

The UCCR News

Volume 15

Summer 2005

UCCR's 7th Annual Symposium a Success!

The 2005 Symposium's theme was "Expanding the Dialogue of Conflict"...and it certainly did! It was a packed agenda, full of interesting and challenging ideas and concepts. Based on the evaluations the event was a success. Our move to the E Center received mixed reviews, but the one thing everyone agreed on was that the parking was great!

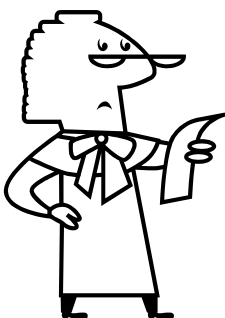
The Symposium takes a tremendous amount of work and we couldn't do it without our Sponsors, the Committee and our Volunteers . Our thanks to everyone who contributed to the success of this year's Symposium (see list on page 7).

Following the Symposium, UCCR honored this year's Peacekeeper (see page 3). The celebration was moved to the Matheson Courthouse due to weather. It was a lovely gathering and certainly much more comfortable than the stormy outdoors.

Next year's Symposium Chair is Palmer DePaulis and the Co-Chair is Nancy McGahey. In order to fully explore what our mediation community wants from the Symposium in the way of topics and format we are doing something different this year. *On August 10, 2005, at 4:00 p.m., at the Law and Justice Center (645 S 200 E - SLC), UCCR is hosting a focus group to gather ideas from a broad cross-section of the community. Whether you can attend or not, we welcome your input. Please send your ideas to info@uccr.net in advance so we can make the best use of our time together.*

Legislative Updates - HB 4 Passes!

On May 2, 2005 House Bill 4 went into effect. Under this new legislation when an answer is filed in response to a divorce complaint (petition), all remaining contested issues are referred to mediation.



Parties are required to participate in at least one session of mediation and attempt to resolve the issues in dispute. The mediator who provides these services must

be qualified on the ADR Court Roster to provide Divorce Mediation in accordance with Section 78-31b-5. The passage of this bill has increased the interest in Di-

vorce Mediation statewide and the ADR Office at the Court has processed many new applications for the court roster in the past months.

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Domestic Violence and Mediation Summit

Made possible due to a Violence Against Women Act (VAWA) grant.

With the advent of HB 4, the issue of Domestic Violence (DV) as it relates to Mediation has become front and center. In March a group of people came together to discuss this issue in a DV and Mediation Summit. The group included DV Professionals, Mediators and Court Professionals.

Topics covered were: a common definition of DV; a screening tool for DV cases including the desired components; a mediation model for DV cases and desired components; choosing a mediator in DV cases; and next steps - including training.

A subcommittee was formed to further develop the screening tool and the mediation model. They have been meeting periodically. Kathy Elton agreed to arrange regional meetings between DV Advocates and Mediators, and many have taken place already.

One of the outcomes of this dialogue is the creation of a specialty area on the Court Roster. Mediators can be designated as having expertise in DV cases if they meet the following criteria.

- Qualify on the Utah State Court Roster
- Qualify as a Master Mediator on the Court Roster, **or** Provide documentation of 150 hours conducting mediation sessions **and** 3 years of experience in the domestic violence field.
- Complete the 4 hour on-line course on domestic violence offered by the Utah Domestic Violence Council; www.udvc.org.
- Complete at least 6 hours of training on mediation in cases involving domestic violence. Training must be approved by the Court ADR Office.
- Be willing to provide clients and attorneys in domestic violence related cases a post-mediation survey with a self addressed, stamped envelope addressed to the Court ADR Director.

If you have any further questions regarding this subject, please contact Kathy Elton at kathy@email.utcourts.gov or 801-578-3982.

Chapter and Section Updates

The **Workplace Mediation Section** continues to meet regularly, on the second Tuesday of each month. The next meeting is on September 8, 2005 due to a summer hiatus. The discussions are lively and informative and cover subjects such as Convening, State Procurement, and Mediation at the Labor Commission. The Section is planning a training event for fall...will keep you posted. Contact Dan Andrus for information at cpmdla@qwest.net.

The **Family Mediation Section** has also been meeting monthly, on the first Thursday of each month. The next meeting is on

August 4, 2005. The Section has grown tremendously since HB 4 passed and has been busy trying to help the domestic mediator community to achieve some consistency in implementing its requirements. The Section is hosting a seminar on Domestic Law for Non-Lawyer Mediators (see p. 5) and also plans to host a fall training. Contact Brian Florence for more information at attyflo@aol.com.

The **Utah County Chapter** has instituted quarterly brown bags. John Pace is the one to contact if you are interested in activities in Utah County. He can be reached at john_pace@byu.edu.

Down South in our **Southern Utah Chapter**, John Klodnicki is keeping busy with Truancy mediation and, with the advent of HB4, Domestic mediation. If you are in the southern part of the state and would like to participate in or host an activity, contact John at johnklod@aol.com.

Anyone wishing to join either a Chapter or a Section must also be a member of UCCR.

Please contact Barbara O'Brien at (801) 685-UCCR (8227) or info@uccr.net and she will help you to sign up. Or, visit the website at www.uccr.net and register online.

Honorable William B. Bohling Named 2005 Peacekeeper

UCCR is pleased to announce Judge Bohling as the 2005 Peacekeeper. Judge Bohling is presently engaged in a private arbitration and mediation practice, and is an active senior judge. His mediation experience and training date back to 1993. From 1993 until his retirement in 2004, he served as a district court judge in Utah's Third District. He chaired the Judicial Council's ADR committee from 1994 until retirement, and was the first mental health court judge, from 2001 until retirement. He was named the Utah State Bar's Judge of the Year in 2004 and received the Utah Alliance for the Mentally Ill's Community Hero Award in the same year. Congratulations Judge Bohling!



*Peacekeeper Photo
from left to right
2005 Judge Bohling
2002 Leonard and
Michelle Hawes
2004 Michelle
Roybal
2003 Brian Florence
and Susan Petty*

*(Does not include
2001 Peacekeeper
Diane Hamilton)*

Congratulations to UCCR Member Carl Steffen

Carl Steffen of Wisan Smith Racker & Prescott, LLP has been named an Accredited Senior Appraiser (ASA) by the American Society of Appraisers. Carl has also earned both the Accredited in Business Valuation (ABV) and the Certified Valuation Analyst (CVA) designations making him currently **the only CPA in Utah** accredited in business valuation by three professional organizations. Carl is a licensed CPA in Utah and California and provides business valuation and other litigation support services to clients.



We are always looking for a good book review! If you've read something lately that you'd like to share, please contact UCCR at info@uccr.net or 801-685-8227.

Valuing Peace: Association for Conflict Resolution's Annual Conference

by Dan Andrus

Celebrate the past. Embrace the challenges of our time. Write the next chapter of our history together. ACR CEO David Hart urged the 1,250 participants in the Association's Fourth Annual Conference to take on and live out that three part mission in his opening remarks in Sacramento on September 29th. He pointed to Jerome and Joseph Barrett's recently published *History of ADR* as a scholarly and readable documentary of from whence we have come. He also cited Bernard Mayer's highly touted *Beyond Neutrality* as a road-map of sorts to where we might be heading. A shift from an emphasis on conflict resolution to an engagement with all forms and expressions of conflict. A movement to a self concept as conflict engagement specialists rather than conflict resolvers. An intentional move away from the accepted role of "neutral" or "third party," to an openness to a broad range of roles and skills. In a more conventional vein, Hart also spoke of the Association's continuing work on its strategic plan and the ongoing efforts for quality assurance through certification, model standards, and codes of ethics.

Keynote speaker John Paul Lederach wove stories of courage and inspiration with solidly academic concepts of peacebuilding in his address, "The Moral Imagination: The Art and Soul of Building Peace." The scholarly and soft spoken Lederach held the audience spellbound as he described individual stories of intentional rejection of violence for the sometimes paradoxically fatal path of peacemaking. Examples included: how a few women stopped a war; walking with a war lord; achieving the capacity to imagine a web of relations that includes our enemies; the artistic qualities of creative peace building; curiosity as a passion for people and for truth; providing space for the creative act to emerge; the willingness to take

a risk; and the invitation to a journey, not to a solution. The three things that make this journey possible are passion, care, and dreams. A copy of Lederach's speech is available on ACR's website, www.acrnet.org. Do not read it. Buy the tape instead, so that the words come to life and you can better understand the thunderous standing ovation that lasted for several minutes at the conclusion of his remarks.

The conference featured over 150 sessions over four days. The topics included a variety of offerings on ethics, crisis negotiation skills, international studies in peacemaking at all levels, interventions to address power imbalances, conflict management education, emerging trends in workplace and health care mediation, psychological instruments, and cultural considerations in conflict resolution. I was most impressed by a workshop by attorney and social worker William Eddy on dealing with borderline and narcissistic personalities in conflict situations. Eddy's practical tips on dealing with "High Conflict Personalities" proved insightful and thought provoking. Eddy also laced his presentation with *New Yorker* cartoons and artfully combined learning with good fun. I was excited to hear from Brian Florence that Eddy was to be a speaker at UCCR's Symposium.

I was greatly impressed by ACR's attention to new members in a special luncheon and numerous opportunities for networking. The Association has created a standard of excellence in providing member services. Of course, the most wonderful part of any conference is the vendor area. Books, books, and more books. Enough to fill a good sized travel bag or more. The Fifth Annual Conference is scheduled for Minneapolis from September 28-October 1, 2005.

Domestic Law for Non-Lawyer Mediators

Presented by Brian Florence; Sponsored by the UCCR Family Mediation Section

The seminar will cover the basic divorce process, general legal concepts and principles frequently encountered in domestic mediation. It will also cover definitions of terms and phrases used in domestic law and a comprehensive sample Memorandum of Understanding covering all aspects of a divorce settlement agreement.

The cost for the seminar is \$100.00 for Non-UCCR Members; \$85.00 for UCCR Members; and \$75.00 for UCCR Family Mediation Section Members. Please contact Barbara O'Brien to register at info@uccr.net or 801-685-8227 (UCCR).

This seminar will be offered on **August 11, 2005** and again on **September 15, 2005**. Each session is limited to 40 participants. The August session is almost full. It will begin promptly at 8:30 a.m. and end at 5:00 p.m. It will be held at the Utah Law and Justice Center at 645 S 200 E, SLC. There will be a light continental breakfast and lunch will be furnished as it will be a working lunch.



UCCR Brown Bag Lunch Meetings!

The next Brown Bag is August 31, 2005
12:00 noon to 1:00p.m.
Law and Justice Center,
645 South 200 East

UCCR Members attend free,
all others are \$5.00 at the door.

Brown Bags are held the last
Wednesday of each month!

UCCR continues to offer the Brown Bags which began in October, 2004. Presenters thus far have been: Michelle Hawes - Good Questions in Mediation; Sue Petty - Agreements to Mediate and Opening Statements; Joseph Connelly - Understanding Decision-Making; The Application of Logical and Values-Based Perspectives; Francine Mahak - Clarifying Intent on the Way to Common Ground; Natalie Threlkeld - Brainstorming - The Option Generator; UDR - student film by Kainga Malosi; Vivia Baldwin - The Reflective Practice; and Neil Staker - Crucial Conversations/Confrontations.

All-in-all, the Brown Bags have been very well received. The format is a 20-40 minute presentation followed by networking, mingling, and visiting.

If you or someone you know would like to present at a Brown Bag, please let us know. Also, if you have a topic you would like us to address and want us to find a speaker, let us know that too. You can email info@uccr.net or call 801-685-8227 (UCCR).

Coaching As an Aspect of Conflict Management

By Russell Gerrard

In the last issue of *The UCCR News* I introduced this ongoing article about the various services being offered by professionals in the field of Conflict Management (CM). I referred to the writings of Woody Mosten and Bernie Mayer in listing several of these services. Assuming that most readers are familiar with mediation and arbitration, the first service I want to take a look at is coaching.

Coaching within the arena of conflict is not a sports metaphor – it is a parallel. Just as a soccer or gymnastics coach helps her players develop the skills to be successful, a conflict coach aids one or more parties in a conflict to recognize their own conflict management styles, understand the dynamics of the conflict, and manage their emotions and behavior in a productive manner. More generally, coaching is used as a tool to “identify and work towards gaining balance in one's life, to articulate and clarify a vision, to develop a mission statement for life, to better manage time and tasks, to make a career or relationship transition and so on” (Noble).

I recently spoke with Liz Dalton, a UCCR member who has been coaching for several years. Liz described coaching as “an opportunity for an individual to learn skills and tools to make their lives more productive.” Liz coaches people through the emotionally charged divorce process. She

explained that she helps parties manage their emotions in order to be more productive and effective during conflict, yielding much more satisfactory results. Not only does she do divorce coaching, but she has also implemented the principles of coaching into her mediations as a tool of transformation. Not unlike many other conflict coaches, many parties in her mediations continue using the coaching services after mediation.

There are several different coaching models being practiced. Perhaps the most widespread is the interest-based model. This model was developed out of the work of Fisher and Ury. “This model has the coach assist the participant in uncovering the likely interests of all parties to a conflict. The coach also supports the participant's exploration of common ground and creative solutions” (Brinkert).

Another popular model focuses on the conflict management styles of the individual. Using the Thomas-Killman Conflict Styles Instrument, the coach helps the individual to recognize his own style of dealing with conflict. The coach then helps the individual explore a specific conflict, applying their conflict style profile to understand the available choices.

The underlying principle in any model of coaching is accountability. Dalton described it as a philosophically-based and principle-centered service that uses transformation technology to affect every aspect of one's life. She holds that to become a coach, one must experience a complete transformation of every aspect of life; “it helps you discover every blind spot in your life and uncover those blind spots” (Dalton).

I have referenced a few types of contexts in which coaching is used – divorce, mediation, and post-mediation. However, coaching can be an appropriate tool in every aspect of conflict, regardless of the situation.

For those interested in learning more about coaching, there are several professional organizations for coaches, such as the International Coach Federation and the International Association of Coaches. There are also many different firms and organizations that train coaches, such as Landmark Education.

As mentioned in my initial article, there are many different services that our field can and does provide. Although I have opted not to discuss mediation and arbitration, if there is enough interest in those services and the current trends associated therewith, I welcome any correspondence requesting an article about those or any other services. You can contact me at Russell@gerrardmediation.com.

Brinkert, R. (2002). ADR plus one: Developing ADR practice through coaching. Available on-line at: <http://www.mediate.com/articles/brinkertR.cfm>

Noble, C. (2002). Conflict coaching: A preventative form of dispute resolution. Available on-line at: <http://www.mediate.com/articles/noble1.cfm>

Dalton, L. (2005). Telephone Interview, April 19, 2005.

Cont. from p. 1

In response to the passage of House Bill 4, the ADR Office has had many inquiries from individuals who define themselves as mediators, but do not have the required training to qualify for inclusion on the Court Roster. These individuals have requested that the requirements for inclusion on the Court Roster be waived. In response to these requests the Court ADR Committee, which is chaired by Judge Royal Hansen (West Jordan Court), has made the following decisions regarding the waiver of requirements in order to be included on the Court Roster.

The ADR Committee decided that it would be inappropriate to waive any requirements outlined in Rule 4-510, which individuals must meet to be qualified to be included on the Court Roster. Specifically, the ADR Committee decided unanimously that under no circumstances should the requirement of 30 hours of basic mediation training be waived. In addition, the committee decided unanimously that basic mediation training should be received in a 30 hour block, meaning that several shorter courses on mediation added together to equal 30 hours are

not equivalent to 30 hours of basic training.

Additionally, the Committee made the decision that the requirement of 24 hours of domestic/divorce mediation training will not be waived. This is the requirement which must be met in order to be included on the Divorce Mediation Court Roster. An individual may request a one year waiver. If granted, the individual would be included on the Roster for a period of one year with the understanding that during that year they would complete the required 24 hours of domestic/divorce mediation training.

In order to receive a waiver, an individual must have completed the 30 hours of basic mediation training, have 10 hours of experience, sign an ethical statement and pass an exam on the ethical code. Further, they must have a background as a Family Law Attorney, a Judge, or a Masters Degree in a mental health field with practice with families and children. The ADR Director will screen the applications for waivers on a case by case basis. Waivers will be granted based on: experience working with divorcing families, experience conducting

mediation sessions, and observation of at least one mediation session by the ADR Director.

Summary for inclusion on domestic provider roster:

- Existing 30 hour basic mediation training requirement cannot be waived and must be completed in a 30 hour block.
- Additional 24 hour training requirement for domestic cases cannot be waived, but can be deferred.

Questions regarding Court Roster qualifications should be directed to Kathy Elton at kathye@email.utcourts.gov or 801-578-3982.

The Coordinator for the implementation of HB 4 is Natalie Threlkeld. You can reach Natalie at (801) 578-3976 or nataliet@email.utcourts.gov. A toll free number has been set up for court patrons and this number is 1-800-620-6318 and a new webpage has been developed which can be found at www.utcourts.gov/mediation/divmed/.

2005 Symposium Sponsors, Committee and Volunteers

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The most basic and powerful way to connect to another person is to listen. Just listen. Perhaps the most important thing we ever give each other is our attention.... A loving silence often has far more power to heal and to connect than the most well-intentioned words.

Rachel Naomi Remen

The Utah Council on Conflict Resolution

P.O. Box 521656
Salt Lake City, UT 84152-1656

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