



ADReport

**Alternative Dispute
Resolution Section**

Craig Distelhorst, **Chair**
Mala Malhotra-Ortiz, **Editor**

Maryland State Bar Association, Inc.

Volume Eight. No. One
January 2012

Message from the Chair

By Craig T. Distelhorst

Happy New Year! Hope everyone had a good and safe holiday season. Your Section Council has been hard at work developing and presenting programs geared to you the membership of the Section. We continue to solicit your advice and ideas to better serve you.

One of our biggest innovations this year has been led by your Vice Chair (Chair Elect) Dave Simison. Dave has been presenting live Section webinars on the first Wednesday of each month from noon to approximately 1 p.m. He has brought together expert panelists from across the country who are able to remotely participate from their separate locations from across the country. Section members who register (free) are able to participate by typing questions on their computers into the panelists. See future planned webinars listed elsewhere in this newsletter. You may listen to past webinars by going to the MSBA website and clicking into the ADR Section web pages.

We are also gearing up for our Spring Dinner Event. We will have three nationally known Democrat, Republican, and independent panelists discuss the complexities of today's major issues. They will not debate the issues, but will then discuss how we may have civil collaborative discussions across party and philosophical lines to solve these challenges. It ought to be a great discussion in the middle of the 2012 election year. You as the audience will be able to participate with your questions and ideas.

For the Spring Dinner Event, the Republican will be William Brock. He is former U.S. Senator from Tennessee, U.S. Trade

Representative, U.S. Secretary of Labor, and National Chairman of the Republican Party. The independent will be David Walker, from Connecticut. He is former U.S. Comptroller General under Presidents' Bill Clinton and George W. Bush. He is the founder and CEO of the Comeback America Initiative and co-founder of No Labels, a bipartisan group supporting civil collaborative discussion by our politicians to solve the nation's issues. Although not a candidate for President, Mr. Walker finished second nationally, behind Secretary of State Hillary Clinton and ahead of New York City Mayor Michael Bloomberg, for an independent candidate for President conducted in a national poll by *Politico*.

We had planned on getting a specific nationally known key member of Congress to represent the Democrat Party. The latter depended upon there being no Congressional vote that night with the Annual Calendar for planned votes being set in December. We set the date for a Monday, April 16 since we were told that would be the safer day of the week to avoid such votes and all three panelists could make that date. As we go to press, we learn that the whole week starting Monday, April 16 has been now set for voting. We are working with the member of Congress, the hotel, and the other two panel members to see if we can schedule a different late April or early May date, probably needing to be a Monday to avoid normal voting conflicts in Congress. The three panelists each know and respect each other, and look forward to being on the same panel together even if coming from different political and phil-

**NOMINATIONS
SOUGHT**

**SECOND ANNUAL
MD ACCESS
TO JUSTICE
AWARD**

SEE PAGE 2 FOR DETAILS

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The Maryland Access to Justice Commission is calling for

Nominations for its Second Annual Maryland Access to Justice Awards

The Maryland Access to Justice Commission was created in 2008 by Chief Judge Robert M. Bell to improve and expand all people's access to the state's civil justice system. A coalition of representatives from Maryland courts, executive branch agencies, legislators, attorneys, social services and faith groups, and legal service providers, the Commission recommends changes to improve the ability of all Marylanders to use the courts effectively and to obtain legal help when they need it. Its primary focus is on expanding access to the state's civil justice system, which includes landlord-tenant cases, divorce, child custody issues, small claims and debt collection, domestic violence and other non-criminal case types.

The Commission is accepting nominations for five award categories for outstanding contributions to advance access to justice for low- and moderate-income Marylanders:

- **Judge of the Year Award** for an outstanding jurist who exemplifies Maryland's commitment to access to justice;
- **Judicial Branch Excellence Award** for an employee of the judicial branch for exemplary service and special contributions;
- **Outstanding Program of the Year Award** for a program or project that improves access to justice for all Marylanders;
- **Legislator of the Year Award** for an outstanding legislator who personifies Maryland's commitment to access to justice through action and leadership;
- **Executive Branch Award** for an outstanding initiative or individual within the Executive Branch that improves access to justice for Marylanders.

Nomination forms for each of the categories are available on the Commission's website at mdcourts.gov/mdatjc/awardsnominations.html. The deadline for nominations is Feb. 15.

E-mail completed forms to mdatjcommission@mdcourts.gov or mail to the Maryland Access to Justice Commission, 2001-F Commerce Park Drive, Annapolis, MD, 21401.

For more information, visit the Maryland Access to Justice Commission website, mdcourts.gov/mdatjc, or call 410-260-1258.

Pamela Cardullo Ortiz
Executive Director
Maryland Access to Justice Commission

Community Conferencing: In Practice

By Misty Fae

Executive Director, Conflict Resolution Center of Baltimore County

What do you get when you add five young women, one broken eye socket, three second degree assault charges, more than ten harassing events, seven parents, two teachers, and one police officer? You get one successful Community Conference!

Community Conferencing is a robust, highly effective process ideally suited for use with incident-based conflicts. In a Community Conference, everyone involved in, and affected by, an incident of harm comes together in order to:

1. Hear what happened from those most involved
2. Tell how they have been affected by the incident
3. Create an agreement about what needs to be done to repair the harm and stop it from happening again.

Facilitated by a trained, neutral Community Conferencing facilitator, a Community Conference is a safe, structured environment that supports all participants as they speak directly to one another. During the process, everyone gets an opportunity to speak, and everyone gets an opportunity

to listen. When everyone has spoken everything that they need to, the participants create an agreement that repairs the harm done. Individuals are able to mend relationships with others (or themselves) through the process. They have the ability to move past the incident and stop being defined as “victim” or “offender.”

In the Conference referenced above, the group decided that restitution for hospital bills would be paid. The young women themselves decided that - together! - they would develop an anti-bullying presentation based on their experiences. With their parents’ full support, the young women decided to give the presentation, free of charge, to several public schools in the area. This is one example of how a harmful incident can be transformed into positive energy and a more civil society.

While outcomes are often powerful, it is not just the outcomes that make Community Conferencing special. It is

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Thoughts on Winter Reading: Forthcoming *Maryland Bar Journal* Article

By Gary C. Norman

“Outside of a dog, a book is man’s best friend. Inside of a dog, it’s too dark to read.”

- Attributed to Groucho Marx

In this wintery time of year, it is fitting to repose, view a fire in the hearth, and toil in the household library writing missives and reading fine volumes. As a people, Americans enjoy a myriad of social benefits and an array of civil rights, including, but not limited to, broad access to the handiwork of Gutenberg’s printing press, the book. A desire to avoid the cold weather outside allows this author additional time to toil in the Norman library, providing, therefore, the instant article.

Reposing on the floor near my feet as this author drafts this article is a guide dog named Pilot. There might be, because of continued ignorance in society, the shock that a blind person would utilize the term reading. As Pilot knows, ordering from the Maryland State Library for the Blind forty to fifty

books per season, (e.g. winter), is my habitual practice. The Rehabilitation Act of 1973, as amended, and its successor, the Americans with Disabilities Act of 1990, as amended, provide rights of access and accommodation to public venues and governmental institutions, such as the library. Therefore, it does seem important to describe the reading resources available to the print disabled; they do include but are not limited to Braille, books that are contained on or otherwise downloadable from websites in a kind of flash format called DAISY, and analog cassettes.

Annually, this author will endeavor to read the volume or view the film based version of, *A Christmas Carol*. A resource that facilitates this annual tradition is the National Library Service for the Blind and Physically Handicap (National Library Service), a component of the Library of Congress. Established

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MEET THE SECTION COUNCIL

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The Importance of Being Impartial

By Judge Kathleen O’Ferrall Friedman

Court-ordered mediation utilizes lawyers and retired judges to conduct mediation conferences. Trained in the law and practiced in advocacy, court-appointed mediators are used to taking sides and giving opinions. It is hard to give up these habits. It is even more difficult to resist voicing an opinion when the parties and/or their lawyers come with the expectation that the mediator weigh in on the case, as they often do.

Dispute resolution organizations such as the Association for Conflict Resolution and Maryland’s Mediation Conflict Resolution Office define mediation similarly. Essentially, mediation is a process by which a neutral and impartial person assists the parties to a case in arriving at a mutually agreeable resolution of the dispute. The Maryland Standards for Mediation comments that, “[t]he primary role of the mediator is to facilitate a voluntary resolution of the dispute.”¹

Most court-appointed mediators approach the process as “evaluative” rather than “facilitative”. Using an “evaluative” method, the mediator assesses the strengths and weaknesses of each side, suggests a settlement, and urges the parties to accept it. The primary purpose of evaluative mediation is settling cases.

Mediation professionals – trainers, teachers, and professors – promote a “facilitative” approach wherein the mediator supports the parties in their negotiations, using tools to further communication in an effort to empower the parties to settle their dispute in a way that satisfies their respective interests. These professionals criticize court-ordered mediation asserting that it is contrary to core values of mediation, jeopardizes the impartiality of the mediator, and perpetuates an adversarial approach. Claiming that crowded dockets drive court-ordered mediators to get cases off the dockets by imposing a point of view and coercing the parties to resolve the case, proponents of facilitative mediation assert that the court-ordered process is not mediation but rather settlement conferences.²

Without diving into the debate between proponents of these two different methods, this article discusses the challenge of remaining impartial – not favoring one side over another – in the “evaluative” approach. Conflict of interest, while related to impartiality, is not a subject of this discussion.

The Maryland Standards for Mediation directs a mediator to “conduct the mediation in an impartial manner.”³ In court-ordered mediation the parties, already in litigation, are in an adversarial situation; they are at odds with one

another. To pretend otherwise, is an effort to make a silk purse out of a sow’s ear. In spite of the parties’ antagonism, the court-ordered mediator can assist them through their negotiations toward a mutually satisfying settlement.

For the parties to have confidence in the mediation, the neutrality of the mediator remains an essential characteristic of the process even in “evaluative” mediation. A primary role of the mediator is to explain the process. A good place to start setting a neutral tone is at the beginning of the conference when the mediator explains what mediation means and the role of the mediator. It sets the tone for impartiality to invite the parties to ask questions about neutrality and fairness throughout the process. This reassures the parties that the intention of the mediator is not to take sides. At the same time, the mediator should let the parties know that, if desired by them, the mediator can provide insights at the appropriate time and, if requested, explore and weigh in on possible outcomes. At this stage, it helps to ask the parties to commit to their best efforts to settle the case.

As the mediator fulfills the role of facilitating communications, exploring the parties’ respective interests, focusing on the issues, and generating options, it is useful for the mediator to show empathy and concern for the respective litigants. Emotionally invested in their positions, litigants can be angry, frustrated, sad, and sometimes histrionic. The mediator can show interest, respect, understanding, and concern without agreeing with one side or the other. To do otherwise, only fuels the flames of the dispute between the parties. The mediator must remain centered and not get drawn into one person’s point of view.

To foster the likelihood of settlement it is important to ask the parties to identify their respective goals. Once they put on the table what is important to them, they can begin to think about options to resolve their differences.

When caucusing separately with a party and the attorney to clarify issues, interests, and facts, the mediator has the opportunity to ask questions that begin to identify the strengths and weaknesses in each party’s position and encourage each to reflect upon them. The lawyers welcome this self-assessment, and the discussion, taking place out of the presence of the other party, frees them from posturing. Later in the process the mediator can remind the party of the risks in the alternative to settling the case that they identified earlier. At this point, the mediator can provide an independent

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Being Impartial...

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perspective on possible outcomes without seeming to take sides or sacrificing impartiality.

As tempting as it is, when asked for an opinion, it is important that the mediator not jump too quickly to evaluating the merits of the case or predicting possible court outcomes. To engage in the process, the parties need to be heard, to discuss their respective interests, think creatively about problem solving, and generate options to resolve their dispute. Weighing in can shut down the process before the parties are able themselves to consider the possible effect of not settling and to find their mutual solution.

Integrating the traditional settlement approach with the “facilitative” method allows the parties to participate as fully as they wish and provides them the benefit of the knowledge and experience of the court-ordered mediator to assess their risks in going to trial. In every event, throughout the process, it is important for the mediator never to heavy-handed when urging a settlement. Settlement, although desirable to move dockets, is not the only goal of court-ordered mediation. Is-

ues can be narrowed, communication can be enhanced, and options can be developed, all leading to the potential for settlement in the future. Court-ordered mediation is never about the success or failure of the mediator; it is about the “self-determination of the participants”.⁴

Judge O’Ferrall Friedman has a private practice in alternative dispute resolution, where she conducts mediations, arbitrations, and settlement conference facilitations. She is retired from the Baltimore City Circuit Court after 17 years on the Bench.

Endnotes:

¹ www.courts.state.md.us/macro/pdfs/approvedstandard-sofconduct4, Comments, p.1.

² See: Louise Phipps Senft and Cynthia A. Savage, “ADR in the Courts: Progress, Problems, and Possibilities”, Penn State Law Review, Volume 108 (2003), p. 327-348.

³ www.courts.state.md.us/macro/pdfs/approvedstandard-sofconduct4, p.1.

⁴ Ibid.

A Recap of Pizza and Professionalism

On Wednesday, November 16, 2011, the ADR Section held, with the leadership of Gary C. Norman, L.L. M. Section Counsel and Civil Rights Commissioner, its fall Pizza and Professionalism program at Serafino’s Restaurant in Ellicott City, Maryland. Caroalyn J. Rodis, co founder and Former Executive Director of Senior Mediation & Decision-Making, Inc., and Tara Taylor, Director of the Mediation Program at the Maryland Commission on Civil Rights presented on elder media-

tion, with a specific focus on ensuring an accessible and comfortable process. The interactive discussion provided exceptional information to the attendees, including opportunities for those interested in mediation in the field of elder law and senior issues. Those who attended not only had the chance to hear Gary facilitate an excellent panel, but also had the chance to observe a beautiful Golden Retriever cross sleep on the floor. (See photo on page 10.)

NOMINATIONS TO SECTION COUNCIL SOLICITED

The Nominating Committee is seeking nominations and expressions of interest from anyone wishing to serve on the ADR Section Council. You may nominate yourself or someone else. Among other responsibilities, duties include (1) attend at least 3/4 of scheduled monthly meetings or conference calls, (2) provide an article for the Newsletter or the Bar Bulletin, (3) serve on at least one committee, (4) serve in an elected or appointed position and/or chair or co-chair a quarterly Pizza and Professional function, Spring Dinner, Annual meeting, and other events and spend time promoting such activities between monthly meetings. The Council seeks diversity including, but not limited to, demographics, ADR practice area, and geographical parts of the state. In addition to these items, please submit a resume and a letter indicating how your experience would be a benefit to the Council and ADR Section. Please send to David Simison, das@daslaw.com.

MEDIATORS BEYOND BORDERS INTERNATIONAL
PRESENTS ITS

5TH ANNUAL CONGRESS

MARCH 1-4, 2012
BALTIMORE, MARYLAND

This year's Congress promises to be an exciting weekend of learning, organizational development and networking.

MBB is a nonprofit organization of mediators and allied professionals working to contribute to a future in which all communities are "peace-able." Members participate in MBB activities and work on MBB committees in a variety of ways. A few members volunteer worldwide on project teams that collaborate with local grassroots groups to build culturally appropriate, effective and sustainable conflict resolution capacity in underserved areas. MBB also advocates to advance the use of mediation to resolve public policy disputes and other conflicts.

Attending the MBB Congress is an exciting way to learn more about MBB, our projects, chapters and members. Getting involved may change your life and the lives of many others. This year's Congress will focus on the contributions we can make to become a decisive force in international peace-building.

- Join us to Learn about MBB's Projects, Chapters and Organization.
- Join us to Find Your Role within MBB and Help Shape MBB's Future.
- Join us to Make Friends and Renew Friendships that will last a lifetime.
- Join us to Find Your Way to Help Build a "Peace-able" world.

Please visit our website to learn more and to register for the Congress. As you will see, we open with a mixer on Thursday night and have a packed weekend of workshops, open discussions and keynote presentations.

Register at www.mediatorsbeyondborders.org/what/congress.shtml.

The 2012 Congress will be held at the Radisson Plaza Lord Baltimore Hotel. You can reserve your room now at the special early bird discount of \$139/night when you book before February 15th, 2012.

Radisson Plaza Lord Baltimore
20 West Baltimore Street,
Baltimore, Maryland 21201
Reservations: 1-800-395-7046 (US/Canada Toll-free)
Direct Hotel telephone: (410) 539-8400
www.radisson.com/baltimore-hotel-md-21201/mbbalhar

Style of Mediation: Some Thoughts Before You Choose a Mediator

By Ceecee Paizs

Mediation is a profession like any other profession: different mediators mediate differently. Like doctors and nurses have different bedside manners, and lawyers have different client skills, mediators have different styles in the process that they use to assist parties in reaching resolution. And like any other profession, those styles can have an impact on the parties themselves. I hope that by outlining in a general way the styles of mediation it will help parties and their attorneys determine which style might work best for their situation. This would also allow them to choose a mediator who will be able to provide them with the best opportunity for successful resolution.

Before you choose a mediator to assist you in resolving an issue or issues, it is important to know the style that your mediator uses. Over my time as a mediator, I have seen many different styles, but I also have learned that there is often a sense of basic styles. Many mediators blend various styles to meet the needs of the parties, and some remain true to the style he/she has chosen. This article is designed to present my view of the various styles and how each differs from the other. I believe that no one style is better than any other, but that anyone engaging a mediator needs to know what style he/she uses for mediation in order to be comfortable with the process itself.

When I present mediation trainings, I make it clear that this is my opinion of how the styles flow. Also, I believe that every mediator and every mediation style has a role to play in the conflict resolution process. I see the styles as flowing from a style where the mediator is the most involved to one in which the mediator tends to be the least involved. See *Figure One* (page 9) for my view of the range of styles of mediation

Most parties who have contact with the legal system have had experience with the evaluative process. Settlement conferences with retired judges are evaluative in nature. A settlement judge or an evaluative mediator will listen to the issues, information and goals of each party and gather data related to each party's position. At that point, a settlement judge or evaluative mediator will provide his/her opinion as to the pros and cons of each party's position. In a litigated setting, the evaluative mediator will tell the parties what he/she thinks is the most likely outcome of matter if it were to be litigated. Often, this will bring the parties to resolution. However, it also is harder for a mediator to maintain the appearance of neutrality if he/she is telling the parties who might win and who might lose on each issue. Some believe

that this is not really mediation, but settlement discussions, which take the self determination aspect of the process away from the parties.

The model of mediation that most mediators engage in is the facilitative model, under which self determination is the primary goal in each process. Under this model, there is a wide range of styles. However, they seem to fall between two general styles: problem solving and transformative. Under both of these styles, the mediator will be in control of the initial process of arranging the mediation sessions, preparing the agreement to mediate, and providing information in introductory remarks. The degree to which the parties are in control of the process thereafter is what differentiates the styles. In both of these styles, the self determination of the final outcome or solutions remain in the control of the parties.

Under the problem solving style, the mediator controls the process, setting up the room and thereafter the process through his/her initial remarks. Often the mediator begins with a set of assumptions and goals as a mediator: that conflict is a short term problem in need of solution; that the goal of the mediation is to reach a settlement of the dispute; and that the mediator directs the problem solving process. The mediator sets the time limits, designs a process to achieve settlement, may set ground rules for the process and assist in developing options with the parties. In the problem solving style, questions may be asked to keep the parties focused on the issues and goals they have outlined, and sometimes to raise issues that the parties need to consider, but perhaps have not. The determination of success is the ability to move the parties step by step to a mutually agreeable solution or settlement.

In the transformative model, the assumptions tend to be a different. The conflict is seen as an opportunity for moral growth and transformation, and that the conflict is a long term process to be dealt with. The goal of mediation is to empower the parties and guide them to the recognition of perspectives of others. The parties set the goals, direct the process and design the ground rules. The time is open ended, and the parties determine how the time is spent and what subjects are discussed. The mediator follows the parties where they take the conversation and allows them to determine the use of the time. The mediator is there to assist the parties in fashioning the process and the outcome of each mediation session, but does not control either. If the

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Style of Mediation...

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parties decide to have a discussion of an underlying issue between them that has nothing to do with the issues and/or goals defined by them at the beginning of the process, the mediator in a transformative model allows that to occur. Success is determined by any increase in the parties' empowerment and/or recognition of others.

In my experience, there is a third style that falls a bit in between problem solving and transformative mediation. I use the term "problem solving plus" to define this style. In this style, the mediator controls the process and guides the parties down a solution oriented path. The difference as I have interpreted it is that, in a problem solving process, the mediator might not choose to focus the parties on feelings but deal with a more factually based process. A problem solving plus mediator might use an expression of feelings as an opportunity to explore those feelings and their impact on the resolution process. There is more of a following of the lead of the parties and allowing an exploration of the feelings. Often, this style of mediation is used in family law settings, where a more future oriented solution may be necessary to avoid future conflicts.

I believe that every mediator uses some or all of these styles at various stages of their careers. The key is to know the style of mediator that you believe would be the most helpful to you in resolving the issues and disputes that bring you to mediation. Again, knowing how your mediator sets up the process is important, and worth the time to explore the options before you choose. In any case, I believe that mediation is an option that everyone should explore as a means for settling any conflict or dispute.

Ceecee Paisz practices mediation through The Mediation Center located in Ellicott City, Maryland. She also provides mediation trainings and is collaboratively trained. For more information about Ceecee and her practice, go to www.agreeonit.com.

Call for Proposals

Association for Conflict Resolution
12th Annual Conference
September 12-15, 2012
New Orleans, Louisiana

Call for Proposals for ACR Annual Conference has been extended **through January 31!** Submit a creative proposal to share your expertise and experience.

Our field is full of groups and individuals around the world who are helping people address their differences and nurture connections while dealing with difficult issues. The conference theme – *Creating Connections: Conflict Resolution in Deeply Divided Times* – spotlights how we as a field are successfully addressing the multitude of divisions in families, workplaces, communities and globally.

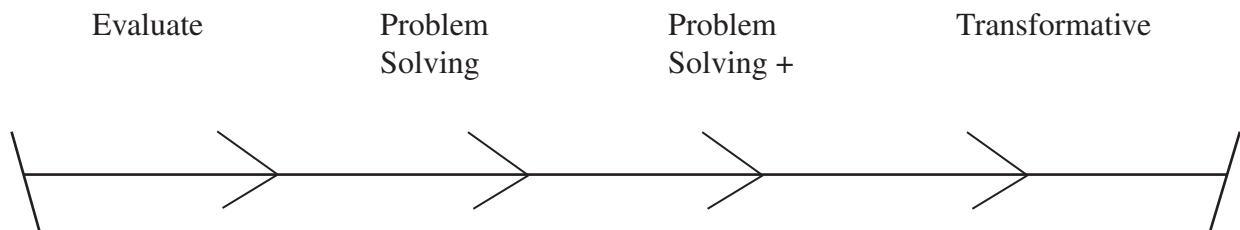
Share what you and your colleagues are doing to bridge differences in your areas of work. We invite proposals that:

- * Share ideas and best practices that bridge divisions
- * Highlight innovations in creating connections
- * Consider research areas that benefit the field
- * Explore interaction across practice areas

For questions, contact Leah Retting at lretting@acr-net.org or 703-234-4082.

Our mailing address is:
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Figure One.



Winter Reading...

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by Congress in the 1930s and expanded through subsequent Congressional enactments since, the National Library Service operates through a system of state libraries with the mission of providing an array of books, materials, such as Braille maps, and recorded works, i.e. music scores to people with print-based disabilities. Additionally, organizations, such as The Learning Alley do ensure access to books for people with disabilities. Incidentally, one of my favorite thespians, Patrick Stewart, of Star Trek Next Generation notoriety, is, in the manner of a method actor, a believable scrooge.

The President of the bar association published in the January *Bar Bulletin* a well-written analysis of how the theme of *A Christmas Carol* applies to legal professionals. Likewise, *A Christmas Carol* has bearing on dispute resolution professionals.

According to Mr. Dickens, the once irascible Scrooge "... became as good a friend, as good a master, and as good a man, as the good old city knew..." The special skills possessed by dispute resolution professionals provide the Maryland Alternative Dispute Resolution community the opportunity to serve the public like a reinvigorated and kindly Scrooge.

Namely, dispute resolution professionals can benefit the community by preventing disputes, or when conflict foments, helping parties resolve their conflict. Just as "...people laughed to see the alteration in [Scrooge]", there will always be naysayers for the innovative application of Alternative Dispute Resolution tools to public policy problems. As Mr. Dickens wrote, "...he was wise enough to know that nothing ever happened on this globe, for good, at which some people did not have their fill of laughter in the outset..."

In the forthcoming March-April issue of the *Maryland Bar Journal*, an article will explore the innovative application of Alternative Dispute Resolution to the inaccessibility experienced by the disabled within the healthcare system.

Despite the complex and evolving corpus of civil rights laws for people with disabilities, most of this class is, because of ignorant attitudes and pervasive discrimination, bereft of equal opportunities for living, learning, and earning. The *Bar Journal* article, therefore, discusses that Maryland leaders should undertake, utilizing Alternative Dispute Resolution tools, proactive measures to address civil rights compliance. The hope of this author is that the Maryland Alternative Dispute Resolution community will embrace, through funding if necessary, the pilot initiative discussed in the bar journal article.

In conclusion, it is time for Pilot and me to listen to one of my fifty new titles. My former guide dog Langer did never care

for my loud playback devices and the rapid pace at which this author would enjoy books. Currently, this author is reading a myriad of titles, including a volume on President Jefferson, who, like most gifted people in history, was a complicated individual. One of your titles will, this author hopes, be the *Bar Journal* article.

From the Chair...

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sophical points of view. If we are not able to achieve a new date to meet all three panelists' schedules, we will continue to have it on Monday, April 16 and get another representative from the Democrat Party for the panel at Loews Hotel in Annapolis.

In November, we had the first of two or three Pizza and Professionalism panel seminars we are conducting this fiscal year. This evening panel took place in Ellicott City. Section Council member Gary Norman brought us an excellent panel which resulted in a very educational inactive discussion between the panel and audience. An article on this appears elsewhere in this newsletter. We plan on a second one in March being put together by Council member Ken Vogel which will take place in Annapolis. If finalized, there will also be information in this newsletter. There may be a third Pizza and Professionalism panel discussion in May pending developments on a specific area of concern to Section members. As is the case with all of our activities, watch for list serve announcements throughout the year.

Anyone who is interested in submitting an article for this newsletter may submit it to our evaluation committee c/o Mala Malhotra-Ortiz, Editor of this Newsletter. Her e-mail is mala.ortiz@mdcourts.gov.

Again, I urge all who may interested in serving on the ADR Section Council or in nominating someone else to let us know. The Nominations Committee will be meeting in early Spring. See Dave Simison's announcement elsewhere in this newsletter. We are seeking diversity geographically, demographically, and of subject matter specialties of ADR practice.

Have a great 2012 and I hope to see you at our annual Spring Dinner Event, our Pizza and Professionalism panel seminars, and the state convention in June in Ocean City. I also urge you to take advantage of listening to and participating in first Wednesday of each month noon webinars (or listen later when they are later posted on the MSBA website in our ADR Section web pages).

An alternative Alternative Dispute Resolution Process:

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

AVISTA MANAGEMENT, INC.,
Plaintiff,

-vs-

WAUSAU UNDERWRITERS INSUR. CO.,
Defendant.


Case No. 6:05-cv-1430-Orl-31JGG

ORDER

This matter comes before the Court on Plaintiff's Motion to designate location of a Rule 30(b)(6) deposition (Doc. 105). Upon consideration of the Motion – the latest in a series of Gordian knots that the parties have been unable to untangle without enlisting the assistance of the federal courts – it is

ORDERED that said Motion is DENIED. Instead, the Court will fashion a new form of alternative dispute resolution, to wit: at 4:00 P.M. on Friday, June 30, 2006, counsel shall convene at a neutral site agreeable to both parties. If counsel cannot agree on a neutral site, they shall meet on the front steps of the Sam M. Gibbons U.S. Courthouse, 801 North Florida Ave., Tampa, Florida 33602. Each lawyer shall be entitled to be accompanied by one paralegal who shall act as an attendant and witness. At that time and location, counsel shall engage in one (1) game of "rock, paper, scissors." The winner of this engagement shall be entitled to select the location for the 30(b)(6) deposition to be held somewhere in Hillsborough County during the period July 11-12, 2006. If either party disputes the outcome of this engagement, an appeal may be filed and a hearing will be held at 8:30 A.M. on Friday, July 7, 2006 before the undersigned in Courtroom 3, George C. Young United States Courthouse and Federal Building, 80 North Hughey Avenue, Orlando, Florida 32801.

DONE and **ORDERED** in Chambers, Orlando, Florida on June 6, 2006.



GREGORY A. PRESNELL
UNITED STATES DISTRICT JUDGE