

# A Winning Solution

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

December 2012 Volume 2, Issue 3

## ADR Office Begins Local Advisory Council Meetings

By Kate Quinn

The ADR Office works hard to build and maintain good working relationships with our many partners. Establishing and administering all of the ADR programs throughout the District Court locations around the State (consisting of Day of Trial mediation and settlement conferences, and Pretrial and Peace Order mediation programs) involves establishing and maintaining many different partnerships, with judges, court staff, community mediation centers and their volunteers, individual mediators, settlement conference attorneys and others. For the most part, each partnership is maintained separately, with meetings held and communications conducted between individual partners and ADR Office staff. Beginning last summer, the ADR Office added another approach to partnership communication by convening **Local ADR Advisory Council** meetings in each of the Districts where there are Day of Trial ADR programs.

The purpose of the meetings is to bring all of the stakeholders in a given program together to take a closer, more focused look at how the programs operate, and to understand why they operate the way they do. It is also an opportunity to examine what is working well, what might be improved, and to have richer, more comprehensive conversations, hopefully leading to improved programs and, in some instances, considering new programs.

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## New Rules Rule the Day

By Jonathan S. Rosenthal

It's done. Really, it is. The work of a great many people has finally, mercifully, come to a conclusion. In November, the Maryland Court of Appeals signed a Rules Order that enacts District Court ADR Rules effective January 1, 2013.

This is great news for the District Court, its litigants, and its hundreds of ADR volunteer practitioners. Truth be told, it is great news for circuit court programs as well, as the entire ADR rules structure has been overhauled and refined. What started as a quest to develop ADR rules for the District Court turned into a larger project that required more time, more vetting, and more comment. But in the end, the result is a very good one.

Having new Rules also means taking a look at how we do things in District Court ADR programs.

And now is a great time to take a look at the Rules to see what is new and notable.

The first thing of note to one already familiar with the ADR Rules is that there are now five chapters within Title 17 of the Rules where previously there was only one. In Chapter One you will find rules that are applicable to all court ADR programs. There you will find the slightly revised confidentiality Rule, **17-105** (*formerly 17-109*). And, mirroring the Rules of Civil Procedure generally, Chapters Two and Three refer to proceedings in circuit courts and the District Court respectively. Chapters Four and Five are reserved for proceedings in the Court of Special Appeals and Orphans Courts respectively.

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## Local Advisory Council, *cont. from 1*

Just a few of the Local ADR Advisory Council outcomes:

- 1) Three new Day of Trial programs will be developed in 2013;
- 2) More courts using the Day of Trial ADR volunteer check-in form; and,
- 3) creating new ways to inform litigants of ADR options in advance of their day of trial.

All of the stakeholders participating in Local ADR Advisory Council meetings were selected based on their involvement in the operation of ADR programs. Those present at the meetings included the Administrative Judge and Administrative Clerk for the District (or their designees), the lead bailiff, the lead courtroom clerk, the County Clerk and/or the Civil Supervisor, community mediation centers, representative mediators and settlement conference attorneys, and ADR Office Staff. In some instances, the meetings were the first time some stakeholders have had an opportunity to participate in this kind of discussion. The meetings have also been the first time, in some cases, that all stakeholders have met face-to-face.

From our perspective, the Local ADR Advisory Council meetings have been a great success! The meetings provided an opportunity for stakeholders to ask questions of the ADR Office Staff and each other about the programs, share information, concerns, and experiences, give constructive feedback and suggestions, participate in planning changes to existing programs, and to consider new programs. Those who attended overwhelmingly agreed that the meetings are useful and productive, and indicated a willingness to participate in future annual meetings.




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## My 2 Cents: Your Role as a Champion of ADR

By Jonathan S. Rosenthal

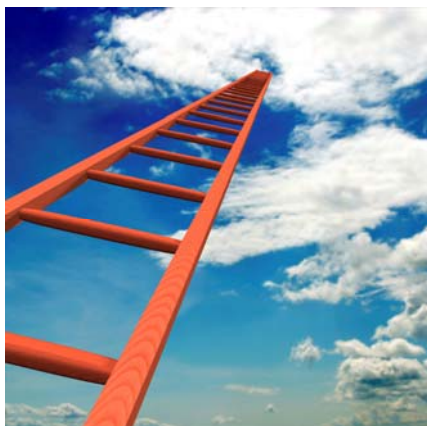
During my career in the conflict resolution field, I have had the opportunity and good fortune to meet and interact with many conflict resolution practitioners from around the country. Serving on committees, planning conferences, giving presentations and workshops; it has been both rewarding and educational.

And one of the things I hear time and time again is of the struggles in other parts of the country of their inability to incorporate, if not institutionalize, ADR programs within the courts. In Maryland, our citizens have access to

these programs thanks in large part to a number of people. Chief Judge Robert M. Bell believes it is essential for the court to take the lead in promoting the use of ADR where appropriate. With that as his

vision, he supported Maryland's ADR Commission in the late 90's, which led to the creation of the Maryland Mediation and Conflict Resolution Office (MACRO). MACRO, led by Rachel Wohl, has done an amazing job of using collaborative processes to bring multitudes of stakeholders together to help create the environment for a fertile ADR field. And from our view here in the District Court, for years Chief Judge Ben C. Clyburn has provided tremendous support to our office and our volunteers to make sure the citizens of Maryland have ADR options available to them in the District Court. His predecessors, Chief Judges Martha Rasin and James Vaughan, helped pave the way.

The champions in Maryland, however, are not only limited to those within the judiciary. We have an enormous number of champions in the field, in academia, and recently, in the legislature. Further, we have practitioner organizations that, while representing different and diverse constituencies, and while struggling with their own growing pains, are working together to encourage growth, public education, and increased use of appropriate ADR services.



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# Volunteer Success Story

Submitted by Eileen Bannach

*In this edition of success story, Eileen presents an example of two neighbors who hadn't had an opportunity to talk in a constructive way prior to the mediation. Being able to provide these neighbors with that opportunity helped them both understand each other and move forward.*

A young woman's large dog broke through her fence and killed the next door neighbor's expensive little dog. The owner of the little dog came to court seeking reimbursement for the vet bills, as well as, the cost to replace the little dog. The young woman could not stop crying and felt so bad about the whole incident. She kept apologizing throughout the entire mediation. She accepted responsibility and agreed to pay whatever her neighbor wanted, but her husband had left her and she could not afford to stay in her home. She had not worked while she and her husband were together, but had plans to start work the following week. She asked her neighbor if they could work out some type of payment plan because she did not have enough cash at the moment, but felt it was only right that she pay what he was asking.

The neighbor said he understood the economy was so bad these days and that he too was experiencing tough times. He recently had his son and his son's family move in with he and his wife. He didn't blame the woman at all and perhaps asking her to pay for a new dog was a little outrageous, but he still had some very expensive vet's bills to take care of. He said he would be happy to take payments and was sure they could work something out together. They ended the mediation with a hug and went into the courtroom to present their agreement to the judge.

Eileen Bannach has been a District Court mediator since 2008. She currently volunteers for our program in Anne Arundel County (Glen Burnie). Eileen is a member of the MPME and the administrative assistant for MACRO.

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

## My Two Cents,

*cont. from 2*

Our experiences here in Maryland are not without challenges. We may not agree on the best way to sculpt a mediation confidentiality statute. We might not agree on how many mediators should be trained, or how many should be encouraged (or dissuaded) from pursuing a career change. We might not agree on which problems to fix and how to fix them. And we might not agree on how best to foster an increased demand for mediation services. But usually we strive to work together for the betterment of the field. If we are all to be champions we each have a responsibility to support the field which in turn will help support our practices.

As we continue to provide services, define our field, and increase demand, we also have to thank those in our field who simply aren't along for the ride. People like our District Court volunteers take seriously their



commitment to the field and to the work they do in our programs. They are still more than 300 strong. They represent non-lawyers and lawyers alike. They are young and older. They are neophytes and seasoned. They continue to give and grow and improve as practitioners. And, they don't get paid. That, my friends, is a testament to the idea that they care as much about gaining experience and improving their skills, as they do about giving back to their community. And for that, we salute all of you, our Champions.

Finally, earlier I referenced the ADR Commission. If you want to see how far we've come from those early days, [click here](#) to take another look at the ADR Commission's action plan, "Join the Resolution." You will surely be impressed. Happy Holidays!

# ADR Research: At a Courthouse Near You

By Toby Treem Guerin, Haleigh LaChance, and Jamie Walter with contributions from Lorig Charkoudian

*This is the second article 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. The study consists of three main components: a cost-benefit analysis, an efficiency-effectiveness analysis, and an ADR landscape piece.*

This research project is a comprehensive study that looks at the benefits and effectiveness of ADR throughout the Maryland Judiciary. As noted in the previous edition, there are three goals this project addresses: a comprehensive cost-benefit analysis of ADR in several Maryland settings; an assessment of the effectiveness of various ADR approaches and systems to understand what approaches are most effective in which settings; and an understanding of the role of ADR in promoting access to justice for all Marylanders.

## Cost-Benefit Analysis

Ever wonder how much ADR saves or cost the courts, dollar for dollar, compared to traditional litigation? We're examining the costs of ADR and trial, including costs such as bench time, attorney fees, court costs, litigants' missed work and childcare costs, and police involvement, among other factors. To get this information, we're comparing cases for which Day of Trial ADR was not offered to similar civil cases that go through a Day of Trial ADR session in Baltimore City.

## Efficiency-Effectiveness Analysis

Ever wonder which strategies used in an ADR session lead to which outcomes? In the efficiency-effectiveness analysis, we're observing ADR sessions and taking note of which strategies an ADR provider uses, along with the litigant's responses. We expect to be able to show which types of ADR strategies, in which types of cases, lead to specific short-term and long-term outcomes. Some of the outcomes we're measuring include settlement rates, satisfaction with the process, satisfaction with the judicial system, changes in the parties' relationship and communication, compliance with the agreement or judgment, the need for re-litigation and police involvement, etc.



## ADR Landscape

For this part of the study, we're observing Day of Trial ADR sessions in Baltimore City, Calvert County, St. Mary's County, Wicomico County, and possibly Montgomery County. Each jurisdiction has slight differences in the referral process, the space and timing for ADR, and the roster of volunteers. Meetings were held in each District and all have agreed to participate in the study.

Ever wonder what types of ADR is being offered through the District Court and the state? In addition to in-depth case examination, we're taking a broad look at all court-affiliated ADR programs, across the state. Interviews are currently taking place with ADR coordinators and court staff to learn more about the individual programs, how they work, and what is available. In the end 40 interviews will occur creating a comprehensive description of the robust use of ADR throughout the state. We anticipate the ADR Landscape to be completed by the end of 2012.

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# Participant Satisfaction Stands the Test of Time

By Lynne Nash

In the first five months of 2012, I conducted a telephone survey for the District Court of Maryland's ADR Office as my intern project. The goals of this project were: (1) to receive feedback from Day of Trial ADR participants after their experience in a mediation or settlement conference; (2) to learn if participants of an ADR session would utilize ADR processes again in the future; (3) to use the information gathered to report about how participants felt after the process; and (4) to assess what the long term effects of ADR are on participants.

Initially, Day of Trial ADR participants indicated that they agreed to be contacted to discuss their ADR experiences on the ADR Participant Survey (yellow forms). Roughly 50% of those ADR Participants who submit a completed survey form give us permission to contact them in the future for further discussion. The date range selected for this project included ADR sessions conducted from September 2011 through January 2012 across all jurisdictions where Day of Trial ADR programs are being conducted. Additional information about each of these cases was also gathered from the ADR Practitioner Activity Report (green sheet).

With the guidance and support of Jonathan S. Rosenthal and Maureen Denihan, I developed Post-Day of Trial ADR Session Follow-up Phone Call Questions for cases that settled and did not settle in both mediation and settlement conferences. We spent a great amount of time determining the true goals of the project which allowed the follow-up phone call questions to be focused in a way where the information could be retrieved quickly and distinctly from the participants. I began calling participants who settled/resolved their case in Day of Trial ADR sessions beginning on February 14, 2012.

Three questions asked on the Day of Trial ADR

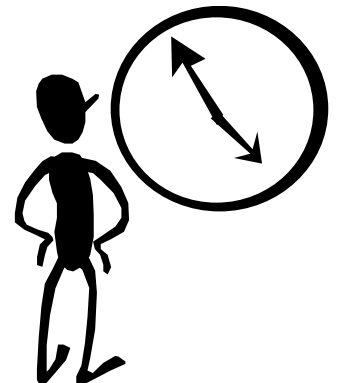
Participant Survey were asked again during the Post-Day of Trial Phone Survey. They were: "The agreement reached met my needs;" "I would suggest mediation or settlement conference to others;" and "I am glad mediation or settlement conference services are available." We hoped these questions would help us better understand how participants feel and think about the ADR process after participating in a Day of Trial session and some time had lapsed since the trial date.

For the question "the agreement reached met my needs," the average response (ranging from 1 strongly disagree to 5 strongly agree) on the Day of Trial survey was 4.19. During the Post-Day of Trial Phone Survey, the average rose slightly to 4.33. Where this is a minor increase, I would argue it is reflective of the lessening of the emotional response of establishing

an agreement during their trial date. Participants may feel emotional and other pressures to reach agreement during the ADR process so it is very important to know how these participants feel after they have had some time to reflect on the agreement reached.

The statement "I would suggest mediation or settlement conference to others" was asked of all participants contacted during the follow-up survey. The average response (ranging from 1 strongly disagree to 5 strongly agree) on the Day of Trial survey to this question was 4.46, a close relationship to the average from the follow-up survey being 4.48. This is an interesting statistic in that the number is almost identical.

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# Quick Bits Quick Bits Quick Bits Quick Bits

Compiled by ADR Office Staff

- Our community mourns the loss of not only a civil rights advocate and community leader, but also a bright light in the field of Community mediation. **Kathleen Thornton** was a compassionate person who will be remembered for her infectious laughter as well as thinking “outside the box.” She was committed to making Prince Georges County a more peaceful community for all citizens. In her most recent position as Program Director at CMPG, we had the privilege to work beside her in promoting ADR programs in the District Court. We will continue to remember her with great affection as we grieve her loss.
- Our Agreement to Participate in ADR form is now available in English with Spanish translation. These forms are available in all District Court locations where we have Day of Trial ADR Programs. Nuestro Acuerdo de Participar en Resolución Alternativa de Conflictos está ahora disponible en inglés con traducción al español. Este formulario está disponible en todas las ubicaciones de Tribunal de Distrito, donde tenemos programas de Resolución Alternativa del día del juicio.
- Farewell and best wishes to **Kathy Peeler** on her retirement. Kathy served for eight years as Chief Judge Clyburn’s Executive Assistant.
- Looking forward...It is with great pleasure that we announce two new partnerships with local community mediation centers in 2013. Our office will be partnering with the Anne Arundel Conflict Resolution Center in a pilot Peace Order Mediation Program, and with the Carroll County Community Mediation Center in a Day of Trial mediation program.
- Welcome new District Court Assistant Chief Clerk of Operations **Dr. Jamie Walter**. Immediately prior to assuming this role, Jamie served as the Senior Researcher in Court Operations for the Administrative Office of the Courts. While at that office Jamie spearheaded the statewide ADR research project. (See pg. 4 for details on the project.)
- ADR staff member **Katherine Quinn** joins the Maryland State Bar Association (MSBA) ADR Section Council. Congrats Kate!
- Congratulations to **Sandy Largent** on her recent appointment as Chief Judge Clyburn’s Executive Assistant.
- Best wishes to **Beth Heinle**, former District Court ADR Office Administrative Assistant, on her new position with the Maryland Judiciary’s Office of Fair Practices.
- We are pleased to welcome our new administrative assistant **Tracy Culbreath**. To learn more about Tracy, see pg. 19 or give her a call at 410-260-1676 and say hi!
- Our office has created a better system for tracking the status of volunteer activity in the program. And in the process, we overhauled how we managed our active volunteer roster. We mailed letters to those that we have not seen in a while to give us an accurate picture of our roster size and where we have gaps to fill. We will continue to update these lists on an annual basis.
- Our office will be hosting our annual **volunteer appreciation and recognition** dinner event on **March 20, 2013**. This day is dedicated to honoring those volunteers that were active in our Day of Trial programs in 2012.
- We want to extend a hearty thank you and good luck to the following District Court judges for their unwavering support of our ADR programs: Judge Neil Axel (retiring), Judge Ronald Karasic (retiring), Judge James Mann (retiring) and Judge E. Gregory Wells (elevated to Circuit Court).



# Participant Satisfaction, *cont. from 5*

I believe this is reflective of the participant's experience with the process, ADR practitioner, and court system. If the participants received a well delivered process, whether it was mediation or a settlement conference on their day of trial, they were more inclined to suggest the process to others. Results of 4.46 and 4.48 out of 5 are extremely positive for the District Court's Day of Trial ADR Program and in my opinion reflect the quality of the program District Court ADR has developed and defined.

The final statement asked both after the Day of Trial session and during the follow-up survey is "I am glad mediation or settlement conference services are available." On the Day of Trial survey, the average response (ranging from 1 strongly disagree to 5 strongly agree) was 4.54. The average response from the follow-up survey was 4.58. This was a consistent response from participants. If they were unhappy with the process on the Day of Trial, they continued to be unhappy and vice versa. Most responses from participants on this question were exactly the same as they had been at the end of the Day of Trial session. I find this to be an interesting point; the conflict resolution field tends to believe individuals will reflect back upon their experience with a more positive response after removing themselves from the tension of the mediation room. However, this was not the case among the participants with whom I spoke.

Participants' responses to the statement "I would suggest mediation or settlement conference to others" are a strong testament that the Day of Trial participants would utilize ADR processes again in the future. One respondent stated that she had requested mediation as part of her divorce proceedings based on her positive experience during a District Court Day of Trial ADR session. Some specific quotes from participants on this topic are: "there's no downside;" the Day of Trial program is "a great resource the court offers;" (participant) has been telling others about the experience she had...as a defendant;" "[I] hope the District Court ADR keeps its' funding (for the Day of Trial program);" and from a defendant "[I was] relieved at how quickly mediation helped resolve my issue." These quotes are just a sample of the comments I heard when speaking with Day of Trial mediation or settlement conference participants.

Where the survey results showed that the feelings of participants did not change particularly after their Day of Trial ADR experience, it is important to discuss specific statements made by participants regarding their experience in the process and program itself. This is where the attorney-specific comments may deliver their most useful insight. Many of the plaintiff's attorneys who participated in the follow-up phone survey stated that they utilize the Day of Trial ADR program when a case involves a self represented defendant. One attorney explained how useful it is to have the neutral (mediator) explain that a judge can only say yes or no to the claim—they cannot reduce the amount owed by the defendant. A different attorney stated that they felt using a neutral allowed the self represented party to tell their story to another person, — to be emotional, — while still being able to work through a settlement plan.

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## **Quotes from Day of Trial ADR program participants:**

- ◆ **"cost savings for the court are enormous"**
- ◆ **"hope the District Court ADR (Office) keeps its' funding"**
- ◆ **"(ADR) helps judges move the docket"**
- ◆ **"(it's useful to educate attorneys on the benefits of ADR) because once you're in a trial, you forget about ADR as an option"**
- ◆ **"I feel the mediators have always been positive and helpful to the pro se litigants."**
- ◆ **"enjoyed the process — but has had great difficulty with outcome being followed through on"**
- ◆ **"I took part in what the outcome would be."**

# Peace Walk 2012



The Maryland Mediation and Conflict Resolution Office, the Court of Special Appeals ADR division, and the District Court of Maryland Alternative Dispute Resolution (ADR) Office recently hosted the second annual 3k Peace Walk on October 7th at the Inner Harbor. Despite the dreary weather, 140 people participated in some capacity this year. We would like to give a special thank you to the following organizations for





# Join The Resolution

Photos by Chief Judge  
Robert M. Bell



exhibiting at the Walk: Baltimore County Conflict Resolution Center, Community Conferencing Center, District Court of Maryland ADR Office, Maryland Chapter of ACR, Maryland Council for Dispute Resolution, MACRO, Office of Communication and Public Affairs, Peace Study Center, Safe Streets Baltimore, State Law Library. Stay tuned for more information about the 2013 Peace Walk. Please "Join The Resolution."



# ADR: How *It* Benefits District Court

By Honorable Dorothy Wilson

Before each docket, I review the court files of the cases scheduled for that day's docket. Usually, it's a combination of different types of civil matters from auto accident cases to various landlord-tenant matters to consumer debt collection cases to contract disputes. Some cases are only scheduled for motions hearings on motions to strike judgments or garnishments, challenges to service of process, requests for new trials or reconsideration of decisions. Some cases have lawyers representing one or more parties. For other cases, some or all of the parties are self-represented. It's a full docket with several cases that will likely be contested trials. And then, I come upon *it*. Every judge knows what *it* is. *It* is a really thick file, full of lengthy narratives that recount the struggles of the parties. *It* is a complex large claim with self-represented parties. Immediately, I ask my courtroom clerk if an ADR volunteer has checked-in for today's docket and indeed, a volunteer is in the building. It is at these moments, I am especially grateful for the ADR volunteers and that ADR is available.

The District Court handles nearly 2 million new cases every year. Approximately 70% of cases referred to ADR settle. Certainly ADR can remove one more case from a crowded docket or help resolve a tough case. But, that's not the only reason I depend upon ADR—it's the quality of the settlements reached.

Mediation, which is one form of ADR, can more effectively and completely address the needs of the parties. Cases settled through mediation are more comprehensive than the decisions rendered by judges. These settlements often resolve other issues that courts cannot legally address. Many times, it is these other issues which are the underlying reasons for the dispute. Through mediation, the parties can fashion a resolution tailor-made to address their specific issues, without being restricted by formal rules of court or rules of law.

Sometimes disputes arise between parties who have an on-going connection or relationship with each other—disputes between co-workers, business associates, family members, neighbors and friends. Mediation can help the parties resolve their dispute in a way that preserves these on-going relationships. There's no finding of fault, no determination that one side is right and the other side is wrong, no winners and no losers. All parties can be satisfied with the outcome that they create.

Settlements reached through mediation are long lasting settlements that hold up over time. Cases settled through mediation stay settled. After all, the parties have a voice in the process and are more likely to comply with agreements they help to create. Usually, judges don't need to have further court hearings or decide subsequent motions involving the same parties. But, even if the parties return to court, they are more likely to use mediation for future disputes because they are more satisfied with the mediation process.



The Honorable Dorothy Wilson, Baltimore County, has been a member of the District Court bench since 2001, and has served as Chair of the ADR Committee since 2005.

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## ADR Research, *cont. from 4*

In addition to observing ADR sessions, researchers survey litigants before their session or trial, to find out about their case, their relationship with the other party, and their attitudes toward conflict and the judicial system. Litigants are surveyed again immediately after their ADR session or trial, and again by phone three months later. Finally, one year after their case, we will conduct a data review to look for compliance with the agreement or judgment, new case filings, re-litigation, or any continued police involvement in the conflict.

The Day of Trial ADR program necessarily moves quickly, and we've attempted to balance the needs of the research with the needs of the court to keep the docket moving in a timely manner. Prior to starting in any jurisdiction, we meet with members of the court to determine the most appropriate process for each location. As we've worked with the Baltimore City ADR program, we've continued to tweak our process and will continue to make adjustments as necessary.

At present, both the plaintiff and defendant are interviewed simultaneously by two researchers. This pre-session survey, along with explaining the project and

getting consent, takes ten minutes. After the ADR session is complete and the parties have gone back before the judge, the post-ADR session survey requires another seven to eight minutes. When multiple sessions are being conducted back-to-back by the same ADR provider, we generally observe every-other session, in order to allow enough time to conduct the pre-surveys and post-surveys.

All surveys and observations are voluntary, for both the litigants (i.e. participants) and ADR practitioners. Each potential participant in this study is given an informed consent form, and the opportunity to agree or decline. Additionally, either the ADR practitioner(s) or participants can request the researchers leave the ADR session at any time they feel necessary. The data collected and information heard is kept strictly confidential. Researchers observing the ADR session sign the "Agreement to Participate in ADR" form along with everyone else in the room. After data collection is complete, all personal or identifying information will be destroyed.

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## ADR Benefits, *cont. from 10*

Even when cases don't settle, mediation is an important tool to help the parties prepare for trial. Many times, the parties have had no communication with each other prior to court or worse, very destructive or ineffective communication. Sometimes, mediation offers the first opportunity for the parties to have meaningful and productive communication about their dispute. Often, the parties gain a better understanding of their own case as well as the other party's case. They are better able to explain their issues and to explain the relief they are seeking. When a trial is necessary, judges can make efficient use of limited court time because the parties have a better understanding of their dispute and are better prepared to present their case.

Soon the court will enter an exciting new paperless phase with the roll-out of the electronic court system. Soon, it will be as convenient for parties and the court to process cases electronically as it is to send a text message. Easier access to the courts will likely increase use of the courts. Recently, the Court of Appeals adopted District Court ADR rules. Effective January 1, 2013, District Court judges will be able to order a case to be referred to mediation (more on this in

"New Rules Rule the Day" on page 1). As a result, mediation will become an indispensable part of the future of the District Court. (Our thanks to Judge Wilson for her unwavering support of ADR.)



# 2012 Conflict Resolution Month Events

Every October, the District Court ADR Office celebrates Conflict Resolution Month by hosting several (20 to be exact) tabling events throughout the state. This year was no different. At each location, staff members and partners from local community mediation centers distributed literature and promotional items to members of the public and court support staff to educate and promote awareness of ADR. Shannon Baker, Regional Program Director, described tabling with partners best when she said “tabling together provides an opportunity to hear about updates and initiatives within their programs...” Harford County Community Mediation Program volunteer, Quentin Joyner, especially liked the tabling event in Bel Air because of the opportunity for outreach. “There were a number of people who didn’t know there was a free mediation service in Harford County. The more people that know about it, the more useful the services can be,” said Joyner. Along with the literature and “goodies,” staff members administered surveys to those that visited the table. Here are the survey results in their entirety for all of the events hosted:

**Conflict Resolution Month Survey Questions and Results**

**1. Do you know what mediation is?**

19% I’ve heard of it, but I’m not exactly sure what it is.      68% Yes, I know what it is      13% No, I don’t know what it is

**2. Before today, were you aware that the District Court offers free mediation?**

56% Yes      44% No

**3. Are you aware that the mediation is...**

Voluntary      69% Yes      31% No  
Confidential      73% Yes      27% No

**4. Would you consider participating in mediation?**

69% Yes      9% No      21% Not Sure



***Partner Spotlight:***  
**Presence at Court Makes a Difference**

Patricia Ryan, Director of the Carroll County Community Mediation Center, joined Regional ADR Program Director, Cindy Faucette, on October 22nd at the Westminster District Court in Carroll County.

Patricia described an experience she had while staffing the table with Cindy:

“I spoke to a man and woman who were at court that morning for their case. They had never heard of mediation and were surprised at all of the opportunities available. They have a twenty year old nephew who was recently released from prison and lives in Baltimore City (they live in Sykesville). Although they were in court for something unrelated to this situation, they were very interested in the re-entry mediation program that Carroll County Community Mediation Center offers. Apparently, the entire family is worried about the young man and they want to make sure he is supported so he does not return to prison. She described the young man’s experience as a Carroll County resident in the past. Apparently, he loved living in Carroll County away from Baltimore City, but felt targeted and discriminated against because he was African American. The woman became very excited about the possibility of having a mediation where they all could be honest and open about how each of them could support her nephew and have him hear it. When I explained this could happen in Carroll County or Baltimore City (where most of the family lived) she and her husband were grateful since some of the family had transportation challenges. We also discussed the work that the Carroll County and Baltimore City CMCs do with youth in the schools and as volunteer mediators. The gentleman and his wife are both involved in their local church and said they would contact their church to see if someone from Baltimore City Community Mediation could come to present. You never know what people are going through and just being present and visible at the courthouse provides an opportunity to educate and inform the community of all the resources available. If we had not been at court that day, I doubt they would have learned about the services available to them both in their residential and spiritual communities.”

# Around the State in 29 Days

District (County or City)	Courthouse Location	Date(s)
Baltimore City (D1)	501 E. Fayette Street, Baltimore	October 22, 23 & 26
Wicomico (D2)	201 Baptist Street, Salisbury	Friday, September 28, 2012
St. Mary's (D4)	23110 Leonard Hall Drive, Leonardtown	Tuesday, October 2, 2012
Charles (D4)	200 Charles Street, La Plata	Wednesday, October 3, 2012
Calvert (D4)	200 Duke Street, Prince Frederick	Tuesday, October 16, 2012
Prince George's (D5)	14735 Main Street, Upper Marlboro	Thursday, October 11, 2012
Silver Spring (D6)	8552 Second Avenue, Silver Spring	Friday, October 26, 2012
Rockville (D6)	27 Courthouse Square, Rockville	Thursday, October 25, 2012
Annapolis (D7)	251 Rowe Boulevard, Annapolis	Thursday, October 18, 2012
Glen Burnie (D7)	7500 Ritchie Highway, Glen Burnie	Tuesday, October 16, 2012
Catonsville (D8)	900 Walker Avenue, Catonsville	Tuesday, October 16, 2012
Towson (D8)	120 E. Chesapeake Avenue, Towson	Thursday, October 18, 2012
Harford (D9)	2 South Bond Street, Bel Air	Friday, October 19, 2012
Carroll (D10)	101 North Court Street, Westminster	Monday, October 22, 2012
Howard (D10)	3451 Courthouse Drive, Ellicott City	Monday, October 15, 2012
Frederick (D11)	100 W. Patrick Street, Frederick	Friday, October 19, 2012
Department of Natural Resources	Annapolis	Monday, October 15, 2012
Resolution Walk	Baltimore	Sunday, October 7, 2012

## **SPECIAL THANKS TO OUR LOCAL COMMUNITY PARTNERS....**

The District Court ADR Office would like to say **thank you:**

- Anne Arundel Conflict Resolution Center - Ellie Gibbs, Tyler Keyworth, and Leslie Overholser
- Carroll County Community Mediation Center - Patricia Ryan and Zack Braver
- Community Mediation Initiative at Center for Conflict Resolution, Inc. at Salisbury University - Michele Ennis and Abigail Horton
- Community Mediation - Anna Chalker and Julia Hammid
- Harford County Community Mediation Program - Quentin Joyner
- Prince George's County Office of Community Relations, Community Mediation - Patricia Brooks
- St. Mary's County Community Mediation Center - Lindsey Bradley, Ellen Hahn, and Sue Myers
- University of Maryland Francis King Carey School of Law Mediation Clinic - Daniel Flanagan

"Always bear in mind that your own resolution to succeed is more important than any other." - Abraham Lincoln

# New Rules Rule the Day, *cont. from 1*

## The Definition of Mediation

The definition of Mediation has been altered slightly. The most notable change is that the second half of the former definition of mediation has now been bifurcated and used to create a new rule, 17-103, "Role of the Mediator." Some minor wording changes have been included, but most notably, the Rules Committee attempted to address the issue of mediators serving as "scribes," or drafters of mediated agreements. The new rule now states that a mediator may "upon request, record points of agreement ***expressed and adopted by the parties.***" Our policy has always been that our mediators should only record what the participants have said, and use the participants' words (rather than boiler plate or legalese) on the settlement agreement form, this change should not cause concern for mediators in our programs. It should be noted, however, that the definition of settlement conference remains substantially the same.

## Mediation Confidentiality

As noted earlier, the new confidentiality rule is **17-105**, and it is applicable to mediations in circuit courts as well as the District Court. And, while there has been much talk about the new Maryland Mediation Confidentiality Act ("the Act," Courts and Jud. Proceedings, 3-1801 et seq.), we are both pleased and grateful that our mediation sessions now fall under the purview of the court rules. The rules as drafted are comprehensive and leave little doubt as to the existence of the universally accepted concept of confidentiality for mediation sessions in the District Court.

One significant difference between these new Rules and the Mediation Confidentiality Act is that the Act provides another exception to confidentiality permitting a court to order mediation communications disclosed if the court determines that it is necessary to prevent an injustice or harm to the public interest. In that instance, the court gets to decide if that public interest outweighs the integrity of the mediation. (3-1804(c)). No such exception exists in the court rules.

Perhaps the biggest difference, however, in the new rules has to do with the exceptions to confidentiality. Currently, stated exceptions to confidentiality in District Court mediations included "evidence of child or elder abuse, and act or credible threat of violence, and anything relevant to a complaint against the ADR practitioner or the District Court..." These exceptions are found on the District Court Agreement to Participate in ADR form. Beginning January 1, 2013, there will be four exceptions to confidentiality **in addition** to those noted above. The first is a general statement: "any disclosures **required** by law..." which includes reporting of allegations of child abuse by all people who hear about it, and people in certain professions are required to report any allegations of vulnerable adult abuse. (17-105 (d)). For those not specified in the statute as being required to report, the reporting of vulnerable adult abuse is *permissive*, not mandatory.

There are three additional ***permissive*** exceptions to confidentiality (17-105(d)). They include: (1) reporting to a potential victim or to the authorities anything to the extent the mediator believes necessary to prevent serious bodily harm or death to the potential victim; (2) anything relevant to the mediator asserting a defense against allegations of misconduct by that mediator; and, (3) anything relevant to a claim or defense that an agreement arising out of a mediation should be rescinded because of fraud, duress, or misrepresentation (17-105(d)(1-3)). Our Agreement to Participate in ADR form will be revised to meet these requirements. Until that form is revised, however, our mediators shall inform participants about all of the exceptions to confidentiality.



# New Rules Rule the Day, *cont. from 14*

## Other Highlights

In addition to revisions to the general parts of the previously existing rules, there are new rules created specifically for District Court ADR. (17-301 et seq.). Here are some highlights:

- 17-301 defines the District Court ADR Office and our responsibilities. Defining the duties of the ADR Office codifies our responsibility to quality assurance, which begins with the application process and continues through all of our practices.
- 17-302 permits judges to “order” cases to mediation. This is significant because previously District Court judges had no such statutory or rule authority to order a case to mediation. Now such authority exists. For our purposes, mediation is still **voluntary** because once the litigants go with the mediator and hear the explanation of the process, they may still choose to decline the opportunity to mediate and return to the courtroom for trial. We believe this affords us the opportunity to educate people about the mediation process, while still providing them with the opportunity to choose to participate in mediation or return to trial.
- 17-303 notes the process for designating an ADR practitioner for any case.
- 17-304 sets forth the qualifications for our mediators and settlement conference attorneys, which codifies the processes we have been using for years, including our orientation and apprentice processes. One slight change is that under the new rules, mediators must complete four hours of continuing education each year, rather than eight hours every other year. The same is now true of circuit court mediators as well.
- 17-305 affirms that ADR processes in the District Court shall remain a free service to litigants.

For a full reading of the new ADR Rules, [click here](#) to visit our website.

## Participant Satisfaction,

*cont. from 7*

users of the District Court ADR program who stated they would continue to utilize the program and were quite pleased with its availability. These participants were both attorneys and non-attorneys. The impression I am left with is that if people have a positive experience with the process, not necessarily with their opposing litigant, the long term effect is a positive one toward ADR as a problem solving resource.

One participant I spoke with stated that he had utilized mediation three times and had yet to come to a settlement using ADR. Where some people might see this as a negative, I find it important to note that the

It is difficult to assess what the long term effects of ADR are on participants. Some participants in the follow-up phone call survey were multiple

individual continued to return to the process and try again. This speaks to the validity of the mediation and settlement conference experiences provided by the District Court Day of Trial ADR program. The results of this survey demonstrate the quality and consistency of the program provided to the litigants in The District Court.







# 2012 Maryland Mediators Convention

By Mae Whitehead, District Court ADR Volunteer, Prince George's County

## LIGHTS...CAMERA...ACTION

The 6th Maryland Mediators Convention wrapped up Friday, December 7th at the Maritime Institute. More than 200 Maryland Mediators walked the red carpet at this OSCAR-themed event. The opening plenary featured the founder and director of the Maryland Film Festival, Jed Dietz, while the rest of the day featured programs and sessions highlighting Maryland's vibrant mediation field. In keeping with this year's Hollywood theme, several mediators walked the red carpet as their favorite Oscar winner and nominee, including Dorothy Dandridge (Felicia Watkins), Cleopatra (Julie Linkins), Ruby Dee (Mae Whitehead), and Elastigirl (Lorig Charkoudian), among others.

Mae Whitehead, Academy Mediator, co-presented with Leslie Nelson *Social Media & Conflict Resolution: Prime Time in the Daytime—Enter the Mediators Zone*. The session encouraged mediators to use social networking to promote and enhance their mediation practice. This included a live launching and demonstration of the Mediators Zone facebook group page. To learn more about the Mediators Zone and/or to join this group contact Mae at [maemediated@verizon.net](mailto:maemediated@verizon.net).

The OSCAR after party featured light refreshments, hobnobbing with other Academy members, a raffle drawing and a Toys for Tots drive. This year's grand prize, a red hot OSCAR director's chair, was awarded to Patricia Miles Brooks (Pat) of Community Mediation Prince George's.

Hope to see **you** on the red carpet in 2014 at the next Maryland Mediators Convention!

Photos by Jonathan S. Rosenthal & Alecia Parker

## ADR Research, *cont. from 11*

### Status

We've been conducting surveys and observations in Baltimore City and plan to continue in this location, and enter into additional counties for another twelve to eighteen months. We are happy to report that data collection is going smoothly. Feedback from ADR practitioners is generally positive, and we're always willing and ready to make procedural adjustments based on feedback from local practitioners, administrators, and court personnel.

We would like to extend our thanks to the staff of the District Court ADR Program and its cadre of volunteers who have worked with us to provide valuable input and feedback on the development and implementation of this project. We would not be able to collect this valuable information without the cooperation of the individuals in each court and the ADR practitioners. We also owe thanks to the bailiffs, courtroom clerks, county clerks, and judges for helping us make this research project run smoothly.

Have questions or feedback to share? Visit 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.



*Each June, the District Court ADR Office exhibits at the Maryland State Bar Association Annual Meeting. Just for fun, take the time to locate the different judges and ADR volunteers who stopped by to visit our exhibit table.*

Maryland State Bar Association (MSBA) Annual Meeting Word Search

R E S U O R T S M I J M S E S Y C O A G E Z  
 G A Z P O J M N H U X C M G Z Y E S N X R J  
 K X S C R D A R R E N K A D I S H O P Z X N  
 U B I B D R E B R A G N O S A J D V P X T A  
 R S L Y E L L A T E G D U J B R W H C P T M  
 T L L T A D C R V I A L G F O M M Z V W U T  
 H E I W C Z F X K X C E E G W Q M V L G J N  
 E U W U E M M R R X D J L P O N N H L P U A  
 I M K B T X E D X K S E J T L I P L E U D H  
 N A C R E F M B E Y A Q T P I N E M S P G E  
 R S A E P X H T Y H M E G V G W P L A D E G  
 I A J L C V C S C M L G I V K X J X H F B D  
 C H J Y Z H K I V E L R E C P T O W C M R U  
 H S S U E N M P F R Q N O I D Q H B Y Z O J  
 V R A N D Q B F F W Z R T L C X N U R I W S  
 H A L G Z G U Y N G E D U B L G P R R H N R  
 I M J S D M E Z B C F P U X X Q R R A Q G F  
 H X U C K A L D I U N A U L D K I R H A K A  
 C B I R B Y L N U X X W B X U B C X P A C I  
 F M A L O K A P R D A N J N Q I E H I P H Z  
 C M B S H J D V U Y E G T L E G O V N E K P  
 F K A A E A Q M M L S N B T F L Y B B H T L



Darren Kadish  
 Ed Ketchen  
 Harry Chase  
 Jack Willis  
 Janice Rockwell  
 Jason Garber

Jim Strouse  
 John Price  
 Judge Brown  
 Judge Duden  
 Judge Hantman  
 Judge Talley

Ken Vogel  
 Kurt Heinrich  
 Mark Muffeletto  
 Marsha Samuels  
 Michael Gordon

We have overhauled the screening process of Peace Order cases for mediation. We recently held a Peace Order Mediator Training and Orientation on November 28, 2012 at the District Court in Upper Marlboro. Thanks to **Mary Abrams** (Administrative Clerk) for providing space for the training. We look forward to holding an additional training in 2013 for those that could not attend the November training.



# Welcome Tracy Culbreath



Join us in welcoming Tracy Culbreath, our new Administrative Assistant!

It is with great pleasure that the District Court ADR Office welcomes our new administrative assistant, Tracy Culbreath. Prior to joining the ADR Office, Tracy was a department assistant at Farmer’s Insurance in Owings Mills, MD. She is currently enrolled in the University of Baltimore Master’s Program on Negotiation and Conflict Management with an anticipated graduation date of Spring 2014. Here are some fun facts about Tracy!

**Favorite TV Shows:** Walking Dead, Once Upon a Time

**Pet:** Miniature Pinscher “Belle”, 5 years old

**Favorite Food:** Burger or Steak

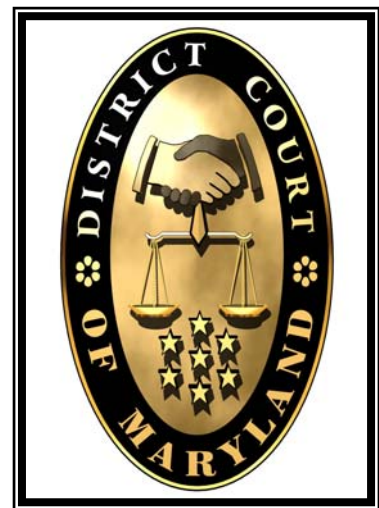
**Favorite Color:** Purple

**Favorite Flower:** Orchid

**Born:** Niceville, FL (*Really*)

## District Court of Maryland ADR Office Staff

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## 2013 Calendar of Events

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Fax: 410.260.3536



#### Quote Corner

"The best way to prepare for  
life is to begin to live."  
-Elbert Hubbard

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

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with others, and of course  
give you credit. Tips should  
be condensed to one  
paragraph. Help your peers  
become better ADR  
Practitioners!

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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.

### January

18th— "How Mediators Can Walk Their Talk w/n the Mediation Community:  
A New Grid," Teleconference (12pm—1pm)

21st—Martin Luther King, Jr. Day (Courts Closed)

22nd—MPME Mediator Confidential, Teleconference (12pm—1pm)

### February

2nd—Fairly Legal , Judicial Education & Conference Center, Annapolis, MD

15th—16th—Basic Collaborative Law Workshop, Anne Arundel Community College,  
Arnold, MD

18th— Presidents' Day (Courts Closed)

### March

8th—How to Sharpen Your Listening Skills, Gaithersburg Training Center, Room  
402, Montgomery College, Gaithersburg, MD

20th— District Court ADR Office Annual Volunteer Appreciation and Recognition  
Event

26th—MPME Mediator Confidential , Teleconference (12pm—1pm)

### 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

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