commission's arbitrator list to act as chair.

While these arbitration proceedings are pending, neither party may change existing wages, hours, or other conditions of employment without the other party's consent. MCL 423.243.

The appointed chair conducts a pre-hearing conference concerning issues, exhibits, and the hearing details. R 423.507. A hearing will be held before the panel members, at which the parties will have the opportunity to present evidence. MCL 423.236; and R 423.507-.509.

The arbitration expenses and chair's fees are shared equally by the parties and the State of Michigan. The panel members, if public officers or employees, continue to be paid by the public employer at the employees' usual rate. MCL 423.236.

At any time prior to the final award issuance, the chair may remand the collective bargaining dispute back to collective bargaining for a period of fourteen days if the chair believes that further negotiations might be useful. MCL 423.237a.

Unless the parties otherwise reach a settlement, the arbitration panel, based on a majority vote, will issue an award. The award must be based on criteria set forth in the Act. MCL 423.239. These criteria include the following:

- (1) the employer's lawful authority;
- (2) the parties' stipulations;
- (3) the public interest and welfare, and the public employer's financial ability to meet those costs;
- (4) the wages, hours and conditions of employment of employees in comparable communities;
- (5) the cost of living;

***"While these arbitration proceedings are pending, neither party may change existing wages, hours, or other conditions of employment without the other party's consent."***

- (6) the overall compensation presently received by the employees;
- (7) changes in circumstances during the arbitration proceeding; and
- (8) such other factors that are normally and traditionally considered in determining compensation and terms and conditions of employment in collective bargaining.

The arbitration panel determines how much weight to give to each of these factors. Evidence must be adduced with respect to each applicable factor. *Detroit v Detroit Police Officers Ass'n*, 408 Mich 410; 294 NW 2d 68 (1980).

After the hearing, the parties submit their last settlement offer for a collective bargaining agreement on disputed economic and non-economic issues. Regarding economic issues, the arbitration panel must accept the last settlement offer which most nearly complies with the criteria set forth in the statute. This means that the arbitration panel cannot reject the final offers of both parties and issue a compromise solution on economic issues. On non-economic issues, however, the arbitration panel is free to render any award, including a compromise award, that it deems appropriate under the statutory criteria. MCL 423.238.

A party can identify a disputed issue for the first time at the arbitration hearing. *Police Officers Ass'n of Michigan v Ottawa Co (On Reconsideration)*, 264 Mich App 133; 694 NW2d 757 (2004). This is, however, a much criticized holding.

The arbitration panel can only decide on proposals that are mandatory subjects of bargaining.

It may not decide on proposals that are permissive subjects of bargaining. *Manistee v Manistee Firefighters Ass'n*, 174 Mich App 118 at 122, 435 NW2d 778 (1989). What constitutes a mandatory bargaining subject is decided on a case by case basis. *Southfield Police Officers Ass'n v Southfield*, 433 Mich 168, 178; 445 NW2d 98 (1989). Mandatory subjects include pay, benefits, seniority, and disciplinary procedures. Permissive subjects include the employer's right to create new positions within the bargaining unit., and other unit composition matters. MCL 423.215; see also *Menominee Public Schools*, 1977 MERC Lab Op 666.

The panel's majority award must include written findings of fact as well as an opinion and order concerning each issue. MCL 423.240; and R 423.513. If supported by competent material and substantial evidence on the record, the majority decision of the arbitration panel is binding upon the parties and is enforceable in Circuit Court. MCL 423.241-242. The Circuit Court may not reassess the wisdom of the arbitration panel or review the record de novo. *Detroit*, 408 Mich at 480.

In conclusion, the Compulsory Arbitration of Labor Disputes for Police and Fire Departments Act provides a mechanism for public employers and police and fire unions to resolve remaining issues in the collective bargaining process without the need for strikes or lockouts. ❄️

*“The arbitration panel determines how much weight to give each of these factors. Evidence must be adduced with respect to each applicable factor.”*

## New Jersey courts have issued two opinions upholding mediator confidentiality in the past year

In *New Jersey v Carl Williams*, 184 N.J. 432, 877 A.2d 125 (2005), the New Jersey Supreme Court upheld exclusion of mediator testimony concerning statements made during the mediation, ruling that the need to protect mediation confidentiality outweighed the defendant's need to have the mediator testify on his behalf in his criminal trial on aggravated assault charges. Although the Uniform Mediation Act, which New Jersey has adopted, was not in effect at the time of the trial, the Court agreed with its principle that mediators are privileged from testifying unless a party can show that, a) there is a need for the evidence that substantially outweighs the interest in protecting confidentiality, and b) that the proponent of the evidence has shown that the evidence is not otherwise available. The full opinion, along with a synopsis of the case, can be found at <http://lawlibrary.rutgers.edu/courts/supreme/a-61-04.opn.html>.

In *Lehr v Afflitto*, NJ Super (Docket No. A-6992-03T2, App Div, 2006), the Appellate Court reversed the trial court's ruling that the mediator could testify about certain aspects of the parties' divorce mediation. To help determine the issue of whether or not the parties had reached a settlement in mediation, the trial judge permitted the mediator, under subpoena by the defendant, to testify about the last stages of the mediation, including the mediator's summary letter to the attorneys. The Appellate Court ruled that the mediator should not have testified, because there was no compelling reason for confidentiality to be breached in this case. The Court followed the Williams court's application of the UMA framework although it was not in effect at the time of the lower court's ruling. ❄️

## 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):

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

Plymouth: **October 5-7, 27-28**

Plymouth: **February 2007, dates to be announced**  
*Training sponsored by Institute for Continuing Legal Education*

Register, online at [www.icle.org](http://www.icle.org), or call 1-877-229-4350.

Lansing: **March 8-10, 29-30, 2007**  
*Training sponsored by Dispute Resolution Center of Central Michigan*  
Contact: Karen Beauregard, 517-485-2274,  
[drccm.beauregard@tds.net](mailto:drccm.beauregard@tds.net)

### Domestic Relations Mediation Training

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 7-11**

Ann Arbor: **December 6-8, 13-14**  
*Training sponsored by Mediation Training & Consultation Institute*

Register online at [www.learn2mediate.com](http://www.learn2mediate.com) or call 1-734-663-1155

### 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: **May 19, 2006, 8:30 am – 12:30 pm**  
“10 Ways Mediators Could Get Sued,”  
Anne Bachle Fifer  
*Training sponsored by Dispute Resolution Center*  
Contact: Karen Beauregard, 517-485-2274,  
[drccm.beauregard@tds.net](mailto:drccm.beauregard@tds.net)

Bloomfield Hills: **June 8, 2006, 8:30 am – 6 pm**  
“Re-visiting the Facilitative Model,” Harvey Burdick & Jean Goddard  
*Training sponsored by Oakland Mediation Center*  
Contact: Gina Buckley, 248-338-4280,  
[www.mediation-omc.org](http://www.mediation-omc.org)

Plymouth: **June 6, 2006, 8:00 am – 5:30 pm**  
“Second Annual Mediators’ Forum”  
*Training sponsored by Institute for Continuing Legal Education*  
Register online at [www.icle.org](http://www.icle.org), or call 1-877-229-4350.

Troy: **June 9-10, 2006**  
“Michigan Business-to-Business Mediation Program”  
*Training sponsored by MSU College of Law*  
Contact: Mary Bedikian, [bedik@law.msu.edu](mailto:bedik@law.msu.edu)

Bloomfield Hills: **January 26, 2007, 8:30 am – 6 pm**  
“Advancing Your Mediation Skills,” Zena Zumeta  
*Training sponsored by Oakland Mediation Center*  
Contact: Gina Buckley, 248-338-4280,  
[www.mediation-omc.org](http://www.mediation-omc.org) ❄❄

**REVIEW***by Robert Tremp*

## "The Murky World of Mediation Ethics: Neutrality, Impartiality, and Conflict of Interest in State Codes of Conduct," by Suzanne McCorkle, *Conflict Resolution Quarterly*, Vol. 23, Number 2, Winter 2005

The author states clearly that "Mediator ethics is an area of controversy". The article makes it clear that even though "Mediators are allowed wide discretion in strategies and skills applied during a mediation session, standards of practice and codes of ethics govern mediator behavior. . . .As standards of practice are drafted, each state or organization determines the ethical issues that receive attention."

The author explains that "An examination of the nature of neutrality, impartiality, or equidistantness leads to five potential paradoxical dilemmas for those who write codes of conduct." The first dilemma is explained as in a "global, philosophical sense, can a mediator who has his or her own life experiences and knowledge ever really be neutral to the content and the personality or style of disputants?" The second dilemma: "Do techniques such as power balancing or coaching disputants involve a type of partiality to a side or type of outcome?" The third dilemma: "Do mediator models that allow the mediator to suggest outcomes (such as some court models) conflict with what other practitioners see as the mediators purely facilitative role." The fourth dilemma: "Are models that maintain neutrality to the decision and refuse to intrude, even though the disputants may be making a poor decision, ethical?" The fifth dilemma: "Do codes allow flexibility?" "Are cultural preferences of some groups toward known elders as their mediator reflected in the treatment of neutrality and impartiality?" Are practices such as manager, mediation or school-based peer mediation reflected in the Codes?

The article gives an overview of all of the States' Codes of mediator ethics. Michigan's Code is the "Standards of Conduct for Mediators" as promulgated by the Michigan Supreme Court. (<http://www.courts.michigan.gov/scao/resources/standards/odr/conduct.pdf>) The article states that "Although mediation authors differentiate between neutrality (not siding or holding bias toward any party) and impartiality (having no stake in the outcome of the process; McCorkle and Reese, 2005; Moore, 2003), most codes use the terms interchangeably." Codes also address neutrality implicitly within sections on conflict of interest,

dual role relationships, and dual alternative dispute resolution (ADR) processes. The author suggests that "it is doubtful that any of the codes of conduct apply to all mediators practicing within a state. All of the professional association codes apply only to their members. Most of the court-connected mediation program codes of conduct apply only to mediators who apply to be listed as a court mediator." I take from this that even though a person has completed all of the training necessary to become a "court listed mediator" but is not on a court list, the Michigan Supreme Court "Standards of Conduct for Mediators" would not be applicable.

It is noted in the article that the Impartiality Section in the Michigan "Standards of Conduct for Mediators" is contained in Section 3, the Conflict of Interest Section is located in Section 4 and the "Dual Role Related Sections" are located in Section 4.b. The article defines a Dual Role Relationship as a "professional fulfilling the role of two professions for one or both clients at the same time during mediation." Michigan's Standards state, "Without the consent of all parties, a mediator shall not subsequently establish a professional relationship with one of the parties in a related manner, or in an unrelated manner under circumstances that would raise legitimate questions about the integrity of the mediation process. A mediator should not establish a personal or intimate relationship with any of the parties that would raise legitimate questions about the integrity of the mediation process."

The article concludes with the statement that, "Mediators should be vigilant as to the specifics of the codes of conduct to which they subscribe." We, obviously, agree. It is our suggestion that all mediators procure a copy of the Michigan Code, study it carefully, and review it on a periodic basis so that this Code will become ingrained in how they practice mediation in Michigan. ❄️

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.

For comments, contributions or letters, please contact:

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fax: (616) 365-9346

<http://www.michbar.org/adr/newsletter.cfm>



The ADR Newsletter

May, 2006

## HOLD THE DATES:

2:00 pm Friday September 8, 2006,  
through Noon Saturday  
September 9, 2006.

### EVENT:

ADR Section's Annual Meeting  
and Conference

### LOCATION:

The Inn at St. John's Golf and  
Conference Center, Plymouth, MI

### PROGRAM:

Advanced Theories in Negotiation:  
Just what are the Clients and the  
Advocates Doing and How can a  
Neutral Respond?

What Providers of ADR Need to  
Know From the Judges  
Who Believe in ADR

## Over 200 Enjoy ANDRI and Keynote Speaker Nina Meierding

by Anne Bachle Fifer, Co-editor, ADR Section Newsletter

"This was the best ANDRI yet." More than one participant used this or a similar superlative to summarize this year's 5th Annual Negotiation & Dispute Resolution Institute (ANDRI). The day-long conference, co-sponsored by the ADR Section and the Institute for Continuing Legal Education (ICLE), has become the premiere ADR event for attorneys and other ADR professionals in Michigan. This year, over 200 participants attended, choosing a variety of presentations among four tracks: negotiation, mediation, arbitration, and judicial.

For many, the highlight was keynote speaker Nina Meierding, who gave two plenary addresses as well as several workshops. Conference attendees described her, inter alia, as, "high energy," "a great speaker," "outstanding," "excellent," "dynamite!" Ms. Meierding, a nationally-known mediator, trainer, and conference speaker based in southern California, provided us with a thoughtful analysis of the use of apology in mediation, as well as a survey of the mediation profession nationally, in her plenary talks. She offered some interesting insights into "mono-chronic" versus "polychronic" thinkers as part of her cross-cultural presentation, and took the concept of "power imbalance" to a whole new level in her workshop on that topic.

Several panels of judges addressed how judges view ADR, mediators, the referral process, etc. Other panels considered topics such as maintaining neutrality, useful strategies in mediation, use of negotiation coaches in domestic cases, becoming a NASD arbitrator, and marketing. As usual, many of the attendees reported that the best part of the day was the opportunity to inter-act with peers and gain a better understanding of what is going on around the state with regard to ADR. Plans are already underway for next year's ANDRI, scheduled for March 22, 2007, again at newly-remodeled conference center, The Inn at St. John's in Plymouth. ❄️