



NEWS FOR NEUTRALS

For members of Riverside's
Court-Connected ADR Panels

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Volume 3, Issue 1

June 2012

New Countywide Family Law Private Mediation Panel

by Barrie J. Roberts and Susan Ryan, Managing
Attorney, Self – Help

We are happy to welcome the new countywide
[Family Law Private Mediation Panel](#) to
Riverside's ADR community! All panel
members are experienced family law lawyers
with mediation training
and/or experience, and they
provide privately-arranged
mediations as well as
court-referred Voluntary
Settlement Conferences
(VSCs). Thanks to the
considerable efforts of
Thurman W. Arnold, III,
Chair of the Desert Bar



Judge Dale Wells
encourages parties to
participate in VSCs.

Cont. on page 2

Congratulations to Civil Mediation Panel Members

**J.E. Holmes and
Madeline Tucci Tannehill**

on their appointment to the State
Bar ADR Committee!

Thank you for representing
Riverside and we look forward to
working with you this fall!

Panel members: The next newsletter
will announce opportunities to
exchange ideas about the State Bar
ADR Committee.

Family law private mediators:

This [Mediate.com article](#) on gender bias in family law
mediations may be of interest.

SATURDAY MEDIATION COACH

Our Small Claims Court mediation program is looking
for experienced mediators to spend 2-3 hours on
Saturday, June 23 or Saturday, June 30 to provide
critiques of their volunteer mediators. The mediators
will be discussing sample problem cases and engaging
in role play mediations.

Location: CAP offices, 2038 Iowa Ave. in Riverside.

Travel reimbursement/small token payments are
possible.

Contact Fred Jandt at: fjandt@csusb.edu

INSIDE THIS ISSUE

- 3 Mediation & Expedited Jury Trials (EJTs)
- 4 Using Judicial Arbitration to Promote
Settlement: Invitation to Comment on
Proposed Rules
- 4 Recent Case Law: Med/Arb Agreement Upheld
- 5 2012 ADR Appreciation Events
- 7 Program Administration

Newsletter designed by Jennifer Koskela-Postin

Association's Family Law Section, desert-area panel members have already conducted three successful VSC days in Indio under the supervision of Judge Dale Wells. And, thanks to the considerable efforts of DRS President Chris Jensen, DRS panel members countywide have been conducting successful VSC days in Riverside for over a year under the supervision of Judge Jackson Lucky.

VSCs take place at the courthouse and offer pro per parties a multi-prong approach to settling cases, including education, document preparation and mediation with an experienced family law attorney. Before the VSC, parties attend a workshop where they complete financial disclosure documents and settlement declarations and learn about the benefits of leaving the VSC with their judgment in hand. At the VSC, Judge Wells and Judge Lucky encourage participants to take advantage of the experienced family law attorneys who generously volunteer to help them settle their cases at no cost. After the VSCs, the parties complete surveys, which have been filled with heartfelt "thank you's" along with adjectives like "excellent" and "awesome."

Private mediations can address virtually any family law issue that arises before or after filing, including divorce, domestic partnership dissolution, paternity, custody, visitation, spousal and child support, and property division.

One hallmark of private family law mediation is flexibility: Family law mediators are accustomed to developing individualized approaches for each family's unique needs. Thus, panel mediators are available to work with counsel and litigants or with self-represented parties, on all issues or only certain issues, and on a timeline that makes sense for all concerned.

Child custody & visitation is one example of the adaptable nature of private family law mediation. When parents cannot agree on child custody and visitation, the court orders them to [Child Custody Recommending Counseling](#) (CCRC). CCRC, however, has limitations: It can only address this one issue

and it does not allow attorneys to participate. But before attending CCRC, parties - along with their attorneys - can work with private mediators to address child custody and visitation in the context of all or some of the other issues facing the family. If the parents still cannot resolve child custody, they go to CCRC for that one issue, probably after having made tangible and intangible progress on this and other matters in the case.

Judicial Support

Private family law mediation is fortunate to have strong support from the bench.

According to Presiding Judge Sherrill Ellsworth, "Our family law judges strongly encourage parties to use alternative dispute resolution, including mediation, to resolve their disputes."

Judge Wells has pointed out that "costly and stressful adversarial court hearings are rarely in the best interests of the children or the parents. Mediation gives parties the opportunity to express their concerns in a safe and private environment. With the mediator's help, the parties can reach voluntary agreements that are custom-made for their particular situation."

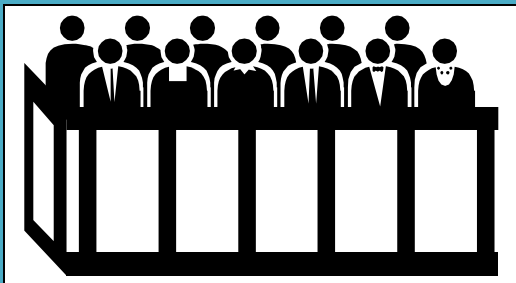
And, as Judge Lucky reminds litigants, "Family law decisions are so important because they deal with children and family finances. The parties understand their needs better than anyone else. Mediation puts control where it should be: with the parties. It allows them to make the best choices for themselves, instead of hoping that a judge, who is a stranger, will make the right decisions for them."

For more information about private family law mediation, including the [panel application](#) and printable [Information Sheet](#), visit the court's [Family Law – Private Mediation web page](#)

To retain a mediator and schedule a mediation session, parties may review the mediators' [on-line profiles](#) and then simply contact the mediators of their choice. ❖

Mediation & Expedited Jury Trials (EJTs)

Expedited Jury Trial Act (January 1, 2011)
CCP s. 630.01 et seq; CRC [Rules 3.1545-3.1552](#)



RCBA's May 18 General Membership Meeting featured a panel discussion on EJTs moderated by Judge Gloria Trask along with Jay Korn, Eric Traut, and Jesse Marr all of whom described their experience with EJTs.

In these challenging budgetary times, EJTs are an important option for civil litigants and the court alike, especially for our \$50,000 & under cases that don't settle at mediation.

What is an EJT?

An EJT is a 1-2 day jury trial with 8 jurors, 6 of whom must agree on the verdict. Parties must agree to limit the number of issues and witnesses, and to waive most of their rights to appeal. And, parties may choose to agree on "high-low" amounts to guarantee a minimum/maximum amount of recovery regardless of the verdict.

What do EJTs have to do with mediation?

EJTs are based on a stipulation. Parties must negotiate the terms of a proposed consent order concerning

- "High-low" amounts, if the parties wish to guarantee a minimum/maximum recovery
- Limitation of issues to submit to the jury
- Limitations on witnesses and documentary evidence
- Trial procedures

What is the mediator's role?

Mediators can help parties with these negotiations at two critical times:

- (1) During a mediation when discussions are not moving toward settlement, the mediator can acknowledge the impasse, shift the discussion to the possibility of an EJT, and offer to help the parties negotiate the terms of a proposed consent order.
- (2) Anytime up to 30 days before trial when the proposed consent order must be submitted.

EJT Information & Forms

You may wish to have these forms available for use at court-ordered mediations: The AOC's [Information Sheet](#); a sample form [Consent Order for Expedited Jury Trial](#) and [Attachment to Consent Order](#).

You may also direct parties to the court's new [EJT webpage](#) which you can access from the court's [Civil Home Page](#) (see "Quick Links").

Providing EJT Mediations

Please let me know if you are

- qualified to provide mediations for EJTs and wish to add this to your Mediator Profile and/or
- interested in a brief training session on providing mediations for EJTs.

For additional information about EJTs, please see: [AOC's EJT webpage](#). ❖

Using Judicial Arbitration to Promote Settlement

On Jan. 1, 2012, two new judicial arbitration statutes went into effect to encourage settlement and reduce the number of trial de novo requests. CCP sections 1141.20; 1141.23

In the past, parties had 30 days after the arbitrator filed the award to request a trial de novo or the award would be entered as the judgment of court.

As of Jan. 1, parties have 60 rather than 30 days to file a request for a trial de novo. And now, filing a Request for Dismissal during this 60-day period prevents entry of the arbitration award as the judgment.

To build on these efforts to facilitate settlement in and after judicial arbitration, the Judicial Council of the Administrative Office of the Courts (AOC) is now circulating two additional proposals:

[Invitation to comment on proposed Cal Rule of Court - Comments due June 15](#)

These proposals would (1) provide that an arbitrator can request compensation if the arbitrator devoted a substantial amount of time to a case that was settled without filing of an award; and (2) clarify that, in order to prevent entry of a judicial arbitration award as the judgment in a case, any request to dismiss the entire case must be signed by all parties to the case and any request to dismiss all parties to the arbitration must be signed by all those parties.

The above Invitation includes interesting background material on the judicial arbitration program and these and other proposals.



RECENT CASE LAW

Bowers v Raymond Lucia Cos. (Cal.Ct.App - May 30, 2012)



Med/Arb baseball/high/low agreement upheld

The parties in *Bowers* agreed to mediate all day and if unsuccessful, to have the mediation "roll over" into another process created by the parties: a binding baseball arbitration/mediation in which the mediator would choose either plaintiff's final demand (\$5 million) or defendant's final offer (\$100,000) after which the mediator's decision would become an enforceable judgment.

When the mediator chose plaintiff's number, defendant appealed, claiming, among other things, that there was no actual arbitration before the mediator chose plaintiff's number. The appellate court held that actual arbitration was not part of the settlement agreement and upheld that agreement and the mediator's decision.

Note to panel mediators and arbitrators: The hybrid "roll over" processes described above do not comport with court policy for our \$50,000 and under cases. Panel mediators should not be making decisions or awards. Judicial arbitrators must make awards. The only exception is when parties wish to try mediation before, during or after their judicial arbitration in such a way that an award or a Notice of Settlement can be filed within the time period for filing the award. Please review the policies for this situation [here](#). Note that the new statutes described in the article to the left do not change the timing for filing an award or Notice of Settlement. And note that Arbitrator's Fee Statements cannot be processed without the timely filing of an award or Notice of Settlement.

Please feel free to submit comments on the *Bowers* case, hybrid ADR processes or court policies for the next Newsletter. Depending on interest, we can schedule a brownbag lunch to discuss these topics in the fall.

Many thanks to Brian Unitt for sending this interesting case. ❖

2012 ADR APPRECIATION EVENTS

RCBA Hosts 2012 ADR Appreciation Event

Many thanks to Justice Thomas Hollenhorst for his presentation on "Science and Settlement" at the April 20th RCBA General Membership meeting and ADR Appreciation Event. It was an honor and a pleasure to have Justice Hollenhorst join the court in recognizing our neutrals. His remarks on oxytocin were a perfect fit for this happy occasion!

Also, many thanks to RCBA, especially to President Robyn Lewis, Jacqueline Carey-Wilson, Charlene Nelson and Lisa Yang for graciously hosting this event.

RCBA was a fitting location for this year's event as Presiding Judge Sherrill Ellsworth gave special recognition to DRS President Chris Jensen for his many years of dedicated service to the court. Chris's service includes longstanding participation on the court's ADR Committee; arranging partnerships between DRS and the court to provide mediation training; serving as a Civil Mediation Panel mediator; and taking the lead on securing DRPA (Dispute Resolution Program Act) funding for several DRS programs, a talent which has become increasingly important in these dire budgetary times. Chris Jensen, the DRS Board, and the DRS mediators are all true and indispensable justice partners.

Supervising Civil Judge Mac Fisher recognized DRS's day-of-trial "TAM" mediators for their extraordinary work on Friday mornings. He also recognized our equally extraordinary Chapman Law School mediators for their work on collections and civil harassment mediations under the supervision of Commissioner Pamela Thatcher. Judge Fisher also thanked and recognized our dedicated judicial arbitration panel mediators and Small Claims mediators.

Judge Gloria Trask, the court's longstanding ADR Chair, gave special recognition to the court's Civil Mediation Panel members, including those who received the most and best post-mediation surveys over the past year: **Janice Cleveland, Ed Fernandez, Jay Korn, Kirk Lauby, Greg Rizio, Rob Schelling and Brian Unitt**. Congratulations and thank you for providing such excellent service to our civil litigants.

Last but not least, Supervising Family Law Judge Irma Asberry thanked our superb panel of DRS Probate and VSC mediators and welcomed our new Countywide Family Law Private Mediation Panelists.

Larson Justice Center Hosts First ADR Appreciation Event

Many thanks to those of you who attended the court's first ADR Appreciation Event in Indio on May 17. Judicial support for ADR was strong at this event, thanks to Assistant Presiding Judge Mark Cope, Judge Harold Hopp, Judge Craig Riemer, Judge Dale Wells, and Commissioner David Gregory.

Judge Cope expressed the court's gratitude on behalf of Presiding Judge Sherrill Ellsworth and the court's ADR Chair, Judge Gloria Trask.

Judge Riemer recognized all of the volunteer attorneys who serve the court, including temporary judges and committee members.

Judge Hopp expressed the court's appreciation for the Civil Mediation Panel, Judicial Arbitration Panel, the "First Friday" participants and the Small Claims mediators.

Judge Dale Wells described several "firsts" that occurred during the first half of 2012: The first countywide family law mediation training; the first countywide Family Law Private Mediation Panel; and the first VSCs at Larson (see story on pages 1-2).

Judge Wells also paid special recognition to the one person who made all three "firsts" possible: Desert Bar Association (DBA) Family Law Section Chair, Thurman W. Arnold, III. Thurman and the DBA are true and indispensable justice partners to the court.

The judges ended the program by calling up each individual attorney to receive a Certificate of Appreciation and heartfelt thanks.

For those of you who could not attend the April 20 or May 17 events, please take a moment to review the Programs: April 20th & May 17th.

These programs show strong judicial and institutional support for ADR; Riverside's expanding ADR community; and your many contributions. You make the court's ADR programs possible, and you are appreciated more than you know by the court and our civil litigants for providing this essential public service. Thank you.

Photos from the 2012 ADR Appreciation Event at RCBA



Presiding Judge Sherrill Ellsworth and Justice Hollenhorst.



Justice Hollenhorst explains "Science & Settlement" to a packed room.



Presiding Judge Sherrill Ellsworth presents a special Certificate of Appreciation to DRS President Chris Jensen.



Brian Pearcy, Judge Craig Riemer, and Judge Irma Asberry.



Jim Heiting, Jacqueline Carey-Wilson, and Justice Hollenhorst.

Many thanks to Jacqueline Carey-Wilson for these photographs.

PROGRAM ADMINISTRATION



COURT-ORDERED MEDIATIONS: TEMPORARY HOLDS ON ASSIGNMENTS



If you would like to have your assignments stopped temporarily for any reason, please contact Jennifer Koskela-Postin to report your stop and re-start dates.

Phone: (951) 777-3062

E-mail: jennifer.koskela-postin@riverside.courts.ca.gov

Address Changes

Panel Arbitrators & Mediators

If your address changes, please submit the

[Vendor Master Change Form](#)

available on the court's web site and

E-mail your new contact information to

CourtADRDIRECTOR@riverside.courts.ca.gov