Chair's Message:
Celebrating 20 Years of Mediation

By Geetha Ravindra

As a member of the Joint ADR Committee since 1996, it is my sincere honor to now serve as its Chair. I wish to thank Rosemarie Annunziata, the immediate Past Chair, for her tremendous leadership, judicial perspective, and unending support of the Joint Committee. Congratulations to Jeanne Franklin, the new Chair Elect and Donita King, our Secretary/Treasurer. Words cannot express my gratitude to Sam Jackson, Past Chair and Newsletter Editor extraordinaire for his strong guidance of the Joint Committee and his unflagging dedication to the development of our consistently excellent newsletter. We look forward to the fresh ideas and energy of our next Newsletter Editor and Webmaster, Faith Alejandro. I look forward to working with this fabulous team of officers in the coming year.

This year marks an important milestone for the Joint ADR Committee as we celebrate the 20th Anniversary of the Dispute Resolution Proceedings statute. This remarkable legislation provides our judges with the authority to refer appropriate civil matters to a dispute resolution orientation session. Virginia is unique in offering this voluntary, no-cost orientation and screening session to parties to encourage their consideration of mediation and other dispute resolution options. The impetus for this legislation, which has been instrumental to the growth of mediation and ADR in Virginia, is Vision 3 of the 1989 Report of the Commission on Future of Virginia’s Judicial System.

Under the leadership of Chief Justice Carrico, Virginia’s Judiciary conducted its first Commission on the Future of Virginia’s Judicial System in 1987. The Commission’s charge was to develop a “vision” for an effectively functioning justice system for the twenty-

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first century reflecting the ideas, desires, and study of a diverse group of Virginians. This Commission was among the first of several similar initiatives that were conducted by courts during the late 1980s and early 1990s. Over the past twenty years, under the direction of Chief Justice Harry Carrico and former Executive Secretary Robert Baldwin, and with the guidance of the Judicial Council and the efforts of the Office of the Executive Secretary, most of the First Futures Commission’s recommendations were implemented. These included improvement in the accessibility of court records via remote computer access, the adoption of time standards for the processing of trial and appellate cases, the development of sentencing guidelines to reduce disparity, and most critical to the Joint ADR Committee, the expansion of alternative dispute resolution services for a variety of case types.

Vision 3 of the Futures Commission Report states that the court system should offer litigants an array of dispute resolution options. This Vision recognizes that not all matters are suitable for an adversarial process, and it encourages the development of an office of dispute resolution services within the Office of the Executive Secretary, the passage of enabling legislation to authorize judges to refer matters to an appropriate dispute resolution process, and the creation of multi-door courthouse type programs. The recommendations in Vision 3 and the proceeding institutionalization of court-connected mediation in Virginia would not have been possible without the incredible leadership and support of former Chief Justice Carrico who passed away on January 27, 2013.

Chief Justice Carrico was a member of the Supreme Court of Virginia since 1961 and he served as Chief Justice from February 1981 until January 2003 when he retired and was designated as a Senior Justice. Chief Justice Carrico made extraordinary contributions to enhance the judiciary, to promote professionalism, and to encourage pro bono service. He took the time to honor and recognize the dedication and services of mediators in the Commonwealth and spoke at several ADR events including the 10th Anniversary celebration of the Dispute Resolution Services office and at an anniversary celebration of the Community Mediation Center in Norfolk. He was both the longest serving Chief Justice and the longest serving member in the history of the Supreme Court. He was noted for his commitment to judicial independence, civility in legal practice, and civic duty for which he has been given numerous awards and distinctions. Justice Carrico’s service was recognized by the legislature in 1990 with the passage of Senate Joint Resolution No. 154 and House Joint Resolution No. 268, commending him for his service on the Supreme Court of Virginia and giving him the singular title of “Chief Justice of Virginia.” The Chief Justice touched everyone fortunate to have known or worked with him. He leaves an amazing legacy and he will be sorely missed. We dedicate this issue of the Joint ADR Committee newsletter and this year’s 20th Anniversary celebrations to the inspiration for court-annexed mediation in Virginia and one of the ADR community’s greatest advocates, Chief Justice Carrico.

The work of the Joint ADR Committee over the past twenty years has been in essence to implement the recommendations espoused in Vision 3. As we look ahead to the future of ADR in Virginia, there remain many opportunities and innovative initiatives to explore. To effectuate the work of the Joint ADR Committee, four subcommittees have been formed: CLE/Programming, Outreach/Membership, Legislation, and Communications. I encourage all members of the Committee to please join a subcommittee and get involved with an initiative or project that you find meaningful. There are several CLE programs planned for the coming year, including teleseminars on Elder Law and Mediation and Preparing for Mediation; Veterans Issues at the VSB meeting in June; Communication Mapping in the fall, and an ABA Mediation Week/20th Anniversary Celebration in mid-October. The Joint ADR Committee already co-sponsored a program on Non-Defensive Communication by Sharon Elison with the Virginia Mediation Network on March 2nd at the University of Richmond. Please take advantage of these informative programs that provide both CLE and CME credits. As I look forward working with the members of the Joint ADR Committee in the year ahead, I am reminded of the words of Margaret Mead, “Never doubt that a small group of thoughtful, committed, citizens can change the world. Indeed, it is the only thing that ever has.”

Geetha Ravindra, Chair, Joint ADR Committee
In 1966, Marvin Miller, a labor economist with various unions, became the executive director of the Major League Baseball Players Association, serving in the position until 1982.

No less an authority than Red Barber has said that Miller, along with Babe Ruth and Jackie Robinson, are among the “two or three most important men in baseball history.” That Miller is not yet a member of the Baseball Hall of Fame is a travesty, but that’s another story.

Miller’s tenure included the first Collective Bargaining Agreement in 1968, which raised the annual minimum salary for players from $6,000 to an unheard-of $10,000.

AFTER VARIOUS challenges to long-standing rules that tied players in perpetuity to their teams, Miller eventually negotiated a CBA that provided for free agency, but only to players with six years of service.

To solve the problem of salary disputes for players not yet eligible for free agency, Miller developed a streamlined procedure. The formal term, used in the ADR world, is “final offer arbitration,” or FOA. It had been used in other kinds of disputes previously, but it was Miller’s twist on it that led to its further use and development — and the name by which it is now widely known, “baseball arbitration.”

This is how the procedure works in Major League Baseball. First, it applies to disputes over salary and nothing else. The player and the team each submit a proposed salary for the coming year to a three-person arbitration panel. They do so blindly, that is, without benefit of knowing the other side’s figure. The figures are then disclosed.

The hearing before the panel is tightly constricted, both in terms of time (90 minutes per side) and by delineated criteria.

The unique and defining feature of the procedure is that the panel must opt for one figure or the other, with no ability to go in between or outside the two submitted proposals.

The charge to the arbitration panel is to select the most reasonable of the two salary proposals, with no written opinion. Thus, the procedure compels each side to put forward what it deems a reasonable figure.

Since salary information of free agents is well publicized (thereby creating appropriate benchmarks), the two proposals are frequently not far apart, and settlement is promoted. Indeed, approximately 80 percent settles before or after the figures are published but prior to the hearing.

FOR A NUMBER of years, I have encouraged the adoption of baseball arbitration procedures to resolve some disputes that come before me. Perhaps due to unfamiliarity with the procedure, my entreaties were never successful — until a few months ago. With the kind permission of counsel, I have been authorized to describe (albeit vaguely) this recent case.

I was asked to mediate a claim arising from a dispute about the meaning of a termination clause in a contract for personal services. The amount at issue was relatively modest, and the parties had already invested significant time before appearing at my office for mediation.

Even though both sides (and counsel) wanted the case to end, the mediation was unsuccessful, in part because of a dispute about potential testimony of a key witness.

After careful consideration of a number of ways forward, such as the familiar “mediator’s proposal,” the parties opted for baseball arbitration, primarily because they knew it would end the case.

BEFORE PROCEEDING further, the parties requested that I subpoena the key witness to testify, which I did. Shortly thereafter, and consistent with a negotiated schedule, each party submitted its recommended award, accompanied by a brief supporting document.

As with Major League Baseball, the submissions were blind to each other, then published by me. I waited about a week (as previously agreed) to give the parties an opportunity to discuss settlement if they so chose.

No settlement ensued. After oral argument (by phone), I waited an additional week and then issued my award.

As is typical in my arbitration practice, I wrote a “Reasoned Opinion” so that the parties would understand my rationale, although that is certainly not a requirement of the process and would not happen under Major League Baseball rules.

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Arbitration

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Based on subsequent feedback with counsel, I believe all parties felt reasonably satisfied, although obviously one was happier than the other (a factor that causes many mediators to not offer arbitration services).

In this case, however, I think the process was well suited to the needs of the parties and particularly the compelling need, mutually felt, to put the dispute behind them.

AS A RESULT of the experience, I have tried to educate myself about the process and to consider, in a more organized way, how and when principles of baseball arbitration might be applied.

Some of the literature in the field suggests that it is best applied to one-issue disputes, as is true in Major League Baseball. In the context of a tort or contract case, the most typical situation would be one in which there is little or no dispute about liability, but the parties disagree about damages.

I am not convinced, however, that its use needs to be so confined. As trial lawyers, we are thoroughly accustomed to combining our analyses of liability and damages, frequently entailing both factual and legal disputes, and making settlement recommendations based on the process.

In a hypothetical baseball arbitration of such a case, the two sides, and the arbitrator, may well balance liability and damage figures in a different way, but there is no reason why an arbitrator, may well balance liability and damage figures in a different way, but there is no reason why an arbitrator should not be able to comfortably arrive at a conclusion that one side’s proposal was more reasonable than the other.

Assuming the proposals are in the form of dollars, the procedure should be able to work for a wide range of disputes, spanning simple or complex tort litigation, business disputes of all kinds and even probate litigation.

AS WITH MOST FORMS of ADR, flexibility is the hallmark. The parties can proceed with limited discovery, or no discovery.

They can present the case on an agreed statement of facts, or on some agreed quantum of evidence.

They can even agree on a version (humorously referred to as “night baseball”) in which the written proposals are sealed but not revealed to the arbitrator. The arbitrator then issues a decision, the proposals are unsealed, and whichever is closest to the arbitrator’s award carries the day.

A frequently voiced complaint about commercial arbitration is that it has morphed into something too closely resembling the overblown and overpriced litigation that it was intended to replace.

Any form of arbitration, at least theoretically, allows the participants to fashion their own set of rules and limitations (unless bound by some previous arbitration clause). However, baseball arbitration is particularly well attuned to a more streamlined, less time-intensive procedure. As was true in my case described above, the parties know their case will end and under circumstances in which they can effectively control the costs.

TO MY MIND, the most significant advantage of baseball arbitration derives from its unique feature. Since the arbitrator is directed to choose the more reasonable of two figures, it forces each side to be reasonable, at least by their own reckoning.

Unlike conventional arbitration, where arbitrators may be tempted to “split the baby,” thus driving the parties to extreme positions, baseball arbitration does just the opposite.

The experience of baseball salary arbitration demonstrates, quite convincingly, that the rules of the game do, in fact, drive settlement-inducing behavior. While there are other settlement drivers in MLB salary disputes, such as effect on clubhouse “chemistry,” the procedure itself is the most important.

In going through the process myself, I confronted an issue that seems to not have been addressed in the literature, perhaps because it is not a problem in baseball salary arbitration itself. The issue can best be understood by a hypothetical.

Assume a contract case in which the arbitrator would evaluate liability as 60/40 in favor of the plaintiff, with full damages of $500,000. Traditionally, one would say that the mathematical settlement value is $300,000.

IF THE DEFENDANT’s proposed figure was $250,000 and the plaintiff’s was $400,000, which does the arbitrator choose? If based on “settlement value,” he would select the defendant’s proposal.

However, if he were acting as a “pure arbitrator,” he could conclude that the plaintiff satisfied his burden of proof on liability and the award on that basis would be $500,000, so he selects the plaintiff’s figure.

While there is probably no “right answer” to this conundrum — and most arbitrators would probably think in terms of settlement value — the question should perhaps be addressed with the parties at the outset.

On the basis of my (limited) experience, I have long believed that baseball arbitration has much to recommend it as a cost-efficient way to effect final resolution. It is a suggestion I will continue to raise in appropriate cases.

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Mediation safety in spotlight after Arizona shooting

By Peter Vieth  Published: March 4, 2013  © Copyright 2013 Virginia Lawyers Media

An settlement conference aimed at ending a court conflict unexpectedly turned into a scene of death in Phoenix in late January. The bloody outcome of that meeting has prompted many alternative dispute resolution professionals to take a second look at safety procedures.

As details become available about the Phoenix incident, it appears there were few signs of trouble when an Arizona court appointed lawyer Ira M. Schwartz as a judge pro tempore to conduct a settlement conference in a business dispute.

A business owner had hired Arthur Harmon’s company to refurbish office furniture. Problems developed with the work and a dispute about money led to a lawsuit. The court asked Schwartz to hear both sides and to try to work out an agreement to avoid trial.

The mediation session took place at Schwartz’ law firm. According to police records reviewed by The Arizona Republic, Schwartz kept the two sides apart.

Harmon, 70, did not have a lawyer, but he brought members of his family with him. His adversary, businessman Steven D. Singer, was represented by Phoenix attorney Mark P. Hummels.

For 50 minutes, Schwartz shuttled offers and demands between the two groups in separate rooms. When it became clear Harmon was “unwilling to negotiate in good faith,” the newspaper reported, Schwartz concluded the session and asked Harmon to wait to fill out an evaluation form.

Harmon insisted on first taking his family to their car. Schwartz then asked Hummels and his clients to fill out their evaluation forms, but he told them to wait for Harmon to do the same before leaving.

After several minutes went by and it appeared Harmon was not returning to the office, Hummels and his clients left Schwartz’ office.

Harmon, who had returned to the building with a handgun, opened fire, killing Hummels and Singer. Harmon fled the scene and later took his own life, police said.

The Phoenix incident represents “every mediator’s personal nightmare,” wrote Stephen Kotev, a Washington, D.C., conflict resolution consultant. The shooting “should be a wake-up call to all of us,” he said in a website post.

The incident already has had repercussions here in Virginia.

The shooting led staffers at Warrenton’s Piedmont Dispute Resolution Center to re-examine safety policies, said executive director Lawrie Parker, although she said security has always been a concern.

The service’s normal safety precautions include not meeting at night unless there already has been a daytime session and careful screening of participants, Parker said. The screening includes questions about child abuse or domestic abuse, substance abuse, domestic violence and intimidation or an imbalance of power.

Neutrals have a protocol to follow if there is any suggestion of domestic violence in a dispute resolution session, Parker said.

Mediators are advised to have the parties arrive and leave separately, to never get between the parties and the door, and to immediately call 911 at the hint of trouble, she said.

“We feel that our policies and our precautions are a safeguard that works,” Parker said, noting her staff has had to call the police only three times in 23 years of practice.

Violence can be just below the surface in domestic mediation cases, but – as the Phoenix case demonstrates – general business disputes may pose a risk as well.

“Quite honestly, I see as much potential in civil cases, and maybe more,” said Morna Ellis, president of Richmond’s CMG Foundation, who has been a mediator for more than 18 years.

“Any litigation does encourage emotionalism. People are not at their best and often not thinking as they should,” Ellis said.

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Amendment to Confideniality Statute to Become Law

By Sally P. Campbell

Legislation to delete the last paragraph of Va. Code § 8.01-576.10, a mediation confidentiality statute, passed the General Assembly unanimously and has been approved by the Governor to become effective on July 1, 2013. An identical provision in § 8.01-581.22 will also be deleted.

The paragraph to be removed reads: “Notwithstanding the provisions of this section, in any case where the dispute involves support of the minor children of the parties, financial information, including information contained in the child support guidelines worksheet, and written reasons for any deviation from the guidelines shall be disclosed to each party and the court for the purpose of computing a basic child support amount pursuant to § 20-108.2.”

Given the paragraph’s ambiguity, many practitioners harmonized the language with Va. Code §§ 8.01-576.9 and 8.01-576.11, which call for child support calculations to be submitted to the court only with a written agreement. Practitioners thus construed the “disclose to the court” directive as intended for cases where agreement was reached in mediation, and not for cases where agreement was not reached.

In some instances, however, the language has been interpreted to require the submission of the child support guidelines worksheet to the court when no agreement is reached in mediation. Many in the ADR community believe this to be in conflict with the ethical obligations of the mediator to maintain confidentiality.

The legislative amendment clarifies that in cases where the parties do not reach an agreement in child support mediation, the guidelines worksheet calculated during the mediation should remain confidential and should not be submitted to the court. The amendment also protects self-represented litigants who, having reached no agreement in mediation, might not understand their right to have the court hear and weigh evidence to make a judicial determination of the appropriate child support award. Accordingly, they might not object to the court’s use of the guidelines calculated in mediation.

The “disclose to the court” directive in the language to be deleted also conflicts with a provision of Va. Code § 8.01-576.9 that limits what a mediator may report back to the court. Specifically, the mediator is authorized to report whether or not an agreement was reached, the terms of any agreement if authorized by the parties, or that the mediation or orientation session did not occur. The code section prohibits the mediator from disclosing information exchanged during the mediation (for example, financial information on child support worksheets) unless the parties agree otherwise.

In cases in which the parties have entered into an agreement, the requirement to include the child support guidelines worksheet and any written deviations from the guidelines with the court’s order remains unchanged in Va. Code §§ 8.01-576.9 and 9.01-576.11.

Supporters of the legislation included the Virginia Mediation Network, the Virginia Association for Community Conflict Resolution, the Family Law Coalition and the Joint ADR Committee. This legislation was a recommendation of the Committee on District Courts.

Safety

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Ellis said she screens all participants, regardless of the type of case. Screening starts with phone calls and continues during the first meetings with the parties, she said. “It should be an ongoing process, because things can change,” she said.

Her group provides substantial training in domestic violence and workplace violence, she said. Ellis said CMG is offering a free seminar on domestic violence in the workplace among other sessions marking Mediation Month in March, declared by Virginia Gov. Bob McDonnell.

Screening should include questions about drugs and alcohol, mental health and whether there have been any protective orders involving the parties, Ellis said.

At the session, “the mediator should control the room, the whole setting,” Ellis said. She said a mediation session can be arranged so the parties use different entrances and are escorted separately from the premises.

The staff at the Virginia Supreme Court’s dispute resolution division reminded lawyers this month that the state guidelines for mediators call for assessment of the appropriateness of mediation before and during mediation in all cases, including general cases.

Screening in a general case need not be as deep as for a family case, according to the division’s “Resolutions” newsletter. Parties can be asked about other court matters pending, any history of violence or abuse, whether either party is fearful of the other, and whether the parties have decision-making authority.

The DRS staffers can offer help in creating a screening form and a mediation termination and safety plan, the newsletter said.
Mediation for the next generation

By Jared Mangum, Jeff Einhaus and Tim Archer

Since 2008, the University of Richmond’s Alternative Dispute Resolution Society (“ADR Society”) has introduced new first year law students to the art of mediation by hosting a dynamic and popular internal mediation competition. Every year, dozens of new students, practitioners, and current board members devote their time and talents to preparing the next generation of lawyers for advocacy in mediation.

The rounds are substantive and entertaining. Prior to the start of the competition, teams of two receive details of a dispute. The dispute could implicate any type of law ranging from corporate law, to torts, to real estate law, even to family law. One team member plays the role of the client, and the other plays the role of the attorney.

Teams face each other prepared with relevant laws, facts, and strategies. Some rounds get passionate and heated with the two sides never coming to an agreement, while others stay congenial and focused while ending early. Regardless of the style or pace, every round is fun to watch. More importantly, Richmond's competition provides valuable experience for future attorneys and mediators who are just getting their first taste of the mediation process.

The 2013 internal mediation competition was another huge success with more interest from students and judges than we have ever had, and with some truly strong and talented teams. As President of the ADR Society, I was very grateful to have two devoted co-chairs, Tim Archer and Jeff Einhaus, who flawlessly ran the competition.

“Wait, I have to do WHAT next year!?”

—Jeff Einhaus, Internal Competition Co-Chair; University of Richmond ADR Society

Standing beneath the law school’s grand staircase last February, two weeks of sleep deprivation finally caught up to me. With nothing more than a blueberry bagel in my stomach, I vaguely remember Rachel Yates announcing that Tim Archer and I won the 2012 Advocacy in Mediation Competition. In my excited and somewhat hallucinatory state, I didn’t quite process the fact that Tim and I simultaneously inherited organizing the 2013 Competition, which earns students coveted membership into the ADR Society and the chance to compete in the ABA Regional Representation in Mediation Competition. Fortunately, running this year’s competition with Tim turned out to be one of the most valuable experiences of my law school career.

Organization is one thing. Organizing people is an entirely different beast. After this January’s interest meeting prompted twenty-seven teams to register for only twenty available spots, Tim and I knew our work was cut out for us. Our ADR Society has never seen the kind of student interest the 2013 competition generated, and we knew we needed our board members to step up—we needed an executive team that could respond to challenges, proactively dismantle roadblocks, and work together to deliver results.

Teamwork and collaboration are not exactly the hallmarks of a typical law school experience. Fortunately, Richmond Law students, particularly members of the Alternative Dispute Resolution Society, are eager to collaborate on a project like this year’s competition. Using the skills we picked up round after round in 2012, our executive board generated creative and effective solutions for every hurdle that came our way. With the gracious assistance of Ms. Mandy Stallings in the Office of the Executive Secretary for the Supreme Court of Virginia, we were able to offer two general or family CMEs to practitioners who helped judge or mediate the competition this year. Even more exciting, we can offer these credits for future events, including not only our internal competition for ADR Society membership, but also the Regional Competition next spring, which will host several Mid-Atlantic law schools and give us the opportunity to show off the strength of Richmond’s ADR community.

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Next generation

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Looking back, the most important skill I picked up is flexibility. There are very few certainties before stepping into a room with a mediator. Similarly, there are very few certainties when organizing people, especially busy legal practitioners and law students. My Type A personality was kicking and screaming in the first week of competition before I finally started thinking and planning dynamically—creating flexible deadlines, brainstorming back up plans, and delegating responsibilities to committees.

Participating in alternative dispute resolution develops dynamic problem solving skills, and I am so fortunate to work with people who constantly push me to think creatively. I could not have asked for a better group of professionals or peers to work with this year, and I am confident the University of Richmond’s Alternative Dispute Resolution Society will continue evolving into one of Virginia’s premiere ADR training programs.

The “X-Factor”

—Tim Archer,
Internal Competition Co-Chair,
University of Richmond ADR Society

Jeff is absolutely correct; flexibility is the key attribute of any good event organizer. Other skills play a large role as well (organization, communication, delegation, etc.), but it is the ability to change plans in response to outside stimuli that really separates successful event planners from those who merely go through the motions. And believe me, that flexibility was a necessity throughout the ADR competition. After all, the best laid plans of mice and men often go awry.

Organizing a law school competition is no exception to the rule: you can plan everything to a tee, but at the end of the day, you have to step back and rely on other people for everything to go smoothly. It is this reliance on others that, on occasion, proved to be difficult. Jeff and I did our best to make contingency plans (example: just in case rooms in the law school were booked, we reserved extra rooms in nearby buildings). But, there are certain events that you just cannot plan for. These types of “x-factor” events really tested our reliance on others. Allow me to paint a picture to describe such an example:

Imagine it is the first night of competition. The event is set to begin at 6 PM. All the members of your team are present, all material is accounted for, and all the necessary tasks have been completed. The competitors (for the most part) are all on time. And the mediators are… wait, how many mediators do we need? And how many do we have? Those two numbers don’t add up. … Upon realizing you have too few mediators, there is a large range of possible reactions, but you do your best to ensure that panic is not part of that spectrum.

Luckily, when Jeff and I were hit with this exact situation, we were able to utilize all that important flexibility and creativity by switching out a few silent judges (who had extensive mediation experience) for those mediators who were late due to traffic, weather conditions (did we mention that it snowed during our competition?), work, family emergencies, or any other of a host of reasons. We relied on our judges and mediators, who have full-time jobs and generously donated their time; in the end, they really came through for us. In fact, all the mediators that we asked to be involved in this project were very appreciative of how well the competition was run, and, even more importantly, they all wanted to be involved again in the years to come. In my opinion, that is the hallmark of a great competition.

As somewhat of an aside, I cannot stress enough how important it is to have a good event planning team. Jeff and I were fortunate to have a team that was consistent, reliable, creative, and willing to go the extra mile. Our team (consisting of the ADR executive board and a few key members of the general ADR society) helped immensely by

About the authors

Jared Mangum is the current President of the University of Richmond’s ADR Society. He is a 2L and happily married. Prior to law school, Jared attended Brigham Young University in Idaho. Upon graduation, Jared hopes to practice all facets of corporate, securities, and tax law in the Mid-Atlantic or Southwest regions.

Tim Archer is a 2L and attended the University of Southern California before law school. He and his wife will celebrate their second anniversary in May. Tim plans to practice corporate and anti-trust law upon graduation.

Jeff Einhaus is a 2L and attended Virginia Tech before coming to Richmond Law. Jeff is a Richmond native and plans to stay in the area after graduation pursuing a career in criminal law.
Book review: 'Stories Mediators Tell'

Book edited by Eric R. Galton and Lela P. Love. Book review by Deborah Wood Blevins

What a delight! Written for the general public, Stories Mediators Tell, is an entertaining and enlightening compilation of short stories authored by well-known and experienced mediators, based on their personal experiences. Some of the facts have been altered to protect the confidentiality of the participants, but the essence of the themes and experiences are true.

Delicious morsels, the stories are an easy read, like fiction. One of them tells the story of two people who meet in a fatal automobile accident. It describes their lives prior to the accident and the impact of the accident on those who ultimately participate in mediation because of it. Well written and emotionally engaging, the reader does not want to put the book down until finding out how the story ends.

Each story is followed by the author’s “Second Thoughts.” There the author reflects on the lessons he or she learned from the particular mediation experience, sometimes including how issues might have been handled differently. These insights are thought provoking, challenging the reader to draw comparisons to personal mediation experiences.

In an understandable way, the stories highlight different theories of mediation. The story of an unacknowledged adult daughter, seeking a share of royalties from the estate of her famous singer father, illustrated the value of deep listening in transformative mediation. Effective use of caucus in transactional mediation was shown in the story of a whistleblower whose employment was terminated.

Pick it up and put it down as suits your schedule, but savor the lessons to be found in Stories Mediators Tell. It is a must read for those whose lives involve mediation, and for anyone interested in finding another way to the resolution of conflict.

New Council Member Profile

Paula Marie Young is a law professor at the Appalachian School of Law. She earned her law degree at the Washington University School of Law in St. Louis in 1982 and serves this year as the President of the Virginia Mediation Network.

She makes it her mission to teach students how to be the "new lawyer," and will be headed to Hong Kong for the ABA's international mediation trip this year. We welcome Paula as a new Council member and a member of the Membership Committee!

Why did you become a lawyer?
My boyfriend in college got busted for carrying a concealed weapon, for having a hen pheasant out of season, and for some pot. He spent several months in the county jail, and I felt powerless to help him, except to raise about $500 from fellow college students for his defense costs. I decided to go to law school so I would never feel that powerless again.

What do you like the most about ADR?
I like that ADR allows me to act as my authentic self. As a litigator, I felt my practice had me engage in an out-of-body experience. I was good, but I was also play-acting. Now I have pure alignment between who I want to be and who I can be.

What was your favorite class in college or law school?
Any art class. I’ve learned that I have strong right-brain capacities, and I enjoy using them in many contexts, but especially in the creation of something beautiful or interesting.

What did you do before law school?
Gas station attendant during the 1970s oil embargo; cocktail waitress at Michael’s and the Time Machine, and at the Marriott’s Windjammer Lounge; bartender at Blueberry Hill; litigation paralegal at Bryan, Cave.

If you hadn’t become a lawyer, what other career would you have pursued?
Something involving the life sciences, biology, or medicine.

What inspires you?
Good students. Big ideas.

What do you like to do in your free time?
Read award-winning fiction. Work in my flower garden. Exercise. Cook. I try to do as many things as possible that the research shows will make you happy.

Tell us something about yourself that is not on your resume.
I’ve eaten squirrel.
New Council Member Profile

Debbie Blevins works as a Deputy Commissioner for the Workers’ Compensation Commission. In that capacity, she not only conducts hearings, but also mediates workers’ compensation cases, mediating over 100 cases per year by phone or in person.

She graduated from the University of Virginia in 1983 and lives on her farm in the mountains of Southwest Virginia with her 18-year-old twins, a girl and a boy, and her husband, a retired teacher.

The Joint ADR Committee welcomes Debbie as a new Council member and a member of the Communications Committee!

Why did you become a lawyer?
I took a career placement test in college and I scored significantly better in law than in any other field.

What was your favorite class in college or law school?
I took a freshman seminar at Swarthmore College called “The Meaning of Work.” It was a small seminar that focused on the myriad meanings of work. I remember and use some of what I learned there to this day.

What do you like most about ADR?
ADR empowers people to create their own solutions, versus having resolution or judgment imposed upon them.

What has been your biggest challenge since law school?
Raising twins.

What inspires you?
The Blue Ridge Mountains. I grew up in flat land, and when I moved here I remember thinking, “Everybody has a view – and you don’t have to pay for it!”

Tell us something about yourself that is not on your resume.
I am allergic to chocolate.

Sharon Ellison Speaks on Non-Defensive Communication

By Paula Young

At the 2013 Virginia Mediation Network Spring Conference, the Joint Alternative Dispute Resolution Committee co-sponsored the keynote event, which featured Sharon Ellison’s model of Non-Defensive Communication. Attendees described her as a fabulous, wonderful, well-informed expert who taught in an informal, exceptionally interesting, conversational style. She encouraged attendees to discuss concepts, ask questions, learn by example, and practice putting theory into practice. Nearly 130 people enjoyed the event held at the Alumni Center of the University of Richmond.

Sharon Strand Ellison, M.S., is the Director of the Institute for Powerful Non-Defensive Communication, an internationally recognized communication consultant, an award-winning speaker, and the author of Taking the War Out of Our Words. Her parenting-skill CDs, Taking Power Struggle Out of Parenting, won a 2006 Benjamin Franklin Award. Sharon is a pioneer in developing methods for eliminating defensiveness so people can communicate with constructive power. She was a nominee for the Leadership for a Changing World Award, sponsored by the Ford Foundation and the Advocacy Institute.

Conference participants also enjoyed the networking opportunities, the beautiful room used for the presentation, the delicious lunch, and the lovely setting of the University of Richmond. Folks also liked the deeper focus on one topic. By the end of the day, conference attendees could earn six hours of general or family CME and two hours of ethics CME.

Lawrie Parker concluded the conference by offering a two-hour ethics class that was well attended by about 50 participants. Several conference participants described the ethics program as “well done” or “excellent.”

The VMN Conference Committee is already planning the 2013 Fall Conference, entitled Dialogues Across Divides. VMN will hold the conference September 27-29, 2013, at Eastern Mennonite University (EMU) in Harrisonburg, VA. The Center for Justice and Peacebuilding at EMU will co-sponsor the event.

To learn more about VMN and find out about its upcoming conference, please visit: http://www.vamediation.org/conference
On January 26, 2013, at the Virginia Bar Association Winter Conference in Williamsburg, Virginia, the Joint ADR Committee hosted an esteemed panel of professionals who work daily with veterans for a program entitled, "Making Peace at Home for Our Veterans: Skills to Enhance Serving Veterans in Family Law and Other Disputes."

Attorney Michael C. Miller, a practitioner in Vienna, Virginia, summarized essential statutes and regulations every family law and labor law practitioner should have at their fingertips when working with veterans.

VCU Associate Professor Leticia Y. Flores, Ph.D., provided a glimpse into the neurological impact of combat on veterans to underscore the emphasis for lawyer and mediator awareness of the special issues facing veterans when they return home.

Williamsburg-area mediator Merri L. Hanson, M.A., gave practical tips on how to accommodate the needs of veterans and highlighted the importance for all practitioners to have solid screening processes.

The event was moderated by Richmond-area attorney and mediator Kimberly P. Fauss who shared insightful connections among the speakers' subjects to enhance the teachings received by those in attendance.

This panel was sponsored by the VBA's Veterans' Issues Task Force, which has partnered with Army One Source to provide military veterans and service members with greater access to legal assistance.

Mark your calendars for June 13-16 and make plans to attend the Virginia State Bar's Annual Meeting where the Joint ADR Committee will present this panel once more with even more insight and tips to share, as well as provide information on pro bono opportunities to help our veterans with their many legal needs.

Veterans' Issues Take the Front Line

By Faith A. Alejandro

Taking on responsibilities in addition to the roles Jeff and I had already delegated to them. We had members of our team ordering food for judges, printing and copying problem sets for the upcoming night of competition, meeting with and entertaining judges, and all manner of other activities necessary to the smooth running of our event.

In truth, while it may have been possible for Jeff and I to run the event singlehandedly, it would have been nearly impossible to run it with the kind of efficiency that we were able to engender by utilizing our team. In closing, I would like to thank our team for making the University of Richmond Law Alternative Dispute Resolution Society a superb organization, and for making the 2013 ADR Competition a success. We both look forward to watching this group shine as it hosts the Regional Competition in Spring 2014, and to working once again with the many ADR professionals who volunteered their time and experience as our judges and mediators.

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