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RESOURCES / STUDY / INNOVATION FOR COURT ADR



# COURT ADR CONNECTION

The eNewsletter of Resolution Systems Institute

July 2010

The Court ADR News section this month covers a new foreclosure mediation program in an Illinois county court. It also highlights an institute being hosted by the University of Texas-Austin's Center for Public Policy Dispute Resolution at the end of July. The event will offer a series of skill-building programs for conflict resolution professionals and academics.

In the Research You Might Have Missed section, an article by Nancy Welsh examines the use of mediation in U.S. bankruptcy courts. Welsh finds cases in which a court has altered the mediation process to meet its needs – for example, by having a mediator make a binding decision in a case – and suggests strategies for courts to manage their caseload while maintaining the integrity of the mediation process. Finally, Recommended Resources for this month highlights three blog sites: the World Directory of Alternative Dispute Resolution Blogs, Mediation Channel, and Indisputably.org.

## Support RSI

This edition marks the two-year anniversary of *Court ADR Connection*. The past 24 issues have tracked important new ways courts are using ADR. The major story of the past two years is obviously the introduction of foreclosure mediation programs throughout the country. Only five months have passed without news of a legislature considering a foreclosure mediation bill, or a court adopting a new program or reporting mediation results. Court ADR has moved forward in other ways, as well. We've seen courts adopting mediation for appellate and criminal cases, as well as restorative justice processes for juvenile cases. New case law has clarified rules regarding confidentiality and good faith, and new research has given insight into how to provide more effective ADR services.

We hope you enjoy staying up-to-date on court ADR news and research through these monthly emails. If you would like to support the continued publication of this newsletter, please click [here](#). We appreciate your support. As a non-profit, Resolution Systems Institute relies on donations to provide high-quality services like *Court ADR Connection*.

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## Court ADR News

### Illinois County Court Launches Foreclosure Mediation Program

The circuit court in Will County, Illinois, launched a foreclosure mediation program in June. According to *The Lincoln-Way Sun*, mediation services will be available to homeowners facing foreclosure who meet certain eligibility requirements. For example, they must be employed and currently live in the home being foreclosed. If a homeowner requests mediation, the lender would be required to participate. The program is being funded by a \$150 foreclosure filing fee.

Click [here](#) for the full *Lincoln-Way Sun* article.



### Center for Public Policy Dispute Resolution to Hold Skills Enrichment Institute July 28-30

The Center for Public Policy Dispute Resolution at the University of Texas-Austin School of Law is hosting a series of skill-building programs for conflict resolution professionals and academics in Austin from July 28-30. Session topics cover a range of dispute resolution processes and focus on system designs, as well as strategies and techniques for participants.

For more information about the institute, titled “Innovations in Collaboration and Conflict Resolution,” and to register, click [here](#).

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# Research You Might Have Missed

## You've Got Your Mother's Laugh: What Bankruptcy Mediation Can Learn from the Her/History of Divorce and Child Custody Mediation

Mediation has become more popular in bankruptcy cases in the past decade. An examination of case law shows, however, that mediation has been used in a manner inconsistent with its original intent. In ["You've Got Your Mother's Laugh: What Bankruptcy Mediation Can Learn from the Her/History of Divorce and Child Custody Mediation"](#) (*American Bankruptcy Institute Law Review* Vol. 17, pp. 427-461 (2009)), Nancy Welsh documents cases in which mediators were asked or allowed by the court to make binding decisions, request discovery, and otherwise act outside of the generally accepted role of the mediator. She sees this as the court attempting to use mediation to fulfill needs that cannot be met by that process. This has led to mediation having no clear scope and to the abuse of a confidential process. Welsh compares the evolution of mediation in bankruptcy court to what has occurred in family court, where the needs of the court have changed as more pro se and non-English speaking disputants have sought its services. In response, the courts have developed many processes rather than attempting to use the same process in many ways. This is the course that Welsh recommends bankruptcy court should adopt.

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## On CourtADR.org

### Recommended Resources

» [World Directory of Alternative Dispute Resolution Blogs](#)

This handy web site lists all the blogs around the world that discuss issues surrounding ADR, along with a synopsis of what each blog is.

» [Mediation Channel](#)

Mediator Diane Levin collects and posts news, information and observations from around the globe about a variety of alternative dispute resolution issues, creating a blog that is both interesting and informative.

» [Indisputably.org](#)

Six law professors specializing in ADR have joined up to blog about mediation, negotiation, arbitration and more.

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