

## STATEWIDE ADR COMMISSION

### Meeting Notes

6.24.16 10:00am – 12:30pm

Boardroom, State Bar, ABQ

**Attendees:** Elizabeth Jeffreys, Staff & Statewide ADR Coordinator  
Justice Nakamura, N.M. Supreme Court Liaison

David Levin, Chair  
Laura Bassein  
Sara Stevens

Susan Barnes Anderson  
Kevin Spears  
Mary Jo Lujan

Sharon Ortiz (PH)  
Judge Castleberry (PH)

**Guests:** Shannon Driscoll, AOC Magistrate Court Mediation Program Manager

**Absent:** Susan Laughlin  
Darcy Bushnell (S/L)  
Torri Jacobus (travelling)

Jeanette Rael  
Jennifer Foote (@work)  
Mari Gish (@work)

David Smoak (travelling)  
Judge Sanchez  
Phil Dabney

#### I. Welcome & Introductions

Chair Levin opened the meeting with an overview of the agenda. Noted that the Commission was busy in the Spring with the budget and some reorganization. Moving forward the Commission will need to decide on a direction, and should naturally follow where the energy and interest lead us, which is to work on data gathering and reports. Although it is a small group today, it is important to meet in order to gear up for our August meeting, and to maintain our momentum.

#### II. Announcements & Updates

- A. Jeannette Rael retired and left a vacancy on the Commission. Her position was in a representative capacity of the Court Executive Officers. Kevin Spears indicated that he was likely to take up the representative position, and that would leave his 'general' position open, giving the Commission greater options for a replacement. Elizabeth said that she would personally like to see a representative of a larger court with active ADR, such as someone from the 3<sup>rd</sup> Judicial District. Laura Bassein noted that typically applications for Commission vacancies are sought by publication. Shannon Driscoll inquired about the requirements for the position, and David Levin said that he will check the original court order establishing the Commission. Justice Nakamura said that the Supreme Court would give serious consideration to any recommendation submitted by the Commission.
- B. JEC Scholarship, Basic Mediation Summer Recipients:
  - a. Blanche Raymond (a.k.a Blanche Charles), Farmington Mag. Ct., is a Leadworker and also a certified interpreter for the native population.
  - b. Amber Baker, 2<sup>nd</sup> Judicial Dist., is a Child Support Hearing Officer.
- C. New Website: [www.nmcourts.gov](http://www.nmcourts.gov); [www.adr.nmcourts.gov](http://www.adr.nmcourts.gov)  
Elizabeth Jeffreys announced that the new website would launch on Saturday at midnight, although more ADR updates to the site will be needed.
- D. CLI Call for Proposals: ADR Presenters Encouraged  
Laura Bassein circulated a handout regarding the need for ADR presenters at the Children's Law Institute conference in January in Albuquerque. The conference pulls 1,000 participants of

diverse backgrounds to focus on child welfare and juvenile justice issues, and this year there is a push for more ADR presentations. She encourages broad distribution by Commissioners. Shannon Driscoll asked if many ADR practitioners attend, and Laura responded that many child welfare mediators attend, but more are welcome. David Levin noted that the Commission can give support and exposure to the CLI efforts to grow ADR.

- E. [Ortiz absent/late, so announcement delayed/rescheduled]
  - F. ADR Guidelines. Chair Levin said that some modifications were made to the format and language of the guidelines. They can be resubmitted to the Supreme Court for consideration in either July or Dec. Plan is to present revised version to Commission in August and submit in December.
  - G. FY18 Budget. The Commission's budget decisions are being considered by the Administrative Office of the Courts (AOC), which is the first hurdle. That decision will be rendered by mid-July, and the news will be shared with the Commission. The remaining hurdles on the way to the Legislature will be the Budget Cmte of the courts, and the Supreme Court. Unfortunately, the budget forecasts for the state are discouraging, with a report that we are down to 1% of our reserves, so there may not be any funds available for the Commission's initiatives. Justice Nakamura asked if the Commission presents its requests separate from the AOC, and Elizabeth responded no, that the Commission's budget is under the AOC 'umbrella'. The Supreme Court could consider changes to that budget process, but the process for this year is unlikely to change as it is already upon us.
  - H. Per Diem. Starting in FY17 (in July 2016), there will be funds available to compensate Commissioner's for attending meetings. Elizabeth Jeffreys presented handouts including a summary of what is available, as well as copies of the applicable rules. She previously spoke by email to the Commissioners that are either ineligible, or may have special issues to consider before claiming per diem. Please direct any questions regarding process and payments of per diem to Elizabeth.
- III. 2016 Award(s)/October Mediation Week; Metro Court Mediation's 30<sup>th</sup> Anniversary  
Chair Levin presented a handout with recommendations from the committee (Torri Jacobus and himself). *See handout*. The committee seeks another Commissioner to assist in preparations.

Concern was expressed for avoiding struggles related to last-minute planning and for maintaining the momentum generated from last year's awards to mediators. The committee encourages the Commission to consider an award recognizing an ADR program, the Metro Court Mediation Program, which will also celebrate its 30-year anniversary in October. Sharon Ortiz supported the suggestion, noting that a lot of research has developed around the Metro Court program, and that it has positively affected the ADR community and the broader community with its success in developing ADR leaders and numerous mediators. Laura Bassein offered that to properly showcase the moment we will need to consider issuing press releases, join in the celebration, and maybe have a training event.

Susan Barnes Anderson shared that the date for the 30<sup>th</sup> Anniversary celebration is Thursday, October 13<sup>th</sup>, and it will be a late afternoon/early evening event with speakers and other activities. One complication to note is that the ADR Bureau's Symposium is scheduled for the same day. Mary Jo Lujan shared that the ADR Symposium will be held at the Community College in Santa Fe on October 12<sup>th</sup> and 13<sup>th</sup>, and that they also wanted to recognize the Metro Ct. program's accomplishments in some way. Laura Bassein added that the Statewide ADR Commission has a meeting scheduled for October 14<sup>th</sup>, at the Metro Court. Mary Jo noted that the 'official' October Mediation Week would be set for the following week. Justice Nakamura wondered if the award ceremony should be set for a separate day. Laura Bassein wondered the same. Elizabeth wondered if the Commission meeting should be moved to the 13<sup>th</sup>, so that the Commission could assist the Metro Court with the celebration and not have three full consecutive days of activities. Chair Levin asked to put that issue on the agenda for our Aug. meeting.

#### IV. JEC Scholarship Selection Process

Chair Levin said that the temporary committee was able to make the recipient selection in less than 2 hours. Initially, the co-chairs, Justice Chavez and David Levin, made the decision on behalf of the Commission. A formal designation of authority was later given by the Commission, but then the Commission was restructured with a single chair, David Levin. He suggests that a committee be designated to decide the recipients on behalf of the Commission. Susan Barnes Anderson, Laura Bassein and Kevin Spears agreed with this approach.

#### V. Commission's Strategic Plan

##### A. Interviews of Commissioners by Chair Levin.

Six months ago, upon being designated as sole Chair, David Levin conducted individual interviews with each Commissioner to discuss what vision each had for the future of the Commission. He shared a handout of his "take-aways" from those discussions, and maintained the anonymity of each respondent. After sharing the key points of the handout, he thanked the Commissioners for devoting their time and energy to the endeavor. David noted that the Commission cannot work on all 10 of the Recommendations of the National Center for State Courts at once and should prioritize its work.

Elizabeth said that the Commission has actually made progress in each of the 10 recommended areas, although not all would be achieved overnight. As examples, she noted that there was a pilot project, a website, the JEC scholarships are in essence institutionalized, and ADR training was expanded further through collaboration with the ADR Bureau, allowing far more members of the Judiciary to participate. For the first time the Commission would have a budget, to support greater involvement, and there is a tremendous amount of collaboration taking place between the Metro Court program and the Magistrate Court mediation program.

Justice Nakamura asked about the directive for the Commission by the Supreme Court. Chair Levin responded that the Supreme Court created the Commission in response to a report by the NCSC, which offered ten recommendations for the development of ADR in New Mexico. Elizabeth said the initial order directed the Commission to develop, organize and support [Post-note: the original order says “develop, organize and *monitor*” ADR programs]. The Justice said that she thought the Supreme Court would support more development of ADR: identifying the gaps and the reasons for those gaps, and then leading the way towards expanding ADR throughout the state. She stressed a need to have a clearly identified goal for the Commission.

Laura Bassein said that such endeavors require resources, and that the Commissioners are best able to contribute by using their existing role to support and develop ADR. She clarified that most Commissioners work in demanding positions, but each can find ways to make the work and goals of the Commission fit within the scope of their profession, in a win-win scenario.

Shannon Driscoll, Magistrate Court Mediation Program Manager, expressed her observation that the Commission is “doing more than it realizes”. She noted that there was a lot of value in a regular gathering of ADR leaders who can share their experiences and offer advice. For example, it is helpful to have a group to go to for support in budget initiatives, and her data gathering directly improved as a result of the comments offered by the Commissioners.

Susan Barnes Anderson reflected that “innovation” isn’t talked about much, but is critical to progress. She said we have the data, and we know what’s possible fiscally and what’s needed to run a program. The innovations help to overcome some of the hurdles as, for example, her use of video conferencing to expand training and collaboration to outlying areas. In a rural state, innovation is critical to success. Justice Nakamura agreed that a lot of good work was being accomplished.

Susan said that programs operate best with a full time staff at the court to oversee the operations. The reality is that few courts can afford to fund a new position. However, she discovered that the Access to Justice Commission was pushing for each court to have a self-help office. She suggested that a collaborative effort could be made to support a combined self-help/ADR position for each court. David Levin commented that the Metro Court anniversary celebration can be used to showcase innovations, honor the past and develop solutions for the future.

Kevin Spears noted that Ben Cross is in a combined position of Court Attorney and Mediator for the 9<sup>th</sup> Judicial District. He believes that other courts can figure out how to support the growth of ADR positions by, for example, increasing filing fees for expenses. He could approach the Court Executive Officers Council about how to develop ADR positions. Shannon Driscoll supported the idea, and offered that the Magistrate Courts could collaborate with the District Courts and possibly share mediator pools in rural areas where it is difficult to recruit.

Justice Nakamura said that it would benefit the Commission to have an annual report or a 'short sheet' to showcase efforts in ADR across the state. It would be helpful to have a one-pager to present to the Supreme Court and the Legislature. She held up the ADR Bureau's annual report as an example. Chair Levin noted that the Commission issues an annual report, and asked if she had seen it (she had not). Mary Jo Lujan offered that collaborations are beneficial to all involved. The Legislature asked her if the ADR Bureau tried expanding their outreach, and she was able to demonstrate the expansion to the Judiciary as a result of the training collaboration that occurred over the past year. Shannon added that those trained by the ADR Bureau were also volunteering at the Magistrate Courts. Mary Jo acknowledged the reciprocal nature of the benefit and encouraged the development of a statewide ADR community. Chair Levin recognized the value of the discussion, and commended the ADR Bureau for its contributions.

Sara Stevens offered to assist Kevin Spears in addressing the CEO's, by talking about how the mediation program started in the 4<sup>th</sup> Judicial District and how it benefited the judges. Kevin responded that there are several new CEO's and more expected with additional retirements, so it would be a good time to address court operations and how to implement programs and services that can benefit the courts. Chair Levin supported the idea and asked that the discussion turn to data.

#### B. Data Gathering and ADR Reports (handout)

Elizabeth presented the recommendation of committee (Susan Barnes Anderson, Shannon Driscoll, Torri Jacobus and herself), that the Commission focus on data gathering and the development of ADR Reports. She spoke to the broad benefit of such a focus, and the alignment with the NCSC 10. Shannon Driscoll thought it would be helpful to have non-commissioners on the cmte, especially if people have knowledge of data or statistics that could be useful. Chair Levin added that it would be helpful to have folks from around the state help in the efforts. Elizabeth noted that it would be helpful to have strong connections with the District Courts so that a cohesive approach could be made towards Odyssey improvements.

Shannon Driscoll volunteered to chair a committee. Susan Barnes Anderson will continue to assist in the efforts. Kevin Spears offered to assist in the development of a working group of CEO's or designees from the District Courts, and agreed to serve on the committee.

Mary Jo Lujan noted that it would be helpful to share the court data or reports with her ADR Bureau for use in her reporting requirements to the ADR Advisory Board, which has representatives from DFA and LFC present. They would be especially interested if we could demonstrate savings as part of the data. Chair Levin encouraged her to assist the committee.

Elizabeth asked if Kevin could get Dist. Court representatives to attend the next ADR Commission meeting on August 26<sup>th</sup> by video. Kevin responded that the next CEOC meeting is Aug. 9<sup>th</sup>, and ADR is always an agenda item so he would present at that meeting to get an initial designation. Also, he believed that courts would permit the travel for the designees to attend

in-person, which could be more productive. He wasn't sure that all of the courts (ex. the 10<sup>th</sup>) would be able to attend. Kevin works with the CEOs all the time, so this is not a difficult task for him.

Laura Bassein asked if we should bring in the Appellate court (Robert Rambo, Ct. Ap.). Shannon will call him to discuss. Elizabeth noted that the Court of Appeals does not use Odyssey or the forms that the committee would focus on, but he may still be a helpful resource. Susan Barnes Anderson didn't think there were stats from the mediations at Ct. Ap. since 2012, but wasn't sure. Chair Levin said to contact the world, but not to get 100 people in the room because we wouldn't be able to get any work done.

VI. Metro Data (handout)

Susan Barnes Anderson presented a handout with the categories of data that she gathered for her Metro Ct Mediation Program. She is waiting on authorization to release the actual data. The data gathering has been a huge project, and she specifically acknowledged the help she received from Moses Reyes, who is proficient with the spreadsheets. Chair Levin wondered if the handout of the categories of data would be helpful for the CEOs. Elizabeth thought it might be helpful to create a spreadsheet of the categories of data collected by the various courts and include the metro's categories.

Chair Levin was encouraged by the discussion at the meeting, and felt confident that the Commission could support a successful effort in improving data collection and ADR reports.

Meeting Adjourned @ 12:30pm.