

Hail to the Chief

An Interview with Chief Judge Robert M. Bell

Ramona Buck, Public Policy Director at MACRO

Chief Judge Robert M. Bell initiated both the Maryland Alternative Dispute Resolution (ADR) Commission and MACRO, and now oversees MACRO and its work to promote and support conflict resolution efforts around the state. A native of Baltimore, he has served at every level of Maryland's judicial system over the past 30 years and is Maryland's first African American chief judge. After graduating from Morgan State College and Harvard Law School, Judge Bell was admitted to the Maryland Bar in 1969. In 1975, he became a District Court judge in Baltimore City. Subsequently, he served as a judge of the Circuit Court for Baltimore City and on the Court of Special Appeals. In 1991, he was appointed to the Court of Appeals of Maryland. In 1996, he was elevated to Chief Judge by then Governor Parris Glendening.

This interview with Judge Bell occurred in his chambers in the historic Courthouse East building at 111 N. Calvert Street in Baltimore City.

Can you comment on your support for access to justice issues for the community at large?

As the judicial branch of government, that is what we should be about—ensuring that our Constitutional mandate is fulfilled. Referring court cases to ADR is one aspect of the mandate, as is, for example, publicizing the availability of law libraries to the public. To the extent that people pursue alternatives to trials,

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Posters Promote Mediation

Jonathan Rosenthal, Court ADR Resources Director

When you have a conflict with a person or a business, what do you do? More to the point, what does a member of the general public do when faced with a conflict? One of the first reactions we often hear from people is that they file a lawsuit. Many practitioners in the conflict management world would prefer for people to consider mediation first, understanding that going to court is still an option if needed.

If mediation is to gain prominence in our society as an early reaction to a conflict, more must be done to publicize it as a feasible and useful

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Rachel's Notes

Mediating Mindfully

Some time ago, MACRO's Deputy Executive Director, Lou Gieszl, was approached by a woman as he was leaving the Baltimore City Community Mediation Program on Greenmount Avenue. The woman gave Lou a furtive look and asked curiously, "What's it like in there?" Lou, a bit bewildered, tried to describe the community mediation center's office, and then the woman looked confused. She said she had expected "lots of candles and people sitting cross-legged on pillows with their eyes closed."

This woman was not the first person to mistake "mediation" for "meditation," and now it appears that the two processes have good cause to be linked. Mindfulness meditation, which is the deliberate practice of paying focused attention to what is actually happening in each moment, is increasingly being taught to and practiced by mediators, lawyers, law-students, and others.

For the past few years, there have been workshops on mindfulness and mediation at the annual conferences of the Association for Conflict Resolution (ACR) and the American Bar Association's Dispute Resolution (DR) Section. Law students at Yale and Columbia law schools have gone on specially designed meditation retreats, and mindfulness is being taught on the campuses of Stanford, Missouri-Columbia, Hastings, and several other law schools.



More than 50 lawyers from the Boston law firm of Hale & Boggs have taken extensive mindfulness training, and there have been many other corporate programs such as those at Monsanto and BSAF. Mindfulness training has also been used by athletic organizations, including the Chicago Bulls and the L.A. Lakers, and for many other kinds of professional groups, organizations, and individuals.

Benefits commonly reported by people who meditate include stress reduction, as well as improved concentration, self-awareness, and compassion for others.

Interesting brain research is being done at the University of Wisconsin and elsewhere, studying the brains of people who have been meditating regularly for more than 30 years. To their surprise, research neurologists, using functional magnetic resonance imaging (fMRI), found that these meditators could, at will, increase the electrical activity in the parts of their brains correlated to "happiness." In fact, the meditators were able to increase this electrical activity to levels that the researchers had not previously known existed, and were able to do so repeatedly for sustained time periods.

In March, MACRO sponsored a day-long seminar in Annapolis for about 40 mediators called "Bringing Mindfulness to the Table: Through the Mediator's Looking Glass." The purpose of the seminar was to teach mediators some simple mindfulness meditation techniques and



Rachel Wohl,
Executive Director

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Mediation: Who Pays?

Compared to many other professionals, mediators are called upon to volunteer extraordinary amounts of time. I suggest that the time has come to reverse the trend, and that *pro bono* mediation programs might contemplate a shift to the next phase, in which professional mediators are compensated. By supporting fee for service, our profession will be able to maintain the highest quality standards of mediation and ensure that mediators are recognized for their professionalism.

If mediation is to assume its rightful place, there are three questions that need to be addressed.

I. Is the process of mediation a valuable service?

Those of us who have devoted a career to the field of mediation firmly believe in its process and value to society. We repeat the mantra: "Mediation saves time, money, and emotional aggravation." There are numerous reports that support the cost savings for our society, the courts, and federal or state agencies. Still, there is a proliferation of programs around the country that rely upon volunteer mediators. Many of these programs are outstanding and offer excellent value both to the public and to the new mediator seeking to gain experience. However, if the service is always given for free, the implication is that it may not be worth paying for.

II. Should mediators be paid for their services on a professional basis?

There is a fundamental dilemma in the field of alternative dispute resolution in general, and in mediation in particular. On the one hand, a mindset has developed in which mediation is expected to be *pro bono* in order for the mediator to be viewed as neutral. On the other, we insist that mediation is a valuable service and the status of a mediator should be professional. We are sending the public and the rest of the profession a mixed message. If our goal is to educate the public about mediation, to promote

and grow the field, then by offering *pro bono* mediation, we may be educating the public to undervalue mediation, thereby doing the profession a disservice.

I am affiliated with a program that has been criticized for paying the mediators "too much." Unlike other programs, mediators are compensated for time spent on administrative responsibilities, which include communications, agreement writing, follow-up, travel time, gas, photocopies, telephone, and cancellations. In fact, rather than being paid "too much," the mediators in the program are compensated appropriately.

III. Who should pay for mediation?

Theoretically, both parties should pay for mediation. Payment reflects a buy-in to the process. In a free society, we are expected to pay for goods and services and most of us believe that you get what you pay for. One program I mediate for, which has been supported by grant money, began to charge the parties a set fee when the grant money ran out. There was uneasiness about whether the parties could afford to pay and whether they would participate in mediation. In fact, the percentage of parties who kept their appointments, took the process and time seriously, and settled, was significantly increased. The lesson learned was that even when parties say they can't or don't want to pay for mediation, they will pay for it. And, in the end, they will value it more.

I do not dismiss the fact that there are those who cannot afford to pay. There should be programs that offer free mediation, just as Legal Aid offers legal services to the indigent, but it should not be presumed that the parties won't or can't pay. I believe the time has come for mediators to



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courtesy Toyo Obayashi



ARBITRATION: Efficient and Economical Problem Solving

By Paul A. Dorf, Adelberg, Rudow, Dorf & Hendler, LLC

A business or individual facing a lawsuit may be crippled for years by the costs of litigation and valuable lost time. Even a favorable judgment is spoiled by memories of the financial and emotional price of that victory. There are options other than litigation, however, and some commentators are suggesting that lawyers are ethically required—and perhaps even liable for malpractice—for failing to advise clients of those options. The lawyer's responsibility to advise a client of options is analogous to the physician's responsibility to advise patients of alternatives to surgery.

Arbitration offers a speedy resolution for many types of disputed claims. In many cases, a claim may be resolved in hours, avoiding days or weeks of costly litigation. Arbitration clauses in contracts compel parties to use this alternative. Even without an arbitration clause, parties may simply agree to permit a third party to make either a binding or nonbinding decision regarding the issues in question. In some cases, parties may seek an arbiter without an attorney.

Arbitration requires the arbiter to render a verdict on the issues presented as the sole judge of the law and facts. In binding arbitration, the parties accept the judgment of the arbiter and waive the right to take the case to court or to appeal the verdict. In non-binding arbitration, the arbiter's decision is advisory only.

The advantages to the arbitration process are clear:

- The process is relatively informal.
- There is no jury.
- Settlement is reached quickly, perhaps in a matter of hours.
- The costs are reduced due to the shortened process.
- The parties select who will preside over the case.

In what types of cases is arbitration most effective? Appropriate cases for arbitration include auto-related personal injury and other personal injury or property loss

matters. Breach of contract and professional malpractice also are appropriate for arbitration. Arbitration may be desirable for employer/employee disputes, including wrongful discharge and sexual harassment, where privacy is sought.

There are three types of binding arbitration from which the parties can choose: "open-end," "baseball arbitration," and "high/low." The parties decide upon the type at the outset of the process.

In "open-end" arbitration, the parties submit a dispute for a decision that can relate to liability and/or damages. The arbitrator will decide the question of liability and award any amount as damages.

"Baseball arbitration" is a procedure that calls for each of the parties to submit a figure to the arbitrator, who must then choose one of the proposed amounts and not a figure in between. Each party's task is to convince the arbitrator that the sum presented represents the correct position—similar to the arbitration of baseball players' contracts with clubs. The figure is based on proof, facts, and statistics presented by both sides.

Another alternative, "high/low" arbitration, is very effective for insurance claims, and one that seems quite appealing to plaintiffs and defendants alike. Here, the parties avoid any surprise awards by setting maximum and minimum ranges within which the final award must fall. The plaintiff determines the minimum; the defendant determines the maximum. They agree that any figure the arbiter awards between the two amounts must be accepted and is binding.

When considering arbitration, it is important to weigh the risks of the litigation (time, cost, and award risks) against those of arbitration to carefully determine the best option for a particular situation.

Court-Ordered Parenting Mediation: It Works

As the couple entered my office, I saw a tearful woman and a grim-faced man. These clients had been ordered by the court to attend two free-of-charge, mediation sessions, each two hours long. They wanted to resolve disagreements over parenting issues with regard to their nine-year-old son who has ADHD (Attention-Deficit/Hyperactivity Disorder). The mother was seeking sole residential custody and sole legal custody; and the father was seeking shared residential custody and shared legal custody. The temporary access schedule, which had been negotiated by attorneys, gave the father alternate weekends with his son. The father had left the marital home six months earlier.

I explained to both parents that the mediation would address parenting issues, and that financial and property matters would not be discussed. I told them that the mediation was to address their child's needs and that my role was to facilitate their communication. I emphasized that I would not make decisions for them, that they would each have an opportunity to speak individually with me later in the session and that there would be no pressure to reach an agreement. As they began speaking about their son, it was obvious they cared deeply for him, and both described him using similar phrases with the other nodding in agreement.

Most people coming to court-ordered mediation are afraid and angry. They are afraid of losing their children and angry with the other parent. Each blames the other for being in court and for the pain associated with the situation.

When people mediate privately, they are more likely to expect the mediation will result in an agreement. When people are ordered by

the court to mediate, they expect it to fail, to be a waste of time. When they succeed in reaching an agreement, they are surprised, appreciative, and relieved.

Parenting mediation began in the Circuit Court for Montgomery County in 1985 as a pilot program using interns from Catholic University, in which I served as a supervisor. Over the last 20 years, it has evolved into a permanent staff of mediators in the Court's Family Services Division. Our mediators have a 60 percent success rate in agreements reached, and our client evaluations have always been extremely positive. Here are two representative comments from last year's evaluations: "We both came to agree on issues I thought could never be settled. I recommend this to all parents," and "Excellent, fair, with a thorough understanding and focus on our child. A great job. Not enough words can express my gratitude."

Given the combative attitude of court-ordered mediation clients, the mediator achieves success only by helping parents to focus on their children. By building on the positive love and devotion they share, mediation can

lead parents to better methods of communication and to consider carefully the impact various proposed plans will have on their children. In Montgomery County, our mediators are aided by a co-parenting skills enhancement program. Parents are ordered to attend two such sessions. These classes are provided by the Court and are scheduled prior to the mediation.



courtesy Shirley Seymour

L-R: Sara Kraskin, Lili Bermant, George Spangler, Shirley Seymour, Melissa Henderson, mediators for the Circuit Court for Montgomery County.

Interview with Chief Judge Bell, cont. from p. 1

court time is freed up. Also, if people who use ADR are satisfied with the process and they get what they are looking for, at the end of the day, that is even better. I have always thought that people reaching their “own deal” is better than having a deal imposed upon them.

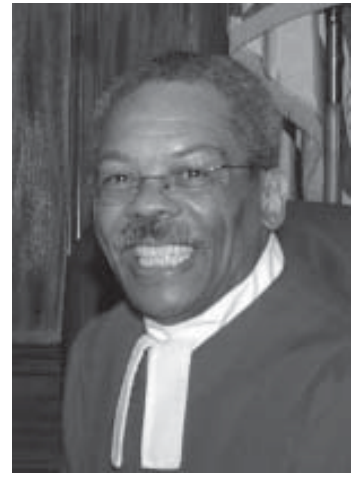
Can you comment on early experiences you had with ADR?

ADR has been around for a long time, particularly with regard to arbitration and settlement conferences. I participated in settlement conferences as a trial judge in civil and family cases. I have always thought people should talk to each other about their cases and I never thought it was my job to tell people what would happen if they were to go to trial, although I knew that sometimes people needed guidance. I held settlement conferences when I was on the Court of Special Appeals, but I was always much more interested in the concept of helping litigants reach resolution themselves. That is the central tenet of ADR processes such as mediation.

What do you hope MACRO will focus on in the future?

We need to continue looking at the area of education and continue to focus on young people. The earlier a person can learn to resolve his or her disputes, the better. If we can get the citizenry thinking of conflict resolution methods other than court, we will be better off. It is good that MACRO operates in so many different arenas in the state (courts, criminal and juvenile justice, communities, schools, government, etc.), but we should consider whether there are more areas that need assistance, or whether some categories should be further broken down to form more specific, discrete sub-categories. It is also important for us to remember that MACRO is a national model. We need to keep this in

mind as we continue to be a resource for people all around the state.



courtesy MD Judiciary

As you look back on your own civil disobedience as a young person and think about your experience on the bench since then, have your views on civil disobedience changed at all?

(Ed. Note: In the 1960s when he was the president of the Student Council at Dunbar High School, Judge Bell and 11 others were arrested when they were refused service at a segregated Baltimore restaurant and conducted a sit-in. They were convicted of trespass and appealed to the Court of Appeals of Maryland and to the United States Supreme Court. *Bell v. Maryland* was an important civil rights case, and signaled the end of de facto racial segregation in Maryland.)

My views on civil disobedience have not changed. There will always be a need for people to look to their consciences to see if they need to do something which is extraordinary. We can never forget what we are really all about. When I performed my act of civil disobedience and was arrested, I didn't think about the possible consequences for me later in my life.

But, of course, when I applied for law school, the issue of the consequences was presented, my criminal history became relevant to character, as a factor bearing on whether, or not, I would be accepted for law school. I have concluded that when one considers an act of civil disobedience, the main question he or she needs to ask is: “Should I follow this unjust law or take an action to challenge it?” It must be understood, however, that whenever that question is answered in favor of not following the law, there may be consequences, which will have to be accepted.

How do you think Maryland is doing in promoting an acceptance and understanding of a multi-cultural, multi-racial society?

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Interview with Chief Judge Bell, cont. from previous page

As I think back on the two “We Are One Community” events supported by MACRO—the one in Howard County and the other in southern Maryland—I can’t help but recall my thoughts at the time, that the events were not as well-attended, and did not reflect as much diversity as I would have liked or expected. Below the surface, there are some issues of diversity that don’t get discussed. There is a tendency to distrust those who are different from us. We have to learn to understand that people who are different from us are people too and respect that difference. We should not draw lines and circles and treat some people differently.

How has Baltimore changed?

When I was growing up in Baltimore, it was segregated. There were ghettos. I could go to the black movie theaters, of course, but I couldn’t go downtown to a movie or to a restaurant. The schools were segregated, too. Although after *Brown v. Board*, in 1954, it was announced that the schools would be desegregated beginning with the September term, they really weren’t. A small number of black kids were transferred to City, Poly, Western, and Eastern, for example, but, for the most part, the black schools remained black.

Now, things have changed considerably in this regard. There are black politicians as well as white; there are black superintendents of schools and black people in business. Now, you will also find black people living all over the city. There has been a lot of change as far as the face of the city goes. The downtown area which used to be vibrant but fell into disuse has been replaced by shopping malls. The smelly harbor has been replaced by Harbor Place. There are now many condos and townhouses by the water.

The city has changed in other ways too. There are many young people who are not doing well, the school dropout rate being way too high. There remain a tremendous number of problems for Baltimore to solve.

What are some of the reasons for your success—some things that have helped you along the way?

I was fortunate to have had strong role models. One of the most important was my mother, who had a strong pervasive sense that we had to do well and to live up to a high standard. Even though she had a very limited education, she was always pushing me to succeed, to go to college. She emphasized that I had to attend school with no cutting, get my homework completed every day, and earn good grades. She modeled for me the need to work hard. I also had some really extraordinary teachers, who helped and guided me. I also had a bit of luck. There were others in my high school class who were smarter than I, but didn’t have the opportunities that I did. I received scholarships both to college and to law school. I was hired by a law firm after law school and the rest is history (Ed. Note: the firm was Piper and Marbury).

What is particularly satisfying to you from your view now in your position as Chief Judge?

I am grateful for the opportunity to be able to serve the people of the state, and to attempt to bring what has been promised to them: access and justice. I appreciate the opportunity to help make the decisions to enhance that goal. I acknowledge, and accept that there are also a lot of tough aspects to my position.

Thank you, Judge Bell, for making the tough decisions and for being such a wonderful role model for all of us.

Interns Documenting Success Statewide

This summer, MACRO's staff temporarily doubled in size thanks to the enthusiastic support of six stellar college interns. All aspiring conflict resolution professionals with impressive academic records, our first class of summer interns studied various MACRO-sponsored projects across the state, meeting with leaders in Maryland's mediation community, and documenting wonderful "success stories" and "lessons learned."

All of the interns were mentored and supervised by MACRO's illustrious Public Policy Director, Ramona Buck, whose brainchild the internship program is. The interns met as a group with Ramona from time to time and, then, worked independently on projects that reflect their background and interests. Below is a quick summary of who the interns are and what they are doing:

Craig Nemecek of Marriottsville, a graduate student at the **University of Baltimore Center for Negotiations and Conflict Management** and full-time insurance agent, studied court mediation programs with regard to personal injury cases in different parts of the state. He talked to mediators, attorneys, and insurance representatives and planned to observe at least one personal injury mediation session. Our hope is that his work will help MACRO to inform courts throughout Maryland about possible uses of mediation in personal injury cases.

Anjanie (Anjie) Sewsanker of Cockeysville, an undergraduate at **Towson University** and part-time hospital emergency room/admissions representative, studied Child in Need of Assistance (CINA) mediation programs in several court systems. With CINA mediation programs developing rapidly statewide, Anjie tried to document the

unique approaches taken in various jurisdictions, documenting each program's history and successes. MACRO hopes Anjie's work will help circuit courts throughout Maryland as they consider creating new, or expanding existing, CINA mediation programs.

Alison Jeanes of Maryland's Eastern Shore, an undergraduate at **Wheaton College** in Massachusetts, pursued her interest in public policy by assisting with an evaluation of the Department of Natural Resources' Tributary Strategies Collaborative. Alison was also involved in an ongoing MACRO-sponsored facilitation project regarding proposed operational changes at a rock quarry in Carroll County. Alison's efforts will help inform MACRO's work with government agencies by documenting participant perspectives on multi-party dispute resolution processes.

Kara Lieman of Fort Washington, a recent **Salisbury University** graduate with a degree in Conflict Analysis and Dispute Resolution, studied school-based conflict management. She observed some American Friends

Service Committee Help Increase the Peace training and became involved in the MACRO school conflict resolution partnership program with the University of Maryland Center for Dispute Resolution (C-DRUM) and the Maryland State Department of Education (MSDE). Kara contacted schools that have received support to collect success stories and to find out what advice the teachers and principals there might give to other schools. If possible, she will also talk to parents and students once school starts this fall. MACRO plans to use Kara's research in its work with schools across the state.

Ruth Rogers of Gambrills, also a graduate student at the **University of Baltimore Center for Negotiations and Conflict Management**, studied community mediation. Working with direction from the Maryland Association of Community Mediation Centers (MACMC), Ruth gathered



courtesy Lou Gieszl

L-R: Kara Lieman, Alison Jeanes, Anjie Sewsanker, Craig Nemecek, Ramona Buck, Ruth Rogers, Cara Rockhill

Mediating Mindfully, cont. from p. 2

to begin exploring how mindfulness can be used in mediation. Two nationally acclaimed mediators, trainers, and authors came together to present the seminar: Professor Len Riskin, who teaches at the University of Columbia-Missouri Law School, and Ken Cloke, a well-known practitioner and writer. Riskin and Cloke both report practicing mindfulness meditation regularly to increase their self-awareness, to maintain equanimity in intense emotional situations, to get some distance from their habitual reactions, to listen to and connect more deeply with clients and others, and to improve their overall practice, relieve stress, and feel better. Reactions to the seminar were largely very positive, with numerous requests for more and lengthier training on this topic and on other cutting-edge dispute resolution developments.

As MACRO is involved in a statewide effort—Maryland Program for Mediator Excellence—to create a system to help mediators continually improve their mediation skills, it is an opportunity time to explore ways to improve mediators' personal qualities. More and more people in the conflict resolution field believe that certain personal qualities—such as being imaginative, compassionate, centered, and able to be fully present from moment to moment—are as critical to being a good mediator as training, experience, and strong technical skills.



This belief is captured in *Bringing Peace into the Room*, a collection of essays, published in 2003, written by several prominent mediators (including Marvin E. Johnson, one of MACRO's board members and a long-time participant in and advisor to our work), and co-edited by Daniel Bowling, who was the first CEO of ACR and former executive director of the national Society of Professionals in Dispute Resolution, and

David Hoffman, chair of the DR Section of the American Bar Association. One thread throughout the essays in the book contends that the quality of a mediator's "presence" (who one is, rather than what one does), as well as the mediator's self-awareness, authenticity and deeper sense of being, have a profound effect on the mediation process.

Harvard Law School's Program on Negotiations recently opened the Harvard Negotiation Insight Initiative (HNII), to research and teach mindfulness and other non-traditional sources of conflict resolution wisdom that can enrich our personal development and our work. We plan to follow HNII's work, to continue exploring developments in this fascinating arena, and, of course, to share what we learn on this path.

Interns, from prev. pg.

information about each community mediation center's governance in hopes of identifying some of the inherent challenges and benefits of various governing structures (i.e. government, university, private nonprofit, etc.).

Cara Rockhill of St. Leonard, a graduate student in Conflict Management at **Kennesaw State University in Georgia**, studied mediation quality assurance and program evaluation. She helped the Office of Administrative Hearings with a review of Maryland's special education mediation program. Cara followed up with mediation par-

ticipants and asked them about their experiences, the durability of their agreements, and their continued communication with other participants. MACRO hopes her report will provide valuable insights about the perspectives of mediation consumers.

At the end of the summer, the interns gave both oral and written reports for the MACRO staff and interested members of MACRO's Grant Review Committee. We at MACRO were very excited about this opportunity to collect new perspectives on the many and varied projects we have supported throughout the state.

Posters Promote Mediation, cont. from p. 1

concept, and as a first step in the course of a conflict, rather than as an afterthought.

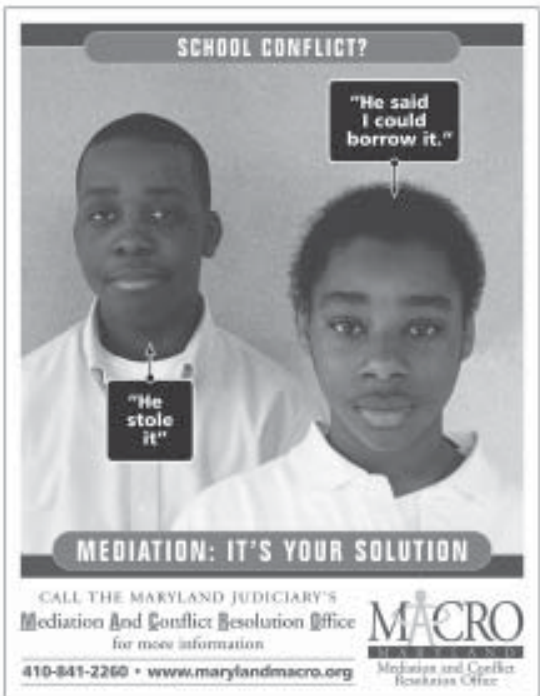
MACRO's Public Awareness Committee, chaired by Prince George's County Circuit Court Judge Melanie Shaw Geter, has taken on this challenge to help increase the public's knowledge and use of mediation. As part of the public awareness plan, MACRO has been developing a series of posters for use in a statewide campaign. There are now 24 posters, which include representations of conflicts such as family and custody, business, small claims, neighbor, community, school, and workplace.

The posters each state: "Mediation: It's Your Solution," and use humor to depict everyday scenarios that might benefit from mediation. The posters will be available in three sizes, ranging from a flier size (8- 1/2" x 11"), to a tabloid (11" x 17"), and a poster size (19-1/2" x 27- 1/2") and will be free to Maryland residents and organizations. Non-profit organizations, including community mediation centers, as well as courts and other government entities will be able to customize the text at the bottom of the posters to suit their respective programs.

Private practitioners and others in Maryland who want the posters will be able to place orders and will receive them with MACRO's contact information pre-printed at the bottom.

In addition to serving Maryland, the posters have received very favorable responses nationally, and they will be available nationwide at cost to those who order them.

Interested persons will be able to view all of the posters online, order them online, and have them shipped directly from the printer. A link for the ordering page will be on MACRO's web site, and plans are to have four ordering periods per year, which will help save on the cost of printing and shipping. Those who are interested may have the first opportunity to order posters as soon as this Fall. Then the posters may be seen in communities, schools and libraries, in government work locations, in courts, and in other high-traffic areas.



MACROSCOPE

FAMILY CONFLICT?

Works two jobs for the family

Wants him home for the family

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CUSTODY DISPUTE?

Wants a great relationship with both parents

Wants a great relationship with both children

Wants a great relationship with both children

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BUSINESS CONFLICT?

Didn't ask for "Orange"

Hair Color Specialist

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FAMILY CONFLICT?

Wants To Focus On Paying The Rent

Wants To Focus On Music Career

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SCHOOL CONFLICT?

"She promised to keep it a secret"

"Everyone already knew"

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MACROSCOPE

Issue #7

PB

September 2005

FAMILY CONFLICT?

Wants to run the family business

Doesn't want the family business run into the ground

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CUSTODY DISPUTE?

Wants a great relationship with both children

Wants a great relationship with both parents

Wants a great relationship with both parents

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SCHOOL CONFLICT?

"She owes me an apology"

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SMALL CLAIMS DISPUTE?

"He changed the price halfway through."

"She changed the job halfway through."

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FAMILY DISPUTE?

Talks and talks

Doesn't talk

Doesn't listen

Doesn't care

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COMMUNITY CONFLICT?

Can't agree on the meaning of "Bike Path"

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FAMILY CONFLICT?

Wants to keep family farm

Wants to sell family farm

Wants to keep peace in the family

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FAMILY CONFLICT?

"My mom's moving in"

"No, she's not."

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SMALL CLAIMS DISPUTE?

"She sold me a car with faulty headlights."

"I only drove it during the day."

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BUSINESS CONFLICT?

Promised to pay her over time

Expected to be paid overtime

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MACROSCOPE

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NEIGHBOR CONFLICT?

Bird Watcher

Duck Hunter

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NEIGHBOR CONFLICT?

Apt. 2A Professional Writer

Upstairs Apt. 3A Amateur Tap Dancer

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SCHOOL CONFLICT?

"She wants someone to blame."

"She wants to steal my boyfriend"

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NEIGHBOR CONFLICT?

Her dog jumps the fence

His dog is the reason why

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CUSTODY DISPUTE?

Wants a great relationship with both children

Wants a great relationship with both parents

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Meet New Staff



Eileen Bannach

MACRO is pleased to welcome Eileen Bannach, a Manpower employee, as its Administrative Assistant. Eileen retired from the federal government after working on Capitol Hill for many years, first in the office of Congressman Robert N. Giaimo, then at the House Budget Committee. After moving to Kent Island on the Eastern Shore, she returned to work as the office administrator for an investment firm and has worked as MACRO's Administrative Assistant since March, 2005. Her children are grown and she enjoys visiting with her grandson Austin and her new granddaughter Dakota Ann who was born August 1.



Cheryl Jamison

We are happy to have Cheryl as a new employee in a brand-new position: Quality Assistance Coordinator. She will be working on the Maryland Program for Mediator Excellence, the 2006 Maryland Mediators Convention, and many other projects. Cheryl developed and produced conferences and special events for organizations such as the Congressional Black Caucus Foundation and Time Warner. She was legislative director for a Congressman, research analyst for the Missouri House of Representatives and a management analyst for the DC Dept of Consumer and Regulatory Affairs. Her strong commitment to mediation lead her to the University of Baltimore's School of Law where she graduated in 2005. She looks forward to working with mediators around the state.

Upcoming Events

- Tools for Resolving Workplace Disputes: A Conflict Resolution Skills Seminar For HR and EEO Staff. Tuesday, October 18, 2005, Maryland Maritime Institute
- National Conflict Resolution Day. October 20, 2005
- Maryland Mediators Convention. Friday, December 1, 2006, Maryland Maritime Institute. (Please note – the Maryland Mediators Convention will not occur in 2005; and from now on, will be every other year)

Court-Ordered Parenting Mediation, cont. from p. 5

Our couple mentioned above can become constructive partners when the parents realize their child needs both of them and that they do not need to compete. The mother may admit that the father has been a constructive influence in sports and religious instruction, and the father may agree that the mother has been effective in organizing their easily distracted son. They become less fearful and more cooperative. The father realizes that the demands of his job would be difficult to mesh with parenting on weekdays, and the mother realizes that, in major areas of their son's life, she and the father are in basic agreement. They leave mediation with the mother having primary residential custody, and with both parents sharing legal custody. The access schedule was developed around both the parents' and their son's schedules.



Court-ordered mediation has changed dramatically in the last 20 years. In 1985, attorneys were highly skeptical, and our domestic relations masters did not have explicit authority to order parties into mediation. Today, court-ordered mediation is recognized by statute, and most attorneys are supportive of the mediation process. In 1999 the Family Division Services was created with a permanent staff of mediators.

One of our mediators speaks Spanish, and she exclusively serves the ever-increasing number of clients from Central and South America who are not fluent in English. Our Spanish-speaking clients have often expressed much appreciation for being given the opportunity to speak freely and be heard during a tense time for them.

While the issues to be settled remain basically the same over time, there have been other changes. Our clients are much more culturally diverse, and there has been an increase in "pro se" representation (people representing themselves). We also handle a greater proportion of highly contested cases today than in the early years. We attribute this to the greater awareness and use of mediation and other forms of dispute resolution that may occur early in the case. The remaining cases filed in court are therefore often the most contentious.

The responses to our client evaluations at the end of mediation sessions tell us that parties feel it is the first time since they entered the court system that they have had a chance really to be heard. They also reflect satisfaction with being able to communicate with the other party in a controlled atmosphere. Sometimes parties have not spoken with one another for weeks—or even months—prior to mediation.

Mediation seems to offer parties tangible evidence that the court is trying to help them. As they proceed through an adversarial system, mediation offers these parents a welcome haven for cooperation and positive interaction. As court mediators, we like to think that we are helping people help their children. And that, we believe, is what it is all about.



“Do as I Do – And as I Say”

MACRO Launches Mentoring Pilot Project

You have just completed your basic 40-hour mediator training class and you are considering your next steps. Your biggest concerns are:

How do I begin mediating? Can I hold myself out as a “professional” mediator? How do I know whether I am using the mediation skills that I have been taught? How can I continue to get feedback on my mediation?

You might consider seeking a mentor who can work with you on these issues and help you maneuver the beginning of your mediation career. In this regard, as part of the Maryland Program for Mediator Excellence (MPME), a task group has been working on the design of a formal mentoring program to help ensure mediator quality in Maryland. A six-month mediation mentoring pilot program was started with mediators from the Maryland Commission on Human Relations, the District Court of Maryland Alternative Dispute Resolution Program, and the Conflict Resolution Center of Montgomery County.

Description of the Pilot

At the beginning of the pilot, a coordinating committee was formed which included the mentorship task group and representatives of the three mediation programs mentioned above. The committee developed a statement of principles for the pilot. It reads as follows:

“The Mediator Mentorship Pilot Program was created by the Maryland Program for Mediator Excellence as a voluntary and collaborative relationship to stimulate and encourage the development of mediation skills for the mutual benefit of the Mentor and Learning Partner. The Mentor is a qualified, seasoned mediator who acts as a teacher, guide, counselor, role model, and friend to one or more new mediators. The Learning Partner (mentee) is a trained mediator who seeks continuing improvement of technical and ethical skills in the practice of mediation, and is willing to engage in performance-based assessment and learning.”

Consultant Juliana Birkhoff of RESOLVE offered a training program for both mentors and learning partners at the beginning of the pilot. At that time, there was a fo-

cus on what a good mentoring relationship is. Participants asked themselves: Is a mentor someone who knows your greatness more than you may know your own? Or, is a mentor someone who guides you through new areas of terrain? They thought about mentors in their pasts such as coaches, ministers, rabbis, a particular boss, teacher, parent, or friend. People considered why and how these mentors had helped them.

An important step in the relationship between the mentors and learning partners in all three programs was for the partners to get together to form an agreement or set of expectations. Issues that came up most often as areas to work on were: effective reframing; dealing with power imbalances; agreement writing; improving one’s ability to ask open-ended questions; and maintaining neutrality. With these goals in mind, the mentors and learning partners worked together on actual cases and established times when they could reflect and discuss the cases. They might debrief after each mediation session, or have coffee between sessions, or speak on the phone, or schedule dinner appointments.

During their partnership, the learning partners observed the mentors doing a mediation session. Then they co-mediated with the mentor on a case. Lastly, they took the lead in a mediation while being observed by the mentors. In this way, learning partners became increasingly responsible for the mediation, while receiving important feedback at each step.

The Learning Partners

After the program had been operating for a time, both learning partners and mentors were asked for feedback. The learning partners found the following elements of the program to be extremely helpful toward their development:



Mentoring Pilot, cont. from p. 12

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- ❑ Discussing the mediation process with an experienced mediator;
- ❑ Observing the mentor in the lead role;
- ❑ Reflecting back on actual mediations rather than on role plays;
- ❑ Learning to deal with real emotions and reactions;
- ❑ Receiving very specific feedback from their mentors; and
- ❑ Developing a relationship of trust with their mentors which was helpful for true learning to take place.

The Learning Partners had their challenges as well. They expressed the following concerns:

- ❑ The programs in the pilot already use a co-mediation model – so inserting a second mediator was a challenge.
- ❑ Sometimes it was difficult to match their expectations with their mentor's expectations.
- ❑ The paperwork was sometimes cumbersome, redundant, or confusing.
- ❑ There were not enough opportunities for mediation (these were mainly scheduling problems).
- ❑ Some thought they should have an opportunity to observe their mentor prior to agreeing to the partnership.
- ❑ Many suggested that an orientation program take place for the mentor and learning partners once the pairs are selected.

The Mentors

The Mentors had a slightly different perspective. Some of the positives were:

- ❑ Teaching what they practiced forced them to become introspective to describe what they were doing;

- ❑ Learning that there is more than one way of doing things was enriching as they had to pick up on their learning partner's style;
- ❑ Being able to help build their learning partners' self-confidence was fulfilling;
- ❑ Going through the process resulted in their seeing it as a valuable tool for the field as a whole, and not overly burdensome time-wise.

The Mentors had their struggles as well:

- ❑ There were scheduling problems trying to balance their time availability, their learning partners, and the programmatic scheduling needs.
- ❑ Some questioned whether three mediations are actually enough to judge and assess progress fully.
- ❑ Some found that learning partners' expectations were too high which put a bit too much pressure on the relationship.
- ❑ It was difficult to take the lead in the mediation and, at the same time, observe the behavior of the learning partner.

Next Steps

The Mentoring Program will be completed within the next month. By that time, each of the mentors and learning partners will have completed the minimum of three cases together. They will have evaluated the program, their goals, and whether or not, from their perspective, the program was worthwhile. At the same time, the Mentoring Task Group will consider all the feedback from the evaluations and observations and will develop a recommendation on the best way to integrate mentoring into the Maryland Program on Mediator Excellence.

Special Recognition goes to the following individuals for their participation in the Pilot Mentoring Program:

cont. on next pg.

Mentoring Pilot, cont. from p. 18

Consultant: Juliana Birkhoff, RESOLVE, Inc. Coordinating Group Members: Richard Alper; Ramona Buck; Daniel Miller; Merle Rockwell; Steven Shapiro, co-chair; Tara Taylor; Andrea Terry; and Toby Treem, co-chair.

Conflict Resolution Center for Montgomery County

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Jennifer Robinson
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Who Pays?, cont. from p. 3

encourage volunteer programs to shift the paradigm so that mediation is recognized as a full-fledged profession.

I propose that the courts and other agencies and organizations that employ administrators to run their programs—particularly those that use volunteer mediators—consider paying those mediators a fee after a certain number of volunteer hours. If administrators are compensated, then the mediators should be compensated as well. The cost should be viewed as any other court, agency, or organizational cost of doing business. By paying for mediation services, the message is simple: Mediation is valued.

It is important to remember that mediators who are serious about the profession spend hundreds of hours paying for training, and are then expected to volunteer many more hours to develop their skills. The field of mediation should help mediators make the important transition from unpaid volunteers to paid professionals, so that mediators are recognized for their skills and compensated on the basis of their experience, as they would be in any profession.

If mediators are not paid—and volunteerism is always expected—the field of mediation suffers. If the current trend isn't reversed, and the profession fails to achieve its rightful place in society, it is the mediators who pay for mediation!



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