

STATEWIDE ADR COMMISSION

Meeting Notes

10.16.15

Attendees:

Justice Chávez	Judge Sánchez (PH)	David Smoak	Jennifer Foote
David Levin	Phil Dabney (PH)	Susan Laughlin	Mary Jo Lujan
Susan Barnes Anderson	Mari Gish	Torri Jacobus	Sharon Ortiz
Laura Bassein	Sara Stevens		

Absent: Duane Castleberry Jeanette Rael Kevin Spears

Guests:

Nancy Garcia Tafoya, CCMP	Stephanie Ellis, Risk Mngmt/ADR
Jon Lee, UNM Staff Ombuds Svcs/UNM SOL	Stefanie Ortega, Risk Mngmt/ADR

INTRODUCTIONS

Jennifer Foote was introduced as the newest Commissioner. Everyone around the table introduced themselves.

ANNOUNCEMENTS

David Levin spoke of his transition into retirement from his position as statewide coordinator for the Magistrate Courts. His position with the ADR Commission is tied to his relationship with the State Bar ADR Cmte., so no change anticipated at this time. He will make adjustments into retirement and decide on his commitments going forward.

The Mag. Cts. will soon have a new Coordinator that will work under AOC, and David hopes to help in the transition of his replacement. David spoke of the success of the video mentoring program with the help of **Susan Barnes Anderson**. Susan added that ‘necessity is the mother of invention’ -- that the fledgling programs needed experienced mediators to work with the newly trained. When properly conducted, there’s not a huge difference between in-person mentoring and video mentoring. Ultimately, some type of certification should be contemplated to assure suitability of services.

The Toolbox The Ready, Set, Go! Guide is up.

Odyssey The contemplated work is memorialized in a two volume piece. Vol. I is a Report/Summary of approx. 45-pages, with Vol.II as a cross-reference of approx. 200 pages with forms and other documents. These volumes can guide the project forward.

Guidelines The proposed rules were converted to guidelines, and submitted to Joey Moya for the Supreme Court’s consideration.

Justice Chávez announced the Fall JEC Scholarship recipients, and stressed the need to get more applicants with ADR-related job duties at the court, not just folks that are interested because they’re near retirement and want to expand on their skills.

ADR Goals/Survey Elizabeth Jeffreys provided the results of the ADR Goals survey, and noted that there was some confusion about the purpose of the task. The identification of goals is for court-connected ADR services, not goals for the Commission. She asked that the results be reviewed before the next survey that will be designed to reduce the potential goals down to a workable group. Of interest, there appeared to be strong differences between the Commissioners about whether to value the interests of the Judiciary over other stakeholders. She noted that a couple of commenters found common ground between the Judiciary's interests and those of the public at large. **Susan Barnes Anderson** noted that all goals/benefits are dependent on the quality of the services and mediator competency. She suggested valuing that goal at the front end, and it would result in other goals being met, such as the reduced demands on the judges' time. Elizabeth added that whatever goals selected, there would likely be an implication for the oversight function, and that it may be a good idea to think of quantifiable measures of the goals. **Justice Chávez** expanded on that notion, stressing that performance measures are very important and need to be meaningful and relevant, as they may be useful for garnering support from the legislature.

ADR Symposium, 5th Annual

Mary Jo Lujan provided an update on the recent Symposium held by Risk Management. Two staff accompanied her to the Commission meeting today, as well as one of the presenters. Jon Lee is a law student, and he presented on Liminality, the role of mediation in promoting positive transitions. Mary Jo mentioned that the presentations were on new and innovative subjects that she had not encountered before. **Susan Barnes Anderson** praised Mary Jo on a successful Symposium, and said that she enjoyed presenting and was also impressed by the agenda. Elizabeth added that various courts were represented there, including the 2nd, 3rd, 4th and 13th J.D., as well as the Mag. Cts. and Metro Ct.

ADR Training Risk Mngmt again secured funding for trainings that will be extended to the Judiciary. Cynthia Olsen will be one of the trainers. Mary Jo will share once the schedule is complete.

[Judge Sánchez arrives via telephone]

FEATURE PRESENTATION: THE CHILDREN'S COURT MEDIATION PROGRAM [CCMP]

Presenters: Commissioner **Susan Laughlin & Nancy Garcia Tafoya**, CCMP Regional Coordinators
See Power Point Slides

Justice Chávez asked if any criteria guided at what point mediation would be used in an abuse and neglect case. Susan answered that it varied depending on who was referring, or which Judge or Hearing Officer was ordering the mediation. There is tremendous discretion of the local district. For example, a new Hearing Officer, Jeff Nims, was already familiar with the program and has increased the use in his area. She even had a Judge ask the mediators to do a mediation between the attorneys, without the family members, because the situation was contentious. That mediation was successful. She mentioned that sometimes use of the Program will increase in response to certain events. For example, there was a tremendous increase in referrals after the death of Omari Varela – almost twice the prior rate. It was a stressful time on everyone (CYFD), and put a strain on the system. The Program is centralized in operations, but responsive to local needs.

Justice Chávez asked if there was feedback from the family participants. Susan said yes, every family participant is asked to evaluate their experience. Common findings were that the participants felt heard, felt listened to, and understood their case better.

Mary Jo Lujan asked if the mediators were contracted, and how many work with the Program. Susan said yes, and currently there are about 15, but at one time there were perhaps 24.

Justice Chávez asked about the Liability coverage of the mediators. Susan answered that many are covered through AFCC, and that she could recall there was one mediator who was almost sued. She can't remember the details, but as a general matter there were occasionally some crazy family members. Recently she had one sending emails to the President, Joe Biden, and others complaining about her custody issues.

Susan Barnes Anderson asked about Language Access and the use of a video link to provide the service. Susan said that there are interpreters, but because of confidentiality concerns, a video link was not considered. She wouldn't know who was on the other end of the transmission. She said once there was a need for a translator for a Nepalese family who used sign language, and that service was found and provided. Nancy added that even though at least two of the mediators could speak Spanish, it was not appropriate for them to be mediators and translate at the same time, so that is avoided.

David Smoak asked how the mediators were selected. Susan answered that the Regional Coordinators usually randomly assigned mediators, but sometimes special needs of the case led them to select a certain mediator that would best match the needs of the case.

Program Documents were passed around, including booklets, brochures, evaluation forms, and the FY15 Annual Report. **Mari Gish** shared that she translated the booklet back in 2005 [thank you, Mari!]. Commissioners gave positive feedback on the handouts. Susan noted that the Post Adoption Contact Agreement brochure was new. In response to the praise, both Susan and Nancy praised Carmen Rodriguez at the AOC for her assistance. **David Smoak** asked how long it took to gather the data in the annual report. Susan said they have spreadsheets that are kept up to date so that the data for the annual report is at hand and just needs to be formatted. David commented that the Report was "very impressive". **David Levin** asked what happened to the effort to collect data through Odyssey? Susan said that Hilari Lipton had been involved, but that it hit a snag and was placed on the back burner. **Susan Barnes Anderson** added that Odyssey was never going to work like a spreadsheet. Elizabeth said that she's learned from putting the Annual Report together that it's best to have comparable data groups to use for analysis. That she wasn't able to readily compare the Program data to the Census data because different descriptive categories were used. A new program should take that into consideration. In addition, she discovered that categories of the same name could be describing entirely different sets of data: In CCMP the term "families" is used differently by the courts than by CYFD, so there is not a ready comparison of the data. **Susan Barnes Anderson** said that at Metro Court she will track the cancellations of pre-trials and trials because that data set could be reflective of the impact of the mediation program. As a general matter, it is difficult to track the benefits of mediation.

Justice Chávez asked if the mediators were receptive to the evaluations. Susan said yes, often they welcomed the assessment and feedback. She said "mediation can be a lonely thing". She said that mediators love the company of other mediators. They love to get together to talk, and they enjoy the experience of co-mediating. It is rare to find one unhappy about an evaluation. Susan added that the

CCMP mediators were sought after as co-mediators by Robert Rambo, of the Court of Appeals. They were well thought of by their colleagues.

AWARDS CEREMONY

David Smoak explained the process that his Committee (Mari Gish, Torri Jacobus & Phil Dabney) went through in deciding on the awards. He will meet with them again to review the process and provide guidelines for next year. It was difficult to decide on the winners. The recipients would arrive at 11:30am. Anyone unable to stay for the ceremonies was given an opportunity to leave early. The break was also used to rearrange the room to accommodate the winners. The professional photographer of the Bar Bulletin joined for the ceremony and took photos of the recipients with the Co-Chairs, as well as with the Commissioners. Congratulations to all of our nominees and recipients!!

The winners are:

Mediator of the Year: Robert Rambo, Court of Appeals

Outstanding Mediators:

- Barbara Anne Kazen - First Judicial District Court
- Benjamin Cross - Ninth Judicial District Court
- Diane Grover – Thirteenth Judicial District Court
- Erin Anderson - Second Judicial District Court