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ADR section
website at
msba.org and
click on the
ADR section
link.

Enjoy the
video clip
"ADR Get to
Know Me" on
the website – a
fun and
informative
depiction of
various ADR
processes

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Maryland State Bar Association Alternative Dispute Resolution Section Newsletter

Message from the Chair

Dear Section Members:

After a very successful Business ADR Conference, the section is moving forward on several fronts to promote ADR in the State of Maryland.

We are attempting to get sponsored a bill that would revise Title 15 under the State Finance and Procurement Article. The bill would allow mediation and or arbitration in State government contract disputes. We want to thank Richard Montgomery and Delegate Steve Lafferty for their invaluable assistance in getting this Bill Sponsored and put in through the House of Delegates. We are optimistic that we will make progress this year. This is a very important step for our Section to push such legislative initiatives.

At the same time, the Section is embarking on an ambitious Ocean City Convention Program. Suzy Eckstein has been designated Co-chair of the Program along with Richard Melnick and Theresa Furnari. We will be presenting two programs, one on Thursday morning, which will be an exciting and informative program on collaborative law. We have asked both the Business Law Section and the Estates and Trusts Section to help participate in that program. We will also be presenting on Friday from 11:00 to 1:00, a program simulating a contrast between trial and mediation using the fact patten in the "Scopes Monkey Trial". The Litigation Section has graciously agreed to assist in sponsoring the event. The cast of characters will include Roger Wolf, Judge Alexander Wright, Paul Bekman, Tom Murphy and Natalie McSherry. We are pleased to have their support.

There are other items that we have planned for Ocean City, that will keep our Section in the eye, so to speak, and we ask

and encourage participation and registration for the Annual State Bar Conference.

As always, we are interested in your ideas and thoughts relative to how the Section can best prepare and represent you. We will be in the next several weeks reviewing legislation which affects our Section with the help of Richard Montgomery, preparing for our next big educational event, encouraging mediation for current court cases. Please also mark your calendars for the ABA/ADR Conference.

Very truly yours,

Thomas J. Dolina

ADR Section Council 2007 - 2008

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ADR Trends: Collaborative Law and Business Disputes *By Suzy Eckstein, Esq.*



“From Paris to Pittsburgh and Brisbane to Beverly Hills, the collaborative law movement has gained momentum...”

The Maryland Business ADR Conference held on October 30, 2007 generated enthusiasm about the use of Alternative Dispute Resolution for business disputes. Kathleen A. Bryan, keynote speaker of the conference, current President and CEO of CPR Institute, and former chief litigator for Motorola, focused attention on the resurgence of business ADR and attributed this recent trend to the collaborative law movement.

The collaborative process, like mediation and arbitration, provides another efficient option for clients interested in dispute resolution. Developed by Stu Webb, a Minnesota attorney, initially for use in family law matters, the process centers upon a commitment of the parties and the collaborative professionals to reach a resolution that makes sense for each of the parties. This commitment is reduced to writing and embodies one of the four cornerstones of the collaborative process. The other three cornerstones include: a commitment to settle rather than litigate, full disclosure, and withdrawal of all professionals in the event of litigation.

Trained professionals in ten countries currently offer the collaborative process option. From Paris to Pittsburgh and Brisbane to Beverly Hills, the collaborative law movement has gained momentum and each year the number of practice groups and professionals continues to grow. At the recent IACP Convention held in Toronto, I spoke with an attorney from Holland sent by her nation's chief judge to gain insight into the collaborative process and bring the information home.

As use of the collaborative process has approached a 'tipping point,' practitioners have discovered collaborative law benefits in civil disputes outside the realm of family law (e.g. business and probate disputes). In January of 2007, two attorneys in Massachusetts utilized the collaborative process to handle the break-up of an S Corporation. The business consisted of four partners, three of whom sought a split from the fourth. The process brought the parties to an efficient resolution of the issues such that by May of 2007, an agreement was in place which benefited each party, the corporation's

customers, and managed to leave open the possibility of future ventures among the parties. Neither R. Paul Faxon, Esquire nor Michael Zeytoonian, Esquire practice family law, but these innovative attorneys exemplify the potential for the collaborative process in business and other civil disputes. Mr. Faxon and Mr. Zeytoonian will be joining the ADR Section Council at the MSBA Ocean City Annual Meeting to better acquaint both business and family law practitioners with the process and describe in greater detail the success of the S Corporation split.

To meet the growing demand for information on the use of the collaborative process in civil matters, the International Academy of Collaborative Professionals developed proposed civil protocols and have posted sample Participation Agreements for civil disputes, which are available to members at www.collaborativepractice.com. Additionally, recent interest in and expansion of the collaborative process prompted the National Conference Commissioners on Uniform State Laws to begin drafting the Collaborative Law Act, available at <http://www.law.upenn.edu/bll/archives/ulc/ucla/oct2007draft.pdf>. The NCCUSL is soliciting comments on the uniform law, which was drafted to cover family and other civil dispute matters.

Collaborative training is available on March 14-15, 2008 in Ellicott City, Maryland and May 8-10, 2008 in Gaithersburg, Maryland. For more information on training and to join with other family or business/civil practitioners interested in the collaborative process, contact Suzy Eckstein, Oakley & Eckstein, LLC, at (301) 424-8081 or suzyeckstein@oakleyeckstein.com.

MSBA Annual Meeting Program Presents New Twists on ADR: Civil Collaborative Practice and Mr. Scopes Comes to Ocean City

On the lawn of a Tennessee courthouse in 1925, the thunderous voices of two revered scholars and twelve average men did courtroom battle on the fate of one young teacher and generations of public school students on the issue of teaching evolution in the classroom. On a beach in Maryland in 2008, Clarence Darrow and William Jennings Bryan will meet again. But can these seasoned orators with a flare for theatrics master the art of advocacy without an audience? Can Mr. Scopes' voice be heard in a conference room rather than a courtroom? Can the mediation process provide a more satisfying result in a battle of science versus religion? The ADR and Litigation Sections of the Maryland State Bar Association will produce a modern portrayal of the "Scopes Monkey Trial" in a mediation setting at the Annual Meeting this June.

Also in Ocean City this June, the ADR section joined by the Business Law and Estates and Trust Sections, will provide insight into how a collaborative law case

operates in the civil setting, which will include a basic introduction to the guiding principles of Collaborative Law. Our role-play demonstration will provide insight into how a collaborative law case works.

Our speakers include Mr. Paul Faxon and Mr. Michael Zeytoonian, two attorneys from Massachusetts who have successfully applied Collaborative Law principles in business disputes, including the break-up and restructure of an "S" Corporation. Attendees will be introduced to how to use the collaborative process to efficiently and successfully resolve issues in a wide range of business disputes, and other areas, including, contractor/subcontractor disputes, break-up and restructuring of closely held and family business, probate disputes, non-profit entity internal disputes, and employer/employee disputes. Information will be provided on opportunities to become a certified collaborative practitioner, as well as information about the International, State and local organizations that support this innovative method.



First Business ADR Conference is a Success

More than 140 business leaders, lawyers, and conflict resolution practitioners gathered at the BWI Marriott Hotel on October 30th, 2007 to network, and learn from an impressive gathering of experts at the first Maryland Business ADR Conference. Organized by the Maryland State Bar Association ADR section council, and the Mediation and Conflict Resolution Office (MACRO), the conference was focused on helping the business community learn how effective conflict management can better their operations. After opening remarks from Chief Judge Robert M. Bell

and Baltimore County Executive Jim Smith, attendees spent the day exploring topics such as the role of ADR in employment litigation, government contract disputes, and real estate and construction disputes. Kathleen A. Bryan, the President and CEO of the International Institute for Conflict Prevention and Resolution was the keynote speaker at the conference luncheon, and discussed her experience in helping businesses across the country find the most effective and imaginative resolutions to their disputes, and why it's important for businesses to do so.

MSBA Annual Meeting: Join us in Ocean City on Thursday June 12th for our Collaborative Law session, and on Friday June 13th for a mediation of the "Scopes Monkey Trial"

Business ADR Conference, continued

Ambassador Dennis Ross, who was a lead negotiator for the United States in the Middle East peace process for both Presidents George H. W. Bush and Bill Clinton, delivered the keynote address during the conference dinner. Ambassador Ross's speech was an impressive testament to the importance of the use of sophisticated and nuanced conflict resolution skills both in business and in the world abroad. The ADR section was honored to host such distinguished speakers.

The conference dinner replaced the ADR section's annual spring dinner, and another

highlight of the evening was the presentation of the first annual Judge Robert M. Bell Excellence in ADR award to Professor Roger Wolf. The award was established last year by the ADR section council to honor those ADR professionals who've been nominated by their peers for their contribution to, and advancement of, the field of alternative dispute resolution. Congratulations to Professor Wolf! See below for the notice for the acceptance of applications for the 2008 award.

Chief Judge Robert M. Bell Award for Outstanding Contribution to Alternative Dispute Resolution in Maryland – Call for nominations !

PURPOSE:

The Chief Judge Robert M. Bell Award for Outstanding Contribution to Alternative Dispute Resolution (ADR) in Maryland, is to honor the vision and accomplishments of Chief Judge Robert M. Bell for his work in promoting the use of ADR in the Maryland judiciary, schools, government and communities by:

- ◆ Recognizing Maryland organizations and individuals, both within the legal community and beyond, that are creating and providing innovative and effective ADR services and programs;
- ◆ Supporting entities which seek excellence through educational programs, outreach programs and which demonstrate a commitment to utilize ethical standards in their ADR programs and practices; and
- ◆ Encouraging individuals to become catalysts for change and to demonstrate exemplary ADR best practices and approaches.

PROCEDURE:

The Award is open to any individual, agency, business or entity to submit nominations. The due date for nominations is April 16th, 2008. A letter, which documents how the candidate or organization meets the three objectives of the award, is required. A resume, biography, or corporate profile must also be provided. The nominating individual or organization should identify itself and address the relationship of the nominee to the nominator. The Section Council will consider the nominations and select the award recipient.

Nominations should be sent to: David Simison, Esq., Suite A, 108 Cathedral Street, Annapolis, MD 21401-2743.

Calendar of ADR Events

- March 4th, 2008: Maryland Council for Dispute Resolution (MCDR) quarterly meeting at the Judicial Training Center, 2011D Commerce Park Drive in Annapolis @ 6:30 p.m. – 9:00 p.m.
- March 14-15th: Collaborative Law training, Ellicott City – for details contact Suzy Eckstein at suzyeckstein@oakleyeckstein.com
- March 9-11th: Conflict Resolution Education Conference: “Sustaining Conflict Resolution Education: Building Bridges to the Future”, George Mason University in Fairfax, VA
- March 25th, 2008: MCDR Spaghetti Dinner, Annapolis - time and location TBA
- April 3-5th: 10th Annual ABA Section of Dispute Resolution Spring Conference - “Pacific Currents: Sound Perspectives on ADR”, Sheraton Seattle, Seattle WA
- April 2nd- 9th: National Institute for Conflict Resolution 40 hour basic mediation training, Annapolis, MD call 410-268-5771 for information
- April 21st, 22nd, 24th & 25th: MICPEL Basic and Advanced Mediation Training 40 hour civil, University of Baltimore
- May 8th-10th: Collaborative Law training, Gaithersburg – for details contact Suzy Eckstein at suzyeckstein@oakleyeckstein.com
- May 5th – 9th: 40 hour basic mediation training, National Labor College at George Mason Center in Silver Spring, go to www.alternativeresolutions.net for information
- June 18th (pre-conference), 19th & 20th: Center for ADR 2008 Annual Conference: Managing Conflict and Removing Barriers to Collaborative Decision Making, Martin’s Crosswind, Greenbelt MD

Section Council Applications

There are two openings on the ADR section council. To apply please send a letter and resume to Thomas J. Dolina, Esq., at 21 West Susquehanna Avenue, Towson, MD 21204 or e-mail to tjdolina@aol.com by April 20th, 2008.
