

Summary Report

Mediation Subcommittee of The Missouri Bar ADR Committee

Key Developments

New Model Standards of Conduct

New Model Standards of Conduct for Mediators were adopted by the ABA in 2005. Copies of these new standards are available on the Dispute Resolution section of the ABA website (<http://www.abanet.org/dispute>) along with a chart comparing the new standards to the 1994 standards.

Construction Defect Mediation

Section 431.312 RSMO, effective August 28, 2005 (SB 168), provides for nonbinding and independently administered mediation to resolve disputes arising out of construction defects pursuant to Sections 431.300 – 315 RSMO. The contractor and claimant shall mutually agree upon a qualified independent and neutral mediator and shall equally share the cost of the mediator. Mediation proceedings shall be regarded as settlement negotiations and the confidentiality of such proceedings shall be as set forth in Supreme Court Rule 17. The resolution of the claim shall not operate to release any claim except the claim described in the notice of defect, and then only when the agreed upon remedy has been accomplished.

Trends and Issues

Certification Requirements for Mediators

The Dispute Resolution Section of the ABA and the Association for Conflict Resolution considered the need and feasibility of a national certification program for mediators during the fall of 2004. The group decided to focus on alternative quality assurance measures rather than pursue a national certification program. A summary of the survey can be found at www.abanet.org/dispute under NEWS. The National Conflict Resolution Center has also addressed this issue. A copy of their report entitled "A Call for a National Dialogue on the Establishment of Training Standards for Mediators" can be found at <http://www.ncrconline.com/NewsReleases.htm>.

Small Claims Mediation in the Seventh Judicial Circuit (Kansas City / Liberty)

This program was established as a result of an ADR demonstration project called "settlement week" sponsored by court services in June 2002. The judge in small claims court was impressed by the ability of mediation to help manage the volume of cases pending. A notice is attached to file stamped pleadings and summons to inform litigants of the availability of mediation. A flier on mediation is distributed to litigants on court days. Litigants may request mediation prior to or on the date of their hearing. Services are provided by staff of the Office of

Dispute Resolution Services and by volunteer mediators. There is no charge to litigants. Settlement rates are in the 65-70% range. Litigants who do not settle their dispute still benefit from the process. Most pro se litigants make more relevant and concise presentation of their cases to the court as a result of discussing their issues and damage claims in mediation. Cases that settle in mediation have the option of immediate dismissal with or without prejudice, a short continuance while settlement terms are fulfilled, or entry of a stipulated judgment. Rates of compliance with agreements are high, estimated in the 85 to 90% range. Settlements conserve the time of the court and clerk's office that would otherwise be involved with collection efforts or appeal of a small claim judgment. For more information contact:

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Office of Dispute Resolution
Seventh Judicial Circuit
351 East Kansas St.
Liberty, MO 64068
(816) 792-7681

Recommended Resources

Books

Mosten, Forrest S. *Mediation Career Guide, A Strategic Approach to Building a Successful Practice*. San Francisco, CA: Jossey-Bass, 2001.

Fisher, Roger, and Shapiro, Daniel. *Beyond Reason*. New York, NY: Penguin Group, 2005.

Cloke, Kenneth. *Mediating Dangerously, the Frontiers of Conflict Resolution*. San Francisco, CA: Jossey-Bass, 2000.

Golann, Dwight. *Mediating Legal Disputes, Effective Strategies for Lawyers and Mediators*. New York, NY: Little, Brown, 1996

Journals

Dispute Resolution Magazine (quarterly, American Bar Association Section of Dispute Resolution)

Conflict Resolution Quarterly (formerly *Mediation Quarterly*, Academy of Family Mediators)

Dispute Resolution (quarterly, American Arbitration Association)

Journal Of Dispute Resolution (semiannual, University of Missouri, Columbia, School of Law)

Web Sites

Association of Missouri Mediators: www.mediate.com/amm

Association for Conflict Resolution: www.acrnet.org

Upcoming Training

Domestic Relations Mediation. Kansas City on April 20-22, 2006 sponsored by Johnson Co Community College. 24 hours. Call 913-469-4420 (other courses available)

Advanced Workshop with Bernie Mayer, Ph.D. (Partner with CDR Associates, Boulder, CO) - St. Louis on Apr. 20, 2006 and Columbia on Apr. 21, 2006 sponsored by MU Center for the Study of Dispute Resolution. Go to www.law.missouri.edu/cle or call 573-884-7813 for information. Mr. Mayer will explore insights from his provocative new book "Beyond Neutrality: Confronting the Crisis in Conflict Resolution."

Heartland Mediators Association Annual Conference - Mediation: a client centered approach. Prairie Village (Kansas City) on April 28-29, 2006. Speaker: Marilyn McKnight. . Go to www.heartlandmediators.com for details.

The Collaborative Family Law Association in St. Louis - Coaching in an Interdisciplinary Environment. St. Louis University School of Law on May 5-6. Trainer: Dr. Susan Gamache, AAMFT.

43rd Annual AFCC Conference - Juggling Conflicts, Crises and Clients in Family Court. May 31 - June 3, Tampa Bay, FL. Go to www.afccnet.org for information.

M.A.R.C.H. Mediation - 40 Hour Family and Divorce Mediation Training. June 15, 16, 17, 23, 24, Sikeston, MO. Betsy Magruder and Terri Dichiser – Trainers. Call 1-800-595-9750 (Barb Higgins at M.A.R.C.H.) or Becky Magruder 636-947-9273 for information.

ACR Family Section Conference - Making Waves - Breaking Barriers. July 13 – 16, Cape Cod, MA. Go to www.mediate.com/acrfamily/pg17.cfm for information.

St. Louis University - 40 hour Business, Family, and Divorce Mediation Training. August 18, 19, 20, 26, 27, St. Louis, MO. Becky Magruder – Trainer. Call 314-977-7266 (Janet Farris at SLU) or Becky Magruder 636-947-9273 for information.

Justice for Everyone - Reframe, Repair and Restore. October 27-29 in

Independence, MO. Restorative Justice Conference, with speakers: Fred Gay, Judge Bria Hucalak, Judge Bennett Burkemper, Kathleen Bird, Howard Zehr, and Chief Justice Michael Wolff.

Association of Missouri Mediators Annual Conference - October 2006. Details TBA.