

## **History of the Michigan Mediates! Campaign**

Michigan Mediates! is a public education campaign. It promotes using mediation to settle disputes by explaining the benefits of mediation to the public and the media. It says that “mediation” is simply a negotiation moderated by a neutral third party. It is a joint project of the ADR Section and DRER (Dispute Resolution Education Resources, Inc.) It was the answer to the Section members request for education about ADR for the general public and attorneys.

Background:

Over its 20 year history, the ADR Section has made many efforts to explain the benefits of alternative dispute resolution to the public. While great progress had been made through the legal system and by SCAO, the majority of the general public is still unaware of the benefits of using mediation in both litigated and non-litigated matters such as municipal conflicts or parenting problems. In 2010, the ADR Section Council surveyed Section members through focus groups and an on-line survey to find out what needs that they want addressed. It found that explaining or educating the public about alternative dispute resolution, and mediation in particular, was a critical need to the Section members.

In response to the ADR Section “needs” survey, the ADR Section Council decided in June 2011 to promote mediation through a public education campaign in Michigan. The campaign was to let the public and attorneys know that mediation really works: mediation settles 60 to 80 percent of most types of disputes, there is a high compliance rate for mediated agreements, and even when a full settlement is not reached, usually the issues are narrowed and some aspects may be resolved. In addition, when surveyed, 85% of mediation participants were so satisfied with the process, they said they would recommend it to their friends and family.

MM! Beginning goals:

The Outreach Committee of the ADR Section was asked to implement a strategy to address the expressed need of Section members. The Committee, determined that because the public, including some lawyers, do not understand ADR generally and mediation specifically, the ADR Section should begin a public education program. The Committee believed mediation can be any non-binding process which uses a third party to help the parties resolve a dispute in contrast to arbitration which is a binding decision making process. But in Michigan, the term “mediation” has been applied to many judicial intervention activities such as neutral evaluation, settlement conferences, case management meetings and child abuse/neglect pre-trials. One goal of the Michigan Mediates! Campaign was to clarify the meaning of mediation and to promote its use for general benefit.

The initial goals of the Campaign were:

1. Bring ADR providers together to define terms and promote ADR goals at the same time, thus increasing the effectiveness of everyone’s efforts.

2. Involve the community in seeing ADR as part of the “Justice” community.
3. Offer alternatives to litigation to resolve disputes.
4. Model communication tools other than fighting to the public.
5. Increase the general public’s use of ADR and mediation.
6. Identify community needs for specialized programs.
7. In a defined time period, use interviews, news articles, professional articles, PSA’s, advertisements, and events to explain why words matter and how to resolve disputes peacefully and less expensively.
8. Build on the past promotion efforts of the Council, SCOA, and other ADR providers.
9. Reduce court expenses when a viable alternative to litigation is available.
10. Promote diversity among providers and recipients of services.
11. Overcome some seeming resistance from some attorneys and business owners to ADR processes.

The Campaign would involve foundations, businesses, and individuals in supporting these goals to build a basis for future promotions. A public relations campaign and education effort would increase the willingness of the public to trust using ADR processes and mediation. A concerted effort within the ADR community is needed to increase mediation use or providers will get discouraged and drop out of the cause, the benefits of savings in time and money will not be realized, and the use of ADR will remain underutilized, undervalued and ineffective throughout Michigan.

The ADR Section moves forward:

In July, 2011, the ADR Section retained a consultant, Ms. Peggy Goodwin, to help plan the public information and education campaign. Almost from the start, Michigan Mediates! was the name for this educational effort. Several working groups were formed to look at various aspects needed to move forward. A Coordinating Committee met with other ADR and community organizations to solicit their input; a Finance Committee researched ways to raise money for the Campaign and looked at the goals, budget and structure; while a Communications Committee planned the website, drafted communications to Section members, and supervised creation of media communications.

After several months, to be able to raise money to pay for the Campaign and to hire the necessary expert personnel, the ADR Council determined it needed to partner with a non-profit

organization. In February of 2012, the ADR Council signed an agreement with DRER, Dispute Resolution Educational Resources, Inc, a 501(c)(3) organization, to take on the Campaign in cooperation with the ADR Section.

DRER's background fit the Michigan Mediates! objectives. DRER received grants and funds to train special education mediators, administer an agriculture-based mediation program, and work to promote the State's community dispute resolution centers. It has experience managing 501(c)(3) projects and wanted to work with the ADR Section to promote mediation within the State of Michigan. Under the operating agreement, DRER will manage the Michigan Mediates! Campaign under the supervision of an Advisory Committee. The Advisory Committee is made up of three ADR Council officers, three DRER representatives, including the Executive Director, David Gruber, and several non-voting representatives including a representative of the community dispute resolution centers. There are several sub-Committees (open to any volunteers interested): website, community outreach, mediation partners (ADR organizations), grants, and finance. Volunteers are welcome.

The ADR Section continues to work and collaborate with Michigan Mediates! Its Section-to-Section Committee works with other State Bar Sections on Alternative Dispute Resolution; the Effective Practices Committee works with legislation and court rules in the area of ADR, such as securing enactment of the new Revised Uniform Arbitration Act in 2012, and continues to review effective ADR practices; the Judicial Action Team promotes ADR to the State's Judiciary; and the Outreach Team works with Michigan Mediates!

Along with DRER, and as an outgrowth of Michigan Mediates!, there is an ad hoc Government Taskforce Committee working with the Executive Branch to train and promote mediation within state and local government by providing training and facilitators to state and local governments.

Family Law Section Contributions:

In 2012, the Family Law Section ADR Committee held focus groups around the State to determine what its members wanted from its ADR Committee. Again, members requested more and better information to give to the public and share among lawyers. To this end, the ADR Committee has drafted or published three documents and is planning a video for websites in 2014. These documents will be placed in the Family Law Journal, the State Bar Family Law website and on [www.MichiganMediates.net](http://www.MichiganMediates.net). They will be available for lawyers to use in their offices and on their websites with proper attribution to the Section. The documents in process or published are "Appropriate Dispute Resolution Process Choices for Attorneys," "FAQs for Attorneys," and a brochure written to share with clients. All have been reviewed by the State Bar Domestic Relations Committee.

Where we go from here:

The ADR Section is promoting mediation and other ADR processes through seminars, workshops, the Advance Negotiation and Dispute Resolution Institute, and collaboration with other State Bar Sections and community dispute resolution centers. It works with the State Court Administrative Office's Office of Dispute Resolution in looking at court rules, developing mediator standards, and looking at improvements to the justice system in Michigan. *The Effectiveness of Case Evaluation and Mediation in Michigan Circuit Courts Report* to the State Court Administrative Office, Michigan Supreme Court, October 31, 2011, submitted by Teresa G. Campbell and Sharon L. Pizzuti, (the "Courtland Report"), showed case evaluation was only effective 18% of the time in settling civil cases compared to 70% for mediation. The Section is developing materials to support early mediation in appropriate cases. It is hoped a similar report will be done for the Family Court in the near future.

DRER also commissioned a report on mediation in government by the Public Sector Consultants called *Mediation and Other Alternative Dispute Resolution Techniques in Michigan State Agencies*. Its conclusions may apply generally to any dispute resolution system and include:

1. Some agencies use mediation (or other dispute resolution techniques) to resolve problems — others do not.
2. There is a general lack of consistency regarding which agencies use mediation, how they use it, and when they choose to use it. In addition, some appear to be more comfortable than others in outsourcing complaint resolution to third parties.
3. Mediation is most effective when it is used early and offered often throughout a dispute.
4. The state could benefit from gathering better metrics on the complaint resolution process.
5. There is a lack of understanding about when and where dispute resolution is most effective in the complaint process and more information about how to effectively use mediation is hard to find.

DRER, the ADR Section, Michigan Mediates! and SCAO are looking at these reports to figure out ways to inform the public about the benefits of early mediation.

Michigan Mediates! has identified four targets to test a model for promoting mediation to the public: Medicaid and Medicare disputes, public education disputes, Family law matters, especially in the GLBT community, and to continue working with the community dispute resolution centers. It encourages and invites all State Bar Sections to become more involved. All the work of the Family Law Section ADR Committee is welcome; it is more than welcome, it is an excellent example of reaching out to the public towards improving opportunities for citizens to resolve their conflicts.

From this activity, clients and attorneys should benefit in various ways: attorneys familiar with alternative dispute resolution techniques are found to make better choices with their clients for settlement; lawyers can offer more services beyond simply handling a court case from beginning to end; when potential clients need some guidance, but prefer to manage their own case, lawyers will be able to help design a process which works for that client by “unbundling” their legal services. In providing a directed public education campaign, Michigan Mediates! will assist in promoting the work of the Dispute Resolution Centers as well as the many Court affiliated programs working to offer faster and better justice for the public.