

# ADReport



## Alternative Dispute Resolution Section

March 14, 2019

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## Message from the Chair

By Cynthia Jurrius, Esq.

Greetings, ADR Section!

Your ADR Section Council has had an active first half of the year, building bridges to expand the use of the various forms of Alternative Dispute Resolution in many settings. During our fall retreat, the Section Council created an action plan for the year, to promote education about ADR to a wider audience, to provide tools for education, outreach and communication, and to expand opportunities for ADR practitioners. The Section Council identified new uses for the amazing tools that we offer as ADR practitioners and new opportunities for the expansion of ADR. The diversity of articles the ADR Section published in November MSBA Bar Bulletin highlighted the breadth of practice opportunities and topics of interest in our evolving field.

## Message from the Chair, *continued...*

In December, The ADR Section Outreach Committee hosted a post-convention gathering for all attending the Maryland Mediators Convention. Through collaboration and understanding the strengths that practitioners from diverse backgrounds bring to the table, bridges were built for the future of the ADR field. And, a good time was had by all!!

Members of the Section Council have been monitoring and participating in the development of the Revised Standards of Conduct for Mediators, intended to provide a unified set of standards for court and non-court mediations. A draft has been forwarded by the Judicial Council to the Rules Committee, where it will be reviewed in early Spring.

Plans are in the works for the ADR Section's Spring Event: a multifaceted training day honoring the legacy of Professor Roger Wolf, with a focus on ethics and innovation in ADR, and the annual dinner. The presentation of the Chief Judge Bell Award to an outstanding ADR practitioner will be a highlight of the evening. Late breaking news... Judge Thomas G. Ross has been selected for this honor! Join with your colleagues on April 30 to celebrate Judge Ross's many contributions to ADR in Maryland. See details in this newsletter.

At the MSBA Annual Summit in Ocean City in June, the ADR Section Education Committee will present its new outreach toolkit and video, "ADR in a Box." Come on out and share your thoughts for the use of this new tool.

A few weeks ago, I met someone at a dinner party, who after learning what I did, shared that attending mediation had improved her family's life forever. She and her former husband can now both attend their children's sporting and school events without distress, and are now planning their eldest's graduation party. The ripple effect for all was considerable. Whether it is a family matter, bringing resolution to a court case, or other ADR practice, this work makes a difference. Please feel free to reach out at any time throughout the year, and let us know your thoughts and ideas about expanding awareness and use of our amazing tools for resolving disputes, healing relationships, and changing lives.





**MSBA**

# SPRING SEMINAR & CHIEF JUDGE BELL AWARD DINNER

**SAVE THE DATE**

**April 30, 2019**  
Tabrizi's, 500 Harborview Dr. Baltimore, Maryland 21230

Seminar and Lunch | 12 - 5:30 pm,  
Dinner and Award Ceremony | 6 - 8:30 pm

Join the Alternative Dispute Resolution Section for a 4-part panel discussion covering ethics and Mediation Skills with retired judges and esteemed mediators from throughout the state. Earn 2 hours of ethics credit.

The seminar will be followed by the Dinner and Award Ceremony featuring Judge Bell, Judge Barbera and the Chief Judge Bell Award recipient.

## “ADR-in-a-Box” Video Successfully Rolled Out At MD Mediators Convention & Is Ready for Your Use

By John Greer, Esq.

The Education Committee of the ADR Section Council is proud to announce the successful rollout of its “ADR-in-a-Box” video at the Maryland Mediators Convention in December. The video is available for use free of charge by anyone who wishes to promote the use of ADR in Maryland, including lawyers, government entities, public and private institutions, and academics.

The video is one piece of a set of pre-packaged materials, called “ADR-in-a-Box” for short, under development by our Section. The concept is to compile presentation aids (i.e., the “Box”) that people can draw upon to explain how ADR works and provide basic information about it. The video portion of the “Box” displays four types of ADR (mediation, settlement conferencing, collaborative session, and community conferencing) using the same fact pattern of a neighbor dispute. Here is a link to the video: [ADR-in-a-Box Video](#) (the video can also be found at <https://vimeo.com/276072547> as well as <https://www.msba.org/for-members/sections/alternative-dispute-resolution/>).

At the Convention, the Committee sought and received excellent audience feedback on two questions:

- 1) How can ADR-in-a-Box be used to educate the public about dispute resolution processes outside the court system? The audience suggested the Committee identify organizations with which to partner about getting the ADR message to a wider audience. It also suggested we utilize a variety of technological avenues (e.g., websites, social media outlets, and video loops in judicial and professional waiting rooms) for broadly distributing the video and other “Box” materials.
- 2) What are some suggestions to assist professionals in growing their practices by using ADR-in-a-Box? Comments were received about encouraging individuals to make presentations around the state on the benefits of ADR, demonstrating how ADR-in-a-Box could be used in the office during client intake, linking the video to professional websites, and segmenting it for specialized purposes.

## “ADR-in-a-Box” Video Successfully Rolled Out At MD Mediators Convention & Is Ready for Your Use *Continued...*

The Committee appreciates these comments and is actively weighing them for implementation.

The video was well received at the Convention, as shown by these survey responses:

“The video will be a great tool going forward.”

“The video was excellent!”

“Exciting resource with great potential to educate others.”

“What a great tool to use to tell about ADR.”

For more information, please contact the ADR Section Council at [info@msba.org](mailto:info@msba.org).

Pictured below: ADR Section Council members, Andrew Fontanella, Esq. and John Greer, Esq. unveiling ADR-in-a-box.



## Incorporation of Outside Professionals

By Ceecee Paiz, Esq.

Any mediator knows that mediation is a process that focuses on the self determination of the participants, provides confidentiality which allows for more open conversations, and the impartiality of the mediator. How a mediator defines each of these elements of mediation is where mediators differ. The definitions of mediation can also differ from state to state.

In October 2015, I was on a panel, along with Jolie Weinberg, Esquire, and Scott Holzman, PhD., at the 2015 Catalyst Conference in New York City. Presented by the Association of Divorce Financial Planners in collaboration with the Center for Mediation & Training, the Catalyst Conference was designed to bring alternative dispute resolution practitioners and divorce financial planners together to discuss the collaborative and mediation processes. Programming focused on how practitioners and divorce financial planners could work together to better serve the clients of both. Along with educational programs, the panel I was part of consisted of Jolie, Scott and practitioners from across the country, both ADR practitioners and financial planners. We each discussed our experiences as ADR professionals both individually and in the team setting. While collaborative law implies the use of outside professionals such as divorce financial planners, mediators differed as to how outside professionals could play a role in the mediation process. The conversation included discussions related to interactions with the other professionals on a team, as well as outside professional referrals.

It was clear that the ADR professionals believe that outside professionals can bring valuable insights and assistance in a mediated setting, but the role that such outside professionals would play varied from mediator to mediator. It highlighted how perspectives can vary even within the ADR community when it comes to how to best provide our services and those of outside professionals to clients.

It is clear that the use of any outside professionals is completely within the discretion of the participants in the ADR process. Once there is a sense that the participants believe that they could benefit from a consultation with an outside professional, whether a financial neutral, a mental health professional or any other professional, the selection process can be assisted but not determined by the ADR professional. In my practice, I work with the parties to identify the type of professional that might be helpful (an accountant in a contract dispute over funds, an appraiser of real or personal property that is part of the subject of the dispute, a mental health professional who works with couples in co-parenting communication). I then ask the parties how they would like to proceed. If they are represented by counsel who are present, counsel often has experts with whom they have worked in the past. In such cases, I let the attorneys take the lead on identifying a potential professional to refer the clients to.

## Incorporation of Outside Professionals, *continued...*

If the attorneys are not present, I always insist that the parties consult with their attorneys before making any referrals of my own. Only if the attorneys request a suggestion from me, or the parties are unrepresented do I provide a list of names for their consideration.

As a general process it seemed that most mediators I have spoken with would suggest the following:

1. Identify the type of professional that might be of assistance to the participants;
2. If represented by counsel, defer to counsel for the choice of professional and timing of the retainer of such professional;
3. If no counsel, provide a list of potential professionals that you have worked with before. I would recommend that you do not provide only one name, as that could be interpreted as a specific recommendation. If the relationship with the professional sours, the participants may place the blame on you;
4. Assist with setting a timeline for when the professionals would be engaged, what steps to take if the parties do not agree on a professional, when the parties would return to mediation after working with the professional;
5. Clarify how the professional will participate in the mediated process. In some cases, mediators would permit the professional to attend a mediation session to assist the participants as the need arises. Providing deadlines and keeping the process moving forward for the parties can be a valuable service, especially in a complex civil or family law matter.

In the end, as with any aspect of ADR, allowing for a conversation about and then participation of outside professionals can provide valuable information and education to participants, allowing for a more informed conversation and agreements.

*Cecilia "Ceecee" Paizs provides mediation services throughout the State of Maryland in family, commercial and community disputes through The Mediation Center ([www.agreeonit.com](http://www.agreeonit.com).) She also provides mediation trainings from the basic 40 hour civil mediation training through the four hour advanced mediation trainings required under Title 17. Upcoming trainings can be found on The Mediation Center website.*

**COME LEARN ABOUT  
MEDIATION TRAINING &  
PRACTICE OPPORTUNITIES!**

**When & Where- 03/27/2019, 6-8  
p.m. at the JCECC, LL 11,12,  
2011 Commerce Park Dr,  
Annapolis, MD 21401, USA**



## **Pizza & Professionalism**

**The Alternative Dispute Resolution (ADR) Section of the MSBA invites you to come hear from our speakers about the ins and outs of becoming a court referral mediator.**

### **BEING A COURT REFERRAL MEDIATOR: HOW, WHERE AND WHY?**

#### **Speakers:**

**-Jonathan S. Rosenthal, Esq., Director, MACRO**

**-Heather V. Fogg, Quality Assurance Director, MACRO**

**-Debra Sheppard, Esq., former Deputy Family Law Administrator for the Circuit Court for Carroll County, Regional Program Director, Montgomery & Prince George's County, District Court of Maryland ADR Office.**

**Cost of Attendance: FREE to attend. Please register at <https://www.msba.org/product/adr-sections-pizza-professionalism/>**

