

Annual Report of the ADR Section Of the STATE BAR OF MICHIGAN

2006-2007

The ADR Section welcomed eleven new members to the Council during the 2006-2007 fiscal year. The change of nearly one-half of the Council membership afforded both opportunities and challenges. Opportunities arose from the infusion of fresh energy and perspectives. Challenges arose from the need to quickly educate many people about the methods and mission of the Council. All members of the Council embraced both the opportunities and the challenges by attending and actively participating in the quarterly Council meetings. Additionally, Council members engaged in a Strategic Planning Update process that enabled the Council to review and fine-tune its overall strategic objectives in a manner that not only respected the historical focus of the Council but also recognized current “hot spots” of interest.

A significant theme of all the efforts of the ADR Section Council and its Action Teams is collaboration and partnership. The ADR Section continues its commitment to fostering principles of collaboration by engaging stakeholders and strategic partners in its various efforts. Following is a summary of many of the efforts of the ADR Section Council in 2006-2007.

Temporary or Ad-hoc Efforts:

1. Court Inventory: Recognizing that Michigan courts are now 5 years into implementation of the ADR court rules, specifically revised MCR 2.403 and 3.216 and new MCR 2.410 and 2.411, the strategic planning update process revealed a need for information about the manner in which courts are implementing the ADR court rules. An Ad Hoc group was formed to conduct an inventory of courts throughout Michigan. Bob Wright led this effort with the help of 9 Council and Section members. Janice E. Crislip (of Miller Canfield) provided invaluable administrative and compilation services. Court administrators, ADR Clerks and judges in 12 separate jurisdictions were interviewed or asked to complete a questionnaire regarding the ADR philosophies and practices of that court. Depending on the jurisdiction responses were received from Circuit, Family and/or Probate judges. The ADR Section Council expects to use the inventory results to help tailor its efforts in ADR education and awareness throughout the State. A copy of the Summary of Michigan ADR Inventory is posted on the ADR Section’s website.

2. “The Dialogue” on Paid and Unpaid Mediation Services: The strategic planning update process revealed a need to open a dialogue on the perceived developing tensions between paid mediators and non-paid-mediator mediation service providers. The ADR Section Chair and Doug Van Epps of the State Court Administrative Office provided an open invitation to a broad range of stakeholders including Section members and affiliates, Community Dispute Resolution Center directors and board members, volunteer mediators, members of other mediation associations within the State, ADR Clerks and court personnel, ADR educators, and agency users of mediation services. Participation was limited to 60 individuals and included representation from each stakeholder group. The Dialogue was ably facilitated by Anne Bachle-Fifer, an ADR Section (and Council) member, who is well-known to and well-respected by each stakeholder group. The ADR Section Council expects to continue the efforts begun at the Dialogue through its existing Action Teams as well as through the formation of appropriate new action teams or ad hoc committees.

Regular Action Teams:

- A. Access Action Team: The Access Action Team is involved in 3 separate projects. The focus of the AAT in each of its projects is to broaden the use of and access to mediation services.
 1. Michigan Business Mediation Program: This program is designed as a collaboration between the for-profit mediation service providers and the non-profit ADR administration service providers to broaden use of mediation within the business community for its disputes, in particular for disputes that have not as yet been filed in court. During the prior fiscal year, the AAT provided its first mediation training specific to business-to-business disputes in collaboration with MSU School of Law. During this fiscal year, the AAT convened a focus group of business leaders in the Lansing area to receive input regarding the needs of business in dealing constructively and efficiently with business-to-business disputes. With this valuable input from the anticipated users of the Michigan Business Mediation Program, the AAT, and its partners, began planning for the next implementation phase of MBMP – to convene summits, in strategic geographical locations, of business leaders, mediation providers, the MBMP program administrator, and business attorneys to learn about the MBMP and promote relationship-building between the various stakeholders of the MBMP.
 2. Access to Mediation: The AAT kicked-off its pilot program in Wayne County to connect the Community Dispute Resolution Program of that County with the legal aid services provider and its network of lawyers providing pro bono legal services to provide access to low cost, quality mediation services. Additionally, the AAT was a key catalyst in the formation of the new ADR Section of the Metropolitan Bar Association of Detroit which will begin its inaugural year in October 2007 with Judge Cynthia Stephens serving as Chair.

3. Diversity Access: The AAT in collaboration with the Access to Justice Initiative of the State Bar of Michigan continued its efforts to develop a strategy for expanding the presence of minorities in the field of ADR and ADR training.
- B. Effective Practice and Procedures Action Team: The EPP is the action team which reviews and analyzes proposed legislation, court rules, professional rules of conduct and other local and national proposed standards. The EPP provided a response to the Michigan Court of Appeals request for recommendations to improve that courts efficiency and administration. The EPP's response provided specific improvements for the administration of the Court of Appeals program for mediation in domestic relations cases. The EPP provided a thorough analysis of the Revised Uniform Arbitration Act which enabled the Council to take a position on the RUAA. The EPP provided a position which was adopted by the Council in support of the proposed revisions to MCR 7.306. This position was published to the Public Policy Committee of the State Bar. The EPP provided a position which was adopted by the Council in general support of, but with significant comments to, HB 4433 – Tax Tribunal. This position was published to and adopted by the Public Policy Committee of the State Bar. The EPP is now working with the State Bar to provide appropriate policy guidance to the Michigan legislature regarding HB 4433. The EPP has begun developing a Section policy regarding amicus curie briefs for appellate cases that are considered to have implications to the practice of ADR.
 - C. Judiciary Access Team: Having developed an educational power point presentation and role play demonstration that explains mediation, its benefits and appropriate uses, JAT sought out opportunities to deliver this program to local bench/bar groups throughout the State. JAT delivered this program to several groups including two “Inns of Court” programs. JAT is working in collaboration with the State Bar and other ADR groups to develop local teams of individuals who can use this education tool to broaden the Judiciary's base of understanding about mediation.
 - D. Publications Action Team: The Publications Action Team continued to deliver an outstanding publication throughout the year to the Section membership. PAT ensured efficient access to the ADR Section Newsletter for all members and affiliates by use of the website and listserve posting, in addition to traditional mailing. PAT managed leadership succession by developing new Council members into the position of Editor. PAT continued to provide critical, editorial oversight of all ADR Section publications and communications ensuring consistent application of ADR Section policies.
 - E. Section-to-Higher Education Action Team: The Higher Education Action Team began its collaboration by identifying the key administrators of conflict resolution and ADR curriculum within graduate and law schools in Michigan. HEAT anticipates convening a summit of these important stakeholders.

- F. Skills Action Team: The Skills Action Team continued its collaboration with ICLE to provide the Advanced Negotiation and Dispute Resolution Institute (ANDRI) offering substantive updates and skills-based programs for advocates in ADR, mediators, arbitrators, and the Judiciary. The ADR Section continues its financial support of nationally respected and recognized professionals in ADR at both ANDRI and its Annual Meeting/Conference to ensure that Section members and affiliates have access to the most up-to-date thinking in conflict resolution theory and ADR practice.

A significant effort was made this year within the ADR Section Council to plan leadership succession of the various action teams and the executive committee. This effort was only successful because each member of the Council willingly accepted these important responsibilities. I believe ADR Section members and affiliates are well-served by the generous and committed members of the ADR Section council. There is always room at the table, however, for other individuals who are interested in promoting creative processes and solutions to conflict. I encourage members and affiliates to become involved in the work of the ADR Section.

I thank the ADR Section for the opportunity to serve as your Chairman for 2006-2007. And I extend my heartfelt thanks to each member of the ADR Section Council with whom I have served for your assistance, counsel, support, encouragement, and gentle nudging when needed. It has been both a humbling and completely enjoyable experience to work beside ya'll.

Respectfully submitted,

Barbara A. Johannessen