

Administrative Office of the Courts  
Supreme Court of New Mexico

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Statewide ADR Commission  
Summary – January 13, 2012  
John E. Brown Juvenile Justice Center, Albuquerque, NM

I. Welcome and Introductions

Justice Edward Chavez called the meeting to order at 10:00 a.m. He started with introductions, asking each member and guest to introduce themselves. The list of attendees is at the back of these minutes.

II. Visions for the New Mexico Court-Annexed ADR

Justice Chavez shared with the Commission his visions and innovations that would further support and expand ADR in the courts.

- Educate the business community about ADR
- There is an easily accessed and user friendly website with information on every court ADR program
- There is a video on the website that demonstrates how ADR/mediation works
- E-filing can initiate a mediation
- Clerks are trained and capable of explaining ADR to filers
- There are kiosks in court lobbies where ADR information can be accessed by the public
- Court employees are trained and educated to communicate with the public about ADR options
- It is widely understood that every court-annexed ADR is a consistent, confidential process provided by professional practitioners
- Mediators must be consistently and highly trained; paralegals are good candidates for mediation training and court staff (even if they do not provide direct services) should also be trained
- Educating the business community how ADR benefits the resolution of civil cases is essential
- Some personal injury cases could also be mediated
- Criminal case mediation is an avenue we can develop in NM
- Judges need to be educated about ADR not educated to be mediators or practitioners. A well-informed judge is key.
- Mediation can take place early: pre-filing

David Levine, Commission Co-Chair, shared with the Commission his visions and innovations that would further support and expand ADR in the courts.

- David's handout on a 3 to 5 year vision of ADR that included top-down and bottom-up shared responsibility for creating and sustaining programs is included at the end of these minutes.
- Models that we can draw on already exist: NM CCMP (Children's Court); Ohio ADR; Nebraska ADR.
- To further Commission work, bring in resource people who have worked through the challenges and have grown their programs, such as the three mentioned above.

Other visions/ideas shared by Commission members

- All courts should provide an array of ADR processes (including arbitration, mini-trials, etc.)
- Present dispute resolution as including the choices of litigation, mediation, arbitration, etc. instead of segregating ADR as different from traditional types of dispute resolution in the courts.
- Ensure that all parties have choices and can find the best dispute resolution match for their case, including litigation, mediation, etc.

### III. Subcommittee Presentations

The plans as assembled for the meeting are included in the mailing as a PDF file.

#### **Quality Subcommittee**

The subcommittee recommended the term "practitioner" to refer to the one who sits with disputants, helps them resolve their differences.

Goal Summary

Goal 1: Develop measures for assessment

Goal 2: Conduct the assessment

Goal 3: Provide program infrastructure (document processes and procedures; forms; etc.)

Goal 4: Develop standards, qualifications, ethics, and certification for practitioners (Regarding certification, the question is whether education is sufficient or whether a demonstration of effectiveness is needed)

Stephen Prisoc from IT was asked whether Odyssey can provide performance measures and whether the program can be customized to capture critical events relevant to ADR outcomes.

UPL and Writing Agreements: what needs to be in place so practitioners can write up agreements? Susan Barnes-Anderson notes that the Metro Court attorneys are currently reviewing the mediation program forms.

#### **Resources Subcommittee**

Goal Summary

Goal 1: Funding information and staffing information has been added to the existing information and a new document is available. It will be used to facilitate education and public relations efforts

as well as program development. The report will expand to include how individual programs operate.

Goal 2: Poll courts, in progress.

Goal 3: Cost-benefit analysis. Mary Jo Lujan Director of the Alternative Dispute Resolution Bureau in the Risk Management Division uses a cost-benefit model and the Resources Subcommittee will be studying it. The goal is to answer the question how much money does a program save? It was noted that the business community is also interested in the question of whether and how much money and time ADR can save them.

### **Education Subcommittee**

Different audiences need to be addressed. The existing plan addresses court personnel, attorneys, and the general public. Much of the work of the Education Subcommittee relies on the output and outcomes of the other two subcommittees.

Goals include

1. Educating attorneys on how to effectively participate in ADR
2. Establishing a virtual ADR center
3. Informing the public how to access and use ADR
4. Figuring out how to have an informed contact person on the ground (in the court) so people can get the help and answers they need.
5. Partnering with other groups/organization to educate potential participants and stakeholders

It was noted that educating and marketing to the public, courts, attorneys, and potential partners is different from training practitioners.

#### **IV. Information and Assistance from IT Department**

Stephen Prisoc from IT attended the meeting to hear the Commission's technology needs for improving and expanding ADR.

1. The Commission needs a website where we can direct stakeholders and the public to learn about the Commission and its work, as well as view roster, order, minutes, and other public documents.
2. The Commission wants to share documents as well as work on reports and tables in a virtual space, similar to Google Docs.
3. In lieu of developing a full-fledged website today, is it possible to have a placeholder link on the AOC website?
4. An ADR group for email
5. A secure document site, similar to an in-house wiki or secure portal

#### **V. Alliances and Partnerships:**

David Levin offered the assistance of the ADR Committee of the State Bar. The Committee members would be available to assist with research, gathering standards, and supporting the subcommittees as needed.

#### **VI. Commission and Subcommittees' Next Steps for Advancing ADR in the New Mexico Judiciary**

There is consensus that the Commission will focus on the following objectives:

1. To assess more accurately and purposefully the existing programs.
2. To systematically educate the courts about ADR, program models, and program implementation.

## **Next Steps**

### ADR Commission

1. Consult with Supreme Court personnel from Ohio and/or Nebraska.
2. Coordinate how the ADR Committee will work with the Commission.
3. Developing Standards is the Commission's first goal.

### Quality Subcommittee

1. Program and Practitioner Standards: the State Bar ADR Committee will assist the Quality Subcommittee in collecting, reviewing, and assembling suggested standards for New Mexico. A process for how the ADR Committee (and other partners/alliances) will work with the Quality Subcommittee will be developed.

Work flow on standards will include:

- Enlist ADR Committee to help perform research, information, and idea organization
  - Quality Committee leads effort and consolidates results into report to who Commission
  - Commission considers report and recommendations to pass on to Supreme Court
  - Supreme Court considers report and recommendations, and decides what to do
  - David Levin will work with Quality Committees Chair and ADR Committees to coordinate work flow
  - Commission will meet again in April
2. Rules applicable to implementing and maintaining court-annexed ADR programs will be developed.
  3. At a later date, an evaluation team can be developed, which will require planning FTE's to implement.

### Resources Subcommittee

1. The Resources Subcommittee will collect the rest of the data needed to complete the overview of ADR programs.

### Education Subcommittee

1. Review websites and educational materials from other states.

## VI. Next Meeting

The next meeting will be scheduled for late April/early May. Marsha Lichtenstein will coordinate the date.

### Meeting Attendees:

#### Members Present:

Justice Edward L. Chavez, Chair  
Susan Barnes Anderson  
Paul Briones  
Darcy Bushnell  
Judge Duane Castleberry  
John Feldman  
Mari Gish

#### Members Absent:

Ty Trujillo  
Fred Sena  
Bruce Hall  
Judge Mark Sanchez

Jeff Griffith  
Susan Laughlin  
David Levin, Co-Chair  
Celia Ludi  
Mary Jo Lujan  
David Smoak  
Sara Stevens  
Donald Schutte  
Kevin Spears

Guests:

Laura Bassein  
Norm Gagne  
Judith Frinfrock  
Geoff Nims  
Jeanette Martinez

Staff:

Marsha Lichtenstein