

Access to Justice and Alternative Dispute Resolution

By Morna Ellis, President, CMG Foundation

The Supreme Court of Virginia established the Access to Justice Commission (AJC) in 2013 to promote equal access to justice, with a particular emphasis on civil legal services.¹ Access to justice is an underlying value of our democracy. Equal access to justice is fundamental to our security and well-being, and guarantees our legitimate participation in society. Cappelletti and Garth considered “access to justice” to be twofold; “the system should be equally accessible to all, and second, it must lead to results that are individually and socially just.”²

ADR covers a multitude of options including, but not limited to, mediation, neutral case evaluation, judicial

**Contact the
author at
[mellis@cmg-
foundation.org](mailto:mellis@cmg-foundation.org)
or 804-254-
2664.**

settlement conferences, and Collaborative Law. The ADR options most commonly used and that currently offer greater access to justice in Virginia are mediation and judicial settlement con-

ferences.

Mediation services may be available at no cost to parties when referred to an approved mediation provider [certified by the Supreme Court of Virginia].³ In fiscal year 2013-14, more than 12,000 JDR court cases and 2,000 general district court cases were mediated at no fee to parties. Mediation services may be provided by independent mediators or mediation centers.⁴ [Virginia has nine non-profit mediation centers that work with our low-income community to provide mediation services and to teach conflict management]. Over 1,100 cases were handled through the judicial settlement conference pro-

Continued on page 10

Access to Justice

Continued from page 9

gram with services being provided by retired judges at no fee.

We should actively embrace advances in technology and use ordinary language to help the public understand the law and better access justice. E-learning could be a valuable vehicle for explaining legal information and options for resolving disputes through ADR to the public. Electronic submissions to courts could lessen the geographical hindrance for rural or elderly residents. Simplified forms and procedures could allow more residents access to our court system by aiding those with low literacy and language skills. Video-conferencing may also be an option in mediation.

As lawyers, we should provide pro bono work in our fields of expertise, targeting those who cannot afford an attorney. We should also encourage the next generation of lawyers to undertake this civic duty. With our support and supervision, we could expand our law school clinics and partner with nonprofit organizations such as Legal Aid Justice Center and community me-

diation centers to reach a larger percent of the population. Teaching dispute resolution skills to students within the law school curriculum, especially early in their studies, will provide them with the opportunity to gain skills and experience while providing service to low-income clients through supervised mediation programs.

Justice not only stems from equal access to our legal services but also access to fair outcomes in disputes. We can go beyond the AJC remit emphasizing legal services and focus on dispute prevention and early resolution of disputes. Mediation offers quicker and more amicable results than typical litigation. By expanding our support of mediation and other ADR solutions, we can reach more Virginians. Our everyday actions as attorneys with clients can help distill any fears of the legal system, introduce all of the available alternatives, and help make justice more accessible economically and intellectually to all.

Endnotes

1. Supreme Court of Virginia, *Order Establishing the Virginia Access to Justice Commission*, 2013.
2. Legal Services Institute, *Improv-*

CMG Foundation is Richmond's community mediation center. Our mission is to help our community resolve disputes amicably by offering affordable mediation, training and education. We believe that mediation will help us create a more peaceful community. We are a tax-exempt charitable organization under Section 501(c)(3) of the Internal Revenue Code.

www.cmg-foundation.org

ing Access to Justice: Scope of The Regulatory Objective, Interim Strategic Discussion Paper, December 2012, p. 8.

3. See § 8.01-576.5. Referral of disputes to dispute resolution proceedings and § 20-124.4. Mediation

4. Virginia Association for Community Conflict Resolution, <http://www.vaccr.org>