

Alternative Dispute Resolution

Theme Introduction



By Lee Hornberger

The SBM Alternative Dispute Resolution Section is proud to present this *Michigan Bar Journal* theme issue.

The section provides leadership concerning ADR. It encourages diversity, offers educational programs, promotes access to ADR, monitors legislative and judicial activity, and gives guidance and information on ethical issues. The section also produces publications that promote use and excellence in providing ADR.

The section has been at the forefront of administrative and legislative ADR activities including the Uniform Collaborative Law Act, MCL 691.1331 *et seq.*; the Michigan Uniform Arbitration Act, MCL 691.1681 *et seq.*; and the Mediator Standards of Conduct (effective March 1, 2013).

The articles in this edition cover a range of ADR developments.

Barry Goldman's "First Offer" article discusses the accepted wisdom that it was a mistake to make the first offer and how it was later understood to be a mistake *not* to make the first offer. The most recent research suggests neither viewpoint is quite right for all circumstances.

"Is Med/Arb the Process for You?" by Martin C. Weisman and Sheldon J. Stark focuses on whether the mediation/arbitration hybrid process is worthy of consideration and describes a practitioner's favorable experience with med/arb.

Gene J. Eshhaki's article, "Judicial Intervention in Arbitration Proceedings Pre-Award," reviews whether the historic policy of nonintervention by courts in arbitration proceedings pre-award has been affected by *Oakland-Macomb Interceptor Drain Drainage District v Ric-Man Construction, Incorporated*.¹

"Tribal Court Peacemaking: A Model for the Michigan State Court System?" by Susan J. Butterwick, Hon. Timothy

P. Connors, and Kathleen M. Howard explains how tribal court peacemaking differs from other ADR processes in its basic principle that humans are profoundly connected to one another and their communities. It also discusses how tribal courts' development of ADR methods offers a model from which other courts can benefit.

Deborah Bennett Berez and Gail M. Towne's article, "The Uniform Collaborative Law Act: Michigan Not Left Behind," addresses collaborative practice, explains the Uniform Collaborative Law Act (MCL 691.1331 *et seq.*), reviews the history of its adoption in Michigan, and analyzes its implications for family practitioners and families.

ADR methods are increasingly helping people resolve their disagreements in a courteous, dignified, and professional manner. As described in the articles in this theme issue, ADR methods that are successfully used include arbitration, collaborative endeavors, mediation, tribal court peacemaking, and relatively new procedures such as med-arb. ■



Lee Hornberger is an arbitrator and mediator. He has received the ADR Section's George N. Bashara Jr. Award in recognition of exemplary service. He is a member of the SBM Representative Assembly and the ADR Section Council, editor of The ADR Quarterly, former president of the Grand Traverse-Leelanau-Antrim Bar Association and current chair of its ADR Committee.

ENDNOTE

1. *Oakland-Macomb Interceptor v Ric-Man Constr, Inc*, 304 Mich App 46; 850 NW2d 498 (2014).