

[Click here](#) to view this newsletter on the RSI web site.

RESOURCES / STUDY / INNOVATION FOR COURT ADR



COURT ADR CONNECTION

The eNewsletter of Resolution Systems Institute

November 2010

In this month's edition, RSI announces a campaign to support its Statewide Mediation Access Project, which helps courts in Illinois create mediation programs for poor and low-income litigants. An anonymous donor has offered to match donations to the program, so every donation can go even further in helping the project reach its goals. Read more about the campaign and click to donate below.

The Court ADR News section covers updates in many states this month. County courts in California and Pennsylvania recently launched mediation programs. A subcommittee of the US Senate Judiciary Committee held a hearing on mediation and mitigation programs to assist debtors facing foreclosure. The Nevada Foreclosure Mediation Program announced nearly \$300,000 in grants to fund educational programs for homeowners.

The Research You Might Have Missed section highlights a survey of judges, mediators and attorneys involved in child protection mediation programs throughout Texas, which found that mediation was inconsistently used in the state. The author offers many recommendations for courts to improve the programs, including creating an expectation that judges will refer cases to mediation and tracking data more consistently. Finally, the From *Just Court ADR* section highlights blog posts about the positive effects of ADR training in law school and the implications of the recent controversy concerning banks' improper filing of foreclosure cases for foreclosure mediation programs.

In this issue...

RSI Update

- » [Support RSI's Statewide Mediation Access Project](#)

Court ADR News

- » [California County Court Launches Mediation Program](#)
- » [Pennsylvania County Court Starts Civil Mediation Program](#)
- » [US Senate Subcommittee Hears Testimony on Bankruptcy Loss Mitigation Programs](#)
- » [Nevada Extends Funding for Foreclosure Mediation Education Programs](#)

Research You Might Have Missed

- » [Child Protection Mediation in Texas: Past, Present and Future](#)

From *Just Court ADR* Blog

- » [Hopes Becoming Reality: Law School Training is Making Better ADR Advocates](#)
 - » [Interstate Recognition of Notarizations Act and Foreclosure Mediation](#)
-

RSI Update

Support RSI's Statewide Mediation Access Project

RSI's Statewide Mediation Access Project (SMAP) creates innovative programs to resolve the pressing, unmet legal needs of poor and low-income individuals. Through SMAP, RSI develops family, housing and consumer mediation systems in partnership with Illinois courts. A generous donor who believes strongly in this project promises to match every \$2 you give with \$1 more, up to a total of \$10,000. Please consider making a donation to sustain the project. We appreciate your support.

Court ADR News

California County Court Launches Mediation Program

The Superior Court in Tulare County, California, launched a small claims mediation program in October, and will soon be adding another new mediation program for financial and property disputes in divorce cases. According to the *Visalia Times-Delta*, the court contracted with the Better Business Bureau of Central California to provide mediation services for both programs and instituted a new \$8 filing fee to fund the programs. Participation is voluntary for both programs.

Click [here](#) for the article from the *Visalia Times-Delta*. Click [here](#) for the press release about the programs from the Better Business Bureau of Central California.



Pennsylvania County Court Starts Civil Mediation Program

The Common Pleas Court in Monroe County, Pennsylvania, recently established a civil mediation program. Cases are referred to mediation at the discretion of the judge. Mediators are members of the Monroe County Bar Association who are approved to mediate by the court. They must have been a member of the Pennsylvania Bar for at least 10 years and have at least six hours of mediation training, unless the court determines their experience is sufficient to waive the training requirement. According to the *Pocono Record*, the development of the program was initiated by the president of the county bar association.

For the court rules governing the program, click [here](#). Click [here](#) for the article from the *Pocono Record*.



US Senate Subcommittee Hears Testimony on Bankruptcy Loss Mitigation Programs

At the end of October, a subcommittee of the US Senate Judiciary Committee held a hearing on the use of mandatory mediation programs in bankruptcy courts for cases involving property in foreclosure. The Subcommittee on Administrative Oversight and the Courts heard testimony from a judge and an attorney advocate involved in loss mitigation programs in the US Bankruptcy Court for the Southern District of New York and the US Bankruptcy Court for the District of Rhode Island, respectively. The hearing also included testimony from Rhode Island homeowners and a representative of the National Consumer Law Center,

who recommended that the federal government take a more active role in encouraging mediation and loss mitigation programs in bankruptcy courts. Under the programs in New York and Rhode Island, the court may set deadlines for communication between a homeowner and a lender for the purpose of identifying an alternative to foreclosure. The New York program allows a homeowner to request, or the court to order, the appointment of a mediator to assist in the loss mitigation process.

Click [here](#) to read testimony from the subcommittee hearing. Click [here](#) for the procedures for the New York program, and [here](#) for the procedures for the Rhode Island program.



Nevada Extends Funding for Foreclosure Mediation Education Programs

The Nevada Foreclosure Mediation Program awarded close to \$300,000 in October to programs aimed at educating homeowners. The grants, which range from \$31,000 to \$76,000, are going to local legal services organizations that will provide classes and educational materials about the mediation program, and foreclosure in general, to homeowners. In one instance, a center will provide counseling to homeowners, and another will offer a training program for attorneys representing homeowners in foreclosure mediation.

Read the [press release](#) from the Nevada Foreclosure Mediation Program for more information.

Research You Might Have Missed

Child Protection Mediation in Texas: Past, Present and Future

Child protection mediation began as a pilot project in Texas. The success of the pilot led to implementation across most of the state. Cynthia Bryant of the University of Texas Law School Mediation Clinic conducted a survey of judges, attorneys and mediators in an effort to understand how child protection mediation is being used throughout the state. Bryant found that mediation is inconsistently used; in some jurisdictions, judges often recommend mediation, while in others its use is rare. No matter the jurisdiction, mediation most often occurs in anticipation of trial, which generally occurs about one year after the removal of the children. The second most common timeframe for mediation is between the 60-day hearing and the first permanency hearing, at 180 days. Almost half of mediations are concluded within half a day, with another 30% completed within a full day.

In [Child Protection Mediation in Texas: Past, Present, and Future](#), Bryant recommends that the state set an expectation that judges refer cases to mediation. This will give families across the state access to the process. She also recommends that the courts start collecting consistent and relevant data and share it with others in order to determine the best practices for selecting cases, the timing of mediation and mediator qualifications, among others. Other recommendations include assuring stable funding for mediation so that the lack of mediators does not bar access to mediation, to train all mediators in child protection matters, to train lawyers and other professionals in effective participation, and to educate judges on the process.

From *Just Court ADR* Blog

Hopes Becoming Reality: Law School Training is Making Better ADR Advocates

“How many of us in the mediation field have said that educating people about alternative approaches to dispute resolution is essential to changing the way that conflicts are addressed? For those of us who work in court ADR, the continuing development of law school ADR coursework in particular is a cause for optimism that the practice of law increasingly will encompass skilled use of ADR. In a recent pro bono case I mediated, I had an experience that affirmed this belief.” Read the rest of this post by Susan Yates [here](#).



Interstate Recognition of Notarizations Act and Foreclosure Mediation

“The recent debacle over H.R. 3808, the [Interstate Recognition of Notarizations Act](#) (IRNA), should raise major questions for the foreclosure mediation community. The bill posed questions not only about the role of documents and authentication within the mediation context, but some questioned whether the mediation programs should continue at all, as banks around the country halted foreclosures.” Read the rest of this post by Heather Scheiwe Kulp [here](#).

Resolution Systems Institute

11 E Adams Street · Ste 500 · Chicago, IL 60603

P 312.922.6475 · F 312.922.6463

[visit us online](#) | [send us an email](#)

Court ADR Connection made possible by the JAMS Foundation 

[Subscribe](#) | [Forward](#) | [Unsubscribe](#)