

**JOINT ADR COMMITTEE**  
**Minutes**  
**December 16, 2008**  
**SBAND Office**

Committee members present: Rebecca Thiem, Chair; Janet Merrill; Janelle Moos; Joanne Ottmar; Kristine Paranica; Dr. James Antes (by phone); Judge Steve Marquart (by phone); Judge Jim Bekken (by phone); Jack Marcil (by phone); Steve Storslee (by phone)

Subcommittee members present: Janelle Moos; Darcy Einarson (by phone); Judge Lee Christofferson (by phone)

Also present: Cathy Ferderer; John Greacen; Marilyn Moe; SBAND staff Bill Neumann

The Chair called the meeting to order at 10:35 am.

Chair Rebecca Thiem asked the committee to consider the minutes of the March 6, 2008 minutes.

S. Marquart/J. Bekken—Motion to approve the minutes of the Committee's last meeting. Motion carried.

**ROSTER & CONTINUING EDUCATION REQUIREMENTS**

The Chair asked Marilyn Moe of the State Court Administrator's Office to report regarding maintenance of the neutral rosters, and continuing education compliance. Ms. Moe reported she has had no difficulty maintaining the roster and monitoring the continuing education requirement. On rare occasion a question will arise regarding the appropriateness of a particular continuing education course; when that occurs, she contacts committee staff to resolve the issue. Ms. Moe said the Appendix to Administrative Rule 43 sets forth the guidelines for training and continuing education course approval, and pointed out Section 2 of the Appendix gives the authority and responsibility to the Joint ADR Committee for approval of courses not automatically approved.

The Chair pointed out that while the present system of course approval has worked without problems, it does not comply with the language of the Appendix, and the committee has taken no action to delegate its authority.

J. Bekken/J. Antes—Motion to adopt a procedure requesting Ms. Moe to contact committee staff whenever approval of a course is required; delegating to the committee Chair, acting in conjunction with committee staff, authority to make determinations of approval; and requesting annual reports to the committee from Ms. Moe. Motion carried.

In response to a question, Ms. Moe reported the roster of mediators is still often used by parties and courts searching for mediators for a particular case, and is therefore still relevant, even though some experienced mediators do not bother to keep their names on the roster.

In response to a question from Ms. Moe the group discussed the different education requirements in the rules for arbitrators and mediators. Jack Marcil noted that arbitrators may come from many different work backgrounds, and are often chosen for their experience, knowledge and expertise in a particular field of work, and not for their educational background.

## **CODE OF MEDIATION ETHICS & ENFORCEMENT**

Kristine Paranica and Joanne Ottmar reported on the proposed Code of Mediation Ethics, and the proposed Code of Ethics Enforcement Procedure. The group discussed the proposed codes and suggested some small changes.

J. Ottmar/S. Marquart—Motion to circulate the proposed codes with the corrections and additions to the committee for final review and comment within three days, and if no further committee consideration is required to deem the codes ready for submission to the SBAND Board of Governors for review and comment, and then final submission to the Supreme Court. Motion carried.

## **FAMILY LAW MEDIATION PILOT PROJECTS**

The Chair asked Cathy Ferderer to address the group regarding the Family Law Mediation Pilot Projects. Ms. Ferderer introduced John Greacen, an

attorney for New Mexico and former court administrator, who has been retained by the Office of the State Court Administrator to evaluate the Supreme Court's family law mediation pilot projects. Mr. Greacen said an initial report will be submitted to the Court after six months, and a final report, measuring the impact on recurring court appearances, will be made after more than one year of operation of the pilot projects. Ms. Ferderer reported on the training efforts for the projects, and noted that though it is still too early to draw any definitive conclusions, satisfaction of the parties and settlement rates have been running close to 80%.

Mr. Greacen and Ms. Ferderer discussed study methodology with the group, the differences between the two pilot projects so far, and their plans to try to find the causes of the differences.

### **NEW PROJECTS**

The group discussed ambiguous language in Administrative Order 17, and this led to a broader discussion of the need to transform a mediated agreement into a court order, and the difficulty of accomplishing that when the parties are not represented by legal counsel. The committee discussed the possibility of preparing standardized forms for a motion to enter an initial order or judgment or amended order or judgment. It was noted the variety of contexts in which a family law issue might be mediated created a need for many different forms, complicating the drafting task. The Chair noted a special committee or task force that included a good deal of family law expertise would be required. No final decision was reached.

The meeting adjourned at 1:00 pm.

Respectfully submitted,

William A. Neumann, SBAND staff