

# The Resolution Report

Updates on the latest news from the DRC and the dispute resolution field

Florida Dispute Resolution Center . Office of the State Courts Administrator . Supreme Court Building . Tallahassee, FL 32399

November 2015

## Message From the Director

### ***Greetings to all of Florida's Certified Mediators and Other ADR Professionals!***

I am so happy to be writing you in this "inaugural" edition of the DRC's revived (and now online!) Newsletter. I put "inaugural" in quotes because the DRC had a hard copy *Resolution Report* for many years. We are pleased to be able to re-establish this resource for you. This first edition may look more like a simple newsletter placed online; however, we are working out the technicalities and we hope in the next one or two editions, we will be an online publication in the true sense. Additionally, we are announcing a "Name the Newsletter" contest! See details on page four.

As this is being written, we have just concluded the DRC's 23rd Annual Conference: *Treasuring the Past and the Spirit of Change*. By all measures: comments, evaluations and record attendance, it was a great success. I am so pleased we have been able to expand not only the conference times and number of sessions but also the ADR processes covered. Adding processes other than mediation has made the annual conference truly one for all ADR professionals. We had the highest attendance ever this year, topping over 980 participants!

As you may have no doubt heard by now, due to my pending retirement, this was my last conference, although I will be with the DRC for several more months. However, this may also be my only letter to you as Director. While I will be sad to leave, a new stage of my life is waiting to begin and, as with all things, the "seasoned" (you will not get me to use the word "old") must give way to the "experienced." I trust all will be well under the expert leadership of OSCA management as well as the amazing DRC Staff. I also trust all of you to keep true to your "roots" in mediation and continue encouraging the development and implementation of new processes to meet the needs of the public.

*Message continues on page 2*



*Janice M. Fleischer, Esq.*

### Contact the DRC

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## Board and Committee Updates

### MEDIATOR QUALIFICATIONS BOARD (MQB)

Complaint Committees of the MQB reviewed nine new mediator grievances filed in 2014. Six of the cases were dismissed, in one case probable cause was found, but the Complaint Committee entered an Order of Non-referral, and a consensual agreement was signed in one case. As of the date of this writing, 13 mediator grievances have been filed in 2015.

The largest number of cases, however, involve good moral character (QCC). In 2014, there were 69 QCC cases and to date there have been 37 QCC cases in 2015.

*Visit the Discipline Proceedings and Sanctions section of our website for more information.*

### MEDIATOR ETHICS ADVISORY COMMITTEE (MEAC)

The latest opinions issued by the Mediator Ethics Advisory Committee can be found on our website. The prohibition of mediators translating in mediation has been a hot topic.

*Visit the Index of MEAC Opinions to view all issued opinions.*

## Message From the Director

*continued from front cover*

I urge you to keep mediation out of the arena of evaluations, opinions, or advice. It is intended to be a vehicle for self-determination as is abundantly evident from a reading of The Florida Rules for Certified and Court-Appointed Mediators. We have other processes that can be utilized if parties want or need evaluations, opinions, or third party advice—become proficient in those other processes and offer them to your service base.

And finally, for those of you who were unable to attend the conference or the morning plenary, I would like to repeat a few of my comments to the audience in order to help you to keep out of harm's (grievances) way:

- Mediation is about self-determination, voluntariness and impartiality
- Be fearless but cautious in your practice
- Don't succumb to outside pressures to "bend" the rules; use other processes
- Give the parties confidence in themselves to make decisions
- Move forward with mindfulness: about yourself, the process and the parties
- Provide your service with love and patience

I am not gone yet, but I wanted you all to know how proud and honored I am to have been able to serve you. I realize much change has occurred during my tenure, but you all have encouraged and supported me in my efforts and I want to take this opportunity to thank you.

I would be remiss not to mention the amazing DRC staff who have always worked as a team and without whom these last six+ years would not have been possible for me.

*My best wishes and hopes for you all ... Janice*

## 23rd Annual Conference and Beyond

The DRC's 23rd Annual Conference was another success and we hope those who attended had a fun and valuable experience. We strive each year to provide attendees with a variety of topics and dynamic speakers and thank all who participated in making this event our best ever.

A reminder that conference materials can still be found online. If you have purchased an audio recording of one of the workshops, this can be a particularly helpful resource. Click on the link to the right to see what is available. Select Agenda & Materials and you will find the link to each set of materials at the bottom of the workshop description.

[Link to  
Conference  
Workshop  
Materials](#)



*Pictured: Debra Pietsch, Heather Blanton, Michelle Smith and Janice Fleischer*

Be sure to save the dates for our next two Annual Conferences to be held at the same location at the JW Marriott Grande Lakes in Orlando.

**24th Annual Conference**  
August 11-13, 2016

**25th Annual Conference**  
August 10-12, 2017

The International Centre for Dispute Resolution Miami International Arbitration Conference will be held January 27-29, 2016, at the Biltmore Hotel in Coral Gables, FL.

The CPR International Institute for Conflict Prevention and Resolution holds its 2016 Annual Meeting February 16-18, 2016, at the Roosevelt Hotel in New Orleans, LA.

The ABA Section of Dispute Resolution's 18th Annual Spring Conference will be held April 7-9, 2016, at the Sheraton Times Square in New York City.





## Name the Newsletter Contest

The Dispute Resolution Center is looking for a new name for our newsletter. The next issue of our newsletter will be an online/email format publication and we would like to have a new name to go along with our new look. We have a few ideas in mind, but would like to have some input from our readers.

We are looking for something creative and professional, so get your thinking caps on and send us your best suggestion. The winner will receive free registration to our 24th Annual Conference to be held August 2016 in Orlando.

Additionally, if you would like to make other suggestions for columns or topics to be included in the newsletter, please feel free to email those comments as well with an appropriate subject line.

Please send your suggestions to: [DRCmail@flcourts.org](mailto:DRCmail@flcourts.org) no later than December 15, 2015, and include Newsletter Contest in the subject line of your email.

## Mediator Renewal Fees - Stop Paying Too Much!

Did you know that mediator renewal fees vary from \$40 all the way up to \$490? The good news is that out of nearly 6,000 certified mediators, not even 200 should be paying the \$490 fee (that is the fee for all five certifications). The funny thing is -- we receive checks in the amount of \$490 far too often. This requires a refund process and extra steps for all involved. And of course, nobody wants to pay too much!

So, the next time your renewal is due, please review the fee schedule (or pass it along to the person with the checkbook) so that the correct amount for your renewal is paid. The fees are also located on a drop-down list right on the application, so be sure to scroll down the list.



**List of  
Mediator  
Renewal  
Fees**

## Update On ADR Rules Petitions

*by Susan Marvin, DRC Staff Attorney*

### Standards for ADR Processes Which Currently Have No Standards

On September 19, 2014, the Alternative Dispute Resolution Committee filed a petition with the Florida Supreme Court in case number SC14-1852 proposing new rules and standards of professional conduct for professionals who engage in the range of ADR options which may be ordered by a court to promote collaborative approaches to dispute resolution. These proposed rules would only apply to processes for which no other standards currently exist; therefore mediation, court-ordered non-binding arbitration and parenting coordination would not be controlled by these standards. Proposed amendments to existing court procedural rules addressing court referral to all types of ADR processes are also included in the petition. Additional processes sometimes utilized by courts include the mini-trial, early neutral evaluation, summary jury trial, and other “ad hoc” processes agreed to by the parties.

*View the  
Petition  
SC14-1852*

*View the  
Opinion  
SC14-1852*

Oral argument regarding the petition took place on June 3, 2015. The Court issued its Opinion on October 8, 2015, concluding “the time is not yet ripe for rules addressing ADR processes other than those already identified and governed by current court rules.”

### Recommendations to Revise Mediator Discipline Procedures

On May 7, 2015, the Supreme Court Committee on Alternative Dispute Resolution Rules and Policy (Committee) filed a petition with the Florida Supreme Court recommending a complete revision of Part III Discipline of the Florida Rules for Certified and Court-Appointed Mediators (Rules).

*View the  
Petition  
SC 15-875*

Growth in the number of mediators, applicants for mediation, and cases mediated has presented a challenge to the Dispute Resolution Center and the members of the Mediator Qualifications Board (MQB) who must enforce the Rules. The Rules have not been revised for over ten years and in that time the complexity of the cases has greatly increased necessitating more detail and organization in the current rules. The process of applying the Rules to individual complaints and certification applications for 23 years has brought to light the areas in which additions and amendments are needed to close gaps, memorialize and clarify currently utilized procedures, strengthen the powers of the MQB, and address situations which have occurred for which no direction exists. If adopted, the Committee believes the revised rules will provide a clearer, improved process for discipline which will benefit mediators, applicants, the MQB and the public.



## CME Reporting Requirements

For all continuing mediator education (CME) hours earned, the DRC now requires back up documentation. In addition to completing the CME Reporting Form, the following must be provided at the time of renewal to receive credit.

### LIVE PROGRAMS

A certificate of attendance and a copy of the agenda. If a certificate is not available, an affidavit attesting to completion, in addition to the program agenda, can be submitted.

### INTERNET PROGRAMS

A certificate of completion and a program outline or course description that provides enough information to evaluate content.

### RECORDED PROGRAMS

Proof of purchase or a copy of the front of the CD/DVD if borrowed.

**Note:** if you are using recorded material as a live activity you must provide the name(s) and signature(s) of each person who participated in the discussion.

*Don't forget ... CME hours should only be submitted at the time of renewal. More Frequently Asked Questions are located here.*

### MENTORING NEW MEDIATORS

A copy of the Applicant's mentorship page which must show your signature and the date of the mediation.

### LECTURING or TEACHING

A copy of the program brochure reflecting your participation and an agenda or course outline.

### AUTHORING or EDITING WRITTEN MATERIALS

A copy of the written materials and a signed statement as to the time allotted to writing and editing the materials.

### SELF-DIRECTED PROGRAM QUALIFIED by a GOVERNMENTAL LICENSING BOARD

A certificate of completion and a program outline or course description that provides enough information to evaluate content.

## DRC By the Numbers



### CERTIFICATIONS and RENEWALS

The DRC certified 621 new mediators in 2014 with a high of 93 applications processed in November and an average of 52 new applications processed per month.

Mediator renewals processed in 2014 totaled 2,192 with a high of 228 renewals in March. The average number of renewals processed monthly was 183.

### MEDIATION TRAINING

The number of certified training programs conducted by approved training providers totaled 96 in 2014.

County Mediation Trainings were conducted most often with a total of 37 programs, followed by

Circuit with a total of 28. There were 18 Family Mediation programs, 11 Appellate and two Dependency trainings held. The total of 96 programs is consistent with the last five years which has seen a yearly average of 95 certified trainings.

The average number of mediators being trained over the last 5 years was 1455.