

# ANALYZING THE ALTERNATIVES

ENCOURAGING THE EFFECTIVE USE OF COURT-RELATED ADR

A PUBLICATION OF RESOLUTION SYSTEMS INSTITUTE

FALL/WINTER 2007

## ANNOUNCEMENTS



## NEW NAME, NEW TOOLS, SAME MISSION

### INTRODUCING COURTADR.ORG

After more than a year of brainstorming, designing, writing and debugging, the entirely revamped Court ADR Resource Center is now online at [www.CourtADR.org](http://www.CourtADR.org). The new site features more extensive resources, easier navigation, and new content. It takes RSI one giant leap toward fulfilling the goal of providing access to reliable information on court alternative dispute resolution.

Since it first was launched in 2001, the Resource Center grew to become the top online source of court ADR information. Bringing together articles, studies, program descriptions, court rules and other resources, it provided unmatched access to information for those involved in court-related ADR.

CONTINUES ON PAGE 08

### CAADRS IS NOW RSI

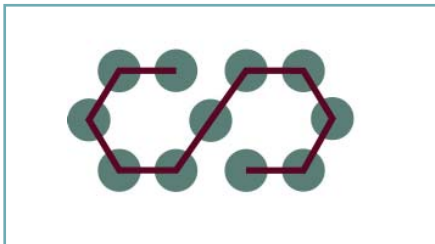
The Center for Analysis of Alternative Dispute Resolution Systems now has a more suitable, and shorter, name: Resolution Systems Institute. The new name more fully reflects the range of activities the organization undertakes in assistance to the courts. First established to collect reliable information about court ADR and provide that information to the courts in an effort to help them make more efficient and effective use of ADR, CAADRS soon became involved in developing programs and monitoring systems, conducting evaluations, and providing other forms of technical assistance.

The emphasis still remains on systems, but the scope goes well beyond analysis. Helping courts make more effective use of ADR continues to be the core purpose of the organization.

*See a profile of RSI on page 2 for further information.*

# RESOURCES, STUDY, INNOVATION

## RESOLUTION SYSTEMS INSTITUTE



Resolution Systems Institute is a leaner, more accurate name designed to fit the role the organization plays and will play in the dispute resolution field. In a little over twelve years, RSI has already accomplished a lot and its mission has been clear: to assist courts with effective and efficient use of alternative dispute resolution. Now, RSI has a new tagline to go along with the new name, and that tagline sums up the ways in which RSI accomplishes its mission: Resources, Study, Innovation for Court ADR.

### Resources

One of the founding principles of RSI is that information is power. If courts have solid, reliable information about ADR programs, they can establish and maintain high quality programs. This principle is the force behind one of RSI's main goals - to collect and disseminate reliable information about court ADR. The primary way in which this goal is implemented is RSI's online Court ADR Resource Center - a compilation of thousands of resources, such as court rules, statutes, articles, books, studies, programs, and organizations, which RSI has been collecting, abstracting, and making available to the public over the years. It is newly housed at [www.CourtADR.org](http://www.CourtADR.org).

Knowing how central rules and forms are to court ADR programs, RSI compiled sets of exemplary

court rules and forms from across the United States and annotated them. The result of this JAMS Foundation-funded project can be found on [CourtADR.org](http://CourtADR.org), along with discussion of what is needed to create good court ADR documents.

Another cornerstone of RSI's philosophy is that ADR programs must be monitored and evaluated once they have been established. To that end, RSI has created a court ADR program monitoring and evaluation system, which tracks program data, such as referral rate, resolution rate, time from referral to mediation, and participant satisfaction. This is made available to courts throughout Illinois, and information from the system is distributed to other courts.

### Study

Along with regular monitoring, RSI conducts more in-depth evaluations of mediation programs. In particular, RSI has evaluated the Lanham Act Mediation Program and the Western Division Civil Case Mediation Program in the U.S. District Court for the Northern District of Illinois, and is in the midst of conducting an evaluation of the Child Protection Mediation Program in Cook County. Such projects also can contribute to increasing the pool of data that can be analyzed to further enhance the reliability of information available on the effectiveness of ADR.

The effectiveness of court ADR was the subject of another RSI project. To answer the question of whether court mediation programs save time and money and promote satisfaction, RSI Director of Research, Jennifer Shack, has created an extensive bibliography that reviews the findings of more than 70 studies of court mediation programs. It can be found on [CourtADR.org](http://CourtADR.org).

CONTINUES ON PAGE 11

# STATEWIDE MEDIATION ACCESS PROJECT

## NEW EMPHASIS ON MEDIATION FOR POOR AND LOW-INCOME DISPUTANTS

Poor and low-income disputants in Illinois will soon have new avenues for resolving disputes, thanks to the Statewide Mediation Access Project. This project of Resolution Systems Institute (RSI) will help to meet the legal needs of poor and low-income disputants by systematically developing new mediation services and supporting collaboration between newly-developed mediation services, legal services, courts and possibly other entities in counties outside Cook County.

Under the program, RSI will focus on developing mediation programs with the goal of serving the most pressing legal needs of poor and low-income disputants - typically family, housing and consumer issues. These types of cases also tend to be quite amenable to mediation. The institute will provide expert program design support, assistance with obtaining mediator training, and development of monitoring and evaluation systems for the new programs.

### Implementing *Accessing Justice* Study

The project is based, in large part, on the findings of *Accessing Justice through Mediation: Pathways for Poor and Low-Income Disputants*, a 2007 study by RSI. Among other findings, the study identified the barriers to providing mediation services for poor and low-income disputants, and specific mediation models and other program approaches to overcome those barriers.

Some of the barriers to providing mediation services for poor and low-income disputants identified in the study include:

- ♦ no systematic, established working relationship between legal services and mediation services;
- ♦ significant limits on the amount of expert

- ♦ assistance available to develop mediation programs; and
- ♦ significant limits on funding for mediation programs.

The project is designed to address these issues, primarily by building relationships among legal services providers, mediation providers, courts, self-help centers, pro bono lawyers and others in the community who serve the legal needs of poor and low-income disputants. Project staff will facilitate this process through bridge-building, education, research and technical assistance.

The time is ripe for this project to be implemented. The architecture of laws and court rules is now in place in Illinois to support the provision of mediation services. Surveys and gatherings conducted in the *Accessing Justice* study show that legal services providers around the state are willing to engage with mediation. Expertise for successfully implementing mediation programs now exists and there is greater awareness of mediation across Illinois. With some funding for mediation now available through the Illinois Equal Justice Foundation, the readiness of the state for mediation can more easily be turned into practical programs.

### Mediation Approaches

*Accessing Justice* looked closely at existing approaches to providing mediation services for poor and low-income disputants in Illinois and around the country to determine whether any could assist in meeting the most pressing legal needs in the state. It identified a dozen models that had potential. It also proposed a new approach - the Stepping Stones Model.

CONTINUES ON PAGE 04



## STATEWIDE MEDIATION PROJECT CONTINUED FROM PAGE 03

In carrying out the project, RSI expects the Stepping Stones Model to be particularly useful. This model was created as a response to the identified barriers. It integrates mediation into the local legal services network. In it, disputing parties might encounter mediation at many points:

- ♦ They can be informed of the option of mediation during initial contact with a telephone advice and referral service, a self-help service, an advice desk, a kiosk, an online service, printed information, or a clerk's office.
- ♦ They could be given the opportunity to mediate as an option after their dispute enters the court system (for example, small claims court for housing or consumer cases).
- ♦ They could receive preparation and coaching for mediation when they are represented in a case that goes through mediation (for example, family cases). They can also have their attorney review proposed settlements following mediation.
- ♦ They could receive limited representation solely for a settlement conference in a federal court program.

Disputants might encounter mediation or information about mediation at any or all of these points as their case moves forward - therefore the stepping stone analogy. In a single case a party might:

- ♦ Call the local legal service's advice and referral telephone line and be informed about how to file a small claims case, receive information about mediation as a method for addressing their dispute, and maybe get a few tips about how to make use of mediation.
- ♦ Pick up a brochure about mediation at the clerk's office when filing.
- ♦ Learn more about mediation online at the site the telephone referral service recommends for online forms and information.
- ♦ Learn more in court from a presentation by the judge or by a video about mediation.

As these steps indicate, advice about how to use mediation can be incorporated into the existing services provided by legal services, court self-help centers, online resources, and others. Such integration is essential for two reasons: it develops use of mediation and it enhances the quality of the disputants' experience of the process.

Since mediation is generally voluntary, outreach and education are essential to developing its use. If mediation is to happen, all parties must agree to participate. There are some exceptions, but this is generally the case. (One significant exception is that all parents with disputes concerning custody and/or visitation in Illinois must participate in mediation, barring significant reasons to the contrary.) When mediation is voluntary - as in small claims cases, for example - parties must be educated about the process in order to make an informed decision about whether to participate in it.

The integration of outreach and education concerning mediation into existing services can have a positive impact on the quality of the process and the outcomes for participants. Mediations are generally more effective for the parties when they know more about how to make the best use of the process. If parties are prepared with what to expect and how to negotiate in mediation, the mediator can more effectively explore with them possible solutions that could provide more long-term satisfaction.

### More Keys to Success

Beyond program development, the project emphasizes mediator training and program monitoring and evaluation. RSI's expertise and experience in both these areas will help establish high-functioning programs around the state.

CONTINUES ON PAGE 05

## IEJF, BOSKEY FOUNDATION GRANTS AWARDED TO RSI

RSI is pleased to announce the award of grants from the Illinois Equal Justice Foundation and the James B. Boskey Memorial Foundation, both of which will help RSI to further expand and improve services over the coming year.

The IEJF grant supports RSI's Statewide Mediation Access Project, a new initiative to promote access to mediation services for poor and low-income Illinois residents. The project is based on the model developed in RSI's 2007 report, *Accessing Justice: Pathways for Poor and Low-Income Disputants*, which was also supported by an IEJF grant. Under the project, RSI will assist legal services, circuit courts, pro bono lawyers, bar associations and other partner organizations in working together to meet the legal needs of poor and low-income litigants through mediation.

The grant from the Boskey Foundation will support the further development of RSI's online Court ADR Resource Center. A grant from the foundation last year helped RSI prepare for the renovation of the Resource Center and the launching of its new site at [www.CourtADR.org](http://www.CourtADR.org). Over the next year, RSI staff will focus on expanding the new site by building compendia of ADR-related statutes and court rules for each state, as well as a collection of federal court ADR information.

RSI is very grateful for the continued support from IEJF and the Boskey Foundation, and looks forward to providing services through the projects their generous grants have made possible.

## STATEWIDE MEDIATION PROJECT CONTINUED FROM PAGE 04

High quality mediators are one of the most important factors in successful mediation programs. Court mediation programs sometimes have difficulty accessing trained, skilled mediators. Along with RSI's expertise about how to select trainers and mediators, and what kinds of training are needed for particular types of programs, this project provides funding for training to be an integrated part of program development in at least one new program.

Effective data collection and use are at the heart of this project. RSI is committed to reliable data as the key to identifying strengths and weaknesses in programs, monitoring program chang-

es, and evaluating programs. RSI will tap into its expertise drawn from many years of experience in monitoring and evaluating court mediation programs to assist with the creation of monitoring and evaluation systems, analyzing the data, and then helping programs make use of feedback for program adjustment and for promotion of the mediation program.

### Support

RSI is very grateful to the Illinois Equal Justice Foundation for providing the grant that made this project possible. The foundation has been committed to mediation as a pathway to justice for poor and low-income disputants since its

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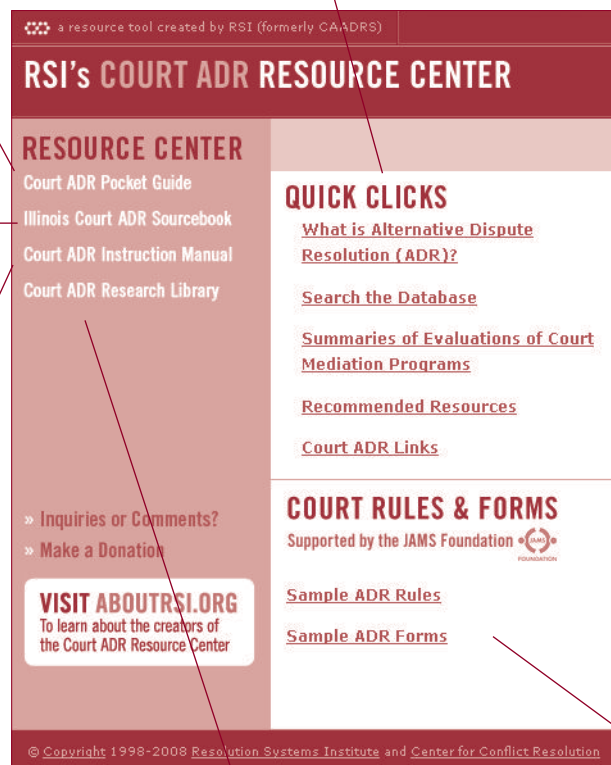
# A QUICK TOUR OF COURTADR.ORG:

Get a quick tour of court ADR from the **Pocket Guide**. Find out what it is, how it's used by the courts, and what purpose it serves. Dig deeper into the topic through the links to other resources.

Go directly to the most popular pages in the Resource Center by selecting one of the **Quick Clicks**.

Learn all about court ADR in Illinois in the **Illinois Court ADR Sourcebook**, where RSI has gathered programs, rules, statutes, and statistics for court ADR around the state. Also in this section are reports and articles on court ADR programs in Illinois, significant court ADR case law in the state, contacts for courts and their ADR programs, and links to pertinent organizations.

Use the **Court ADR Instruction Manual** to get information on program development and evaluation. Susan Yates, RSI Executive Director, offers insight from her years of experience working with courts to create quality mediation programs. Another "chapter" in the Instruction Manual provides information on monitoring and evaluation of ADR programs.



Search for thousands of resources in the **Court ADR Research Library**. Each resource has been read and summarized by a member of RSI's staff. Discover the richness of thinking on court ADR in Recommended Resources and the effectiveness of court ADR in RSI's list of well-conducted evaluations of ADR programs. Look for state ADR offices and other organizations in ADR Links.

# THE RESOURCE ON COURT ADR

Find out what's new in the field of court ADR by checking in with **News & Updates**.

Do a quick **search** of the Resource Center by typing a keyword into the Search field, or click on Advanced Search to conduct a more refined search of thousands of resources, including books, articles, court rules, statutes, and more.



Look to **Special Topics** for custom lists of topics and resources for Judges, Neutrals, Lawyers, Program Administrators, and the Public.

Provide RSI with your **email** address and receive reports on research, changes in the court ADR field, and more. RSI respects the privacy of individuals and does not share email addresses with any other organization.

Get court rules and forms in the JAMS Foundation-supported sections on how to write court ADR **rules**, including sample rules with commentary, and on how to create court ADR **forms**, including sample forms with commentary.

**Tell RSI What You Think**  
RSI is always interested in feedback and additions to the site. Feel free to send an email to [info@aboutrsi.org](mailto:info@aboutrsi.org) with comments and information.

# OUT AND ABOUT WITH RSI

Congratulations to Executive Committee Member Judge Robert Byrne, who was elected Presiding Justice of the Second Appellate District.

Congratulations also to Executive Director Susan Yates, who was recognized at the American Bar Association Annual Meeting in August for her two terms as Chair of the Standing Committee on Associate Issues of the ABA Section of Dispute Resolution. She continues her involvement with the Section of Dispute Resolution as a newly appointed member of their Long Range Planning Committee.

Ms. Yates spoke at the October meeting of the International Institute for Conflict Prevention and Resolution in Boston on the topic of the ABA Quality in Mediation Task Force, of which she is a member.

“Substantial Evidence Review in Social Security Cases as an Issue of Fact,” an article written by Executive Committee Member Judge Morton Denlow, was published in the October 2007 issue of *Federal Courts Law Review*. It can be found online at [www.fclr.org/2007fedctslrev3.htm](http://www.fclr.org/2007fedctslrev3.htm).

## CONTINUED FROM PAGE 01 COURTADR.ORG

As the site expanded to include more and different types of resources, however, the need for a stronger online platform became clear. CourtADR.org provides that platform, with a user-friendly, fully searchable interface, making resources more accessible than ever before.

### Expanded Resources

The new web site - created with the support of the JAMS Foundation and James B. Boskey Memorial Foundation - also offers an expanded set of resources, reorganized into four main sections. The Research Library includes thousands of articles, books, statutes, court rules and other publications. Many resources can be downloaded directly from the web site or through links to other sites, and those that are available only in hard copy have access information to make them easy to find elsewhere.

RSI's collection of resources specific to court ADR in Illinois has also grown with the Illinois Court ADR Sourcebook. Intended as a one-stop resource for anyone involved in court ADR in the state, it includes reports, articles, statistics, abstracts on state statutes and court rules, and descriptions of ADR programs run by the circuit courts. Contacts for each of the courts in Illinois and their ADR programs can also be found in the Sourcebook.

### New Content

With the new site, RSI is introducing two entirely new informational guides. For those just entering the field, the Court ADR Pocket Guide provides a broad overview of the field. The Pocket Guide explains how and why courts use ADR, and describes the many different methods

of dispute resolution typically employed by courts.

The Court ADR Instruction Manual offers detailed guidelines for courts on how to create and improve ADR programs. The manual outlines every step in the process, from writing rules and forms to monitoring and evaluating existing services. The section also includes links to recommended court rules and forms currently in use around the country.

### Plans for the Future

In addition to providing a stronger base for current resources, CourtADR.org is also designed to support RSI's planned expansion of national services. Recognizing that states other than Illinois are in need of their own “Court ADR Sourcebooks,” the site will eventually include compendia of every state's ADR-related statutes and court rules, as well as a collection of federal court ADR information. Model post-mediation questionnaires and mediator reports are also being prepared for the Instruction Manual.

CourtADR.org substantially strengthens RSI's ability to promote the effective and efficient use of ADR by the courts. Not only does it improve RSI's current services, it opens the door to new initiatives and opportunities that had not previously been possible.



Welcome to Jessica Glowinski, who joined RSI in July 2007 as Resource Database Associate and was so impressive she was promoted to be RSI's first Resource Center Coordinator. Ms. Glowinski helped prepare for the launching of RSI's new web sites, and will continue working to expand the resources available in the RSI Court ADR Resource Center. Ms. Glowinski has a background in journalism and a Master's of Arts in International Relations from the University of Chicago.

Welcome as well to Laura Noah, RSI's new Program Development Consultant. Ms. Noah joined RSI in January, and will be working with Executive Director Susan Yates on initiating the Statewide Mediation Access Project. Ms. Noah has a Master of Arts in Dispute Resolution from the University of Massachusetts Boston and has been working in the field of conflict resolution for over a decade. She is on the board of the Mediation Council of Illinois and is an adjunct professor at North Central College teaching courses on conflict resolution. She has been a mediator with the Marriage and Family Counseling Service in Chicago and currently has her own mediation practice.

Ms. Yates has begun to meet with potential participants of the Statewide Mediation Access Project, an effort to use mediation to improve access to justice for poor and low-income disputants throughout the state. In November and December she met with representatives from the Lake County Bar Association and the Nineteenth Judicial Circuit, as well as representatives from John Deere and Prairie State Legal Services.

**RSI****RESOLUTION SYSTEMS INSTITUTE****RSI MISSION STATEMENT**

The RSI mission is to encourage effective and efficient use of court-related alternative dispute resolution. To accomplish this mission, RSI provides a range of information-gathering, clearinghouse, evaluation, analysis, and training services.

RSI is affiliated with the Center for Conflict Resolution, a not-for-profit corporation.

**RSI EXECUTIVE COMMITTEE**

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**STATEWIDE MEDIATION PROJECT CONTINUED FROM PAGE 05**

founding. This project is yet another example of that commitment. Maintaining the project will require additional funding, which RSI will be seeking from both the Illinois Equal Justice Foundation and other generous supporters.

**Participation**

Representatives from entities in Illinois, outside of Cook County, who are interested in participating in the Statewide Mediation Access Project are welcome to contact RSI Program Development Consultant, Laura Noah at lnoah@AboutRSI.org or 312-922-6475. The project is currently funded to run through the end of August 2008, and there are plans to raise funds to continue it after that date.

**RESOURCES, STUDY, INNOVATION CONTINUED FROM PAGE 02**

RSI recently completed *Accessing Justice through Mediation: Pathways for Poor and Low-Income Disputants*, a study funded by the Illinois Equal Justice Foundation on whether mediation might serve as a means to meet the legal needs of poor and low-income disputants in Illinois. In this study, RSI explored the supports for and barriers to using mediation to serve these individuals, and determined the possibilities for the future use of mediation.

now set to expand this service to another arena. Based on the central finding of the Accessing Justice study - that Illinois is now poised to develop mediation as a path to justice for poor and low-income disputants - RSI is working on its Statewide Mediation Access Project to develop mediation programs in Illinois for poor and low-income litigants.

**Simple Name, Simple Mission, Easier Said than Done**

Resources, Study, Innovation. RSI has been providing these for more than twelve years. They form the practice behind its belief that resolution systems must be nourished with new information and evaluated in an effort to improve people's experience in resolving disputes. RSI continues to be challenged to work toward this goal by expanding and enhancing the Court ADR Resource Center, assisting in the development, maintenance, and evaluation of court ADR programs, and exploring new ground upon which to build

**Innovation for Court ADR**

The third piece - innovation for court ADR - is heavily supported by the first two - resources and study. RSI uses these to determine new and better ways for courts to utilize ADR. Over the last twelve years, RSI has helped courts throughout Illinois to develop civil case, divorce, and small claims mediation. In each instance, RSI's goal was to help the local jurisdiction develop its own best approach to resolving disputes based on its own distinct set of circumstances. RSI is

**PLEASE UPDATE YOUR ADDRESS BOOKS!**

With a new name comes new contact information. RSI's new web site is now [www.AboutRSI.org](http://www.AboutRSI.org).

RSI staff can now be contacted at the following email addresses:

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RESOURCES / STUDY / INNOVATION FOR COURT ADR



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