

## Statewide ADR Commission Minutes

September 4, 2014

9:30 AM – 11:02 AM

- I. The meeting was called to order by Co-Chair Justice Chavez at 9:30 AM
  - Commissioners present: Co-chairs Justice Chavez and David Levin, Mari Gish, Jeanette Real, Bruce Hall, Judge Castleberry, Sara Stevens, John Feldman, Mary Jo Lujan, and Laura Bassein.
  - Phone: Commissioner Philip Dabney.
  - Guests and staff present: Richard Wilson, Dorothy Danfelser, Statewide Coordinator Shannon Beaucaire.
- II. The May Meeting Minutes were reviewed and approved by email prior to the meeting.
- III. Committee Reports
  - Rules Committee
    - Committee Chair, Celia Ludi, has resigned the Commission due to new work obligations. Therefore, Co-Chair Justice Chavez reported that the proposed rules have been submitted to the Supreme Court. As noted in the May 2014 minutes, the rules were previously published informally. The purpose of the informal publication was to determine if there were significant concerns about the proposed rules, and if so, personally visit and discuss the proposed rules. During the informal publication only three comments were received.
    - Next Steps: The Supreme Court staff attorneys will review the proposed rules and provide feedback to the Supreme Court. The rules will be formally published in March 2015 and formally adopted in June 2015. In the meantime, the proposed rules will be published on the Statewide ADR website with a statement from Justice Chavez to developing ADR programs to follow as they grow and improve their programs.
  - Marketing Committee
    - Mediation video
      - The Commission viewed the proposed mediation video and provided the following feedback. The video is high-quality in terms of promoting, presenting, and depicting mediation to the public in regard to cost, speed, and privacy. The Commission noted that the video does not address break-out sessions or sessions where attorneys are present; does not address attorney-client privilege with the client speaking to the attorney on speakerphone; that the lawyer delves directly into fees without further discussing the issue with the client and does not clearly indicate if the parties are represented by a lawyer; does not include the cost of

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mediation; and is not clear whether an attorney is needed to request mediation. In absence of the Committee chair, David Smoak, the Statewide Coordinator provided information that the Committee had considered many of the topics noted by the Commissioners and how the Committee decided to address those issues.

- After discussion the Commission determined that the video was well done and addressed the target audience it was intended for. The Commission also determined that more videos were needed to address other types of mediation and ADR methods, either through shorter clips of this video combined with additional video or additional films. The Statewide Coordinator noted that based upon discussions at the May 2014 meeting, that budget had been proposed for FY16 to complete additional videos, in addition to, ABA video resources noted in the Mediation Week section below.
  - Commissioner Castleberry made a motion to approve the video with possible editing changes to reflect the Commissioners comments. Commissioner Dabney seconded the motion. The motion was approved unanimously.
  - Next Steps: It will be determined if editing can be done to address the Commissioners comments. The video will then be finalized in English and Spanish. The Language Access Coordinator has determined that only the English version needs to be captioned for the deaf community and she will proceed to do the captioning. The video will be posted on the Statewide ADR website and used during Mediation Week.
- Brochure
- The Commissioners reviewed the proposed brochure.
  - Commissioner Rael made a motion to approve the brochure use during Mediation Week. The motion was seconded by Commissioner Castleberry. The motion was approved unanimously.
- Mediation Week (October 13-17) update
- The Statewide Coordinator stated that the Mediation Week Proclamation approved by the Commission at the May meeting is being considered by the Supreme Court. Additionally, we have received approval from ABA to use the Mediation Week materials on their website during Mediation Week and after.

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- [http://www.americanbar.org/groups/dispute\\_resolution/resources/mediation\\_week\\_toolkit.html](http://www.americanbar.org/groups/dispute_resolution/resources/mediation_week_toolkit.html)
- It was noted that the ABA has an ADR video library. It was requested that Commissioners review videos in the ADR video library and inform the Statewide Coordinator if there were objections to any of the videos.
- Next Steps: Following approval from the Supreme Court, the Proclamation will be published internally to the courts, to the bench and bar through the Bar Bulletin, and to the public through a press release. The Statewide Coordinator will follow up with the Courts/CEOs regarding Mediation Week material.
- Pilot Committee
  - Committee chair, Commissioner Sanchez, was not able to be present due to a jury trial. Therefore, no report came from this committee.
- Website Policy
  - The Statewide Coordinator reported that after the May meeting, Commissioners Ludi, Barnes-Anderson, Bassein, Feldman, and Stevens met and decided that a disclaimer noting that the Commission did not certify or endorse any event or providers posted on the Statewide website. The AOC decided to place a disclaimer on all AOC websites and it can be viewed at [nmcourts.gov](http://nmcourts.gov).
  - The Commissioners also drafted a policy for Statewide website postings. The intent of this policy is for it to be included in the internal Statewide manual that memorializes Commission decisions, procedures, and policies. The Statewide Coordinator read the policy.
  - Commissioner Castleberry made a motion to approve the adoption of the website policy. Commissioner Hall seconded the motion. The motion was approved unanimously.

## II. Reports from the Statewide and Magistrate Coordinators

- Statewide ADR Website
  - Due to end-of-year obligations, the Statewide Coordinator has not been able to do much work on the website content and hopes to be able to prioritize the website this next quarter.
- Magistrate/District Mediation Pilot Programs and Trainings/Toolbox/Odyssey
  - The Magistrate Coordinator reported on work with Taos and Las Cruces pilot programs. The toolbox is underway and will be published for

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comment as it develops. The goal in Odyssey is to develop codes that are standardized for all courts; however the difficulty is two-fold. We need help to get information into Odyssey, as well as, fund an additional slot at JID to train court staff and to get statistical reports out. Additionally, standardized spreadsheets in MS office are needed to supplement Odyssey. The Magistrate Coordinator has been in contact with MACRO who has not adopted Odyssey to ADR yet. The Magistrate Coordinator is working on an SJI grant application to address the challenges.

- 2013 Statewide ADR Commission Annual Report
  - The draft report was presented and reviewed by the Commissioners. Commissioner Bassein provided the Statewide Coordinator with JEC statistical analysis that improved the graphical representation of the individuals who have received the JEC mediation scholarships.
  - Next Steps: The Statewide Coordinator will revise the appendix that has the JEC scholarship information and print a final copy. The Commission Co-chairs will submit the annual report to the Supreme Court. The Statewide Coordinator will place the report on the Statewide website.
- JEC Scholarships update
  - Lucy Bell & Robert Ward were awarded scholarships for the upcoming October 2014 mediation class.
  - One applicant requested specific foreclosure mediation training. The commission discussed whether there was additional foreclosure training in New Mexico. Commissioners noted that Damon Ely had full day program for foreclosure mediation a few years ago and that it was recorded on DVD and is available at the State Bar. Commissioner Dabney will see what the Nevada Supreme Court has regarding their foreclosure mediation training process.
- FY16 Planning/Budget
  - Based upon the discussion at the May meeting, the Statewide Coordinator submitted a proposed operating budget for FY16 that included a part-time employee to manage the Children's Court Mediation Program. The Coordinator will keep the Commission informed as the proposal progresses.

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III. Action Items:

- Mediation Video: It will be determined what editing can be done. The video will be finalized in English and Spanish. Captioning of the English version will be completed. The finalized videos will be posted onto the Statewide website.
- Brochure: The brochure will be posted onto the website for use during Mediation Week.
- Mediation Week: Commissioners are encouraged to promote mediation during Mediation Week. The Statewide Coordinator will reach out to the Courts.
- Proposed Rules: Justice Chavez will do introductory remarks for posting on the website.
- Commissioners are invited to reflect on what the Commission can accomplish moving forward and how individual Commissioners can contribute.
- These meeting minutes will be drafted by the Statewide Coordinator, circulated to Commissioners for feedback and approval.
- Commissioner presentations: Justice Chavez will be presenting on October 9 at the State Risk ADR Symposium. Commissioner Dabney will be presenting on Summary Jury Trials on October 10.

IV. Next Meeting December 5, 2014 9:30 AM – 11:30 State Bar Center. Coffee will be available beginning at 9:00 AM.

These minutes were adopted and approved via email, and reflect the comments received after Commissioners reviewed and commented on the minutes.