

A Winning Solution

A publication of the District Court of Maryland's
Alternative Dispute Resolution (ADR) Office

November 2014 Volume 4, Issue 2

New Chief: ADR Critical to Success in the Judiciary

By Tracy Culbreath

On June 1, 2014, District Court Judge John P. Morrissey became the fifth Chief Judge of the District Court of Maryland. Chief Judge Morrissey, appointed by Maryland Court of Appeals Chief Judge Mary Ellen Barbera, succeeds Chief Judge Ben C. Clyburn, who retired on May 23, 2014 after nearly two decades of service to the Maryland judiciary.

I recently had the opportunity to interview Chief Judge Morrissey to talk about his new role and his vision for the future of the District Court.

Q. What do you see as the biggest challenge in your role as Chief Judge of the District Court?

A. It is difficult for me to say that there is a *biggest* challenge; there are many challenges as the Chief Judge. As a new Chief Judge I am working on understanding all of the different roles that Chief Judge Clyburn performed and, the roles of the staff members working with me.

Also, it is important for me to make sure individuals in different District Court locations communicate with one another. Effective communication will lead to increased awareness, understanding and efficiency between various District Court employees.

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Chief Judge John P. Morrissey

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Statewide ADR Results Released: And the Crowd Roared

By Jonathan S. Rosenthal, Esq.

For years, most of us in the ADR field have been touting the benefits of ADR, both in and outside of courts. On the surface, the most obvious benefit to see and understand is that ADR helps to settle cases which then are removed from the dockets, thereby giving judges more time to spend on the cases that need them. Within the field, we always believed there were many additional benefits, including changing the way people respond to conflict, helping people see and resolve underlying issues that could not be reached in court, and providing people with an opportunity to have a voice

they otherwise might not have in court. But despite its increasingly frequent use, there has been virtually no in-depth research to explore the costs, benefits, and effectiveness of ADR. So the question was whether such theorized benefits would stand under closer examination.

In 2010, the Maryland Judiciary's State Court Administrator at the time, Frank Broccolina, wondered the same thing. With a good amount of money and other resources devoted to the inclusion of various ADR processes in court management, Mr. Broccolina wanted to know if the resources were well placed.

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Chief Judge Morrissey, *cont. from 1*

Q. What do you see as the greatest opportunity in your role as Chief Judge of the District Court?

A. My role is to support and advance the mission of the District Court. The mission of the District Court and our entire Judiciary, is to deliver exact, efficient, and fair justice to the citizens of Maryland. If I can improve our ability to do that, to communicate both internally to one another, and externally to the citizens of Maryland, I feel like I can make a difference.

Q. People, process, technology... say more

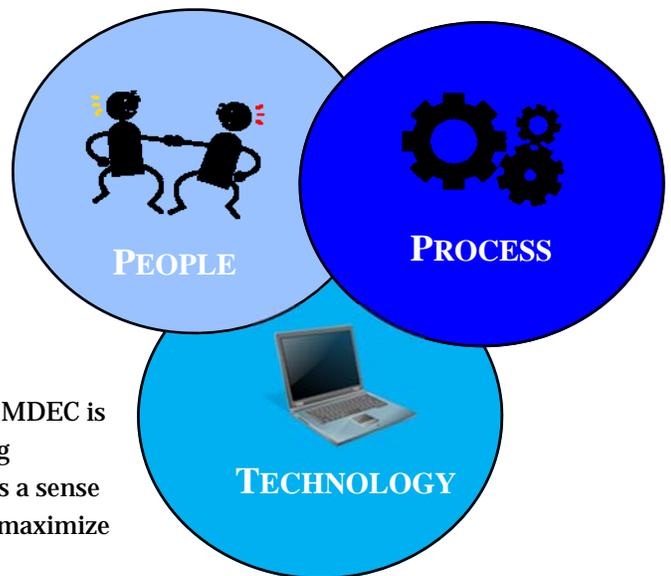
A. I have a business background so I approach most things as a business man. Having run my own law firm and several other businesses prior to becoming a Judge, every organization has three essential elements at its core: people, process, and technology.

People are number one because without people you cannot do any process, and technology does not matter. The greatest asset that we have in the District Court (and in our entire Judiciary) is the hard working staff that we have working with us. During the first months as the Chief Judge, I have traveled around to different District Court locations to meet District Court employees. Some of the individuals I have met have over forty years of experience with the Maryland Judiciary. That knowledge and commitment to the Judiciary is invaluable. They have the historical knowledge to know what we did that worked and did not work in the past, so we do not make the same mistakes going forward. So the people are a critical element in what we do.

With respect to the **process**, I think it is important to all of us, whether it is a court system, or any type of business, to continually review and try to improve the way we do business. This means assessing the work that we do to determine if it is the most efficient way to do it, and if we are utilizing people to be most effective in producing a quality product.

Technology supports your workflow and business process. MDEC is a consolidated case management system coupled with an e-filing component for attorneys. While any change to processes creates a sense of worry and fear, the MDEC system will enhance our ability to maximize our workflow and business processes.

I've seen MDEC and e-filing in operation, and I can tell you the technology advancement we are rolling out in Anne Arundel County is a wonderful system. I feel confident that MDEC will help both our processes and the people who are doing those processes.



Q. How does ADR support the work/mission of the courts?

A. Indicative of the early findings of the Statewide ADR Research Project, ADR is without a doubt critical to the success of the Judiciary. This research, the first of its kind nationally, indicates that people have a more favorable impression of the court system if they reached an agreement in ADR as opposed to those who reach an agreement without ADR.

I believe ADR is **very important to the mission of the District Court**. Even if people participate in ADR and cannot resolve their differences, their participation will help them focus on the core issues and bring that clarity to the courtroom.

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Chief Judge Morrissey, *cont. from 2*

Q. How does ADR support the work/mission of the courts?

A. Many times, people come to District Court having never been to court before and find themselves unrepresented. ADR has the ability to help parties identify what their needs and interests are, so even if they don't reach a resolution, they are more aware of the issues in the case.

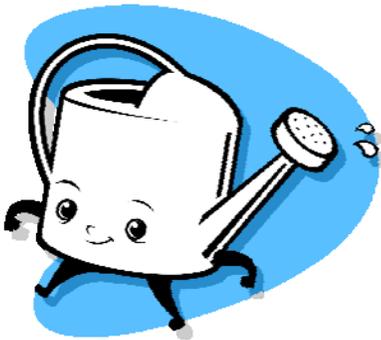
Q. How did you utilize ADR when you were a sitting judge in Prince George's County?

A. Prince George's County has a great program. When I was on the bench, the judges utilized the mediators and the settlement conference attorneys primarily in small claims court. Unlike other District Court courthouses, the courthouse in Upper Marlboro operated in a way that had a certain type of case in each of the courtrooms. Because of the structure we had in place, we were able to set all of the small claims in one courtroom primarily for the District Court Day of Trial ADR Program.

I would address the gallery at the beginning of the docket and explain what ADR services people could take advantage of during the court docket. I would explain to the plaintiff or defendant, that the program was voluntary and they could determine their resolution in a settlement agreement.

If for some reason there was a light small claims docket, I would ask the ADR practitioner to check-in with other civil courtrooms. There were even occasions when I wasn't sitting in the small claims courtroom and I would still request an ADR practitioner be sent to my courtroom. ADR provides our judges with another tool to try to help people resolve their disagreements on their own terms.

Many times in Prince George's County there are more cases on the docket than a judge could reach in any given day. And at times while the people are waiting for their case to be called, an ADR practitioner can use that time to work with the parties to try to resolve the case. The ADR session has the ability to focus the parties on their issues and that helps save some docket time.



Q. How would you like to see ADR grow?

A. It's clear that ADR not only assists the court, it also assists the parties in resolving their disputes. My wish list would be to develop a pre-trial ADR program for every appropriate civil case. That obviously requires a considerable undertaking by the courts, and because we already have pre-trial programs in some locations, I know we have the ability to institutionalize that concept statewide.



Tracy Culbreath
ADR Programs
Specialist

Statewide ADR Research, *cont. from 1*



After receiving a grant from the State Justice Institute, he and others initiated a research project to determine, among other things, if the court's investment in ADR, monetary and otherwise, were paying dividends to the Judiciary and the citizens of Maryland. The first results of this statewide research are now being published, and for the District Court ADR programs, the answer is an emphatic **yes**.

We have known anecdotally from our own ADR participant surveys that, among other positive results, people overwhelmingly appreciate the opportunity to participate in ADR, and that they would recommend it to others. This research went much deeper. This research looked at both a cost/benefit analysis and an effectiveness/efficiency analysis. More on those below.

But first, this **research is unique** and to our knowledge **the only one in the country** to compare the attitudes, and changes in attitudes, of participants who went through ADR to an equivalent comparison group who went through the standard court process. Another unique aspect of this study is that the impact of reaching an agreement was separated from the impact of the ADR process. The researchers queried people who reached an agreement through ADR, and those who reached agreement outside of an ADR process. By doing this, **they isolated the impact of the process of ADR**, separate from its effect on

reaching an agreement.

The researchers found several areas where ADR had a statistically significant impact on participants' experiences and attitudes, compared to participants who went through the standard court process.

Most significantly, from our perspective, the research found that participants who developed a negotiated agreement **in ADR were more likely to be satisfied with the judicial system than others, while participants who reached a negotiated agreement on their own (without ADR) were not more likely to be satisfied with the judicial system than those without negotiated agreements**. This supports the finding that **the process of reaching an agreement in ADR is the factor that led to higher satisfaction**, rather than just the process of having negotiated a settlement.

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Those who went to ADR, regardless of whether they reached an agreement in ADR, are more likely to report that:

- ✓ They could express themselves, their thoughts, and their concerns;
- ✓ All of the underlying issues came out;
- ✓ The issues were resolved;
- ✓ The issues were completely resolved rather than partially resolved;
- ✓ They acknowledged responsibility for the situation.

In addition, participants who went through ADR are more likely than those who went through the standard court process:

- ✓ To have an increase in their rating of their level of responsibility for the situation from before to after the intervention;
- ✓ To disagree more with the statement "the other people need to learn they are wrong" from before to after the process.

And, participants who went through ADR are less likely to report that no one took responsibility or apologized than are people who went through the standard court process.

Statewide ADR Research, *cont. from 4*

We have heard repeatedly from our current and recent Chief Judges how critical it is that the public have trust and confidence in our legal system and our judiciary. Providing the opportunity for people to participate in court-connected ADR helps to create a greater satisfaction with the judiciary than people who do not participate in ADR in their court process, and therefore they may have a stronger feeling of trust and confidence with their experience.

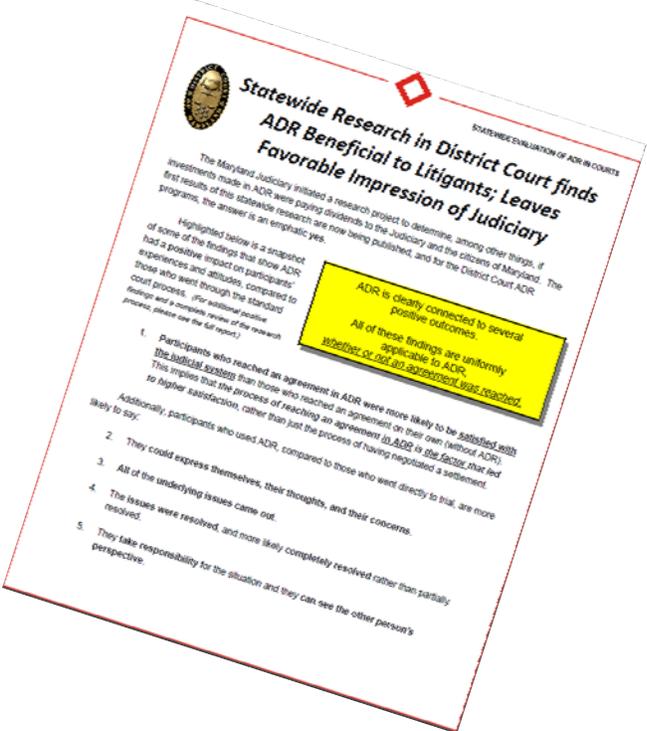
The District Court ADR Office would like to thank the ADR Practitioners who have worked with us to implement this project. Your commitment to the ADR program and your willingness to allow researchers to observe you has been invaluable for the completion of this project. And, we would not have been able to collect this valuable information without the cooperation of the bailiffs, courtroom clerks, county and administrative clerks, and judges for helping us make this research project run smoothly.



For more information about this portion of the Statewide ADR Research Project, including detailed information about the research methodologies, or information about the other segments of the project, please visit the project website at www.marylandADRresearch.org. There you will find a history of the project, frequently asked questions, full reports for all segments of the research, and contact information for all researchers and project leaders.

ALL OF THESE FINDINGS ARE UNIFORMLY APPLICABLE TO ADR, WHETHER OR NOT AN AGREEMENT WAS REACHED.

ADR IS CLEARLY CONNECTED TO SEVERAL POSITIVE OUTCOMES RELATED TO RESOLUTION OF ISSUES, SHIFTS IN ATTITUDES TOWARD OTHERS IN THE CONFLICT, TAKING PERSONAL RESPONSIBILITY, EMPOWERMENT, AND SATISFACTION WITH THE JUDICIARY.



"Give back in some way. Always be thoughtful of others." - Jackie Joyner-Kersey

ADR Offices Exhibit at Maryland State Fair

By Sarah E. Kauffman

The 133rd Maryland State Fair presented an excellent opportunity for the District Court of Maryland ADR Office to further part of its mission to educate all stakeholders on the uses and benefits of ADR. Capitalizing on our biggest outreach opportunity yet, the ADR Office prepared an eye-catching educational exhibit and partnered with several ADR organizations throughout the State to staff a booth during the 11 day event, August 22nd to September 1st.



A popular attraction at the exhibit was the “Wheel of Wonder.” The rules were quite simple. Participants were asked three questions: (1) What do you think of when you hear the word mediation?; (2) Have you ever tried mediation before, and, if so, what type of case?; and (3) If you haven’t tried mediation before, why? After answering our short three question survey, participants spun the wheel of wonder to receive a prize. As a bonus, each prize included contact information about mediation resources in the courts and the communities.

Over 65% of 2,003 people that completed our survey had heard of mediation. Some of them knew of mediation through divorce proceedings, but did not know they could use mediation in the District Court for civil matters. Some people that visited the booth knew about mediation because they had participated in a mediation before in District Court. A significant number of individuals described the experience as a positive one, regardless of whether or not they reached an agreement during their mediation. As is often the case with mediation, State Fair attendees said that mediation provided them with an opportunity to sit down with the other party in a neutral setting and talk about their disagreements.

“Setting up a booth at the State Fair was a brilliant idea from the District Court ADR Office. During my shift staffing the booth there were non-stop visitors coming by to spin the wheel. It was a wonderful opportunity both to hear what folks already knew about mediation and to share our knowledge and experience with them. It was great fun too and a wonderful way to spread the good word to thousands of people.”

- Rachel Wohl, Esq., Director of the Mediation and Conflict Resolution Office (MACRO)

The remainder of those surveyed (35%) never heard of mediation. Their responses were varied, including some who thought mediation had to do with being a mathematician! Clearly, we’ve still got some work to do!

Children of all ages enjoyed their time at our booth. Prizes from the Wheel of Wonder included bookmarks, Peace Walk t-shirts, and other fun giveaways.

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Fair attendee, Lilly Johnson of Harford County, is enjoying her giveaways from the ADR exhibit, while her mother learns more about our mediation programs.

Thanks to all those who assisted from the following offices in this colossal effort to reach several thousand Maryland residents: the Maryland Mediation and Conflict Resolution Office (MACRO), the Court of Special Appeals (COSA) ADR Division, the Baltimore City Circuit Court—Civil Division, the Conflict Resolution Center of Baltimore County (CRCBC), and the Office of Community Relations Prince George’s County—Community Mediation Department.

Maryland State Fair, *cont. from 7*

Students especially enjoyed sharing their experiences about peer mediation and how they've participated in peer mediation at their schools. One student from Carroll County's school, Ebb Elementary, described her experience with peer mediation as "fun and a good way to resolve my problems with my best friend."

Exhibiting at the State Fair provided all of our ADR programs exposure to a large audience, and educating the public about mediation and the services and resources available by all of our offices was time well spent.

While this was our first year exhibiting at the Maryland State Fair, we hope it will not be our last. We had an enjoyable and memorable experience informing the residents of Maryland about ADR, mediation, how the processes work, the benefits of using ADR, and where to access services.



Sarah Kauffman
Data Mgmt.
and Public Info.
Director

Volunteer Success Story By Hutch Robbins, Jr.



Hutch Robbins, Jr.
Baltimore City
Day of Trial
Volunteer
Settlement
Conference Attorney

The plaintiff was a recent bride who was suing the pastor she had hired to conduct her wedding ceremony. Essentially, the bride claimed that she and the pastor agreed on one fixed price for several sessions of marriage counseling, a rehearsal, and the actual ceremony. She contended that, just before the rehearsal, while the wedding party was about to begin the rehearsal, the pastor increased the price and demanded a larger payment. A dispute ensued, the bride was in tears, her family chased the elder pastor and his wife out of the rehearsal space, and she had to find someone else to conduct the marriage ceremony. The pastor was adamant that he never agreed to the price the bride claimed, that he and his wife had to flee the rehearsal space because the bride and her family became threatening, and that as a man of the cloth, he would never do what he was being accused of.

The amount in dispute was minimal—much, much less than the combined value of the time the parties and their witnesses had already spent in appearing for trial. Money was not the issue. The emotions were high, with both parties equally sincere in their belief about the central issue: whether the price had been agreed upon prior to the counseling sessions.

The only way to settle the matter was to balance the need for the parties to let their emotions out without increasing the animosity. After an initial session, I decided that I would make the most progress in confidential separate sessions. I could tell that both parties genuinely felt wronged, and each had the ability to see the good in the other. The experienced a relatively successful pre-marriage counseling session, so there was some positive history on which to build. Over time, bit by bit, as I explained each side's perspective to the other in a less emotional way, they began to soften. We came back for a joint session and they worked out a compromise. The pastor, to his credit, was able to set aside the hurt he felt at being wrongly accused to try to see the best for his accuser. The bride, to her credit, saw the sincerity with which the pastor denied her accusations, and she began to see him as less of a villain and more of a mistaken old man. The case finally settled with a "splitting of the baby" compromise.

The wonderful thing about this **settlement conference** was the way both parties were able to gradually see the humanity in their opponent, and realize that insisting that they were right was not going to bring peace, only more pain.

Hutch is currently a principal at Miles & Stockbridge in Baltimore, MD. He has been a volunteer settlement conference attorney with the District Court ADR Office since 2005.

Success in ADR means different things to different people: an agreement; a partial resolution; or simply a better understanding. Practitioners often enjoy sharing successes with the ADR community. If you want to share one of your District Court success stories for publication on our website or in *A Winning Solution*, send your story to sarah.kauffman@mdcourts.gov.

ADR Component Presented to New Trial Judges

By Honorable Dorothy Wilson

Every year, the Governor interviews and appoints those attorneys who are legally and most fully professionally qualified to fill judicial vacancies throughout the Judiciary. These newly appointed judges take the oath of office, don the black robe (crimson for those who are appointed to the Court of Appeals) and are transformed from a practicing attorney, appearing before the bench one day into “the honorable judge” sitting behind the bench the next day. It is a tremendous transition and nothing short of amazing.



To enhance new judges’ knowledge of the many areas of the law they must master, every year all newly appointed judges attend New Trial Judges Orientation. Affectionately known as “Baby Judges School,” this week long, residential program, separated by court level, includes educational instruction by experienced Maryland judges, lawyers and law professors. It is a phenomenal presentation of power points, group exercises, lectures and discussion. The intensive course is masterfully coordinated by Judges **Patrice Lewis**, District Court of Maryland for Prince George’s County, **Martin Welch**, Circuit Court for Baltimore City, retired, and the staff of the Judicial Institute of Maryland, led by **Claire Smearman, Esquire**, Executive Director.

Like so many times in the past, that same process unfolded once again in April of this year. But this year, there was something different about Baby Judges School. In years past, the number of new judges participating in Baby Judges School has sometimes been a small gathering of just a few judges. But this year, within 30 days of the start date for Baby Judges School, the class size doubled, as an additional 23 new judges were appointed. For those judges appointed within 30 days of Baby Judges School, they wrapped up their law practices and took the oath of office with barely enough time to sit as judges before attending classes. With approximately **44 judges** from the **District Court alone**, the **2014 class of new judges was the largest class ever**.

This year, changes were made to enhance an already excellent curriculum. Several topics were expanded to allow additional time. A day focused on assorted civil matters, covering everything from Servicemembers Civil Relief Act to auto torts to garnishments was included. And, tucked between a presentation about self-represented litigants and consumer debts was ADR.

For the first time since the development of the District Court ADR Program, ADR was included as part of New Trial Judges Orientation. It was my privilege to teach ADR to the largest class ever of new District Court judges.



Highlighting some of the key aspects of the new District Court ADR rules, I had the opportunity to explain the differences between the types of ADR processes available in District Court, the importance of confidentiality, the prohibition against referring domestic violence cases to ADR, and the qualifications of ADR practitioners. By giving a demonstration of a suggested litany, new judges were provided with a way to introduce ADR volunteers and the concept of ADR to the litigants in their court rooms. In describing the role of the District Court ADR Office and identifying the staff members to contact within the ADR Office, new judges learned about the ADR programs available within their jurisdiction.

While few new judges have much experience, prior to joining the bench, with some civil matters such as detinue or wrongful detainer, such was not the case with ADR. This year, most of the new judges were familiar with ADR. From their past experiences as practicing attorneys, several had served as ADR practitioners in District Court and/or circuit court.

Some had referred their clients to ADR and/or been participants with their clients in an ADR process. *All are very talented, enthusiastic and receptive to ADR.*

So, as with every year, the Governor will appoint new judges to the bench. And as with every year, these new judges will attend New Trial Judges Orientation. But this time, not only will they enhance their mastery of the law, but they will enhance their knowledge of ADR.

New Code Infraction Mediation Program in Rockville District Court!

By Gretchen Kainz

In November 2013, I received an e-mail from District Court Associate Judge, **Patricia Mitchell**, inquiring if our office mediates cases about dog poop. The result of that email exchange is a *new* pilot Code Enforcement Mediation program in Rockville. In partnership with the Conflict Resolution Center of Montgomery County (CRCMC), and with the support of **Judge Wolfe** (Administrative Judge for Montgomery County), the pilot program offers mediation of “Code Enforcement” cases—i.e. cases that involve neighbors and their dogs and the challenges that sometimes show-up when loose canines and humans mix company.

While it was Judge Mitchell who initiated the contact, the idea to mediate these kinds of cases actually came from Jim Savage, of the County Attorney’s Office in Montgomery County. After recently completing mediation training, he immediately saw the value of mediating these types of cases. “Mediation doesn’t lighten the docket, but it’s a valuable community service. I mean, unless if one of the parties moves, these people have a future living next door to each other, and it’s important they get along the best they can,” said Savage. He added that sometimes an agreement is less important than the actual dialogue that takes place.

So far, the program is proving to be a success! Since January 2014, this once-a-month docket has referred 25 cases to mediation, and of those, 22 have come to some type of agreement—all with positive feedback and no additional complaints from the participants. The types of cases mediated have all been dog-related incidents that include dogs straying into neighbors’ yards to “do their business,” incessant barking, leaving a pet unattended in a vehicle, and even a couple of attacks that resulted in injuries of the neighbors as well as major and minor injuries of other pets.

The program was set-up in collaboration with the Conflict Resolution Center of Montgomery County (CRCMC) specifically to utilize their community mediators in a co-mediation framework. **Carolyn Stilwell**, Executive Director of CRCMC at the time the program was initiated, said, “Mediation is a perfect fit for these cases where tensions are high and the people involved need to find ways to get along. The stress of living so close together while in continuous conflict is not a viable option for most people. In situations like these, tensions escalate and eventually the police or the courts get involved. Mediation can work at any point in the conflict and by offering this service at the court [on their day of ‘trial’], it is my hope that these same neighbors will look to mediation before calling the police the next time they have a conflict.”

The current cast of CRCMC mediators for this program include: **Karen Smith, Anne Culver, Bridget Zarate, Susan Kahn, Tim Stranges, Maile Beers-Arthur, and Maribel De La Cruz**, all of whom expressed positive experiences in conducting these mediations. In particular, Tim shared that although he is not a big fan of “Fido,” he recognizes the value of mediation for these folks. “I definitely have seen a shift happen during the session. The defendants come into the mediation very nervous and unsure as to what’s going to happen, but after a few minutes they seem to settle down. When an agreement is reached, they are very pleased. They praise not only the outcome but the mediation process itself,” he said. Other mediators shared that they have seen apologies exchanged, fines reduced, and one where the defendant pulled out cash on the spot to pay for damages.

In the future, the program may eventually expand to include other neighbor-to-neighbor complaints filed with the Office of the County Attorney including noisy neighbor complaints among others. In the meantime, the District Court ADR Office is excited about the positive impact and quick success. And, we’re particularly grateful for CRCMC’s partnership and the mediators’ hard work on these cases!

22 of **25** cases have reached agreement



Gretchen Kainz
Regional ADR
Programs Director for
Montgomery and
Prince George’s
Counties

WHY/HOW DID YOU GET INTO THE ADR FIELD?



Bob Driscoll
Harford County

“I was personally looking to be involved in helping to resolve problems rather than just complain. ADR teaches not only how to approach a disagreement by asking questions in the appropriate manner but also how to look for solutions by breaking a problem down into smaller parts.”



Barbara Trader
Wicomico County

“I came to ADR as a Family Law practitioner. It was just common sense to me that people are more satisfied with a solution they have fashioned themselves instead of a judge. In my mediation training, I quickly picked up on another aspect of ADR that fit my personality— I could think outside the box and I like to be creative.”



Cynthia O'Conner
Charles County

“My introduction to ADR and training originally came from a former Chicago Family Court Judge who taught an ADR class. She prompted me to learn more about mediation. Here was someone who stepped away from the bench to train ADR practitioners because she believed her students could make a positive difference.”



Terrilyn Palmer
Prince George's County

“During a new employee orientation as representatives of the Equal Employment Opportunity (EEO) Office presented on the services they provided, it finally became clear to me. By the end of that presentation it was resolved — I was going to become a part of that effort.”



Chris vanRoden
Harford County

“I got into the ADR field as I believe that resolution by the parties is far more lasting, the parties maintain control of their case so they can be much more creative than the court is allowed to be in crafting a resolution, and it is economical for the courts in taking cases off the docket.”



Bruce Rosenstein
Montgomery County

“The ADR field was a natural progression from my pre-retirement life as a United States Federal Administrative Law Judge with the National Labor Relations Board. Settling cases with the parties, both before and on the day of trial was a hallmark of reducing Agency caseloads.”

*Q & A
with
District
Court
ADR
Vols*

WHY DID YOU JOIN THE DISTRICT COURT DAY OF TRIAL ADR PROGRAM?



Eileen Bannach
Anne Arundel County

“I love mediating at District Court. The people who come to court usually are able to see the wisdom of trying to resolve their issues rather than having the judge make the decision. They don’t always get what they want, but they are usually able to reach a compromise that makes it easier for both parties.”



Terrilyn Palmer
Prince George’s County

“I joined the Day of Trial program because I wanted to expand my scope of work in ADR. Providing citizens an opportunity to determine the outcome of their civil disputes on a level playing field is most gratifying. Each Day of Trial mediation affirms the value in our service and amplifies the reward of being a part of it.”



Bruce Rosenstein
Montgomery County

“Joining the District Court ADR Office Day of Trial program as a volunteer was a perfect way to give back to the community and continue to involve myself in challenging and thought provoking endeavors.”



Susan Land
Wicomico County

“I joined the Day of Trial program because it just makes sense. It helps litigants as well as the courts, and also gives me experience handling many different types of mediation cases. I have volunteered for this program in Harford, Wicomico, Somerset, and Baltimore Counties and have found it to be a fulfilling opportunity.”



Izzi Sevco
Washington County

“After a year of mediating, I got an opportunity to mediate at the District Court. I’ve shared in the experience of people developing their own solutions instead of the judge. The mediations show people willing to come to a compromise and resolve their differences. I see it making a difference in people’s lives and in my community.”



Carrie Kelly
St. Mary’s County

“The regular scheduling of the District Court ADR Day of Trial program appeals to my need for structure and the experience helps me contribute to the community.”

Feedback: How to Make it Count

By Maureen Denihan

Has anyone ever given you unsolicited “help?” You know the kind; it usually starts a little something like, “I wouldn’t have done it that way.” Or, the ever infamous, “I don’t think you did that right. Here, let me show you.” And then they tell you what they would have done differently, and frankly, they don’t really care about your preferences, beliefs, and values for why you did what you did.

I know I’ve heard it before, as I’m sure you have. We’ve all been subject to some unsolicited “constructive” assessments. And for me, depending on the tone, the context, and my experience, those “innocent” constructive criticisms have the ability to make my blood boil. I wasn’t even looking for feedback, and yet, there it was. Would it have been different if I asked someone for an opinion? If I solicited the feedback? Well, of course it would! And asking for feedback on specific skills, attitudes, or knowledge areas is precisely why the ADR Office is transitioning to our new feedback model to support mediators in our apprentice process.

Earlier this year our office hosted Giving & Receiving Feedback workshops across Maryland aimed at teaching mediators how to give constructive, specific feedback to create and maintain the optimum environment for receptivity. Mediators who exemplify sound practice and welcome feedback were invited to participate in the initial workshop offerings. We were pleased to host 27 mediators among four workshops statewide.



The key to this model is recognizing that the feedback is not intended to “fix” the feedback recipient. Rather the goal is for the person receiving the feedback to explore a greater understanding of why they chose to use a particular question, strategy, technique, etc. in the mediation, and what the result of that choice was. To further support this feedback structure, the ADR Office refined and improved our Feedback Forms.

Self-reflection is an integral component of this feedback model and is precipitated by asking oneself ‘what do I want to work on today.’ An ADR Office best practice includes a ‘pre-mediation’ conversation between the mediator who is going to receive the feedback (typically the apprentice mediator) and the mediator who will provide the feedback (typically the lead mediator or ADR staff member) prior to a case referral. The object of the ‘pre-mediation’ conversation is to help the mediator being observed identify and clarify areas they want the ‘observing’ mediator to focus particular attention on during the mediation. This conversation should help the mediator being observed specify the skills they want observed by the lead mediator. And, this means distilling down to two to three pointed areas; not the entirety of ‘give me feedback on everything.’

Our ‘new and improved’ mediation apprentice process forms (click here to see the new forms) trigger both the mediator and the feedback provider to participate in, and memorialize, the ‘pre-mediation’ conversation, and prompts a discussion regarding the timing of the post-mediation debrief and feedback conversation. The pace and timing of the debrief is important, and a conversation at the outset of the day should set expectations for how long both mediators can stay after the session to discuss the mediation. The conversation should not be rushed or crammed into five to ten minutes. Just as we don’t want to rush the agreement writing process for participants, we don’t want to rush the mediation debrief conversation either.

Continued on Page 13

Feedback, *cont. from 12*

Elicitive feedback features a collaborative conversation between the feedback provider and the mediator to support the mediator's self-assessment and growth of their own competence, principles, philosophy. This approach insinuates that both the feedback provider and the mediator are knowledgeable and skilled to contribute to the learning. These conversations begin with open-ended questions inquiring as to how the mediator thought the session went, and what s/he observed and would change. Examples of an elicitive feedback relationship might include teacher/student, therapist/client, and mentor/learning partner.

The content of feedback is just as important as the approach. To be useful, feedback should be specific, balanced and limited. Ideally, the observing mediator would provide the exact words used by the mediator and the participants' responses and reactions when referring to the use of a mediator's response, technique or skill.

The **specifics** make it easier for the mediator to identify the same occurrence and engage in a conversation about it. The feedback should be **balanced**. It is not realistic that anyone would want to digest, much less pay attention to, comments on every little thing that the observer noticed in the mediation. Focus should be on the **quality of the**

conversation, not the quantity of items to discuss. Keep the feedback to three components (or fewer) and be certain to identify the positives as well as what might have been particularly difficult or challenging for the mediator (or the participants) and talk through both.

Judging by the response from workshop participants after the sessions, they very much enjoyed the experience and were left looking forward to opportunities to put these new skills into practice. Workshop participants appreciated the tips on how the lead mediator can phrase observations in an objective manner, and the concept that we are not trying to fix the apprentice mediator. The overwhelming majority of workshop participants found the role play simulations, the "feed forward" exercise, and the elicitive feedback

handout to be the most useful components of the workshop.

Some of the "take-aways" for the workshop participants included comments like: "I am definitely going to think long and hard on what I say and choose my words carefully [when giving feedback]," **Vicki Rhoades**, mediator with the Calvert County Community Mediation Center. And, we hope to be able to provide additional workshops to more roster ADR practitioners in 2015.

This quality assurance initiative is not just limited to training lead mediators on using elicitive techniques and engaging in 'pre-mediation' conversations. We believe it is important to begin to set expectations for the mediator apprentice process as soon as we welcome new mediators to our program. In an effort to inform and familiarize these apprentice mediators with this

feedback model, the ADR Office will incorporate giving *and* receiving feedback materials and techniques into our New Mediator Orientation curriculum beginning in 2015.

The beauty of this feedback approach is that it is pliable. The techniques, in particular self-reflection, can be used by all of our roster mediators and settlement conference attorneys after a session, periodic review, or anytime an observer is present

during the session. Journaling is another practice that may be used by any ADR practitioner. Indeed, because not all of us co-mediate with a colleague to be able to have a debrief conversation after every session, you may consider journaling your learnings, practices, and reflections on your mediations. One way to get started is to have a journal. Have questions about how to get started journaling? Contact your Regional ADR Program Director today for your free copy of a journal and to find out how to get started journaling today.



Maureen Denihan
Deputy Director &
Quality Assurance

3 COMPONENTS OF FEEDBACK

- ◆ SPECIFIC
- ◆ BALANCED
- ◆ LIMITED

Baltimore City Enjoys Mediation Awareness Workshop

By Shannon M. Baker

Part of the District Court ADR Office's mission is to "[e]ducate all stakeholders (including court personnel) on the uses and benefits of ADR." Regional ADR Programs Director **Shannon Baker** decided to focus on this aspect of the mission statement in crafting her annual Conflict Resolution Month events for Baltimore City. Members of the ADR Office staff took to the road on Thursday, October 23, to bring a "Mediation Awareness Workshop for Court Employees" to twenty court staff at the Baltimore City District Court, Civil Division.

Presenters **Shannon Baker**, **Jonathan S. Rosenthal**, District Court ADR Office Executive Director, and **Gretchen Kainz**, Regional ADR Programs Director (Districts 5 and 6), led a one-hour workshop jam-packed with interactive and experiential exercises and information about ADR and District Court ADR programs throughout the state and within Baltimore City. Participants learned how conflict, although traditionally perceived as negative, can be viewed as an opportunity for change. Attendees learned about mediations and settlement conferences and the differences between the two processes offered in the District Court. One exercise illustrated the difference between lose-lose, win-lose, compromise, and win-win outcomes in conflict. The final exercise of the morning had groups of three engaged in a mini trial, and then in a mini mediation.

Based on the feedback received from the workshop participants, the presenters seem to have hit the mark. Of the 20 completed surveys, all of the participants agreed or strongly agreed that the information relayed



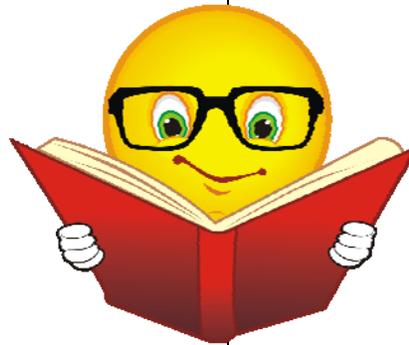
was informative. One participant wrote: "I have a better understanding of what happens in mediation and how it works." Another shared, "The exercises were a good way to demonstrate how mediation works and can be a win/win for both sides."

Attendees called the training "fun," "easy to follow," "informative," and "interesting." Some participants found practical application for the skills learned, writing: "some techniques can be used at the workplace amongst co-workers," and "useful information, skill builders will benefit both at work and personal relationships." As a result of this workshop, one attendee indicated she would be more likely to mention mediation to litigants when appropriate.

The hour elapsed quickly and left some court staff members wanting more: "I would be interested in further workshops to learn more about mediation," and "I'd like to learn more about mediation and gaining mediation skills."

The ADR Office would like to thank the Judge-in-Charge at Civil Division, **Mark Scurti**, and Civil Division Chief **Eugenia Tyson** for their support and assistance in coordinating this workshop for the Baltimore City staff.

If you are interested in a Mediation Awareness Workshop for your court staff, or in an ADR training on another topic, please contact the District Court ADR Office at 410-260-1676.

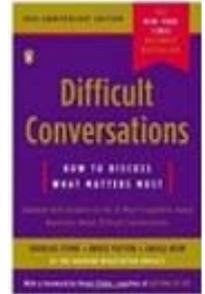


Shannon Baker
Regional ADR
Programs Director
for Baltimore City
and Harford County

Quick Bits

Compiled by ADR Office Staff

- The District Court Self Help Center is expanding. Since its inception in 2009, the Self Help Center in Glen Burnie has assisted more than **81,000** consumers. In 2015, the center is expanding to another physical location (Upper Marlboro), in addition to increasing staffing of the online chat function.
- In celebration of Conflict Resolution month (October), the District Court ADR Office sent the book *Difficult Conversations* to roughly 300 ADR practitioners.
- We would like to take a moment to congratulate **Judge Thomas J. Love**, Prince George's County Administrative Judge, on his retirement. Effective June 5th, **Judge Tiffany Anderson** became the Administrative Judge for Prince George's County. **Judge Robin Bright** is now the Civil Coordinating Judge (which encompasses ADR) in Prince George's County.



Some of the 2,280 bookmarks on display

- The 2nd generation of Mediation and Conflict Resolution Office (MACRO) posters are now available. The posters are free for all to use, and they are designed to help illustrate the many uses of mediation. Click here to download the new posters <http://www.courts.state.md.us/macro/mediationposters.html>
- ADR staff members, Maureen Denihan, Tracy Culbreath, Jonathan S. Rosenthal, Leona Elliott, and Sarah Kauffman, assisted the Maryland Mediation and Conflict Resolution Office, with their annual Conflict Resolution Day bookmark contest. This year, MACRO received more than 2,000 bookmarks from students throughout Maryland. Bookmarks were displayed in the lobby of the Court of Appeals building from 11/5/14 to 12/9/14. Winners and others were honored with a ceremony at the Court of Appeals building, and presentations to the winners were made by Chief Judge Mary Ellen Barbera. Congratulations to all of the students who submitted their bookmarks. Job well done!

- Congratulations to **Polly Harding** on her appointment to the Chief Clerk's Office as the new Executive Director of Administrative Services. Polly was previously the Administrator of Administrative Services division. Her appointment became effective on October 1, 2014.



- Cheers to the Baltimore Orioles and Washington Nationals on two outstanding seasons! The Orioles finished as the American League East Division Champions for the first time since 1997, while the Nationals finished as the National League East Division Champs! 2015 looks to be a promising season for both organizations. Good luck!



- Former MACRO Deputy Director, **Lou Gieszl**, and Court ADR Resources Director, **Julie Linkins**, have started in their new roles in the judiciary. Lou is now the Assistant State Court Administrator for Programs, and Julie is the Assistant State Court Administrator for Education. Congratulations and good luck to both Lou and Julie in their new positions.

Welcome to Our New ADR Volunteers



Wayne Anmuth
 Michelle Armsworthy
 Jonathan Binstock
 Lawrence Carlson
 Anna Chalker
 Denise Harrid-Goodson
 Peggy Israel
 Ragin Jennings-Howard
 Susan Kahn

Mitchell Kraus
 Relinda Louisy
 Derwin Norford
 Kamini Reddy
 Kyle Richardson
 Theresa Ridgeway
 Anita Riley
 Robyn Shaw-Alston
 Bill Shelton

Deborah Shooter
 Karen Smith
 Wendell Smoot
 Linda Stallings
 Linda Taylor
 Richard Thomas
 Alison Ward
 Tracey Waskiewicz
 Bridget Zarate

Thank You to Our Volunteers



The District Court of Maryland ADR Office is very thankful for the dedicated service of their active ADR Practitioners who volunteered in Day of Trial Programs in 2014. As a token of our appreciation, we sent 336 active ADR volunteers a travel tumbler as a way of thanking them for their commitment to our programs.



Gretchen Kainz, ADR Office staff member, enjoying the ADR Office annual mailing project!



SAVE THE DATE

2014 DISTRICT COURT ADR VOLUNTEER APPRECIATION EVENT

WHERE: CONFERENCE CENTER @ THE MARITIME INSTITUTE IN LINTHICUM HEIGHTS, MD

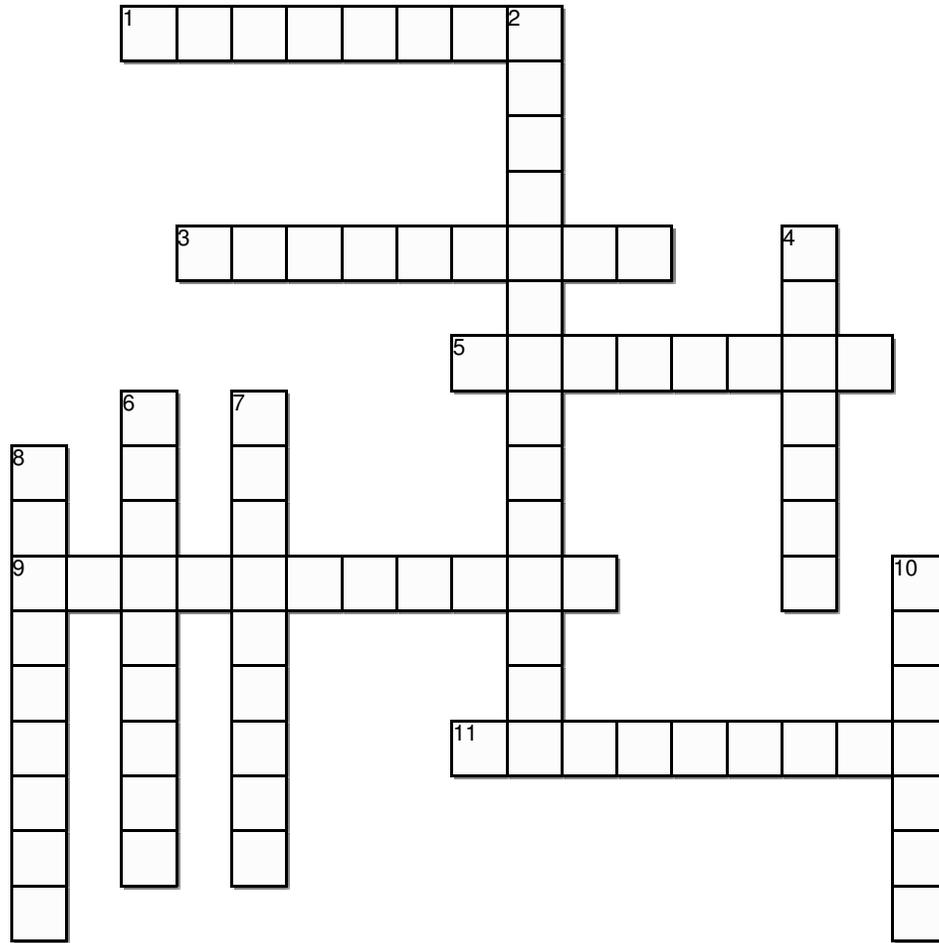
WHEN: APRIL 23, 2015

LOOK FOR AN E-MAIL COMING SOON WITH MORE INFORMATION!

Name: _____

ADR Office Crossword Puzzle

Complete the crossword below



Across

1. Another word for dispute
3. The current Chief Judge of the District Court of Maryland
5. Outcome, result
9. One of the five Thomas-Kilmann Conflict Styles
11. The person in a civil lawsuit who is being sued

Down

2. One of the mediation frameworks
4. People, _____, Technology
6. A type of feedback between the feedback provider and the mediator to help support the mediator's self-assessment and growth
7. Transformative, Facilitative, Inclusive
8. The person in a civil lawsuit who is suing someone
10. An impartial third party in an ADR session

CONGRATULATIONS TO ADR STAFF, SHANNON & TRACY!



From left to right: Kyrie, Chris, Shannon, and Chance



Tracy Culbreath & Brian King

It's been a busy year for Regional ADR Programs Director, Shannon Baker. Shannon and her long-time boyfriend, Chris Albertson, became engaged on October 22nd. They are simultaneously planning for their wedding and the arrival of their next child.

If that wasn't enough, Shannon graduated from The University of Baltimore School of Law in May and just recently was admitted to the Maryland Bar. Please join us in congratulating Shannon on her exciting news!

ADR Programs Specialist Tracy Culbreath has had an eventful year as well! Tracy and her boyfriend of four years, Brian King, got engaged on August 27th. Their wedding is August 29, 2015 at the William Paca house in Annapolis, Maryland.

If getting engaged and planning a wedding wasn't enough on her plate, Tracy also completed her Master's degree at the University of Baltimore in their Negotiations and Conflict Management program. She is scheduled to receive her diploma on January 8th in Baltimore, MD.



2014/2015 Calendar of Events

District Court ADR Office

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Fax: 410.260.3536



Quote Corner

*"Great thoughts speak only
to the thoughtful mind, but
great actions speak to all
mankind."*

- Theodore Roosevelt

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[http://www.mdcourts.gov/
district/adr/home.html](http://www.mdcourts.gov/district/adr/home.html)

Calling for your **BEST Practice Tip!**

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give you credit. Tips should
be condensed to one
paragraph. Help your peers
become better ADR
Practitioners!

A Winning Solution is edited by
Sarah Kauffman. Letters to the
editor are welcomed. If you have
an idea for an article or would like
to share your "success story" or
a practice tip, please send them
to sarah.kauffman@mdcourts.gov.

December

12th— MCDR Sharon Pickett Award Workshop and Luncheon, Judicial Education and Conference Center (JECC), 9:30 a.m.—1:30 p.m.

25th—Christmas Day (Courts Closed)

31st—New Year's Eve (Courts Closed)

January 2015

1st—New Year's Day (Courts Closed)

19th—Martin Luther King, Jr. Day (Courts Closed)

February 2015

16th—Presidents Day (Courts Closed)

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