

# A Winning Solution

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

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## Go BOLD: Rethinking Conflict

By Sarah E. Kauffman

Recently, the Maryland Judiciary's Mediation and Conflict Resolution Office (MACRO) partnered with the MD Chapter of the Association for Conflict Resolution (ACR), Community Mediation Maryland (CMM), the Maryland Council for Dispute Resolution (MCDR), and the ADR Section of the Maryland State Bar Association (MSBA) in an effort to change how individuals think about handling conflict. One of the goals of this conflict resolution behavior change initiative is to



increase the number of individuals and organizations that use ADR processes when appropriate, thereby benefiting the citizens of Maryland, the Judiciary, and ADR practitioners. A long term goal is for people to be able to respond differently when they are dealing with conflict; whether that means improved negotiation skills, conflict de-escalation, or a greater understanding of when to hire an attorney, an ADR practitioner, or both.

Not long ago, I had the opportunity to sit down with Rachel Wohl, Nick White, and Heather Fogg of MACRO to ask them about this new initiative.

*Continued on Page 4*

## My Two Cents: Well Done, CJB!

By Jonathan S. Rosenthal

On March 20, 2013, the District Court ADR Office said thank you to our volunteers from across the State for giving their time, energy, and ADR skills to the courts and the citizens of Maryland. Later that evening, we added judges and court staff to those we thanked, recognizing their efforts for case referrals and other day to day assistance. The efforts of so many are to be credited for the successes of our programs. More than 1,500 cases received ADR services, close to 60% of those cases were resolved in full, and more than 5,000 hours of time were donated. Truly amazing. And I should add that I thanked my colleagues here at the ADR Office for the tremendous work they do, too. I am proud and grateful to be their co-worker.

And today, there is one more thank you to share... Chief Judge Robert M. Bell.

Chief Judge Bell has had a storied career in the Maryland Judiciary, and while we are all grateful for his leadership in the realm of ADR, the breadth of his accomplishments extend so much further.

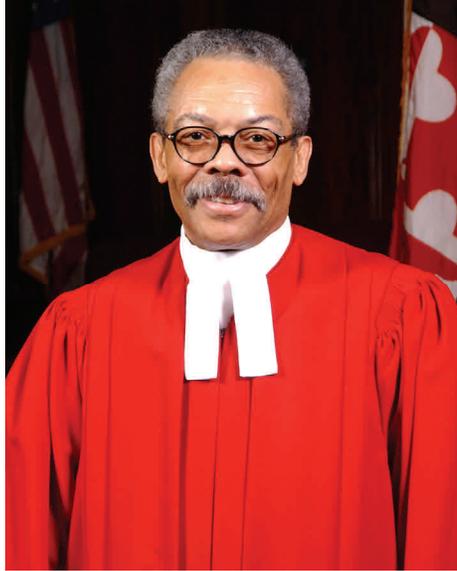
Robert Mack Bell is part of our living history. Take a step into the "way-back" machine with me... You see, toward the end of his junior year at Baltimore's Dunbar High School, in his capacity as Student Government President, young Robert was approached by some students from what was then known as Morgan State College. These college students were going to stage a sit-in demonstration in downtown Baltimore to protest the closing of places of public accommodations to African Americans, and to protest restaurants refusal to serve African Americans.

*Continued on Page 2*



# My Two Cents, *cont. from 1*

So the students from Morgan asked Robert to recruit other Dunbar students to participate with them. The plan was that Morgan would supply the transportation, and they would also provide the leadership, and then on the last day of school they would all go downtown and participate in the picketing and the sit-ins. So, on the 16th of June in 1960, Morgan supplied the buses and Robert got on the bus with a bunch of other students from Dunbar whom he helped recruit, and twelve of them ended up staging a sit-in protest at a segregated restaurant called Hoopers.



Robert was arrested, charged, and convicted of trespassing, and fined \$10. The trial occurred in what used to be called the Supreme Bench of Baltimore, now the Circuit Court. The appeals went all the way to the United States Supreme Court in *Bell v. Maryland*, where Robert was represented by none other than future Supreme Court Justice Thurgood Marshall, among others.

The appeal was successful, and ultimately, Robert's conviction was reversed in 1965. Future Chief Judge Robert M. Bell graduated with a BA in history from Morgan State University in 1966. He went on to Harvard Law School where he earned his JD in 1969. Later that same year he was admitted to the Bar and began his practice in Baltimore.

In 1975, a short six years after he started practicing law, he was appointed by Governor Marvin Mandel to serve as a judge in the four year old District Court of Maryland. Five years after that, in 1980, he was appointed to the Circuit Court for Baltimore City by Governor Harry Hughes. In 1984, Governor Hughes appointed Chief Judge Bell to the Court of Special Appeals. Since 1991 he has been a judge of the Maryland Court of Appeals, first appointed as an Associate Judge by Governor William Donald Schaefer, and then he was appointed as the first African American Chief Judge of Maryland by Governor Paris Glendenning in 1996. Completing his journey through all four levels of Maryland's Judiciary he was the first judge to serve at least 4 years at each level. And as a true testament to the caliber of judge he was, how many other people can you say made such a good impression on four different Governor's of this State.

Chief Judge Bell is accomplished for more than the

interesting nugget of trivia about his earliest exploits with the law. Too numerous to name for this article, Chief Judge Bell has served on numerous Boards, held many national leadership positions, and earned many well deserved local and national awards. I really was going to try to list them all, but space won't permit. However, if you care to do a bit of research on your own, may I recommend you take a moment or two... or thirty, and google "Robert M. Bell" and see for yourself.

Because I can't help myself, I'm going to mention a few:

- He served on the Board of Directors, AND as a President of the Conference of Chief Justices
- In 2001, he was presented the Access to Justice Tribute Award, from the Pro Bono Resource Center
- In 2003, he was presented the D'Alemberte/Raven Award, by the Dispute Resolution Section of the American Bar Association
- In 2005, he was awarded the Baltimore Peacemaker Award, by Community Mediation
- In 2012, Chief Judge Bell received the Marvin E. Johnson Award, presented by the Association for Conflict Resolution

But the next 3 are truly remarkable...

- In 2004, our Chief Judge received the first annual Robert M. Bell Award for Leadership in Public Service from the Students for Public Interest at the University of Baltimore School of Law
- In 2006, he was presented the "Chair's Award" by the ADR Section of the Maryland State Bar Association, which was renamed the following year as the Chief Judge Robert M. Bell Award for Outstanding Contribution to Alternative Dispute Resolution in Maryland. (*Incidentally, another leader in our field will be presented with the award this year, MACRO's Rachel Wohl. Congratulations Rachel!*)
- And finally, The Center for Civil Rights in Education at Morgan State University was renamed the Robert M. Bell Center for Civil Rights in Education on April 28, 2010.

## My Two Cents, *cont. from 2*

They say, and I'm not exactly sure who "they" are, but they say that the longer you stick around the more likely you are to win an award or two. Oh sure, the recognition purports to be about doing something good or working hard or something like that, but "they" say that really it's just about longevity. Nothing could be further from the truth for Chief Judge Bell. Every honor, every award, and every award **named** or **renamed** for him has been earned, through leadership, vision, and an incomparable ability to focus on the core of the issue. There are two initiatives Chief Judge Bell started that have a great deal to do with us in the field of ADR.

In 1997, Rachel Wohl and Chief Judge Bell had a conversation about the court's role, or potential role, in alternative dispute resolution. The next year the Maryland ADR Commission was formed, and in December 1999, the Commission published an action plan called *Join the Resolution*, that included a recommendation for the creation of the Maryland Mediation and Conflict Resolution Office, or MACRO.

Chief Judge Bell didn't simply lead as a figure head. Not at all. He gets it. He understands the power and possibilities of ADR, and the court's role in utilizing those possibilities. ADR was supported both in policy and financially, even in the leanest of economic times. And to be sure, when the Judiciary first dipped its toe into alternative dispute resolution, and when MACRO opened its doors, there were those who did not think much of that effort. As time has passed, however, and as progress has been made, the skeptics have come around.

MACRO dedicates itself to creating and cultivating opportunities for empowering citizens by providing support for people in conflict to use alternative means of resolving their disputes, rather than solely relying on the courts. Chief Judge Bell believes the court has a role in helping to create a more peaceful and civil society. That has worked reasonably well. We now have increasing numbers of people able to address their own problems

and resolve them through these alternative processes of mediation and settlement conferences, without having to come to court or without having to proceed all the way to trial. ADR is institutionalized as an important part of our judiciary thanks to the efforts of a great many, and led by Chief Judge Robert M. Bell.

Finally, Chief Judge Bell created the Access to Justice Commission in 2008. It was established a few years ago to make sure the judiciary took a critical look at its systems to determine what things are barriers to access, and then develop strategies to address those barriers. It is a process that is going to take some time. But it is an effort that is well worth pursuing because, at the end of the day, if it is successful in removing the barriers and in resolving them, the lives of a large number of our citizens will be different and their belief in the fairness of the legal system will be strengthened. And part of Access to Justice is ADR. The effort is critical and success will likely mean greater access to appropriate forms of ADR for all citizens.

I could go on. I won't. Suffice it to say it has been a privilege to work for Chief Judge Bell. I thank him for his leadership, his vision, his determination, his thoughtful deliberation about the judiciary, and its role in government and society. So, on the eve of your retirement, from all of us, thank you, Chief Judge Robert M. Bell.

*Some information contained in this article was derived from two interviews previously given by Chief Judge Bell, and cited below:*  
 - From the American Bar Association's *The Judges' Journal* (Winter 2011). An Interview with Chief Judge Robert M. Bell by Judge William D. Missouri  
<http://www.courts.state.md.us/publications/jmonline/2011fall/pdfs/jmonlinefall11cjbellinginterview.pdf>  
 - An Interview with Chief Judge Robert M. Bell 10/6/06 by Paul Mark Sandler  
<http://www.shapirosher.com/pages/news/140/an-interview-with-chief-judge-robert-m-bell>

### Chief Judge Robert M. Bell Maryland Judiciary Retirement Celebration

The Baltimore Hilton  
 401 West Pratt Street  
 Baltimore, MD 21201  
 Gala: Thursday, April 18, 2013  
 Symposium: Friday, April 19, 2013

# Go BOLD, *cont. from 1*



## 1. Why did you start The BOLD Initiative, and what are you trying to accomplish?

Many in the Maryland ADR community have spent a great deal of time handing out literature and promoting ADR, but the public is still not using ADR to its full extent. In the past, broad spectrum awareness efforts have had an important impact, but the impact has been diffused and limited.

One of the roles of the Judiciary is to contribute to a more peaceful and civil society. Litigation is very important to the judicial system's role in fostering a healthy and diverse democratic society. However, litigation is very time consuming and can be very

costly. The ideal is to leave litigation to those cases that are appropriate and use ADR for all other cases.

For several decades, researchers and practitioners have been developing models to foster change in a variety of sectors. Smokey Bear, recycling, or smoking are just a few examples. We have been reviewing the literature, talking with faculty, and practitioners in an effort to identify the best practices based on research and applied experience. We have developed a draft conflict resolution behavior change model. We are in the process of identifying what population we want to work with, likely a business population. The appeal of working with a business sector is that they are most likely to have the resources to utilize ADR services in Maryland. We aim to develop more effective strategies for reaching citizens who don't know about ADR, and those that do, to change conflict resolution behavior and to increase the use of ADR.

## 2. Who is involved with The Initiative, both from the ADR community and outside the ADR community?

Within the ADR community there are four practitioner organizations: MD Chapter of The Association for Conflict Resolution (ACR) Maryland Chapter, Community Mediation Maryland (CMM), the Maryland Council for Dispute Resolution (MCDR), and the ADR Section of The Maryland State Bar Association (MSBA), working with MACRO. We also received some ADR Practitioner feedback based on a workshop on conflict resolution behavior change we conducted at the Association for Conflict Resolution 2012 Annual Dispute Resolution Conference. Outside the ADR community we are consulting with Johns Hopkins University, University of Maryland College Park, Duke University, Cornell University, and the National Institutes of Health.

## 3. What do you want to do with the information once you have collected it, next steps, timeline?

We developed a memorandum of understanding (MOU) to be completed between now and June 2014 that incorporates the tools and resources that are needed to work with a specific population. Ideally, we will be able to obtain future funding and work with different populations, building on what we have already learned from the pilot phase.

Based on other behavior change projects that have been conducted, our office and the other organizations selected the business population. Looking to gain information and insight as to how to handle businesses we reached out to faculty at several different educational institutions. The faculty members were able to provide us with insight as to characteristics we may look for and the driving forces behind behavior change. Unlike most other populations, businesses have repetitive conflicts and many businesses have processes in place to handle conflicts that can be improved.

This pilot project is helping to develop and test the conflict resolution behavior change model and the tools for implementation. One of our goals is that the pilot project is only a first step, and that we move forward. At a minimum, we will work with others interested in carrying on the conflict resolution behavior change work with a population that they think would be interested in ADR options. We can share what we learned along the way, what tools worked best for us, what we would do differently, and how best to apply the conflict resolution behavior change model.

**FUN FACT: Why BOLD?**  
BOLD is not an acronym for anything in particular. The five organizations chose BOLD because the movement they hope to be conducting is a BOLD movement.

# Go BOLD, *cont. from 4*

Ideally, we will not only support others in Maryland, if funding is available in the future, we would like to continue working with other populations. The more populations that are engaged, the broader the impact. The pilot project funding ends June 30, 2014 so all the tools being developed by university faculty, staff, and students will have been delivered and tested in the field. After that we will continue with evaluation and then share what we have learned.

## 4. What are some challenges you have experienced thus far?

This is a new concept for our field. Conflict resolution behavior change is a new way for us to think about engaging people. There is a learning curve with this initiative. An important lesson learned from the literature and researchers has been that you need to identify a specific population with which you want to work. Focusing on a smaller group as opposed to everyone in Maryland allows us to understand the needs and interests of that specific population. However, to our knowledge, no one has ever developed a conflict resolution behavior change model or implementation plan. Additionally, the art of picking a specific population to work with is not well documented. Given the thousands of populations we could work (hundreds of business sectors, multiple groups in the legal community, geographic areas, professional groups, etc), we have found it challenging to narrow down to a single population. MACRO is conducting outreach to some professionals who have experience identifying and selecting populations.



“As knowledge increases, wonder deepens.” - Charles Morgan



## 5. What challenges do you see in the future?

“Personally, the idea of [playing the] waiting game is extremely difficult for me. I like to see the process happen and the results shortly thereafter. This project will take [more] time and it might be challenging to remember that we are doing good work without seeing results immediately,” Heather said. Another challenge MACRO will likely face, additional funding permitting, is determining which of the other “populations” will be addressed (research conducted on).

## 6. How do practitioners stay informed about The Initiative?

MACRO will continue to hold presentations, forums, and discussion groups to discuss the status of the project. There will also be articles in newsletters like this one and other newsletters throughout the state. And, the leadership of Maryland’s ADR practitioner organizations and MACRO will continue to meet and collaborate as we conduct this initiative.

## 7. What do you hope will come out of this research?

We want people to realize that using ADR to resolve business conflict provides a competitive advantage. In an ideal world, businesses would avoid unnecessary litigation and use ADR processes instead; saving time and money, avoiding negative publicity, preserving working relationships and creating customized business solutions. We want to see Maryland as a state where businesses actively use ADR to resolve their conflicts. Even if people don’t see the results from this initiative right away, by working with multiple populations over time, our goal is to have a significant broad based impact.



Pictured left to right: Heather Fogg, Rachel Wohl, and Nick White

For more information regarding the BOLD initiative, please contact Nick White at 410-260-3540 or [nick.white@mdcourts.gov](mailto:nick.white@mdcourts.gov).

# Volunteer Appreciation...Our Thank YOU!

By Sarah Kauffman



**Volunteer  
Appreciation  
&  
Recognition  
Event**

## Volunteer Appreciation, *cont. from 6*

On March 20th, the District Court ADR Office hosted its annual ADR Volunteer Appreciation and Recognition Event at the DoubleTree Hotel in Annapolis, Maryland. This annual event recognizes the hard work and dedication of our 300+ ADR volunteers from the previous calendar year. Similar to events in the past, this year we provided our ADR practitioners with a continuing education program during the day and a dinner event that same evening. A noticeable change this year was that the four workshops were not repeated, and volunteers could choose from an offering of eight distinct sessions.

The continuing education program kicked off with a plenary session featuring **Cathy Costantino**, a nationally recognized speaker and author on mediation and negotiation and the Director of the ADR Program at the FDIC. Her presentation “This is Your Brain in Mediation,” engaged and entertained the audience. The plenary was followed by four unique workshops, including an advanced session with Ms. Costantino examining neuroscience and the practical implications for mediators of the information introduced during the plenary. Those who attended the advanced session thoroughly enjoyed it. They left feeling as though the session was packed with useful information and many noted they felt as though they could have listened to her all day long.

The first round of afternoon skill-building workshops included programs on ethics, generational conflict and ADR best practices.

**Lorig Charkoudian**, Executive Director of Community Mediation Maryland (CMM), presented “MPME Standards of Conduct: Guidelines for Good Practices” and facilitated a discussion surrounding the different standards and their applicability to some challenging theoretical or real situations. Attendees liked the “open conversation” Dr. Charkoudian

encouraged and her ability to demonstrate how to work a scenario through the various standards in any interactive setting.

“Generational Conflict” with **Ramona Buck** and **Denise McKenney**, both Federal Mediation and Conciliation Services (FMCS) employees, provided individuals the opportunity to talk about different generations and cultural events from childhood through their teen years and explore how those experiences shaped who they are today.

In “ADR Best Practices: The Flow of the ADR Session,” ADR Office staff members **Tracy Culbreath** and **Kate Quinn**, shared helpful tips and tools that ADR practitioners could utilize to help sharpen their skills. Practitioners left this session feeling that the information was both useful and informative. And that was all before 3:30 p.m.!

Based on feedback from attendees last year, it was decided that workshops should not be repeated during the second series of sessions. Attendees were presented with four additionally enlightening, interactive, at times amusing, and thought-provoking sessions.

**Tyler Keyworth**, Anne Arundel Conflict Resolution Center Deputy Director, presented “Dealing with High Conflict.” During this session, attendees engaged in a fascinating interactive discussion about how to deal with situations involving charged emotional peaks and valleys. **James O’Donnell**, Baltimore City Day of Trial ADR Practitioner, enjoyed the session because it was “very interactive, Tyler was a strong presenter, and he appeared very responsive to the group.”

**Julie Linkins & Felicia Watkins**, MACRO staff members and Day of Trial ADR Practitioners, presented “Personality Types, Conflict Styles and You: Self Awareness for ADR Practitioners.”

*“I liked the use of the video clips during the session.”*

**Kristal Higinbothom**  
**Harford County**  
**ADR Practitioner**

*“I enjoyed Cathy’s responsiveness to all of the questions and her enthusiasm for neuroscience.”*

**Timothy Bloomfield**  
**Prince George’s County**  
**ADR Practitioner**

# Volunteer Appreciation, *cont. from 7*

Ms. Linkins and Ms. Watkins asked participants to complete two assessment activities to help them realize their personality “type” and better understand how that impacts on one’s conflict resolution style.

**Martin Kranitz** and **Kate Cullen**, mediators and mediation trainers, presented “The Value of a Peer Mediation Consultant for Improving Mediator Skills” to use audience member’s Day of Trial ADR challenges - to experience “past mediation” processing to stimulate debrief reflections on how things went or how they might have been improved.

Finally, in “Working with Attorneys,” **Jonathan S. Rosenthal**, District Court ADR Office Executive Director, presented on the role of attorneys in mediation and how to include attorneys in the conversation in a constructive way.

After the continuing education portion of the event, attendees were invited to stay for an Appreciation and Recognition Dinner along with District Court judges and some court staff from the locations around the state with active ADR programs. **Baltimore County Administrative Judge Alexandra Williams** served as the welcoming speaker this year. Judge Williams graciously thanked everyone and explained that the ADR program “brings people together, and provides them with an opportunity to talk, to listen, and perhaps, to solve their own problems. What they (litigants) can’t do on their own, they might be able to do with the assistance of our mediators and settlement conference attorneys.” Judge Williams concluded her remarks with a special thank you to each of the community mediation center partners who provide mediation in District Court ADR programs.

**District Court ADR Committee Chair and Baltimore County Judge Dorothy Wilson**, expressed her gratitude to the ADR practitioners for their outstanding services given to consumers of the

Maryland judicial system. Judge Wilson also highlighted some of our brightest

2012 accomplishments including the recently implemented District Court ADR Rules (effective January 1, 2013), and the significantly improved peace order mediation screening protocols.

Similar to the events in the past, ADR volunteers new to our programs in 2012 received a personalized, engraved plaque, and those who received plaques in years past were given a hanging year accessory engraved with “2012” to attach to their existing plaque.

This year there were two additional presentations made to honor individuals who have made a significant impact on our ADR programs. The first presentation went to **Chief Judge Robert M. Bell**. Chief Judge Bell paved the way for ADR in the Maryland Judicial System. We honor his leadership and vision with the ADR Commission, as Chair of the Judiciary’s Mediation & Conflict Resolution Office, and for his support of our programs. The second presentation was to honor **Kathleen Thornton**, the former Executive Director of the Prince George’s Office of Community Relations Mediation Program. Kathleen was a leader in the field of mediation and a friend to many. Sadly, Kathy passed away suddenly in October, 2012. Her son and a few other family members attended the dinner to accept the presentation in her honor.

All in all, the event was an unqualified success and enjoyed by many. The ADR Office truly appreciates all the hard work and time that our volunteers and Judiciary employees give to ADR Programs. For that, we say THANK YOU! We hope to see many of you at the event next year.

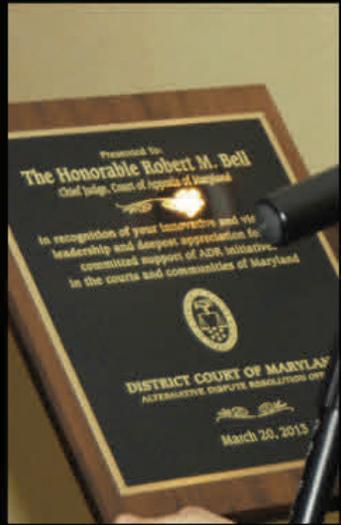
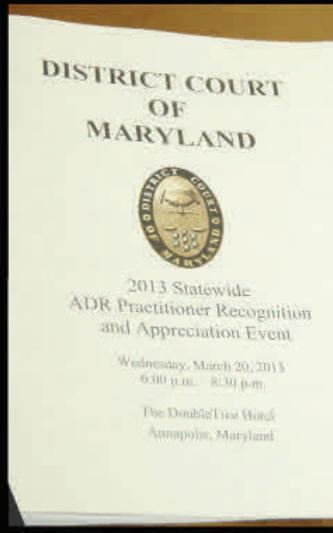
*“I liked being able to meet [ADR practitioners] & staff from other counties, share experiences and our stories.”*

*Connie Runion  
Anne Arundel County  
District Court Staff*

*“I enjoyed the comments from the judges...I feel supported by the [ADR] office staff.”*

*Julie Linkins  
Anne Arundel County  
ADR Practitioner*

# Volunteer Appreciation, *cont. from 8*



*"Don't judge each day by the harvest you reap, but by the seeds you plant." - Robert Louis Stevenson*

# Get to Know YOUR ADR Community

By Kate Quinn & Sarah Kauffman



Are you new to the field? New to Maryland? Trying to figure out the ADR community here in Maryland and what should be your next step? It's like becoming familiar with a new neighborhood. There is a lot of diversity within our flourishing ADR community in terms of the practitioners, types of ADR, and professional organizations. This article will introduce you to Maryland's ADR professional organizations.



## **BUS STOP #1: Maryland Mediation and Conflict Resolution Office (MACRO)**

MACRO is described as a "court related agency" in the Maryland Judiciary and has been fundamental in introducing and promoting ADR in Maryland. MACRO's current work includes the following initiatives: Quality Assistance (see, MPME below), Public Awareness, Court ADR Evaluation and Support System (ADDRESS) and Grant Programs. They also maintain an active listserv, through which they send out a wide array of information about trainings, conferences, and opportunities for both volunteer work and employment. [Click here](#) to sign-up for the MACRO listserv. To learn more about MACRO and read their newsletters, Consumer Guide, or take a look at their poster campaign, visit their website at [www.marylandmacro.org](http://www.marylandmacro.org).



## **BUS STOP #2: Association for Conflict Resolution (ACR) - Maryland Chapter**

ACR is a national and international organization. Their website is [www.acrnet.org](http://www.acrnet.org). Maryland is one of several states & regions that has its own local ACR Chapter. The Maryland Chapter of ACR is comprised of topic clusters including:

- Cluster A** – Senior Issues, Healthcare, and Family
- Cluster B** – Workplace and Organizational Conflict Management
- Cluster C** – Restorative Justice, Community/Youth, and Environmental Public Policy
- Cluster D** – International, Education (K-12 and University), Ethics and Training
- Cluster E** – Commercial, Consumer, and Courts

The Clusters offer educational programs throughout the year, and there is an annual general membership meeting. Richard Bohn, ACR Maryland Chapter member, describes his experience as follows, "I've found my membership in the Maryland Chapter of ACR has been invaluable in connecting with the mediation community here, and the informative programs offered have been well worth attending!"



*Continued on Page 11*

**BUS STOP #3: Community Mediation Maryland (CMM)**

There are 17 grassroots community mediation centers around the state under CMM’s umbrella. These non-profit organizations provide a variety of ADR services, including: mediation, large group facilitation, and community conferencing. Executive Director Lorig Charkoudian notes, “One significant role of CMM is to identify and promote new uses for mediation to respond to social challenges in which communication and relationships are important. Some examples include prison re-entry mediation, provided in collaboration with the Department of Public Safety and Correctional Services; Individualized Education Program meeting facilitation, provided in collaboration with the Maryland State Department of Education; and Attendance Mediation, to respond to the challenges of truancy.” Through these community-based centers ADR services are offered by local volunteers from within those communities. Relying on the highest quality training, CMM provides training on conflict management, team building, advanced mediation skills, and basic mediation training (offered through the local centers). CMM also has a performance based certification process for their mediators. Click here for information about CMM or your local community mediation center.



**BUS STOP #4: Maryland Council for Dispute Resolution (MCDR)**

One of the oldest ADR practitioner organizations in Maryland, MCDR’s mission is to promote the appropriate use of ADR and support the mediation profession. They have a diverse membership of ADR practitioners drawing from many communities, interest areas, professional backgrounds and practices. MCDR hosts meetings four times a year, which are free and open to all. Donna Duquette, President of MCDR, described MCDR as a “friendly, welcoming, and diverse group of ADR practitioners, and getting involved is a wonderful way to network and expand your peace-making skills.” MCDR also has a performance based mediation certification program. To find out about the next meeting and how you can become a member, visit their website at [www.mcdr.org](http://www.mcdr.org).



**BUS STOP #5: Maryland Program for Mediator Excellence (MPME)**

The Maryland Program for Mediator Excellence (MPME) is part of MACRO’s Quality Assistance initiative, dedicated to being a resource for all Maryland mediators to improve their practice with continuing education and skills development. “When a mediator joins the program they make a commitment to complete 8 hours of continuing mediation education activities and 2 hours of ethics training annually,” says MPME Director, Cheryl Jamison. Many mediation programs are now including membership in the MPME (which is free) as a requirement for joining their rosters. Symbolized by a tree with many roots and branches, the MPME integrates several voluntary approaches for enhancing mediators’ skills and abilities. Carrying through on the tree metaphor, the roots and branches of the tree make up task groups, which represent different aspects of mediation, from diversity to consumer awareness to ethical practice, and more. You can sign up on the website at [MPMEonline.org](http://MPMEonline.org), and take a look at the features there, including an online directory of mediators and a calendar of events and trainings.



# Your ADR Community, *cont. 11*

## **BUS STOP #6: ADR Section of The Maryland State Bar Association (MSBA)**

The MSBA is the Maryland professional association for attorneys, and includes many topical sections, one of which is focused on ADR. Many lawyers have become mediators, and they make up the bulk of the membership of the Section. The ADR Section, however, has recently opened membership to include non-attorneys, recognizing that mediators come from different professional backgrounds and walks of life. The ADR Section sponsors “Pizza and Professionalism” evenings which address various current topics in the field. They also sponsor a Spring Dinner, at which the Robert M. Bell Award is presented to an individual who promotes the use of ADR. ADR Programs are also presented at the MSBA Annual Meeting in Ocean City, Maryland each June.



## **BUS STOP #7: Maryland Mediators Convention & Mediators' Forums**

Another important development in the ADR field in Maryland is the four organizations coming together collaboratively to present programs to which all are invited. These programs, events, and forums are aimed at developing greater understanding of, and respect for colleagues working in different areas, venues, and dispute resolution models. For example, in 2003 the four organizations, with the staffing by MACRO (Ramona Buck) came together to create the first Maryland Mediators Convention. Now held in even numbered years, the Maryland Mediators Convention is an opportunity for Maryland mediators to share their skills, insights, and experiences with other Maryland mediators. Recently, the practitioner organizations started to hold forums that are being presented on a quarterly basis. The first forum was on mediator certification, the second on a conflict behavior initiative, and a third on quality assurance for circuit court mediators. There has been a good turnout and some very lively conversations at each of these forums. Sign-up on the MACRO listserv to be notified of future forums or join one of the organizations.

## **ON YOUR WAY: Conclusion**

We hope the different bus stops provided you with a knowledge and understanding of the ADR organizations that are offered throughout Maryland. We feel very fortunate to have a plethora of organizations for individuals to join. Each of these organizations offer a wealth of information, opportunities for networking and the opportunity to enhance your ADR skills (via seminars, conferences, webinars and other educational offerings). Feel free to e-mail Kate Quinn at [kate.quinn@mdcourts.gov](mailto:kate.quinn@mdcourts.gov) or Sarah Kauffman at [sarah.kauffman@mdcourts.gov](mailto:sarah.kauffman@mdcourts.gov) with your comments and/or questions.



By Maureen Denihan

## PRACTICE TIP

As you may know, new District Court ADR Rules became effective January 1, 2013. And having read the article in the last edition of this newsletter, *New Rules Rule the Day*, you also know that the Confidentiality Rule 17-105 (formerly 17-109) now applies to mediation in the District Court (as well as the Circuit Court). That article explained the difference between the exceptions to confidentiality in the Court Rules and those listed on our District Court Agreement to Participate (ATP) in ADR form. The article noted that until the ATP form is revised to be consistent with the stated exceptions in rule 17-105, mediators shall inform participants of all the existing exceptions to confidentiality.

This article is intended to provide some additional direction to resources to help facilitate that explanation. To assist with explaining all of the exceptions to confidentiality in our ADR sessions, we developed the **Confidentiality in Mediation Addendum**. The Addendum is to be read to and signed by everyone in the room along with the Agreement to Participate in ADR form for **all cases referred to mediation**. The Addendum lists all of the exceptions to confidentiality from both the Agreement to Participate form and as enumerated in Rule 17-105.

The complete list of exceptions to confidentiality, as they currently stand are:

- a. any disclosures required by law (*Maryland Rule 17-105 (d)*);
- b. evidence or allegations of child abuse (*ATP form, Family Law Article § 5-705*);
- c. evidence of elder abuse (*ATP form, Family Law Article § 14-302(c)*);
- d. allegations of vulnerable adult abuse (*Family Law Article §14-302(c)*);
- e. an act or credible threat of violence (*ATP Form*);
- f. mediation communications to a potential victim **or** to the appropriate authorities to the extent reasonably necessary to help prevent serious bodily harm or death to the potential victim (*Maryland Rule 17-105(d)(1)*);
- g. anything relevant to the assertion of or defense against allegations of mediator misconduct or negligence (*Maryland Rule 17-105 (d)(2)*);
- h. anything relevant to a claim or defense that an agreement arising out of the mediation should be rescinded because of fraud, duress, or misrepresentation (*17-105 (d)(3)*); and,
- i. if there is anything that is said in the mediation that would have been said in court if this mediation hadn't taken place, that information will still be allowed to be said in court (*17-105(e)*).

The list is long, and perhaps arduous, we *know*. And, it will get easier to discuss the exceptions once the Agreement to Participate in ADR form is revised to list only those exceptions to confidentiality provided for in Maryland Rule 17-105. The Addendum is a temporary improvement to the existing Agreement to Participate form in an effort to provide disclosure to mediation participants of all of the exceptions to confidentiality.

The Addendum must be signed by all present in the room during a mediation, identical to how the Agreement to Participate in ADR form is signed by all persons present in a mediation. Because the Addendum is a one page document on white paper, and is not available in a carbonless, triplicate form, photocopies may be requested from the bailiff or courtroom clerk **after** the mediation session concludes and the mediator has returned the parties to the courtroom.

Until the Agreement to Participate in ADR form is revised, mediators may refer to the **Exceptions to Confidentiality Information Sheet** (*bright yellow paper*) for suggestions on how best to explain to mediation participants the exceptions (provided above). The Information Sheet is available with the other ADR forms and materials for your local Day of Trial program. This laminated, fluorescent yellow document includes a list of the exceptions and a “conversational” example to help explain the exceptions.

Questions regarding the application of the Confidentiality Rule and its exceptions may be directed to the ADR Office at [maureen.denihan@mdcourts.gov](mailto:maureen.denihan@mdcourts.gov). And, after responding to you directly, questions and some “best practice” responses may appear in future editions of the newsletter.

## CONFIDENTIALITY

# Ethics Corner

## Knowing What to Say and When

By Maureen Denihan

Very recently the following scenario occurred that drove us to examine the confidentiality protections provided for on the Agreement to Participate in ADR Form, Maryland Confidentiality, Rule 17-105, and the Standards of Conduct for Mediators...as adopted by the Court of Appeals. A synopsis of the actual scenario as it unfolded is provided below as well as our understanding and interpretation of Confidentiality (from all of the above sources).

**Case Scenario:** In June 2012, litigants participated in mediation for their civil case on their day of trial. The participants did not resolve the case in mediation and proceeded to trial that day. Ten months after the mediation, the defendant's attorney called the ADR Office and requested to speak with the mediator in the civil case. The attorney explained that he had not represented the defendant in the prior civil case, but is now representing the defendant from that civil case as a defendant in a current criminal case. The attorney said that he wanted to ask the mediator if s/he remembered the mediation conversation between the two litigants in the civil case because the plaintiff in that civil case has been called to testify in the current criminal case against his client, the defendant.

The defendant is now being charged with several counts of child molestation in the criminal case. The defendant alleges that the plaintiff in the civil case mediation made a statement to the effect that he knew the allegations of child molestation were falsified. The attorney completed an Application to Inspect Public Records form (DC 34A) at the clerk's office and obtained a copy of the Agreement to Participate in ADR form from the civil case. From that, the attorney acknowledged that the mediation is confidential for the mediator, but he believes the statement made by the plaintiff in the mediation triggered an exception to confidentiality for the mediator.

There are so many rich topics surrounding confidentiality to discuss that we can grow and learn from in this scenario. This should be pretty easy to dissect though, right? In this issue, we'll discuss mediator confidentiality.

### CONFIDENTIALITY OF THE MEDIATION, FOR THE MEDIATOR

Having reviewed the file for the civil case, we know that all persons present in the mediation including the mediator, signed the Agreement to Participate in Alternative Dispute Resolution (ADR) Form (fondly referred to as the 'ATP Form' in our office). The ATP Form states the following in paragraph 4:

***CONFIDENTIALITY:** With some exceptions, anything that is said or done during this ADR session will be held in confidence by the ADR practitioner and any neutral observer present at the practitioner's request. The exceptions to confidentiality are: a) evidence of child or elder abuse; b) an act or credible threat of violence; c) anything relevant to a complaint against the ADR practitioner or the District Court of Maryland.*

Paragraph 4 provides that the mediator shall maintain the confidentiality of anything said or done during the mediation, with limited, defined exceptions. The ATP Form does not define a period of time for mediator confidentiality and it is implied that the confidentiality runs for eternity, unless an exception arises.

The Maryland Standards of Conduct for Mediators, Arbitrators and Other ADR Practitioners, as adopted by the Court of Appeals, states a similar rule in Section V, Confidentiality, for mediators, which reads "...a mediator and anyone attending the mediation at the request of the mediator, shall maintain the confidentiality of all mediation communications, which include speech, writing, or conduct made as part of a mediation, including those communications made for the purpose of considering, initiating, continuing, or reconvening a mediation or training a mediator." Further, that same paragraph holds that a mediator may not disclose or be compelled to disclose mediation communications in any judicial, administrative or other proceeding.



## Ethics Corner, *cont. from 14*

At the time the civil case was mediated, ADR Rules did not exist for the District Court. Although not expressly applicable to ADR proceedings in the District Court at the time<sup>1</sup>, a case could be made that former Rule 17-109 governing 'Confidentiality in Mediation' also has a broad application and prohibits a mediator from disclosing a mediation communication<sup>2</sup> in any judicial, administrative or other proceeding, exceptions excluded. We believe 17-109 is a widely accepted standard for mediator confidentiality in cases referred to mediation, and that the protections in 17-109 should also be applicable to mediations in the District Court. Using either barometer, a mediator may not disclose a mediation communication for any reason (other than what is provided for as an exception), whether for the existing case or a future case.

Even so, the defendant's attorney believed that the plaintiff's statement during the mediation in the civil case invoked an exception to mediator confidentiality (as provided for on the ATP Form), specifically "a) evidence of child or elder abuse." Most of us in the ADR Office respectfully disagree. The statement allegedly made by the plaintiff during the civil mediation did not allege child abuse. In fact, the plaintiff's statement did just the opposite: it alleged the accusations of child abuse were false. We do not believe this to be an exception to confidentiality.

There is no mandatory reporting requirement when a person learns of, or hears, that child abuse allegations were falsified. Indeed it is just the opposite. As outlined in a January 2012 *Ethics Corner* article of this newsletter, Family Law Article § 5-705 **mandates the reporting** of any **suspected child abuse or neglect** by any person<sup>3</sup> if that person has reason to believe the child has been subjected to abuse. The Maryland Standards of Conduct (V. Confidentiality) and Maryland Rule 17-105(d) recognize "any disclosure required by law" as a permitted disclosure (exception) to mediator confidentiality. A statement by another that an allegation of child abuse or neglect was falsified is not the same thing. For this reason, we do not believe that such a statement during the mediation in the civil case, would be an exception to mediator confidentiality.

Confidentiality is part of the foundation upon which mediation was built and we believe that mediators are to hold in confidence anything said or done during the mediation, with limited exceptions, in an effort to encourage and support the candor of the participants and the mediation process. For all of these reasons, and in alignment with the Agreement to Participate, the Maryland Standards of Conduct, and Title 17-105, we believe that the mediator should not answer the attorney's questions about what was said or done in the mediation.

However, first thing being first... the mediator must actually be able to remember the mediation, otherwise all of this is a moot point. Either way, the attorney may subpoena a mediator to testify as to what was said or done during a mediation. That, we know, is completely out of our control. How we respond to a subpoena is within our control.

If a mediator is subpoenaed to testify about what was said or done during a mediation that occurred in the District Court Day of Trial ADR Program, we would suggest to proceed as follows. First, give us a call. The mediator may file a 'motion to quash the subpoena' in the court prior to the hearing date. While our office cannot draft a subpoena for you, we can talk with our mediators about what information should be included in a 'motion to quash.' Next, if the mediator is a member of a professional mediator organization and/or a community mediation center, we would recommend that the mediator also contact that organization to talk through next best steps and/or what to include in a motion.

In the event that the 'motion to quash' is denied and the mediator is required (by the subpoena) to testify at the hearing, what would you do? Well, based on what has been discussed earlier in this article we believe a mediator is not obligated to answer questions with respect to what was said or done during the mediation.

*Continued on Page 19*

<sup>1</sup> Maryland Rules governing ADR sessions in the District Court, and specifically a Rule that addresses the confidentiality of mediation sessions, became applicable to District Court mediations January 1, 2013.

<sup>2</sup> A mediation communication in 17-102(h) tracks with the definition in the Maryland Standards of Conduct for Mediators, Arbitrators, and other ADR Practitioners.

<sup>3</sup> [any person] other than those listed in § 5-704 which mandates reporting by health practitioners, police officers, educators, or human service workers.





## Partner Spotlight: St. Mary's County CMC Bridging the Gap from Jail to Community

**Lindsey Bradley**, Executive Director of the Community Mediation Center of St. Mary's County, discusses the 2 year partnership between the St. Mary's Community Mediation Center and St. Mary's County Detention Center.

If you ask mediators from the Community Mediation Center of St. Mary's County (CMCSMC) where their favorite place to go is, don't be surprised if they respond "jail." This past February marked the two-year anniversary of the partnership between the Community Mediation Center of St. Mary's County and the St. Mary's County Detention Center, in which both organizations have worked together to help inmates re-enter the community after incarceration. In the beginning, we at the Mediation Center were hopeful of getting at least a few referrals for the new program; now, we are happy to say that we have so many referrals we hope we have enough mediators to meet the demand!

The program started in February 2011 with a presentation at the state level to **Commander Michael Merican** of the St. Mary's County Detention Center (SMCDC) and his command staff to discuss re-entry mediation. Commander Merican had just returned from a Wardens' Round Table where Dr. Lorig Charkoudian of Community Mediation Maryland presented the topic of re-entry mediation; a way to ease prisoners' transition from jail to home and the workplace. As a result, Commander Merican and his command staff were immediately on board with the idea of re-entry mediation, and we discussed how to implement the program in the detention center. Commander Merican said, "We will do whatever it takes to make this program happen." Within a month of the first meeting with command staff, we received our first re-entry referral.

The re-entry mediation program that we built here in St. Mary's County is not like any other in the State. While most re-entry programs throughout the state offer mediation within 6-12 months prior to release, inmates in St. Mary's County are able to access mediation services at any time during their incarceration. We feel that reaching

out sooner helps ease the period of incarceration for the inmates and their family and friends by giving them an opportunity to discuss their concerns and prepare for eventual release. Often there are long-standing issues and histories between these individuals that take time to resolve. Providing mediation earlier during incarceration helps the participants address their issues, as well as other concerns, such as children, communication, substance abuse, living situations, and employment, as part of the re-entry process.



In 2012, CMCSMC honored Commander Michael Merican (right) with the "Meaningful Measure Award" for his commitment to re-entry mediation. Also pictured above are Sheriff Timothy Cameron (left) and St. Mary's Executive Director, Lindsey Bradley.  
Photo submitted by Lindsey Bradley

CMCSMC staff presents inmates with information about mediation on a regular basis by going to all of the housing units and providing mediation presentations. Those who wish to mediate will meet one-on-one with a CMCSMC staff member for intake, the information-gathering process. During this conversation, mediation staff members discuss with the inmate their plans for re-entry and the role other people in their family and community will play in this process.

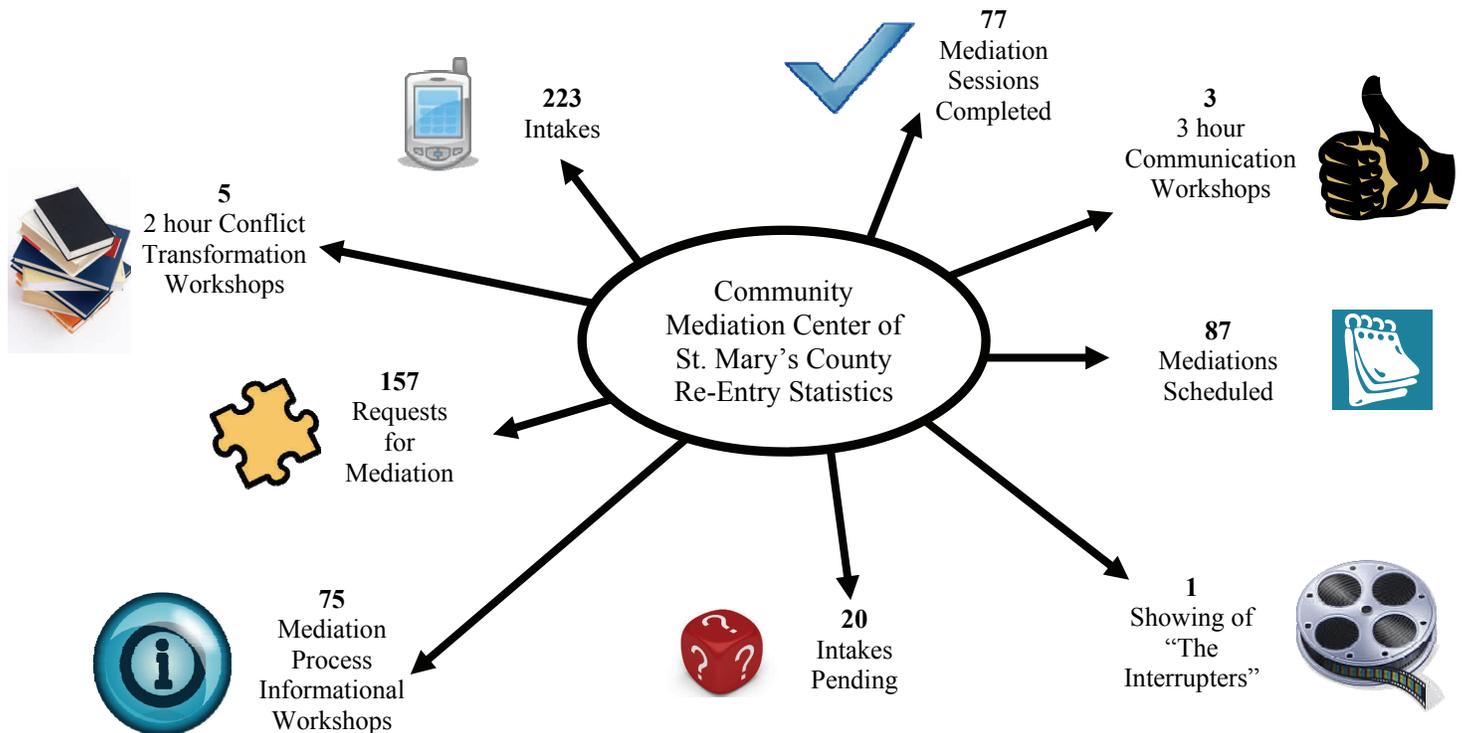
*Continued on Page 17*

# Partner Spotlight, *cont. from 16*

Through this conversation, the inmate decides who to include in the mediation. Inmates often select family members; however, some inmates have selected faith community leaders, former employers, or friends who they believe can have a positive influence in their life. These mediations address critical interpersonal conflicts that will affect the relationship of the inmate, upon release, with key members of the community.

In addition to the outreach for inmates at the detention center, we also do outreach with inmates’ visitors during visitation nights. This provides another avenue for setting up mediation sessions with inmates and their visitors. When they become aware that an important individual in their life is interested in participating in mediation, the inmate is very likely to agree to participate as well. Cases are usually scheduled for mediation within two weeks of receiving a referral. All mediations are held in a private room where conversations remain confidential.

Post release mediation services are also available at the CMCSMC office as a follow-up to services offered in the jail. We also provide mediation after incarceration at the CMCSMC office for those not able or interested in mediating in the jail setting.



Our outstanding statistics could not have been possible without committed volunteers from the CMCSMC. Our re-entry mediation team is comprised of a group of mediators with diverse backgrounds, ranging from nurses to former law enforcement personnel to stay-at-home moms. All have one common goal: to offer the participants the opportunity to have a meaningful conversation about issues of importance for them to develop stronger relationships.

Every thriving partnership must have a “champion” supporter in the organization with which they are working. Our champion at the detention center is Commander Merican, who has truly fulfilled his commitment to this endeavor. **Captain Deborah Diedrich, Lieutenant Sarah Norris,** and the detention center staff have also provided wonderful support to make this program a reality. In 2012, CMCSMC honored Commander Merican with the “Meaningful Measure Award” for his commitment to re-entry mediation at our 5th Annual “We’re Looking for Trouble” 5k Run/Walk and Kids Fun Run.

It’s so exciting to see how successful our program has become in such a short period of time. Post mediation surveys indicate how valuable this experience is for all participating parties. We look forward to many more years of joint service with St. Mary’s Detention Center and hope the re-entry program continues to grow and make a difference in our community.

# ADR Research: At a Courthouse Near You

By Toby Treem Guerin & Haleigh LaChance

*This is the third in a series of articles providing information and updates on the statewide ADR research project undertaken by the Maryland Judiciary and specifically, the impact and involvement of the District Court ADR Program. As described in earlier articles, the study consists of three main components: cost-benefit analysis, efficiency-effectiveness analysis, and an ADR Landscape.*

## COST-BENEFIT ANALYSIS

In the District Court the study involves a direct comparison between cases in Baltimore City which go to ADR, and those which are not offered ADR. If an ADR practitioner is present on a day of trial, the researchers shadow them and observe any ADR sessions they conduct and survey the litigants in the case. If no ADR practitioner is present, the courtroom clerks select cases using the same criteria they would for ADR, and researchers survey the litigants before and after their trial.

With this comparison, the short-term and long-term outcomes of the case — the litigant's satisfaction with the process and outcome, the costs they paid, their attitude toward the other party and the court, their relationship with the other party, their sense of justice and fairness, etc. — can be directly compared between cases utilizing ADR and those which did not.



## ADR LANDSCAPE

The ADR Landscape provides an overview of the ADR programs in each jurisdiction throughout the state. In total 54 interviews were conducted of over 70 ADR programs. In the District Court all of the regional ADR programs directors and the executive director participated in the interview process. When complete, the ADR

Landscape will detail the variety of practices throughout the state.

Even though the various District Court ADR programs operate under the umbrella of the District Court ADR Office, each have some nuances that cause them to operate somewhat differently. Each jurisdiction is unique and therefore customizes the program to meet the needs of the court and the litigants. The main areas of difference among the programs include the method of referring cases to ADR, the availability of ADR (how often it is offered at a courthouse), and the use of pre-trial mediation. The interviews also demonstrated the high value the District Court ADR Program places on program evaluation and quality control. This is evidenced through the consistent use of participant surveys in all ADR processes, mediator apprentice process, and periodic observations of ADR practitioners.

## EFFICIENCY - EFFECTIVENESS ANALYSIS

This part of the study involves a comparison of different types of ADR, different program structures, and different ADR strategies. While cost-benefit analysis broadly examines the outcomes of cases which used ADR, this portion of the study digs deeper and tries to connect which particular strategies used in the ADR session lead to which outcomes. Such an analysis allows for targeted best practices and examination of the types of cases in which certain strategies may be most effective.

*Continued on page 19*

# ADR Research, *cont. from 18*

## STATUS

As of the end of February 2013, approximately 50 ADR cases and 20 control cases have been surveyed and observed in the Day of Trial program. The research team has begun observations in Montgomery, Calvert, and Wicomico Counties in addition to ongoing research in Baltimore City. During that time, we've met additional volunteers, court staff, and new program directors. As we start in each new county, we work to tweak our process to each individual courthouse and program. Our team is committed to being as unobtrusive as possible, and we've found that what works well in one courthouse may or may not be unobtrusive in another courthouse.

Over the same time period one hundred family and criminal cases have also been observed in other courts. Observations will continue for approximately one more year, with an eventual goal of observing 200 ADR cases and surveying 100 control cases.

Many volunteers in those counties where we observe have become used to seeing researchers present each time they provide ADR. We would like to extend our sincere

thank you to all volunteers, for both your commitment to the ADR program and your willingness to allow the researchers to observe you. Each ADR provider and session we observe adds valuable data to our growing collection and provides for deeper and more nuanced results. It is our hope that these results offer practical and helpful information to both ADR practitioners and ADR programs.

The ADR Landscape is currently in the draft stage. Once complete, it will be accessible through the research website.

*Have questions or feedback to report? See our website at [www.marylandADRresearch.org](http://www.marylandADRresearch.org) for a history of the project, frequently asked questions, and contact information for all researchers and project leaders.*



In a gentle way, you can shake the world." - Gandhi!

# Ethics Corner, *cont. from 15*

A mediator may cite the Agreement to Participate Confidentiality statement, the Title 17-105 Confidentiality, and/or the Standard of Conduct for Mediators, when "on the witness stand" as to why s/he will not answer questions about the mediation.

But, what if the judge disagrees and orders the mediator to answer the questions? This office recognizes that a mediator may be in 'contempt of court' if they do not answer questions after the judge has ordered a mediator to do so.

Should you answer the questions directed to you, or do you reiterate the Confidentiality Rule in 17-105 and refuse to testify? An additionally challenging question is, would it change your decision if you learned that your testimony might be the only information preventing the individual in question from being prosecuted for the crime alleged? (Keep in the mind the information shared in mediation was that 'the allegations of the crime alleged were falsified').

Have you asked yourself what are you 'risking' by testifying at this point? Are you concerned with protecting the confidentiality of the mediation? What about protecting yourself from an allegation of mediator negligence or mediator misconduct if you did testify to something that is confidential? And further, have you thought about in what scenarios you would 'talk,' aside from an exception to confidentiality? The answer may be that there are no scenarios in which you would breach confidentiality, and/or testify about what was said or done during a mediation other than those listed as exceptions to confidentiality in the Rules. The purpose of raising these questions is not to challenging your response, but to get you thinking about these scenarios. And while we can't plan for everything, the more we think through these situations, the better we understand the decisions we are, or anticipate, making.

## JOIN THE CONVERSATION

We want to hear from you! Please share with us your opinion, response, or question(s). And, share with us any scenario you want to see discussed and published in future editions of this newsletter. Share with us at [maureen.denihan@mdcourts.gov](mailto:maureen.denihan@mdcourts.gov).



# Quick Bits

Compiled by ADR Office Staff



Rachel Wohl, Esq.  
MACRO Executive Director

- Congratulations to **Rachel Wohl, Esq.**, Executive Director of the Mediation and Conflict Resolution Office (MACRO) for receiving the Maryland State Bar Association ADR Section Chief Judge Robert M. Bell award. This award is given to an individual who promotes the use of ADR in the Maryland judiciary, schools, government, and communities. The award will be presented to Rachel on May 2nd at the ADR Section Spring Dinner.

- **Chief Judge Robert M. Bell** is headed down the homestretch toward his “forced” retirement from his job as Chief Judge of the State of Maryland. CJB, who will turn 70 on July 6, 2013, is Constitutionally required to retire from full judicial service upon reaching his 70th birthday, although he may return to the bench as a retired judge. Chief Judge Bell has been serving the citizens of Maryland since his arrival on the District Court bench in 1975. It has been our privilege to serve in his judiciary. Please join us in extending our best wishes on all of his future endeavors.



Eileen Bannach  
MACRO Administrative Assistant

- The Access to Justice Commission awarded Community Mediation Maryland **and** the 17 community mediation centers for their phenomenal dedication and commitment to the field of ADR with the “Outstanding Program of the Year” award.
- It is with great pleasure that we welcome back MACRO’s Administrative Assistant, **Eileen Bannach**. Our thoughts and well wishes are with Eileen for a speedy recovery and what will be an easy and seamless transition back to her everyday duties.
- Congratulations to the Baltimore Ravens on their 2nd Super Bowl title this past February! Here’s to hoping for another one in the coming season. Until then we’ll cheer on the O’s and Nats!
- Some of the District Court ADR practitioners have recently been introduced to the new ADDRESS forms. If you haven’t seen these new forms in your location, stay tuned and watch your e-mail. Please forward all questions with regard to ADDRESS to Sarah Kauffman at [sarah.kauffman@mdcourts.gov](mailto:sarah.kauffman@mdcourts.gov) or 410-260-3741.



- The District Court ADR Office is happy to announce a new partnership with the Washington County Community Mediation Center for a Day of Trial program. We look forward to success and perhaps expansion to Pre-Trial and Peace Order mediation.
- **Lindsey Bradley** has recently been appointed the new Executive Director for St. Mary’s Community Mediation Center. All our best in this new position, Lindsey.

- The Center for Dispute Resolution at the University of Maryland Francis King Carey School of Law and C-DRUM founder **Professor Emeritus Roger Wolf** just celebrated their ten year anniversary this year. Best wishes for many more!
- Our office recently started a Pilot Peace Order mediation program with the Anne Arundel Conflict Resolution Center. The program will be operating in the Glen Burnie courthouse. The ADR Office worked with stakeholders to cultivate buy-in and create program details.

# Sidebar: Mandatory Judicial Retirement

By Jonathan S. Rosenthal

As noted elsewhere in this edition of “A Winning Solution,” Chief Judge Robert M. Bell will be retiring later this summer. In Maryland, as with many other States, judges are required to retire from full time judicial service upon reaching a certain age. In Maryland, that age is 70. Although it is often referred to as “statutory senility,” the provisions are actually in the Maryland Constitution, Article IV (multiple sections within Article IV). Even after mandatory retirement, judges in Maryland may continue to serve on a visiting basis.

Thirty-two states plus the District of Columbia have such provisions, although not all of them are in the state constitutions. The State with the oldest age at which retirement is mandatory is Vermont. Judges in the Green Mountain State must retire at the age of 90. In some states, a judge may finish a calendar year on the bench even after they have attained the mandatory retirement age. No state has a mandatory retirement age lower than 70. Eighteen states have no mandatory retirement age for judges.

Those who support mandatory retirement for judges contend that it is an easier path for judges who may

not be capable of serving because of physical or mental health issues rather than have their reluctant peers go through procedures to have these judges removed. Also, forced retirement clears the way for new jurists to join the bench, claim the retirement supporters.<sup>1</sup>

As recently as the 2012 Legislative Session, there was a bill introduced to raise the mandatory retirement age for Judges in Maryland from 70 to 72. One purpose of the bill, as described by House Judiciary Committee member Joe Getty, is to save some pension funds.<sup>2</sup> The last time a Constitutional Amendment was put to Maryland voters was in 1994 when it was proposed that the mandatory retirement age be increased to 75. The Amendment was rejected by Maryland voters 51.7% to 48.3%.

Interestingly, the Supreme Court and other federal benches have no such mandatory retirement requirement. Federal judges are appointed for life by the President with confirmation by the United States Senate.

<sup>1</sup> [www.phillyburbs.com](http://www.phillyburbs.com), April 25, 2013

<sup>2</sup> [MarylandReporter.com/2012/03/22](http://MarylandReporter.com/2012/03/22)

## Save The Date

### UPCOMING CONFERENCES

#### Center for ADR Annual Conference

“Managing Conflict & Removing  
Barriers to Collaborative  
Decision Making”  
June 13 & 14, 2013  
Greenbelt, MD

[Click here to find out more information.](#)

#### Maryland State Bar Association Annual Meeting

June 12– 15, 2013  
Ocean City, MD

[Click here to find out more information.](#)

# District Court ADR Office 2012 By the Numbers

5,150.74

**Total Number of ADR Practitioner Volunteer Hours in 2012**



**Total Number of ADR Staff Members**



**Day of Trial Dockets in One Week Statewide**



**New Volunteers Oriented in 2012**



**District Court ADR Office Partnerships with Community Mediation Centers**



**Current Number of District Court Day of Trial ADR Practitioners**



**Total Number of Cases referred to District Court Day of Trial ADR Practitioners (Mediations and Settlement Conferences)**



**Number of District Court Judges**

**District  
Court  
ADR  
Office  
Word  
Scramble**

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SARBOVONTIE    O \_ \_ \_ R \_ \_ T \_ \_ N

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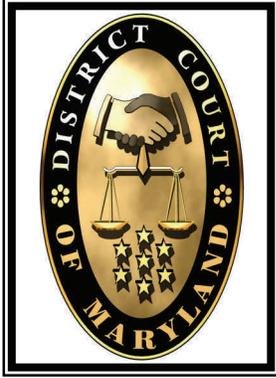
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EVICSILUN       \_ \_ C \_ U \_ \_ V \_

**District Court of Maryland ADR Office Staff**

Jonathan S. Rosenthal, Esq. <a href="mailto:jonathan.rosenthal@mdcourts.gov">jonathan.rosenthal@mdcourts.gov</a>	Executive Director
Maureen Denihan, Esq. <a href="mailto:maureen.denihan@mdcourts.gov">maureen.denihan@mdcourts.gov</a>	Deputy Director
Shannon Baker <a href="mailto:shannon.baker@mdcourts.gov">shannon.baker@mdcourts.gov</a>	Regional ADR Programs Director Baltimore City, Harford
Tracy Culbreath <a href="mailto:tracy.culbreath@mdcourts.gov">tracy.culbreath@mdcourts.gov</a>	Administrative Assistant
Leona Elliott <a href="mailto:leona.elliott@mdcourts.gov">leona.elliott@mdcourts.gov</a>	Director of Roster Management
Cindy Faucette <a href="mailto:cindy.faucette@mdcourts.gov">cindy.faucette@mdcourts.gov</a>	Regional ADR Programs Director Baltimore Co., Carroll, Frederick, Howard, and Washington
Sarah Kauffman <a href="mailto:sarah.kauffman@mdcourts.gov">sarah.kauffman@mdcourts.gov</a>	Data Management & Public Info. Coordinator
Nancy Kreitzer <a href="mailto:nancy.kreitzer@mdcourts.gov">nancy.kreitzer@mdcourts.gov</a>	Regional ADR Programs Director Calvert, Charles, Prince George's, St. Mary's
Kate Quinn, Esq. <a href="mailto:kate.quinn@mdcourts.gov">kate.quinn@mdcourts.gov</a>	Regional ADR Programs Director Anne Arundel, Montgomery





## 2013 Calendar of Events

### District Court ADR Office

251 Rowe Boulevard  
Suite 307  
Annapolis, MD 21401

Phone: 410.260.1676  
Toll Free: 1.866.940.1729  
Fax: 410.260.3536



#### Quote Corner

*"Ideas shape the course  
of history."  
John Maynard Keynes*

Visit us on the web!

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

#### Calling for your **BEST Practice Tip!**

Send it in and we'll share it with others, and of course 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](mailto:sarah.kauffman@mdcourts.gov).

Photos by Jonathan S. Rosenthal unless otherwise noted.

### April

#### 2nd—Orioles Opening Day, Go Birds!

3rd– 6th—ABA Section of Dispute Resolution Conference, Chicago, IL

9th—Conflict Resolution: Unleashing the Secrets, Gaithersburg Training Center, Room 402, Montgomery College, Gaithersburg, MD

19th—Strategic Negotiation Skills, Gaithersburg Training Center, Room 402, Montgomery College, Gaithersburg, MD

26th—The ABCs of Agreement Writing for Mediators, Gaithersburg Training Center, Room 402, Montgomery College, Gaithersburg, MD

### May

2nd—Maryland State Bar Association (MSBA) ADR Section Spring Dinner

7th—MPME Self Awareness Task Group Meeting, MACRO, 4pm—6pm

8th—Mediator Ethics: Self Determination, Careers Building, Room 253, Anne Arundel Community College, Arnold, MD

21st—MPME Mediator Confidential, Teleconference, 12pm—1pm

27th—Memorial Day (Courts Closed)

### June

1st—Community Mediation Maryland (CMM) Annual Gala, Arnold, MD

4th—MCDR Quarterly Meeting, Prince George's Community College, Largo, MD

4th—MPME Self Awareness Task Group Meeting, MACRO, 4pm—6pm

12th– 14th— Center for ADR Annual Conference, "Managing Conflict & Removing Barriers to Collaborative Decision Making," Greenbelt, MD

12th—15th— MSBA Annual Meeting, Ocean City, MD

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