

# The UCCR News

Volume 19

Summer 2007

## ***UCCR News and Happenings***

Another UCCR Symposium has passed and based on the feedback, was a resounding success. Please note the dates below and mark your calendars for next year's Symposium.

In the last newsletter there was a fairly detailed article about the Board Composition. As of September several of the Board positions will rotate. Brian Florence has announced his retirement effective January 2009. Due to his retirement he will be unable to fulfill his entire term as part of the Executive Committee for the Board. Therefore, Kathy Elton will take over as Chair for Brian. Nancy McGahey will move into the Past-Chair position and Palmer DePaulis will become the Vice-Chair. Shari Faulkner will become the Chair and Board representative for the Family Section. Mary Ann Erickson will continue as Chair for the Workplace Section for another year. Bart MacKay is the representative for the Southern Chapter *(continued on P 3)*

### ***UCCR Symposium***

***Dates for 2008***

***May 13 & 14, 2008***

## **Better Late than Never... Thank You to our 2007 Symposium Sponsors:**

- Nate Alder
- Palmer DePaulis
- Brian Florence
- Jill Merritt
- Natalie Threlkeld
- Administrative Office of the Courts
- Dispute Resolution Section of the Utah State Bar
- Babcock, Scott & Babcock
- Documart
- The King's English
- The Courtyard Marriott
- Snell & Wilmer

*And...all of the folks that donated and purchased auction items!*



*See page 5 for  
Legislative  
Updates!*

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## Chapter and Section Updates

### *More Changes afoot...*

The **Workplace Section** officers have been re-evaluating how best to serve members. Section officers spent the last couple of months calling members to get feedback on meeting frequency, to find out what they want to get out of their membership and to explore the idea of using a book club format for the next meeting.

Results from these phone calls were: members want less frequent meetings (most liked the idea of bi-monthly meetings and some preferred quarterly); they would like to get information and stay up-to-date on topics without having to attend meetings; and most liked the idea of a book club meeting for the next meeting.

In response to this feedback, the WS will begin by developing a listserv. The listserv will be a place where people can pose questions or carry on discussions on relevant topics. Shelly Wilkerson has agreed to organize and moderate the listserv. If you have suggestions or ideas email Shelly at shellyrw@email.utcourts.gov.

The next meeting will be on Wednesday, October 3rd, at the Matheson Courthouse, 3rd floor Council Room. The meeting will start at 5:30 with refreshments and time to network. At 6:00 we will start the discussion of Ken Cloke's book, [Crossroads of Conflict](#), with specific emphasis on the workplace case studies in the book.

If you've read the book, come and share your opinions. If you don't want to read the book, but want to hear what others have to say about it we would also encourage you to come. Everyone is welcome to join us so come and see what the Workplace Section is all about. We have to be out of the Courthouse by 7:30, but people can feel free to leave at any time.

Following the October meeting, meetings will be held in January, April and July (dates to be announced).

The **Family Section** took a break for the months of July and August and will begin a new schedule of holding their meetings on a quarterly basis. The next meeting will be October 16 @ 5:30 PM. The topic will be "Mediating Alimony" facilitated by Brian Florence. Everyone is welcome at the meeting, come and see if the Family Section is for you.

The Section plans to sponsor another "Fish Bowl" in February and we are soliciting topics that members might be interested in for future meetings. We are also looking for members who might be willing to present at one of the meetings.

An election of a new Co-Chair is coming up in September. Shari Faulkner will become the new Chair and Natalie Threlkeld will move into the Past-Chair position. Brian Florence has acted as the Past-Chair for the past

year and the Section would like to thank him for his leadership, knowledge, caring, and willingness to share his expertise with the section. We applaud you Brian! If anyone is interested in serving as the Co-Chair of the section, please contact Barbara O'Brien at info@uccr.net.

The Family Section has been active and had several informative guest speakers present information pertinent to domestic mediations:

- Jeannie Farr from the University of Utah presented information on "Forgiveness." In essence, she explained that people must understand and accept the fact that they might have unenforceable rules that others have not or cannot obey. That in order to forgive, they needed to be able to define what that means for themselves and be willing to let go of the anger and the hurt. She provided four steps to HEAL.  
Hope  
Educate  
Affirm  
Long-term commitment.
- Terry Cathcart, (a mediator who also happens to be an attorney!) presented information regarding all aspects of Military Issues that might need to be considered or might impact a domestic mediation. He provided an extensive list and outline along with resources, telephone numbers, and websites to access many of the most important military departments.
- Stewart Ralphs, the Executive Director of The Legal Aid Society of Salt Lake City presented information regarding the details of Senate Bill 23 that updated the Child Support Guidelines. He clarified when the changes would be phased in, quantified the changes, and explained how modifications to Child Support figures would be impacted.

The **Utah County Chapter** is represented on the UCCR Board by John Pace. He can be reached at John\_Pace@byu.edu. The Utah County Chapter hosts Brown Bag lunches about 3 times a year and the next one is coming up soon.

Down South in our **Southern Utah Chapter** Bart MacKay has hosted 3 Brown Bag meetings. On 3/29 was the initial meeting where the group decided to hold meetings ever other month on the 1<sup>st</sup> Thursday of the month from noon to 1:30. On 6/7 the topic was an overview of the UCCR website by Barbara O'Brien and ADR updates by Kathy Elton. There was a meeting scheduled for 8/2, but no one came. Given the low attendance at the meetings, we will be holding quarterly meetings instead. For more information contact Bart MacKay at bartm@email.utcourts.gov.

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## UCCR 2007 Peacekeeper Award

At our annual symposium, UCCR kept alive one of its traditions by bestowing the annual Peacekeeper Award.

Michael Zimmerman, Partner at Snell & Wilmer, former Chief Justice of the Utah Supreme Court and Zen teacher, received the 2007 Award for his on-going work in dispute resolution and his vision for the creation of UCCR. It was Michael who was a driving force in the creation of a statewide organization which embraced all aspects of our dispute resolution practices, disciplines, and philosophies under one tent.

If you have practiced or learned about ADR in Utah, you recognize Michael as a leader in the local community. Michael has more than distinguished himself as a teacher, jurist, and attorney. More than these accomplishments, though, UCCR honors his work in seeking collaboration and improving understanding in the midst of resolving litigated issues. Michael's leadership in the court system and his implementation of an ADR Department within the Utah court structure has been the foundation that most practitioners in Utah rely upon today for their work in ADR. He has continued this leadership capacity through his service for several years as Chair of the UCCR Board and as a proponent of informed legislation about ADR in Utah. Michael continues, as well, his practice of dispute resolution as a mediator, arbitrator, and special master.

The group of former Peacekeeper Award recipients was pleased to welcome Michael to its ranks.  
 Congratulations, Michael!

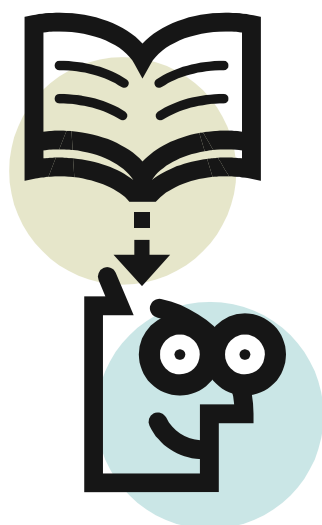


**Kathy Elton presenting the award to Michael**

*It's not your eyes...it really is a blurry picture!*

*Continued from P 1*

(non-voting seat) and has agreed to occupy the standing seat (voting seat) for the southern geographical area as well. Marty Moore has joined the Board as the representative in the standing seat for the northern geographical region. Kent Scott has agreed to stay for one more year in one of the at-large seats and we are currently in the process of electing a new Board member for the other at-large seat.



*We are always looking for a good book review and interesting content for the newsletter! If you've read something lately or have something to share, please contact UCCR at [info@uccr.net](mailto:info@uccr.net) or 801-685-8227.*

### Brian Florence Honored with 2006-07 Peter Billings Award

The Dispute Resolution section of the Utah State Bar recently held the annual Peter Billings Award Luncheon at the Alta Club to honor a person who has provided outstanding service during the previous year to law, particularly the field of alternative dispute resolution (ADR).

Named in honor of renowned Utah lawyer and ADR advocate Peter Billings, Sr., the award's past recipients include Gerald R. Williams, Michael D. Zimmerman, William W. Downes, Hardin A. Whitney, James R. Holbrook, Diane Hamilton, Karin S. Hobbs and Palmer DePaulis. This year's honoree, Brian R. Florence, said he was "honored and embarrassed" by the recognition. A veteran attorney, Florence's many ADR-related accomplishments include conducting some 3,000 mediations, founding the Collaborative Family Lawyers of Utah, and training and inspiring many of the state's mediators.

In his acceptance speech, Florence described the sense of satisfaction he finds in mediation. "Doing this work has, in some respects, saved me from myself and saved me from something I didn't enjoy," he revealed. "I see joy in people working out their own solutions rather than imposing on me the duty – and often the blame – for finding a solution."



Peter W. Billings, Jr. (left), presents the Billings ADR Award to Brian R. Florence.

As Peter Billings, Jr., son of the award's namesake, presented Florence with the recognition, a visibly moved Florence concluded, "It's an honor to be included, and I hope that I will give credit to this award."

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## UCCR Brown Bag Lunch Meetings!

Brown Bags continue to be held the last Wednesday of each month 12:00 noon to 1:00p.m. at the Utah Law and Justice Center located at 645 South 200 East, Salt Lake City. *Remember, there is no longer a charge for Non-UCCR Members to attend so bring your friends.*



### Mark your calendars now for the upcoming Brown Bags!

**August 29th**—we will be hearing "Tales of Pepperdine" from Josh King. Josh attended an advanced family mediation training this summer at Pepperdine and he will be sharing information he gained at this training.

**September 26th**—Leslee Collins will present on "What to do when the Conflict Escalates". Leslee works for the Salt Lake County Sheriff's Office and will share some tips with us on how to set up rooms and what to do when things start to boil over.

**October 31st**—Happy Halloween—"How does the Americans with Disabilities Act Interface with the ADR Process?" This topic will be presented by Jan Herbert who currently works as a Human Resource Specialist for the State Human Resources Office.

**November 28th**—"How do you Move Parties in Conflict from Positions to Interests?" Nancy McGahey, Director of Utah Dispute Resolution, will share her insights on this question.

*If you or someone you know would like to present at a Brown Bag, or if you have a topic you would like us to address and want us to find a speaker, please let us know. Email [info@uccr.net](mailto:info@uccr.net) or call 801-685-8227 (UCCR).*

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## Legislative Update

*Bills that passed...that may be of interest.*

SB 23 "Child Support Guidelines" was sponsored by Senator Bell. This Bill:

- Amends Child Support Guidelines;
- Provides for a phase in of new child support tables beginning January 1, 2008;

The existing child support tables are repealed as of January 1, 2010.

HB 44 "Motor Vehicle Insurance Arbitration Amendments" was sponsored by Representative Urquhart. This Bill:

Provides that a person may elect to submit a third party motor vehicle accident bodily injury claim to arbitration by filing a notice to submit the claim to arbitration within 14 days after the complaint has been answered;

Clarifies that an arbitration award is limited to \$25,000 in addition to any available personal injury protection benefits and any claim for property damage;

Provides that a claim for property damage may not be made

in certain arbitration proceedings unless agreed upon by the parties in writing;

Provides a procedure for a person to rescind an election to arbitrate and provides that a person who rescinds an election may not elect to arbitrate again;

Amends procedures for conducting an arbitration process;

Provides that an arbitration award issued may be reduced to judgment by the court upon notice and motion unless the arbitration award has been satisfied.

HB 128 "Divorce Orientation" was sponsored by Representative Fowlke. This Bill:

- Creates an optional intermediate, a temporary separation order, before a divorce filing;
- Establishes a mandatory divorce orientation course and sets guidelines and course requirements for the course;
- Makes an exception for couples with no children.

## KUDOS!

### To UCCR Board Members

*Michelle Roybal*, recipient of the Scott M. Matheson Award, presented on May 1 at the Utah Bar Law Day Luncheon to recognize a contribution to law-related education in Utah. Michelle is the ADR Administrator and Staff Attorney for the US District Court.

*I*

*Nathan Alder*, elected by Bar Members as the president-elect of the Utah State Bar Association. Nate is a shareholder in Christensen and Jensen, and serves as pro tem judge in Salt Lake City's justice court. He also serves on the state Supreme Court's professionalism committee and on the board of Friends of Utah's Children's Justice Centers.

**UTAH STATE COURT  
MEDIATION PROGRAMS:  
VOLUNTEER MEDIATOR  
OPPORTUNITIES**

**RESTORATIVE DIALOGUE PROGRAM:**

- Juvenile Court Program is available in areas throughout the state.
- Volunteer mediators provide mediation sessions between perpetrators of crime and their victims.
- The purpose of the program is to give victims of crime the opportunity to meet their offenders, express the impact the crime had on their life, and ask questions related to the crime. The program also provides victims of crime the opportunity to become more actively involved in the justice process, they become involved in determining restitution for the offenders and the community service the offender should complete to restore the community.
- **To become involved in this program contact Bart MacKay (435 986-5754) bartm@email.utcourts.gov at the Administrative Office of the Courts.**

**LANDLORD-TENANT MEDIATION PROGRAM:**

- This program is available in Third District (Salt Lake County).
- Provides mediation services to landlords and tenants involved in eviction proceedings on Monday, Wednesday and Friday at 1:30 p.m.
- This program is a collaboration between the Community Action Program and the Administrative Office of the Courts.
- **To become involved in this program contact Josie Turner at the Community Action Program (359-2444 ext. 225).**

**LAW AND MOTION PROGRAM:**

- Volunteers mediate landlord tenant and debt collection issues.
- Program located at the West Jordan Courthouse, the Matheson Courthouse, and at the Layton Courthouse.

- To become involved in this program contact Kathy Elton for West Jordan (801 578-3982) or kathye@email.utcourts.gov; Natalie Threlkeld for Layton (801 578-3976) or nataliet@email.utcourts.gov; and contact Russ Osguthorpe for the Matheson program at Utah Dispute Resolution (801 532-4841) or UDR@utahstatebar.org.

**TRUANCY MEDIATION PROGRAM:**

- Implemented in school districts across the state.
- The purpose of the program is to divert truancy cases from entering the juvenile court system.
- The program utilizes trained volunteer mediators from the community to complete the mediation sessions at the school.
- The program is a collaboration with the Juvenile Court and the participating school districts.
- **To become involved in this program contact Bart MacKay bartm@email.utcourts.gov or (435 986-5754) at the Administrative Office of the Courts.**

**SMALL CLAIMS MEDIATION PROGRAM:**

- This program is available in the Third (Salt Lake County) and Fourth (Utah County) Judicial Districts.
- Disputants in small claims cases are given the opportunity to mediate the case prior to a court hearing.
- The program utilizes volunteer mediators who are available at the time of the court hearings.
- This program is a collaboration between the Administrative Office and Utah Dispute Resolution (3rd District, Salt Lake County) and The BYU Law School (4th District).
- **To become involved in this program contact: Russ Osguthorpe at Utah Dispute Resolution (532-4841) for Third District (Salt Lake County); Susan Bradshaw at BYU Law School {(801) 378-2159} for Fourth District.**

*“One of the keys to happiness  
is a bad memory.”*

*Rita Mae Brown*

# Changes to Rule 4-510 change Court Roster qualification requirements

*Effective April 1, 2007!*

## UTAH STATE COURT ROSTER MEDIATOR QUALIFICATIONS

### All new applicants to the Basic Court Roster must:

Have successfully completed at least 40 hours of Court approved basic formal mediation training in the last three years. This training shall be under a single training course from a single, court-approved training provider;

The new applicant must also complete 10 hours of experience in observing a court qualified mediator conduct mediation, and 10 hours in either conducting mediations singly or co-mediating with a court qualified mediator;

Successfully pass an examination on the Code of Ethics for ADR providers;

Agree to conduct at least three pro bono mediations each year, at least one of these will be assigned by the Director.

Be of good moral character in that the provider has not been convicted of a

felony, a misdemeanor involving moral turpitude, or any other serious crime, and has not received professional sanctions that, when considered in light of the duties and responsibilities of an ADR provider, are determined by the Director to indicate that the best interests of the public are not served by including the provider on the roster.

### To be included on the Court Roster for Qualified Divorce Mediators all new applicants must:

Have successfully completed an additional 32 hours of court-approved training specific to the skills, Utah laws, and information needed to conduct divorce mediation in the last three years. This training shall be under a single training course from a single, court-approved provider;

All applicants must have a minimum of 6 hours of training specific to domestic violence and screening for domestic violence which may be included in the court approved 32 hour training referred to above;

New applicants to the court roster of divorce mediators are required to have acquired experience specific to divorce mediation. This is in addition to the 20 hours of experience required for the court roster of basic mediators. The additional experience includes having observed a minimum of two divorce mediations, co-mediating two divorce mediations and having been observed conducting two

divorce mediations. Each of these includes debriefing and analysis afterward with a mediator who has Domestic Mentor status. The Domestic Mentor may charge a fee for this service.

The Director will maintain and make available a list of those mediators who have Domestic Mentor status.

### Once on the Roster, the mediation provider must be re-qualified annually. In order to be re-qualified the applicant must:

Complete and report six hours of dispute resolution related training each year;

Submit an annual report to the Director indicating the number and type of mediation sessions completed, including the settlement status, the provider conducted that year;

Complete a minimum of three pro bono mediation sessions each year, at least one of these will be assigned by the Director.

A provider may be subject to removal from the roster for failure to comply with the code of ethics for ADR providers or for failure to meet these requirements.

All materials to apply for the court roster can be found at [http://www.utcourts.gov/mediation/application/docs/2007-04-01\\_Mediator\\_app\\_packet.pdf](http://www.utcourts.gov/mediation/application/docs/2007-04-01_Mediator_app_packet.pdf)

### Volunteers needed for Victim Offender & Truancy Mediation Programs:

We need volunteers in Logan, Brigham City, Ogden, Davis Co, Cedar City, St. George. Training for new volunteers is being planned for each geographic location in the fall depending on interest. For more info on the programs [www.utcourts.gov/mediation/rd](http://www.utcourts.gov/mediation/rd)

### Good News for our Northern Region members!

There will be a combined effort between UDR, UCCR Northern Region and the Court's Restorative Dialogue program: Russ Osguthorpe, UDR; Marty Moore, UCCR; and Bart MacKay, State Court are going to combine brown bag efforts in Northern Utah (Logan). The first combined meeting is scheduled for September 20th from noon to 1:00 p.m. at the First District Court 135 N. 100 West in Logan. We will be combining our brown bag meetings on a quarterly basis. Tentative schedule 09/20/07, 01/17/08, 04/17/08, 07/17/08. Contact one of us if you have any questions at [www.uccr.net](http://www.uccr.net) under the members tab.

*The real art of conversation is not only to say the right thing  
at the right place,  
but to leave unsaid the wrong thing at the tempting moment.*  
*Dorothy Nevill*

**The Utah Council on Conflict Resolution**

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***Check out the UCCR  
Calendar and more at  
[www.uccr.net](http://www.uccr.net)***

If you would like to join UCCR, please  
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