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In this edition, the Court ADR News section covers a variety of topics. In Delaware, the Chancery Court recently launched an arbitration program for complex business cases. In New York, a U.S. Bankruptcy Court issued a ruling that defined good faith participation in mediation as engaging in risk analysis. Lastly, a Wisconsin county court teamed up with University of Wisconsin-Madison Law School and the local bar association to launch a new foreclosure mediation program.

The New Research section highlights an evaluation of family law reforms that took place in Australia in 2006. The evaluation found that the reforms led more parents to participate in family dispute resolution, and provides recommendations for how courts could manage the increased demand for these services. More program management resources are featured in the On CourtADR.org section, where the Recommended Resources for this month include an essay on how to provide mediation services to victims of domestic violence, a guide to program evaluation, and a study of restorative justice programs.

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Court ADR News

Delaware Chancery Court Launches Arbitration Program

The Delaware Chancery Court launched in February a binding arbitration program for complex business disputes. To be eligible for arbitration, at least one party must be a business organized under Delaware law and with its main place of business in Delaware, and neither party in the dispute may be a consumer. If the dispute is solely monetary, the amount in controversy must exceed \$1 million. Cases are arbitrated by sitting judges, as assigned by the court.

Click [here](#) to read the court rules establishing the program.



U.S. Bankruptcy Court: Good Faith Participation Means Engaging in Risk Analysis

The U.S. Bankruptcy Court of the Southern District of New York, Poughkeepsie Division, sanctioned Wells Fargo in February for not participating in good faith in a court-ordered mediation. In its opinion, the court held that attendance at mediation by itself does not constitute good faith. Parties must also participate in the “discussion and risk analysis that are fundamental practices of mediation.” Based on testimony from the mediator and other parties in the mediation, the court held that the Wells Fargo representatives did not have full authority to settle, obstructed discussions during mediation and refused to fully engage in the process. The court sanctioned Wells Fargo for the full cost of mediation for all parties.

Click [here](#) to read the full opinion.



Wisconsin County Starts Foreclosure Mediation Program

The Dane County Circuit Court in Wisconsin recently launched a foreclosure mediation program with the cooperation of University of Wisconsin-Madison Law School and the local bar association. Under the program, both the homeowner and lender must agree to participate for a foreclosure case to go to mediation. According to Madison.com, UW-Madison law students help homeowners prepare for mediation, and cases are mediated by volunteers through the Dane County Bar Association. The program is modeled after one established in Milwaukee last year.

For more information about the Dane County program, click [here](#).

New Research

Evaluation of the 2006 Australian Family Law Reforms

As part of a comprehensive study of the impact of a sweeping set of family law reforms in Australia, the Australia Institute of Family Studies examined the effort to increase the use of family dispute resolution (FDR). The [study](#) involved 15,000 parents. It found that use of FDR had increased, and that 40% of parents reached agreement through the process. Most others settled parenting matters on their own within a year of separation. The study also found a shift from perceiving and treating post-separation disputes as legal issues to seeing them primarily in relationship terms. One side effect of the expectation that most parents would use FDR is that those who have safety concerns are participating in the process. The researchers recommend the courts perform “sophisticated triage” to determine which of these cases would be benefit from FDR and which would be inappropriate.

On CourtADR.org

Recommended Resources

- » [Mediating Family Disputes in a World with Domestic Violence: How to Devise a Safe and Effective Court-Connected Mediation Program](#)

» This award-winning essay offers a coherent argument for offering mediation to victims of domestic violence, then provides a practical guide to doing so without endangering their safety.

» **Basic Guide to Program Evaluation**

Courts setting about the task of evaluating their ADR programs should take a look at this site offering those with little or no evaluation experience a step-by-step introduction to the process.

» **Restorative Justice: The Evidence**

This thorough review of 26 studies of restorative justice programs in the United States, Britain and Australia identifies the circumstances under which such programs are most effective, and offers recommendations for best practices.

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