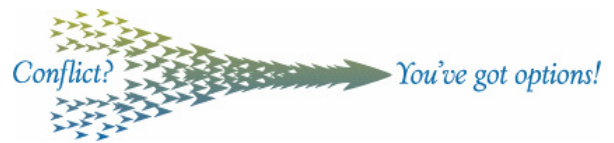




MADRP Bulletin

April 2006



Maine Association of Dispute Resolution Professionals

Volume XI, Issue III

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ANNOUNCING MADRP'S 2006 SPRING CONFERENCE

Building Competence and Confidence for Your ADR Practice: Tools, Marketing and Credentials

This Spring we'll return to the new spacious rural conference center at Maple Hill Farm for a busy day full of useful tips and tools for building your practice, highlighted by a luncheon address by **Attorney General Steven Rowe**. We've allowed for moderated Q&A time and interaction with the presenters, so bring your curiosity, your tough questions and be ready to take notes!

There will be time built into the day to network with your peers and the speakers--come early and we'll get you on your way by 3 PM! Join with a member in your area, make a carpool, share a conversation and save gas!

Session 1 introduces **James McGuire**, Massachusetts attorney and mediator with the large nationwide ADR firm, JAMS. Known for his skills in complex business disputes, Jim also teaches on the college level and has spoken to ADR audiences across the country. A recent focus of study has been social psychology and how it influences the flow of a mediation confer-

ence. He'll open his toolbox and show innovative skills and techniques for mediators in the area of impasse, money disputes and risk analysis.

Session 2 features two of Maine's foremost students on the subject of practitioner credentialing and certification. The process of gaining credentials necessary to expand our practices--or even to practice at all--continues to challenge and frustrate us. What would some sort of certification process, either from within the field or association, or from outside, mean to us as practitioners and to the field as a whole? Is it an essential prerequisite to the maturing of our field? Attorneys **Diane Kenty**, Director of CADRES, and 2005 Co-Chair, ACR Task Force on Certification, and Mediator **David Webb** will explore this subject and suggest how a certification process might be incorporated into our qualifications. Will they touch on licensing also? Come and find out!

Session 3 will use a team of four experienced Maine experts in marketing and communications to discuss facets of marketing your

practice. Here we can always learn new skills and upgrade the old. Whether you are a business entrepreneur in private practice or work for an agency or non-profit, effective marketing is a way of best connecting your services with your market. Can we learn how to have fun and become more comfortable with this, too? We'll hear from these Maine specialists: **Dianna Fletcher** of Fletcher-Media, a public relations and media communications firm, **Connie Gemmer** of Barton & Gingold, whose work involves marketing plans and message development, **Lucy Weiss**, radio and advertising specialist now with Citadel Broadcasting (who gave a short course at our March 2005 meeting), and communications specialist **John Flumerfelt**, regional Director of Government and Public Affairs for Calpine Corp.

Conference fee includes luncheon and two breaks, conference packet with presenter handouts and Continuing Education/CLE certificate.

See enclosed registration form

Message from the President

John Alfano, MADRP President

I want to take this opportunity to bring you up to date on a few items of interest.

First, the **Spring Conference** scheduled for May 17 will provide members with information to improve your skills, grow your practice and stimulate you. We have interesting and talented speakers and presenters from within and outside MADRP. Detailed information is

contained elsewhere in this month's Bulletin. Plan to attend!

Secondly, the three regional director positions have been filled. The **Northern Region** will be headed by **Bambi Magaw**, a member of BOG, who successfully has

Continued on page 2



Continued from page 1

coordinated the expansion of MADRP's presence in the northern part of the State for at least four years. The **Central Region** will be coordinated by **Kim Vogel**, a new Bog member, who will be assisted by BOG member Lisa Levinson. The **Southern Region** will be coordinated by **Marion Killian**. The coordinators will run the regional organizations in collaboration with the BOG to establish regional training and continuing education, among other duties. Such regional activities will make it more convenient for MADRP members to attend MADRP functions locally.

Lastly, I want to remind you that we are **searching for a MADRP Director** to run the organization. It will be a work-in-progress and an opportunity for the right person. This is a new direction for us that will make MADRP a stronger and more responsive organization. If you are interested or know of someone who can do the job, apply now to me at rbitr8tr@yahoo.com or 207.282.3992.

Don't miss a single issue of the

MADRP Bulletin

**Renew online @
madrp.org
NOW!**

ADR in Maine State Government

State Employee: *"Why do we need a third party neutral? **WE ARE NEUTRAL.**"*
by Allan A. Toubman, Esq.

I have worked for over 25 years in the business of dispute resolution in Maine state government. For the last ten of those years I have actively advocated for the use of ADR. State government touches just about every Maine citizen. And in just about every corner of public and private life, there is potential for conflict between it and its citizens. Every interaction, from paying taxes, to being licensed to receiving benefits may lead to conflict.

Yet, the common perception of state employees/decision-makers is that they do not need the professional services of a neutral because as a state employee, they have no bias and will fairly protect the interest of those that disagree with a state decision or policy.

For instance, the Department of Attorney General sought to be exempt from the mandatory ADR process of Rule 16(B) of the Maine Rules of Civil Procedure. They argued that it would not be productive, since they are fair and just. Fortunately, the Law Court believed otherwise.

Similarly, how often have you heard a state employee say that they had "mediated" a dispute with a citizen? Their understanding of mediation is that they "heard" the citizen. They fail to recognize that they are incapable of both advocating for a position and mediating with a client that does not agree with their position.

There have been inroads. Some agencies have written mediation into their dispute resolution rules, i.e. Mental Health services, 14-193 CMR chapter 1, Part A (VII)(B) (informal resolution of grievances);

vocational rehabilitation, 12-152 CMR chapter 1(3)(4) (mediation of grievances).

When it comes to writing rules through a stakeholder process, there is some guidance in 5 MRSA §8051-B, Consensus-based rule development process. It provides minimum requirements to follow when an agency purports to engage in facilitated rule-making. Best practices for stakeholder processes are found on the state website at http://www.maine.gov/consensus/ppcm_consensus_home.htm

The State of Maine has taken baby steps to move toward collaborative dispute resolution processes. Its employees are often hindered by a sense of paternalism that they always act in the best interest of those who oppose its policies and actions. This is a substantial barrier to the use of ADR because it conflicts the underlying principle of ADR, that there may be an alternative that neither party has initially conceived.

The ADR community needs to actively move the State of Maine agencies toward the neutral processes. I suggest that whenever you have an opportunity to interact with agency decision makers that you make a pitch for ADR. Agencies are often using private facilitators to assist agencies internal processes. This would be an excellent opportunity to educate the employees about mediation and other neutral processes.

Allan A. Toubman is the Chief Administrative Hearing Officer for the Dept. of Labor, an agency and court mediator, a member of the faculty of the National Judicial College, and a former Assistant Attorney General and Pine Tree Legal Assistance attorney.





The Overpromise of Mediation??

By Tracy Quadro, Esq.

Move over, Bernie Mayer. Jesse Sostrin, CEO of Creative Mediation, a public benefit dispute resolution and facilitation firm based in San Luis Obispo, California, is stirring up heat within the community mediation world. Sostrin wrote an article for the Winter 06 edition of ACResolution, a publication of ACR, entitled "Competing for and Winning a Future at the Table - Leading Community Mediation Centers at the Pace of Business." The article may be found at http://www.creativemediation.net/about_us/news_media/documents/LeadingMediationCentersatthePaceofBusiness.pdf.

Sostrin's premise is that unless Community Mediation Centers ("CMC's") begin to operate like small businesses, they will not only die, but die with no great tragedy to the communities they serve. He sees a 30 year spiral of the field, brought on by "overpromising and underdelivering" on the potential of mediation. This is caused, in part, by an organizational culture that uses its heart more than its head.

According to Sostrin, CMC's, and by expansion all mediators, need to be willing to change and re-invent ourselves to fulfill our highest potential. In a process-oriented field, we must be willing to market the benefits and value of our service, rather than the methodologies we use. Consumers are more interested in the "what" rather than the "why" or "how" of mediation. Therefore, when marketing our service we must emphasize the practical benefits of mediation and communicate them in a way that will help the public to see them.

Sostrin suggests a practical exercise that will benefit all mediators in

effecting a strong marketing turning point:

- Stop undervaluing the services you provide. Start measuring the benefits and value you bring.
- Stop describing value proposition via methodology. Start describing value through benefits and results.
- Stop leaving the outcomes vague and unquantified. Start quantifying the specific outcomes resulting from your work.
- Stop relying on people who are only passionate. Start attracting/retaining high caliber people who have knowledge, skills, abilities and commitment.
- Stop waiting for others to "see the light." Start focusing on overcoming barriers.

(J. Sostrin, *Leading Community Mediation Centers at the Pace of Business*, ACResolution, Winter 06, p. 23).

In an industry that often pits us against lawyers, psychologists, HR professionals, consultants and others for market share, to keep our edge and name recognition as a profession we may need to staunch our bleeding hearts and begin relating to our consumers as other businesses do - with strategy, professionalism and proven marketing techniques. To deliver on our unfulfilled promise, we must put our business acumen where our passions are. I would welcome further discussion on this issue.

Tracy Quadro is the Executive Director of Augusta's Community Mediation Services, a practicing mediator, an attorney, and Vice President of MADRP.

IN BRIEF . . .

SAVE THE DATE!

Sunday, August 13, 2006

from 10AM to 4PM at the Buker Community Center in Augusta, Maine will be the first ever "Peace in the Park" celebration, sponsored by Community Mediation Services. The day will feature fun family events including games and activities for the kids, health screenings and treatments, music and entertainment, food and many surprises. It promises to be a fun day for all! Please join us and/or call 621-6848 to volunteer.

Maine Family Law for Mediators

A 10-hour, two day course, will be offered in the Bangor area on June 22 - 23. The presenter is June D. Zellers, Esquire, of Common Ground Mediation Services.

This course will present the basics of the law and court procedures to enable mediators to handle family law cases successfully. It will meet the required 10 hours of family law training to qualify for listing on the CADRES domestic relations roster, and for CADRES CEUs. For more information and registration form, contact: Common Ground Mediation Services P. O. Box 822, Gardiner, ME 04345, 207-582-5862 or jjzellers@adelphia.net.

HELP WANTED

Part-time (approximately 20 hours per week) **Mediation Case Coordinator** needed at **Community Mediation Services** in Hallowell. Please contact CMS at 621-6848 for official job description and details. Send letter of interest, resume and three references to P.O. Box 177, Augusta, ME 04332. EOE



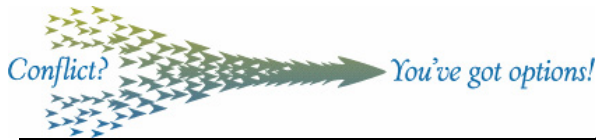
**MAINE ASSOCIATION OF DISPUTE RESOLUTION
PROFESSIONALS (MADRP)**

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Phone: (877) 265-9712
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March 2006 Issue

**SPRING
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ENCLOSED!**



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RESOLUTION PROFESSIONALS**

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Tracy Quadro, Vice President
Carol Corwin, Treasurer
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Practice Quality: Paul Charbonneau
Public Policy: Doug Lotane
Public Information: TBD
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Development**
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Augusta: Kim Vogel
Bangor: Bambi Magaw
Membership: Lisa Levinson
Advertising: John Alfano

Facilitator Section: Pam Plumb and
Tobey Williamson
**ME Residential Real Estate Mediation
Program (MRREMP):** John Alfano
Bulletin: Anita Jones
Nominating Committee Chair: To be
appointed by President
At-large Board members:
Jane Clayton
Program Liaisons: Diane Kenty
(CADRES), Community Mediation Center
TBD

MADRP MISSION

MADRP is a non-profit organization of diverse professional interests seeking to broaden public understanding and acceptance of alternative forms of dispute resolution. MADRP strives to enhance professional skills and qualifications of mediators, arbitrators, and other neutrals through training, educational development and promotion of standards of professional conduct.

MADRP Calendar of Events

- May 17** MADRP Spring Conference - information & registration enclosed
- June 7** BOG meeting
- July 12** Networking and Continuing Education* - Speaker and topic TBA
- August 2** BOG meeting
- September 6** Networking and Continuing Education O- Speaker and Topic TBA
- October 4** BOG meeting
- November** MADRP Fall Conference - details TBA
- December** BOG Planning Retreat

* Networking and Continuing Education Meetings (aka Membership Meetings)

