

Encourage All Forms of ADR

To the Editor:

Judge Sullivan's article is absolutely correct that "ADR offers what the bench cannot" in the area of family law (*Michigan Bar Journal*, February 2006). However, a significant percentage of families that become involved with the legal system have some form of faith-based commitment. In those families, there is ecclesiastical matter¹ that cannot be addressed by the courts, and the traditional mediation process is ill-equipped to address such ecclesiastical matters. Regrettably missing from Judge Sullivan's article is this essential resource that is too often overlooked by both practitioners in the area of family practice and by the judiciary.

The ADR offered under the court rules is not designed to restore relationships but to settle the disputes. That settlement process, in the area of divorce, does not include restoring the marriage. Yet we find that the consequence of a broken home statistically has a very adverse effect on those who are divorced, and, even more significantly, on the children from broken homes.

Having practiced when we still had fault divorce, I do not see that we have significantly decreased the strife in the divorce process through no-fault divorce. I find that in many cases there is remorse over the decision to end the marriage. Regrettably, within the adversarial system, even resolving differences through mediation does not allow a venue in which the parties can attempt reconciliation. There is no check preventing knee-jerk divorces that very often turn out to be some of the most bitter. Despite efforts to make divorce more humane, there is seldom a child left unscarred by the process. Children believe that somehow they are responsible for the divorce.

The Boyne Christian Ministerial Association (BCMA) recently adopted a marriage and divorce policy and is currently working with both the courts and local attorneys to assure that, in those cases where there may be ecclesiastical matters to address, the churches are available to help the parties with ecclesiastical dispute resolution, which has proven over the years to bring reconciliation to a great percentage of marriages committing to

the process. Even when the marriage is not restored, the couples who apply the tools of reconciliation that they learned during ecclesiastical ADR training are less likely to need court intervention in resolving their disputes.

During the process, the couples learn to resolve their disputes. They also find that the straw that broke the camel's back does not warrant divorce. This is particularly true after they have had an opportunity to evaluate the cornerstones that have allowed for a wall to be built between them.

The BCMA is distributing to all attorneys practicing in the area a questionnaire that will assist counsel in encouraging all forms of ADR. It is also providing for those people of faith (who indicate that there may be Christian ecclesiastical matters to address) a separate questionnaire to assist both the parties and the attorneys in determining whether church involvement is appropriate based on their clients' individual belief systems.² Northern Michigan Christian Conciliation Service, Inc. (NMCCS) has developed Christian Alternative Dispute Resolution over the last 25 years, the principles of which are being applied to the BCMA policy. NMCCS is happy to provide the questionnaires to interested attorneys and will work with churches to assist them in applying the process.

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FOOTNOTES

1. "One that concerns doctrine, creed, or form of worship of the church, or the adoption and enforcement within a religious association of needful laws and regulations for the government of the membership, and the power of excluding from such associations those deemed unworthy of membership." Black's Law Dictionary (4th ed), citing *Olear v Haniak*, 235 Mo App 249, 131 SW2d 375, 380 (1939).
2. The historical roots of this system of ecclesiastical dispute resolution arise from the Jewish Rabbinical court system known as the "bet" or "beth" din.

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