

**COMBINED MEETING OF THE  
JOINT ADR COMMITTEE  
&  
FAMILY LAW MEDIATION SUBCOMMITTEE  
Minutes  
June 29, 2010  
SBAND Office**

Committee and Subcommittee members present: Chair Joanne Ottmar (by phone); Judge Steve Marquart (by phone); Sarah Bernhard (by phone); Darcie Einarson (by phone); Robert J. Schultz (by phone); Mary Ann Dunbar (by phone); Steve Storslee (by phone); Scott Porsborg; Janelle Moos; Kristine Paranica;

Also present: Cathy Ferderer, Director of the Supreme Court's Family Law Mediation Pilot Projects; SBAND staff Bill Neumann

Chair Joanne Ottmar called the joint meeting of the committee and subcommittee to order at 2:05 pm.

Judge Marquart/B. Schultz—Motion to approve the minutes of the June 29, 2009, and October 13, 2009, minutes. Carried.

The chair recognized the loss of members Janet Merrill and Judge Jim Bekken, and expressed the gratitude of the committee for their service.

The chair called on Cathy Ferderer for an update regarding the Supreme Court's Family Law Mediation Pilot Projects. Ms. Ferderer reported her office continued to gather data regarding the projects, and was working with John Greacen on new interim evaluations to be released in September. Ms. Ferderer said the apparent success of the projects to date has prompted the Court to expand their coverage statewide in August by adding the Southeast and East Central Judicial Districts. Mr. Greacen will continue to gather data and work on evaluations through the statewide expansion. The interim report released last fall showed 50% of participants had reached full agreement and another approximately 25% had resolved at least some of their issues. The interim report showed 90% approval/participant

satisfaction. Anecdotal feedback from judges and lawyers has been positive, and no large process changes have been required.

The group discussed utilization rates and early opt-outs in some areas. It was suggested these data might indicate a need to educate family law practitioners about the program. Ms. Ferderer reported an initial negative reaction from practitioners when the program was first introduced in judicial districts was common, and has usually been replaced by acceptance and positive attitudes as practitioners gained experience with the program.

Ms. Ferderer said her office will soon be advertising for mediators to serve in the Southeast and East Central Districts.

Ms. Ferderer said the Pilot Projects are trying to identify best practices for mediation when indications of domestic violence are present. She has contacted some of the local domestic violence programs in the state, and plans to form a best practices committee later this year. The pilot projects presently have an up-front domestic violence screening as part of initial intake, and are gathering data regarding whether participants feel safe in the mediation setting and process. Ms. Paronica said she has access to national resources for mediation when domestic violence has been presented, and would make them available.

At least a couple of instances were mentioned in which participants reported their mediators had failed to screen for domestic violence, and in which mediation was attempted despite a protection order having been issued. Ms. Ferderer said these problems would be addressed.

There was further discussion about organizing ways to address the issue of domestic violence.

The chair asked the committee to discuss the committee's role in the coming months. She asked if the committee identified issues that should be proactively addressed, or if the committee should assume a reactive role, awaiting further tasks from the Court or the Bar Association.

Judge Marquart asked if it might be appropriate for the committee to pursue promulgation of a rule similar to Minnesota's, authorizing courts to require ADR in some cases. Judge Marquart pointed out that, contrary to the assumptions of some, mandated ADR did in fact work. Ms. Paronica agreed

that experience showed that mandated ADR did result in resolution of disputes.

The history of the development of the Maryland ADR Commission was discussed. It was agreed such a comprehensive statewide program is an admirable goal, but that our state is far from being in a position to achieve such a goal anytime soon, and that much smaller initial steps should be contemplated at this point. The group discussed ways to try to identify such goals.

The group also discussed the committee's focus on court-annexed family law ADR versus ADR generally, and the history of the committee's focus was discussed.

After considering things like retreats and facilitated meetings, it was suggested that a face-to-face meeting was needed, that travel to Bismarck was a drawback for a face-to-face meeting, and that a facilitator probably was not required for the group's next meeting.

K. Paronica/S. Porsborg—Motion to authorize the chair to appoint a subcommittee, including the chair and Ms. Paronica, to plan and organize a self-facilitated face-to-face combined meeting of the committee and subcommittee in Jamestown, to develop an agenda and materials for the meeting, and to circulate the materials in advance of the meeting. Carried.

The face-to-face meeting is tentatively planned for September.

The meeting adjourned at 3:36 pm.

Respectfully submitted,

William A. Neumann, SBAND staff