

The Intermediary

*A Bridge between the Dispute Resolution Commission
and North Carolina's Certified Mediators*



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From the Chair

*by
Judge Sanford L. Steelman, Jr.*

On behalf of the members, ex-officio members, and staff of the Dispute Resolution Commission, I want to wish all our State's certified mediators a peaceful and joyous holiday season and a prosperous New Year.

The Commission has many blessings to count this year. Most especially, Commission member Judge John J. Carroll, III, of Wilmington returned to his family, friends and colleagues safe and sound after 14-months spent serving in Iraq. We celebrate his return and are grateful for his service. I know this will be a very special Christmas for Judge Carroll, his wife, and children. We also celebrate the establishment of the new Clerk Mediation Program in our courts. Commission member and Clerk of Superior Court Martha Curran, AOC Legal Counsel Pamela Best; and Commission staff Leslie Ratliff met with the Clerks in Dare County in September to discuss program implementation. I understand there was much interest in the new program and that Clerks are already beginning to refer cases. I am confident that with some experience, Clerks will come to value mediation as much as do our State's district and superior court judges.

We are also grateful this year that the Commission's web site was recognized nationally for excellence and, just this last week, I learned that the Center for Analysis of Alternative Dispute Resolution Systems (CAADR) has selected our Mediated Settlement Conference, Family Financial Settlement and new Clerk Mediation Program Rules for posting on its web site as models for other States to consider in crafting their own rules. We are gratified that North Carolina's efforts and leadership are being recognized by others.

In reflecting on the Commission's blessings as this year closes, I also want to acknowledge all of you and the work that you do for the courts and the citizens of this State. Newly released AOC statistics for Fiscal Year 2005/06 reveal that some 10,423 superior court cases were referred to mediation between July 1, 2005, and June 30, 2006. Just under 6,000 of those referrals were actually mediated with 3,292 of those cases settling at the conference. An additional, 3,358 of the referrals were disposed of without the need for a conference. The Commission believes that the mediation process served as a catalyst for those resolutions bringing to 6,650 the number of cases that

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The Commission invites its readers to comment on any articles or any of the information presented in The Intermediary or to write articles for inclusion. Send your thoughts to the editor, Leslie Ratliff, at leslie.ratliff@nccourts.org. We look forward to hearing from you!

mediation played a role in resolving this past fiscal year. This is truly an accomplishment! One can only imagine the judicial hours saved, the tax dollars conserved, the stress relieved and the relationships salvaged as a result of your efforts. As we move into 2007 and see the Family Financial Settlement Program implemented statewide and Clerks begin to refer cases to mediation, I fully expect your contributions in this new year to exceed even your strong showing for 2005/06.

I hope that you will join with me in counting blessings this holiday season and that you will take as much pride as I do in the contributions you have made to our State's mediation programs, to our courts and to the work of this Commission. I also hope that the coming of a New Year will serve to renew your enthusiasm and dedication for I am certain there will be a lot for all of us to do in 2007.

Mark Your Calendars!!!



Commission Meetings for 2007 Have Been Scheduled

*February 2, 2007
Durham*

*May 18, 2007
Charlotte*

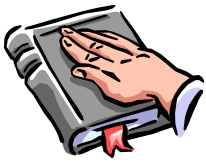
*August 10, 2007
Greensboro*



*November 2-3, 2007
Blowing Rock*



Please check the Commission's web site at www.ncdrc.org to view minutes from previous meetings and to check agendas and verify exact locations and start times for upcoming meetings. Mediators are always welcome to attend meetings and to express their views on matters before the Commission. Just be sure to let Commission staff know that you are coming so that seating can be assured and lunch ordered. We look forward to seeing you!



Commission Members Return

At the Dispute Resolution Commission's November meeting, Judge W. David Lee, Resident Superior Court Judge in District 20, administered the oath of office to NC Court of Appeals Judge Sanford L. Steelman, Jr. Chief Justice Sarah E. Parker re-appointed Judge Steelman to a second term as the Commission's Chair. Judge Steelman will serve as Chair through September of 2008.

Judge Steelman, in turn, administered the oath of office to Judge Lee and to two additional returning members, Judge Joseph E. Turner, Chief District Court Judge in District 18 and Jesse Conley, a partner at the Statesville law firm of Pressly, Thomas and Conley. All three were re-appointed to the Commission by Chief Justice Parker.

Chief District Court Judge John J. Carroll, III, of District 5 and mediator N. Larry Hudspeth of Sneads Ferry were also re-appointed to the Commission by the Chief Justice. Judge Carroll and Mr. Hudspeth will be sworn in at a later date. Judges Lee, Turner, and Carroll, Mr. Hudspeth, and Ms. Conley have all been appointed to serve through September of 2009.

The Dispute Resolution Commission is a fifteen-member body comprised of judges, mediators, attorneys who are not lawyers, and interested members of the public. The Chief Justice holds the bulk of appointments, but others are made by the Governor, Speaker of the House, President Pro Tempore of

the Senate, and President of the State Bar.

Two new ex-officio members have also joined the Commission. Ann Anderson joins as liaison for the NCBA's Dispute Resolution Section and Betty Fuqua as liaison for the Judicial Support Staff Conference. Ms. Anderson, serves as Chair of the Section and Ms. Fuqua is the Superior Court Trial Court Coordinator in District 3A.

Members Complete Terms

At its November meeting, the Commission also said goodbye to a member and an ex-officio member who have completed their terms, Judge Robert D. Lewis and Ella Wrenn.

Judge Lewis, who currently sits as a retired/recalled superior court judge, resides in Asheville. While serving on the Commission, Judge Lewis was a member of the Standards, Discipline and Advisory Opinions Committee. He received a plaque expressing the Commission's gratitude for his service. Edward Hay, an Asheville attorney, assumed Judge Lewis' seat on the Commission (see article on page 4.) Judge Lewis served for three years.

Ella Wrenn served for six years as the Judicial Support Staff Conference liaison to the Commission. Ms. Wrenn is Superior Court Trial Court Coordinator for District 9 and resides in Louisburg. Betty Fuqua, Superior Court Trial Court Coordinator in District 3A, replaces her as JSSC liaison.

In presenting a certificate to Ms. Wrenn acknowledging her many contributions to the Commission's work over the past six years, Judge Steelman noted how important judi-

cial support staff are to the operations of our mediated settlement conference programs. He added that he is pleased to have a liaison from JSSC and hopes that the close working relationship between the Commission and that organization will continue for many years.



Commission Garners Honors

In August, the Commission learned that the Center for Digital Government had named the Commission's web site as a Best of Web (BOW) award winner for 2006. Based in Folsom, California, the Center is a national research and advisory institute for information technology policies and best practices for state and local government. The Center's BOW program recognizes innovative and user-friendly state and local government portals.

The Commission won in the "State Government-to-Citizen" category for its mediator search portal which allows court personnel, lawyers and the public to search for certified mediators by name, districts they serve or key words. The portal also allows users to access contact, availability by court district/county, and biographical information about mediators.

The Center's web site states that the BOW competition draws hundreds of entries from across the nation. Cathilea Robinett, Center Executive Vice President, wrote about the award winners: "Our 2006 awards showcase the best state and local government

(continued on page 5)

Custody Mediation Program To Be Implemented Statewide

by Nina Cohen, Manager
AOC Child Custody and
Visitation Mediation Program

In 1983, the North Carolina General Assembly established and funded a child custody and visitation mediation pilot program in Judicial District 26 (Mecklenburg County). That action allowed North Carolina to join a national trend toward providing alternatives to the traditional adversarial system of dispute resolution. Alternatives were considered particularly desirable in custody litigation, where traditional litigation tends to increase stress in children and their parents, slows a post-separation reorganization of the family, and often leads to re-litigation. Mediation provides a way of resolving custody disputes in which a neutral third party helps the parties restructure the family, assists both parents in continuing to parent their children, and helps parents recognize and meet the needs of the children of divorce.

As a result of the evaluation of the Mecklenburg program, Senator Helen Marvin of Gastonia introduced legislation during the 1987 General Assembly session to establish custody mediation programs statewide. The 1987 enabling legislation provided in part that the Administrative Office of the Courts was to recommend to the 1989 General Assembly either a statewide custody mediation program or that the pilot programs be allowed to expire. An advisory committee unanimously recommended to AOC Director Franklin Freeman the implementation of custody and visitation dispute mediation throughout

the state and General Assembly authorized the program statewide in 1989.

As of June 2006, through gradual implementation of the Custody Mediation Program, there were programs in 31 out of 41 judicial districts. In these districts where there is a pending motion or action for child custody or visitation, the petitioners are required to participate in mediation before participating in a traditional hearing or trial. Under G.S. 50-13.1 and G.S. 7A-494, this program provides a forum where parents can step back from their own conflict, focus on the best interests of their children, and structure the parameters for their newly defined family by developing mediated parenting agreements.

In the spring of 2006, resolutions of support for the statewide expansion of the Program were sent by the Custody Mediation Advisory Committee and the Alternative Dispute Resolution Committee of the State Judicial Council. In addition, many chief district court judges expressed support for the completion of this program. Under the guidance of AOC Director Ralph Walker, the General Assembly approved the completion of the program in the ten remaining districts during the fiscal year 2006-07. The following districts are expected to launch custody mediation programs during the fiscal year: Districts 1, 2, 3B, 7, 16B, 22, 24, 29A, 29B, and 30. Statewide coverage for custody mediation represents an important victory for alternative dispute resolution in North Carolina.

The Commission congratulates Custody Mediation Program staff on receiving approval for statewide implementation of this important program. Countless children and their parents will benefit.

New Member Joins Commission



There was a new face at the Commission's November 3rd meeting in Blowing Rock. The Commission's Chair, Judge Sanford Steelman, Jr., administered the oath of office to Edward C. Hay, Jr. Mr. Hay was appointed to the Commission by Speaker of the House Jim Black.

Mr. Hay, is a Board Certified Specialist in Business and Consumer Bankruptcy Law, certified by both the North Carolina State Bar and the American Bankruptcy Institute. He is a member of the National Association of Consumer Bankruptcy Attorneys and the American Bankruptcy Institute.

Mr. Hay was admitted to the North Carolina Bar in 1976. He earned his B.A. from Davidson College in 1971 and his J.D. from the University of Georgia in 1974. He has served on the Bankruptcy Section Council of the North Carolina State Bar Association and on the Selection Committee. He has also been involved in civic affairs, including serving as Vice-Mayor of the City of Asheville.

Mr. Hay was born in Lexington, Kentucky, and now resides in Asheville with his wife Diana Soileau and four children. He is a partner at the law firm of Pitt, Hay & Hugenschmidt, PA.

Mr. Hay is appointed to a three year term. Judge Steelman has asked him to serve as a member of the Commission's Standards Discipline and Advisory Opinions Committee.

The Commission welcomes Mr. Hay.

North Carolina Agricultural Mediation Program Established

By Jane Zanglein,
Executive Director

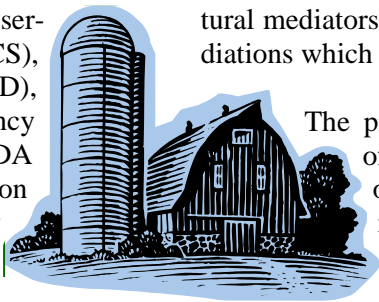
In August 2006, at the request of Governor Easley, the United States Department of Agriculture certified the North Carolina Agriculture Mediation Program (NCAMP) as the mediation service provider in the State of North Carolina to assist in the resolution of disputes between-participating USDA agencies and their program participants. NCAMP is housed at Western Carolina University's College of Business. NCAMP received funding from the USDA in the approximate amount of \$95,000 for the program's first year of operation.

The program will train and provide mediators to assist farmers and others in resolving disputes with the Farm Services Agency (FSA), the Natural Resources Conservation Service (NRCS), Rural Development (RD), Risk Management Agency (RMA) and other USDA agencies. Mediation helps to resolve many areas of disputes, including farm loans, price support payments, wetland determinations, conservation compliance, and Conservation Reserve Program payment eligibility/limitation. The most difficult disputes to resolve involve farm loan programs, Conservation Reserve Program, and Production Flexibility Contracts.

The National Association of State Departments of Agriculture has provided strong support for the USDA Certified Agricultural Mediation Program. In its February policy paper, NASDA states that

the national mediation program has played a significant role in resolving agricultural credit and other disputes. An article published by the National Association for Rural Mental Health cited the program's mental health benefits.

In North Carolina, the mediation services will be provided through NCAMP at Western Carolina University (WCU). To become an agricultural mediator, mediators must take the 40-hour Superior Court Mediation training, plus an additional 20 hours of specialized training in USDA program issues. NCAMP offered its first 40-hour training program in November. The 20-hour agricultural training will be provided in the spring, free of cost to certified Superior Court mediators. Interested persons should contact NCAMP's executive director Jayne Zanglein at 828-227-7191 or e-mail her at jzanglein@email.wcu.edu. While mediators are being trained, NCAMP will contract with qualified agricultural mediators to facilitate any mediations which are scheduled.



The program operates out of the WCU College of Business, Business Law Department, which is in the process of obtaining approval for a minor in conflict resolution and cross-cultural communications. The Executive Director for the program is Jayne Zanglein, an assistant professor in the College of Business who has been a mediator since 1994. Previously, Professor Zanglein taught mediation, cross-cultural communication, and alternative dispute resolution for ten years at Texas Tech University School of Law where she was an endowed professor of law. She has extensive experience in developing mediation training programs and serves as NCAMP's

training director. NCAMP will hire a program director who will be responsible for day-to-day management of the mediation program.

The Commission's office is currently reviewing the North Carolina Agricultural Mediation Program's submission seeking 40-hour MSC trainer certification.

(Commission Garner Honors, continued from page 3)

Web sites and on-line applications in the nation. These winners set the mark for delivering innovative, efficient, and effective government services to all their many constituencies."

The Commission's web site is a joint project of the Commission and the Administrative Office of the Court's Technical Services Division. The Commission is particularly grateful to Andy Stockard of TSD who assisted with the design and programming of the winning portal.

To view the winning portal, mediators may visit the Commission's web site at www.ncdrc.org. Click on "List of Mediators" from the left-hand menu and then select one of the programs listed on the screen.

In December, the Commission was also notified that the Illinois based Center for Analysis of Alternative Dispute Resolution Systems (CAADRS) had selected the Mediated Settlement Conference, Family Financial Settlement, and new Clerk Mediation Program rules for posting on its web site as model rules which other States could look to in designing their own programs and developing rules.

Commission Adopts New Advisory Opinions

The Dispute Resolution Commission has adopted two new Advisory Opinions pursuant to its Advisory Opinion Policy. The first was adopted in August and the second in November of 2006. The Commission encourages all mediators who are facing an ethical dilemma or who have a question about rule interpretation to contact the Commission's office and request guidance. If time is of the essence, a mediator may seek immediate assistance from Commission staff over the telephone or by e-mail. Mediators may also request a written opinion from the Commission. Written Advisory Opinions carry the full weight of the Commission. To view the Advisory Opinion Policy, go to www.ncdrc.org and click on "Standards of Conduct for Mediators" and then click on "Advisory Opinion Policy". Previously adopted Opinions may also be viewed on the web. The full text of the two new Opinions follows. An article written by a Network Architect who explains how the mediator requesting the August Opinion could have better protected the confidential information on his laptop follows the Opinions.

Advisory Opinion of the NC Dispute Resolution Commission

Opinion Number 06-10

(Adopted and Issued by the Commission on November 3, 2006)

N.C. Gen. Stat. §7A-38.2(b) provides, "[t]he administration of mediator certification, regulation of mediator conduct, and certification shall be conducted through the Dispute Resolution Commission, established under the Judicial Department." On August 28, 1998, the Commission adopted an Advisory Opinions Policy encouraging mediators to seek guidance on dilemmas that arise in the context of their mediation practice. In adopting the Policy and issuing opinions, the Commission seeks to educate mediators and to protect the public.

Concern Raised

Certified superior court mediator contacted the Commission about a matter that arose at a mediation in which he was representing the defendant. The caller reported that he had arrived at the mediation with his paralegal. He explained that it was a complicated case and that he needed support staff there to assist him in keeping the paperwork organized. The plaintiff's attorney objected to the presence of the paralegal. The mediator allowed the paralegal to attend. Later, the caller was involved in another mediation involving the same opposing counsel. When the caller arrived for this mediation with his paralegal, the plaintiff's attorney again objected to the paralegal's presence. The caller asks the Commission to clarify whether his paralegal may attend.

Advisory Opinion

Mediated Settlement Conference Rule 4.A.(1) addresses attendance at the conference. The Rule provides that the following persons shall attend: individual parties or their representatives, if the party is not a natural person or a governmental entity; a representative of any governmental entity that is a party; insurance company representatives; and at least one counsel of record for each party or participant. The Rule provides that these persons shall attend, but does not limit attendance only to these individuals. MSC Rule 6.A.(1) provides that the mediator shall at all times be in control of the conference and the procedures to be followed.

It is within a mediator's discretion, to permit individuals other than those specified in Rule 4.A.(1) to attend and participate in a mediated settlement conference. If an opposing counsel or party objects to the inclusion of an individual, it is the mediator's responsibility to resolve the matter prior to commencing the mediation of the case. The mediator should try and mediate the matter of attendance first, but if the parties cannot reach an agreement, the mediator shall make a decision pursuant to Rule 6.A.(1).

In the event that the conduct of any such individual that the parties or the mediator have agreed to seat becomes counter-productive, the mediator has the discretion under Rule 6.A.(1) to exclude the individual from attending further.

Advisory Opinion of the NC Dispute Resolution Commission

Opinion Number 09-06

(Adopted and Issued by the Commission on August 25, 2006)

N.C. Gen. Stat. §7A-38.2(b) provides, “[t]he administration of mediator certification, regulation of mediator conduct, and certification shall be conducted through the Dispute Resolution Commission, established under the Judicial Department.” On August 28, 1998, the Commission adopted an Advisory Opinions Policy encouraging mediators to seek guidance on dilemmas that arise in the context of their mediation practice. In adopting the Policy and issuing opinions, the Commission seeks to educate mediators and to protect the public.

Concern Raised

Certified family financial mediator's attorney contacted the Commission's office. He explained that his client kept detailed information about divorcing couple's on his laptop, including information that identified the couple and reveal assets, debts, and accounts. The information pertained to couples currently involved in mediation as well as those who had completed the process. The laptop needed repairs. When he retrieved his machine following service, he discovered that the financial information was missing. The mediator returned to the store where staff sought to retrieve it. Staff was unable to locate the missing information and advised mediator that it might have been installed on another's machine, might be in cyberspace, or could have been erased. Attorney asks whether the mediator has any duty under the Standards of Conduct to advise those whose information is missing of the situation, so that they may act to protect themselves from financial loss or identify theft.

Advisory Opinion

Confidentiality is integral to the mediation process. Standard III.A. of the NC Supreme Court's Standards of Professional Conduct for Mediators provides that, “A mediator shall not disclose, directly or indirectly, to any non-participant, any information communicated to the mediator by a participant within the mediation process”. The only exceptions to this absolute bar on disclosure address public safety; reporting mandated by statutes, *e.g.*, reporting of child or elder abuse; and disciplinary proceedings involving a mediator or an attorney participating in a mediated settlement conference. If confidentiality is not preserved, the integrity of the mediation process is compromised. Participants will no longer feel free to speak frankly with their mediators and the public will no longer view mediated settlement as a confidential alternative to a public trial. Standard III places a clear duty on mediators to take every precaution to protect confidentiality. **Implicit in the duty to protect confidentiality is the responsibility to notify a mediation participant who may be at risk because of a breach in confidentiality. Without notification, the participant will have no opportunity to take steps to protect his or her interests.**

A requirement of notification protects not only the public but the credibility of mediators and mediation programs as well and, in general, is consistent with good public policy (see N. C. Gen. Stat. § 75-65).



Protecting your Computer with Passwords

Hard Drive and Power on Passwords

By Joe Robinson*

A hard drive password can be used to protect confidential information on your computer if it is lost, stolen, or it is accessible to others who could use it without your permission. If you are concerned about confidentiality, hard drive passwords should be set on any laptop model that permits the user to do so. Many laptops have the option to set a

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Upcoming Mediator Certification Training

SUPERIOR COURT TRAINING

Beason & Ellis Conflict Resolution, LLC: 40-hour superior court mediator training course, January 8-12, 2007, and November 14-18, 2007, in Durham, NC. For more information or to register, call (919) 419-9979 or (866) 517-0145 or visit their web site: www.beasonellis.com.

Carolina Dispute Settlement Services: 40-hour superior court mediation course, January 2-6, 2007 in Durham at NCCU School of Law. For more information or to register, contact Diann Seigle at (919) 755-4646, Ext. 25. Or visit their web site: www.notrials.com

Mediation, Inc: 40-hour superior court mediator training course, February 7-11, in Chapel Hill, NC and February 26 - March 2, 2007 in Charlotte, NC. For more information or to register, contact Thorns Craven at (800) 233-5848 or (336) 777-1477 or visit their web site: www.mediationincnc.com.

FAMILY FINANCIAL TRAINING

Atlanta Divorce Mediators, Inc: 40-hour family mediation training course, February 15-19, 2007, March 19-23, 2007, April 19-23, 2007, and June 7-11, 2007 in Atlanta, GA; For more information, contact Dr. Elizabeth Manley at (404) 378-3238 or (800) 862-1425. Web site: www.mediationtraining.net.

Mediation, Inc: 40-hour family mediation training course, March 14 - 18, 2007 in Chapel Hill, NC. See above for contact information.

6-HOUR FFS/MSC COURSE

(Covers North Carolina legal terminology, court structure, and civil procedure)

Professor Mark W. Morris: 6-hour course, February 24, 2007, in Durham, NC at NCCU School of Law. To pre-register online, go to www.ncccourts.homestead.com.

Community Mediation Center of Cape Fear, Inc. (Wilmington): 6-hour course, June 2, 2007, in Wilmington, NC. For more information or to register, contact John J. Murphy at (910) 362-8000 or e-mail at johnm@wemediate.net. Web site: www.wemediate.net.

Judge H. William Constangy (Charlotte): For more information, contact Judge Constangy at (704) 807-8164.

Clerk Mediation Program Training

Community Mediation Center of Cape Fear, Inc. (Wilmington): 10 hour course, January 25-26, 2007 in Wilmington, NC and February 22-23, 2007 in Charlotte, NC. For more information or to register, contact John J. Murphy at (910) 362-8000 or email johnm@wemediate.net or visit www.wemediate.net

CME and Training Opportunities

Atlanta Divorce Mediators, Inc. is presenting a course on “Advance Training: Domestic Violence Issues in Mediation on May 10-11, 2007 in Atlanta, Ga and presenting a course on “General/Civil/Business Mediation Training on January 24-28, 2007 and March 21-25, 2007 in Atlanta. For more information, contact Dr. Elizabeth Manley at (404) 378-3238 or (800) 862-1425. Web site: www.mediationtraining.net

Community Mediation Center of Cape Fear, Inc. (Wilmington): is presenting a course on “Basic Mediation” on June 15-16, 2007 in Wilmington, and presenting “Dispute Resolution for Non-Attorneys, March 23, 2007 in Wilmington, NC. For more information or to register, contact John J. Murphy at (910) 362-8000 or email johnm@wemediate.net or visit www.wemediate.net.

(Protecting Your Computer With Passwords, continued from page 7)

hard drive password in BIOS. This is usually accomplished by interrupting the boot sequence and going into set up when you first start your laptop. IBM Thinkpads have a blue Access key to enter setup. Other manufacturers may require you to press F1 or F11 during startup to access system set up.

Be aware that if you forget your hard drive password, your hard drive can no longer be utilized and cannot be recovered. So...if you do not use your laptop on a daily basis, you may want to write your password down somewhere and store it in a secure location. Setting a hard drive password makes the hard drive all but useless if your computer is lost or stolen, assuming that the thief who takes it is not a highly motivated and skilled hacker.

A power on password is different than the hard drive password. If you cannot set a hard drive password you should set the power on password. This password is also set through system set up, as described above. If the power on password is lost, the manufacturer may be able to instruct you how to recover it. Again, to be on the safe side, you may want to write down your password and put in a secure place.

Microsoft Windows Password

Windows operating system user ids should be created along with a password and can serve as a second line of defense in the event, for example, the thief who takes your computer, knows your hard drive password. A computer access password is the primary key to computer security. It should be at least 8 positions in length and changed at least every 90 days. If the administrator password is lost, Windows will have to be re-installed and reformatted in order to access the machine.

It is also a good practice to have the screen saver enabled with password protection. This is under the desktop set up in windows. This keeps prying eyes and hands away from unattended machines.

* *Joe Robinson is a Network Architect and IT Specialist. He is married to Commission staff member Maureen Robinson. The Intermediary thanks Joe for sharing his expertise.*

Criminal District Court Mediator Certification on the Way!

This past summer Commission Chair, Judge Sanford Steelman, asked ex-officio member, Frank Laney, to chair an *Ad Hoc* Committee to look at certification of criminal district court mediators. Three Community Mediation Center Directors, including Commission member Diann Seigle of Carolina Dispute Settlement Services, had approached Judge Steelman, about establishing the committee. They explained that in a number district court judicial districts, staff or volunteer community mediators had been conducting mediations successfully in criminal cases for many years, but that no uniform certification requirements or program rules had ever been adopted for these programs. They suggested that, in the interest of overall program credibility and accountability, that it was time to consider these matters.

All community mediation centers across the State and staff from the Mediation Network of North Carolina were invited to participate in the work of the *Ad Hoc* Committee. Also invited were Chief District Court Judges and other officials from the judicial districts served by the three Centers that originally contacted Judge Steelman.

The Committee met several times this summer and fall and drafted proposed legislation to provide for certification and regulation of mediators working in criminal district court. The legislation differs considerably from legislation providing for certification of other mediators working in this State. For example, recognizing that a party-pay

approach does not work well in these kinds of cases, it is likely that mediator participation in the criminal district court context will be confined primarily, if not exclusively, to community mediation center staff and volunteers. As such, Centers will play a significant role in the certification process, serving as initial screeners of applicants. Also rather than individual mediators serving as case managers, the legislation provides for Centers to play a role in administering programs providing for mediation of criminal cases in district court.



The Committee's proposed legislation was adopted by the Commission as its November, 2006, meeting. The Commission referred the matter on to the State Judicial Council which adopted the proposed legislation at its December meeting. The Administrative Office of the Courts will advocate for the legislation in the upcoming legislative session. Also in December, the NCBA's Dispute Resolution Section Council determined to endorse the proposed legislation to the Association's Board of Governors.

Mr. Laney has said that the Committee will next consider drafting rules for implementation of mediation programs in criminal district court. He noted that the district court judges who attended the meetings this summer and fall had been surprised by the lack of uniformity in program administration and operation across the State. The consensus of the group had been that it was important to look at this issue and to come up with a framework in which these programs could operate not only uniformly, but optimally. Mr. Laney expects to begin work on proposed rules this winter.

Mr. Laney pointed out that it is

important that everyone understand that the proposed statute does not mandate that criminal cases be mediated in district court nor will any proposed rules require it. Nor does it mandate that community mediation centers will be required to participate. It will, he said, be up to the Chief District Court Judge, the District Attorney, and the local Community Mediation Center in any given district to determine whether to mediate any or all of their district court criminal filings. However, he hopes that a trained and certified cadre of mediators and a set of well-crafted rules will encourage districts that have not yet done so, to consider the option.



A New Year's Resolution

Commission staff continue to hear from court staff that there are mediators working in the system who are not filing their Reports of Mediator with the court or if they are filing them, are not forwarding them timely or completing them correctly. The Commission asks that in the New Year, all certified mediators resolve to take their case management responsibilities seriously and work hard to get their paperwork in timely and without errors or omissions.

It hurts our programs when mediators do not comply with reporting requirements: Court staff resent having to track down mediators to ask, "What happened with that mediation?" Some judges are taking lax mediators off their lists to receive court appointments. Settlements that are not reported, may not make it into caseload statistics which document program performance.

Being a good mediator means not just settling cases, but following
(continued on page 11)

(A New Year's Resolution, Continued from Page 10)

through and reporting the results of your work to the court.

In the New Year, please resolve not just to be a better mediator, but a better case manager as well.



New Trainer

The Commission welcomes a newly certified trainer, Liberty Mediation, which will provide the 6-hour course on court organization, legal terminology, and civil procedure required of non-attorney applicants for MSC or FFS certification.

The Commission wishes Liberty Mediation and its principal trainer, Ken Dougherty, much success.

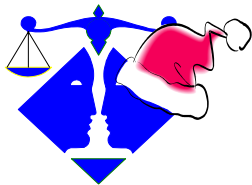


New Additions to DRC Web Site

At the request of a certified mediator, the Commission has added mediated settlement conference program enabling legislation to the materials posted on its web site. The statutes can be accessed by clicking on "Program Enabling Legislation" from the left-hand menu at www.ncdrc.org. The NC Supreme Court's Rules for the Dispute Resolution Commission have also been posted. Click on "Dispute Resolution Commission" from the left-hand menu, then click on "Commission Rules."

Do you ever have trouble finding a mediation form that you need? The Commission has now posted lists of program specific forms on its web site. To see the list for a particular program click on the name of the program from the left-hand menu, then click on the forms option. Once you have determined the number of the form you are seeking, click on the box with the word "Forms" in it that appears near the top of your screen, then, in the search screen that appears, enter the form number. A "fillable" form should appear.

If there are other materials that you would like to see posted or if you have any trouble navigating the Commission's web site, please let the Commission's office know at (919) 783-1574. Staff will be happy to assist you.



*Whether you celebrate Christmas,
Hanukkah or Kwanzaa, The Dispute
Resolution Commission and its staff wish
all our State's certified mediators a
joyous and peaceful Holiday Season
and a Prosperous New Year!!!*

