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RESOURCES / STUDY / INNOVATION FOR COURT ADR



# COURT ADR CONNECTION

The eNewsletter of Resolution Systems Institute

June 2010

In this edition, Resolution Systems Institute announces its new blog, *Just Court ADR*. Written by three RSI staff members, *Just Court ADR* covers a variety of topics relevant to court ADR. Read the latest post and subscribe at <http://blog.abourtsi.org>.

The Court ADR News section highlights a new partnership between Indiana courts and the state housing authority to coordinate settlement conferences between homeowners and lenders in foreclosure cases. The section also reports on the New Jersey Supreme Court's decision to hear a case that will decide whether the court's 2009 ruling to set requirements for arbitration of child custody issues applies retroactively. The final news item covers recent amendments to Florida's Rules for Certified and Court-appointed Mediators that prevent retired judges from using the title of "judge" or appearing in judicial robes in marketing materials for their mediation practice.

The New Research section features a study on the effectiveness of a new mediation model designed for high-conflict divorcing couples. The study showed that the model, which uses a mediator and counselor or psychologist to co-mediate the development of a parenting agreement, was effective in reducing conflict levels and improving the parents' relationship and well-being. Under the On CourtADR.org section, this month's Recommended Resources include the American Evaluation Association, Willamette University's Recent Developments in Dispute Resolution newsletter, and the Federal Judicial Center.

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## RSI Update

### RSI Launches Court ADR Blog

RSI is pleased to announce its new blog, *Just Court ADR*. With an exclusive focus on issues related to court ADR, *Just Court ADR* is a unique voice in the growing online ADR community. The blog is written by RSI Executive Director Susan M. Yates, Director of Research Jennifer Shack, and Resource Center Coordinator Jessica Glowinski. Their posts cover news and research on court ADR and discuss a variety of important topics, including program development and management, mediator quality and qualifications, and mediation styles and techniques.

Click [here](#) to read and subscribe to *Just Court ADR*.

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## Court ADR News

### Indiana Courts Partner with State Housing Authority to Coordinate Foreclosure Settlement Conference Program

The Indiana Division of State Court Administration (SCAD) is teaming up with the Indiana Housing and Community Development Authority to implement a new model for foreclosure settlement conference programs in county courts. A state law that went into effect in July 2009 gives homeowners the option of requesting a settlement conference prior to foreclosure. According to the SCAD website, many of the conferences held in 2009 were “unsuccessful because one or both of the parties were unprepared.” The new initiative, the Mortgage Foreclosure Trial Court Assistance Project, seeks to correct this by implementing a new system involving local coordinators who will work with facilitators, pro bono attorneys, lenders and homeowners to schedule and hold settlement conferences. Coordinators are responsible for contacting homeowners in foreclosure cases and ensuring they know about the settlement conference option. Settlement conferences are facilitated by judicial officers or approved attorneys with a background in mediation and mortgage foreclosure issues.

Visit the project’s [website](#) for a full description of the program model. Click [here](#) for the full text of the foreclosure settlement conference law.



## New Jersey Supreme Court Takes up Child Custody Arbitration Issue Again

The New Jersey Supreme Court [granted certiorari in May](#) to a case that will decide whether a decision by the court to allow arbitration of child custody issues applies retroactively. In July 2009, the court decided in *Fawzy v. Fawzy* that parents could choose to arbitrate child custody disputes, as long as the agreement to arbitrate was in writing and established that the parties waived their right to judicial determination, and the arbitration proceedings were recorded. In the current case, *Johnson v. Johnson*, the court will decide whether these arbitration requirements apply to a case in which parents arbitrated child custody issues prior to the *Fawzy* decision and did not record the arbitration proceedings. The appellate court held that the requirements did apply.

For the appellate court decision in *Johnson v. Johnson*, click [here](#). For the Supreme Court decision in *Fawzy v. Fawzy*, click [here](#).



## Amendment to Florida Rules for Mediator Marketing Practices Bans Use of Judicial Titles

A recent amendment to Florida's Rules for Certified and Court-appointed Mediators prohibits retired judges from using the title "judge" with or without modifiers when marketing their private mediation practice. Retired judges also may not appear in marketing materials in judicial robes. The Supreme Court Committee on Alternative Dispute Resolution Rules and Policy, which suggested the amendment, reasoned that retired judges should not "use the prestige of the judicial office to advance his or her private interests."

Click [here](#) to read the full amendment. Read more and share your comments on the amendment on [Just Court ADR](#).

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## New Research

### The Efficacy of Inter-Disciplinary Co-Mediation for High Conflict Divorcing Couples

High conflict parents seeking divorce often do not achieve the benefits in mediation that are experienced by other divorcing couples. They also tend to have contentious litigation and relitigation, utilizing large amounts of court resources. In a study conducted of 23 divorcing couples in Australia, researchers found that the Conjoint Mediation and Therapy (CoMeT) Model is effective in reducing conflict and increasing the well-being of parents who participate in mediation. The model uses two professionals (preferably one male and one female), one who is a mediator and one who is a counselor/psychologist, to mediate the development of child-focused parenting agreements between high conflict parents for whom mediation has not been or is likely not to be effective.

Nicky Jacobs and Russell Jaffe discuss their study and findings in "Investigating the Efficacy of CoMeT, a New Mediation Model for High-Conflict Separating Parents" (*The American Journal of Family Therapy*, 38:16–31, January 2010). To determine the effectiveness of the CoMeT model, Jacobs and Jaffe had the participants complete a questionnaire prior to mediation and three months after the final session. The questionnaire utilized several measures: parenting alliance,

parent-child relationship, parental conflict, acrimony, attachment and personal well-being. All parents completed the questionnaire pre-mediation; about two-thirds filled it out three months later.

The parents' responses to the questionnaires showed significant improvement in all measures, with the exception of parenting alliance and parent-child relationship. Those showed slight, but not significant improvement. Although there were some differences between men and women in the level of change for the different measures, overall their responses showed the "separation experience and process under the CoMeT model was similar" for both men and women. No data was collected beyond three months post-mediation, so it is not clear if the improvements the participants experienced would be durable in the long term.

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## On CourtADR.org

### Recommended Resources

» **American Evaluation Association**

Membership in the AEA provides access to links, blogs, webinars, a community forum and other information to help anyone evaluating a program – court ADR or otherwise – do it well.

» **Recent Developments in Dispute Resolution Newsletter**

This publication from the Willamette University College of Law provides monthly updates by email on U.S. state and federal case law involving issues surrounding dispute resolution.

» **Federal Judicial Center**

They describe themselves as the "research and education agency of the federal judicial system." Their site includes several downloadable online publications relating to the use of ADR in the federal courts.

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