

COURT ADR

the eNewsletter of Resolution Systems Institute

C O N N E C T I O N

COURT ADR NEWS

New Jersey and Maryland Pass Collaborative Law Acts

In recent months two more states have passed laws based on the Uniform Collaborative Law Act. In May, Maryland enacted the [Maryland Uniform Collaborative Law Act](#), and in September the [New Jersey Family Collaborative Law Act](#) was signed into law. In the collaborative law process, which is most commonly used for family law issues, the parties retain attorneys for the specific purpose of negotiating and settling disputes with each other. The process's confidentiality protections are similar to mediation. If the parties move on to a court trial, they may not use the same attorneys or law firm in court. To date in 2014, [collaborative law bills](#) have also been introduced in Florida, Illinois, Massachusetts, Oklahoma and South

Carolina. Eight other states have already passed similar statutes: Minnesota, Texas, Nevada, Ohio, Utah, District of Columbia, Washington, and Hawaii.

Pilot Mediation Program in New Mexico Magistrate Court

In New Mexico, the Doña Ana County Magistrate Court has begun a [pilot mediation program](#). Volunteers will receive forty hours of free basic mediation training, and in exchange will perform twenty-five two-hour mediations if they complete the training successfully. The program is hoped to help alleviate the high caseload in the magistrate court. The mediators will oversee general civil cases under \$10,000, the magistrate court's maximum. Most of the cases mediated will be debt and money disputes.

Foreclosure Mediation Program Kicks Off in Champaign County, Illinois

With support by a grant from the Illinois Attorney General's office, a [new foreclosure mediation program](#) is opening in Champaign County, Illinois.

In the mandatory program, homeowners will meet with a housing counselor, and then go on to mediation with a representative from the bank. The program is administered by the University of Illinois College of Law Community Preservation Clinic. Resolution Systems Institute trained mediators for the program last month and will provide online case management, monitoring and evaluation.

Wisconsin Medical Mediation Panels Practice Early Neutral Evaluation

Following our synopsis last month of an article that criticized Medical Mediation Panels in Wisconsin, we received a copy of a letter to the editor, printed in the *Milwaukee Journal Sentinel*, from the Board of Directors of the Dispute Resolution Section of the State Bar of Wisconsin and the Board of Directors of the Wisconsin Association of Mediators. The letter points out that while the Medical Mediation Panels are referred to as "mediation" in their title, the [Wisconsin Court System website](#) states that the panels' work is better described as "early neutral evaluation," also known as ENE. We appreciate the clarification.

Want your court ADR news before the next edition? Check [CourtADR.org](#) for updates throughout the month.

THIS MONTH AT RSI

This Month at RSI: A New *Court ADR Connection*

In our new feature "This Month at RSI", RSI staff will talk about their current projects in court ADR. This month, Mary Novak talks about our process to renovate the Court ADR Connection.

In my position as Resource Center Director, I manage the information resources that RSI brings to the public. This includes CourtADR.org and our blog *Just Court ADR*, as well as this newsletter. As you may have noticed, this month we're rolling out a new format for the newsletter. While we will still bring you updates of Court ADR news from across the country, we are expanding to bring you more information about RSI's own projects and resources. These new features will replace much of the content from our annual print publication, *Analyzing the Alternatives*, which we have discontinued this year. In the new *Connection* we'll bring you tips and tricks to get the most from all of our resources, as well as information on some of the people working behind the scenes on our mission to strengthen justice by enhancing court ADR.

Help CourtADR.org Cross the Finish Line!

RSI is in the final months of a total renovation of [CourtADR.org](#) – the preeminent national source for advice and information about court-related ADR – and we need your help. A generous donor has offered a new \$5,000 matching grant to help us over the finish line. Every dollar you give will be matched 1:1 by our anonymous friend. [Please make a contribution today](#) so that we can finish the renovation by the end of the year.

On the renovated site:

- RSI experts will offer all-new in-depth guidance to [design, manage and evaluate every phase of a court ADR system](#)
- The face of the site will have more [intuitive architecture, making it easier for you to find what you need](#)
- The inner workings of the site will be totally restructured, providing a [more robust search with tailored results](#)

All these improvements are being built around the core information – thousands of articles, rules, laws, research and program reports – that you and others expect from RSI.

RSI is very grateful that the JAMS Foundation generously underwrote half the costs of the renovation with a matching grant. Many big-hearted individuals matched that JAMS grant. Unfortunately, as sometimes happens with tech projects, the costs have risen. A simple way to access information requires complex technology.

Please [click here](#) to send your tax-deductible, matching contribution today! If you would prefer to mail a check, please make it out to RSI and send it to RSI, 11 East Adams St., Suite 500, Chicago, IL 60603.

RSI doesn't ask for your support often; please help now. Your support will ensure that courts nationwide have free access to high-quality support for their ADR programs.

NEW RESEARCH

For High-Conflict Custody Mediation, Move Between Fact and Emotion

Peder Kjø, Odd Arne Tjersland & Katrina Roen (2014) "The Mediation Window: Regulation of Argumentation and Affect in Custody Mediation," *Journal of Divorce & Remarriage*, 55:7, 527-538.

This month's research article contributes to a newly burgeoning area of research on mediation: analysis of what occurs inside the process. In this study, conversation analysis was used to find out what mediators do in high-conflict custody cases to reach a successful resolution, with both parents satisfied with the process. In the 38 high-conflict cases examined, successful mediators were found to control the course of the conversation and effectively move it between emotional content and factual content. This contrasts with the actions of the mediators in the unsuccessful mediations. Those mediators tended to steer away from emotional issues and focus more on factual ones.

In the case presented in depth, when the conversation became too emotional, the mediator asked a factual question, defusing the parents' emotional intensity. She then reopened the emotional content at a later time. This balanced the discussion between the father's desire to keep the conversation factual and the mother's need to work through her emotions before making decisions.

The authors acknowledge that the mediator's actions are only part of the equation in a successful mediation. The parents must follow the mediator's lead and allow her to control the discussion. However, the pattern in their study shows the benefits of a mediator skillfully balancing discussion between emotional and factual content.

This article is not available online. It can be accessed through [the publisher](#).

QUICK TIPS

Are you writing rules for a new mediation program or thinking about revising the rules for a program that's been up and running? RSI's [Court ADR Rules Nuts & Bolts](#) can help you to get them right. There, you'll find suggestions for rule writing, along with a detailed analysis of what's good and bad about sample rules for all types of programs.

RSI Board Of Directors

Hon. Morton Denlow (ret.), President

Terry Moritz, Vice President

Prof. James J. Alfini

Hon. Allen S. Goldberg (ret.)

Frances Kao

Mitchell Marinello

Raven Moore

Hon. Stephen Pacey (ret.)

Judith Rice

Brian Roche

Hon. Karen G. Shields (ret.)

Hon. James Sullivan (ret.)

RSI Staff

Susan M. Yates, Executive Director

Kimberly Ackmann

Shawn Davis

Olga Kordonskaya

Kevin Malone

Mary Novak, Editor

Jennifer Shack



RSI thanks JAMS and the JAMS Foundation for their support of this publication.

Copyright © 2014 Resolution Systems Institute, All rights reserved.

Our mailing address:

11 E. Adams, Suite 500

Chicago, IL 60603

[unsubscribe from this list](#)

[update subscription preferences](#)

[view this email in your browser](#)

Not a subscriber yet?

[Subscribe here.](#)

SUPPORT RSI

RSI is a non-profit organization that strengthens

justice by enhancing court ADR systems through

expertise in program development, research and

resources.

DONATE ▶

NEWS & UPDATES

RSI is Hiring!

We're seeking a versatile non-profit professional to work as part of a small, dedicated staff, serving unmet needs and developing creative ways to do so. The Manager of Finance and Administration is responsible for all accounting and administrative functions of RSI. [Learn more here](#). Applications are being

accepted on a rolling basis. James Alfini Wins Award RSI Board Member Jim Alfini received the "Sharon Press Excellence in ADR Award" on August 15 at the annual convention of the Florida Dispute Resolution Center. The Award is bestowed to an individual who demonstrates the qualities of visionary leadership, professional integrity and unwavering devotion to the field of alternative dispute resolution.

Farewell to Lindsey Fila With pride and sadness we bid farewell to Lindsey Fila, our Director of Financial Operations. In her four-year tenure at RSI, Lindsey worked tirelessly to ensure that the many complex systems behind RSI worked smoothly. We wish Lindsey the very best as she follows her passion for nonprofit operations to a new challenge.

FROM OUR BLOG

[The Ups and Downs of ADR Policymaking](#)

This post by Mary Novak explains how a British law intended to increase family mediation use led to a dramatic drop-off in family mediation, and what has been done to correct the situation.

HOW CAN WE HELP?

How Can We Help You? RSI offers a clearinghouse of information on CourtADR.org and also responds to request for information. Do you have a question about court ADR?

EMAIL US ▶

[RSI Site](#)

[CourtADR.org](#)

[LinkedIn](#)

[Facebook](#)

COURT ADR

the eNewsletter of Resolution Systems Institute

C O N N E C T I O N

COURT ADR NEWS

New Jersey and Maryland Pass Collaborative Law Acts

In recent months two more states have passed laws based on the Uniform Collaborative Law Act. In May, Maryland enacted the [Maryland Uniform Collaborative Law Act](#), and in September the [New Jersey Family Collaborative Law Act](#) was signed into law. In the collaborative law process, which is most commonly used for family law issues, the parties retain attorneys for the specific purpose of negotiating and settling disputes with each other. The process's confidentiality protections are similar to mediation. If the parties move on to a court trial, they may not use the same attorneys or law firm in court. To date in 2014, [collaborative law bills](#) have also been introduced in Florida, Illinois, Massachusetts, Oklahoma and South

Pilot Mediation Program in New Mexico Magistrate Court

In New Mexico, the Doña Ana County Magistrate Court has begun a [pilot mediation program](#). Volunteers will receive forty hours of free basic mediation training, and in exchange will perform twenty-five two-hour mediations if they complete the training successfully. The program is hoped to help alleviate the high caseload in the magistrate court. The mediators will oversee general civil cases under \$10,000, the magistrate court's maximum. Most of the cases mediated will be debt and money disputes.

Foreclosure Mediation Program Kicks Off in Champaign County, Illinois

With support by a grant from the Illinois Attorney General's office, a [new foreclosure mediation program](#) is opening in Champaign County, Illinois.

In the mandatory program, homeowners will meet with a housing counselor, and then go on to mediation with a representative from the bank. The program is administered by the University of Illinois College of Law Community Preservation Clinic. Resolution Systems Institute trained mediators for the program last month and will provide online case management, monitoring and evaluation.

Wisconsin Medical Mediation Panels Practice Early Neutral Evaluation

Following our synopsis last month of an article that criticized Medical Mediation Panels in Wisconsin, we received a copy of a letter to the editor, printed in the *Milwaukee Journal Sentinel*, from the Board of Directors of the Dispute Resolution Section of the State Bar of Wisconsin and the Board of Directors of the Wisconsin Association of Mediators. The letter points out that while the Medical Mediation Panels are referred to as "mediation" in their title, the [Wisconsin Court System website](#) states that the panels' work is better described as "early neutral evaluation," also known as ENE. We appreciate the clarification.

Want your court ADR news before the next edition? Check [CourtADR.org](#) for updates throughout the month.

THIS MONTH AT RSI

This Month at RSI: A New *Court ADR Connection*

In our new feature "This Month at RSI", RSI staff will talk about their current projects in court ADR. This month, Mary Novak talks about our process to renovate the Court ADR Connection.

In my position as Resource Center Director, I manage the information resources that RSI brings to the public. This includes CourtADR.org and our blog *Just Court ADR*, as well as this newsletter. As you may have noticed, this month we're rolling out a new format for the newsletter. While we will still bring you updates of Court ADR news from across the country, we are expanding to bring you more information about RSI's own projects and resources. These new features will replace much of the content from our annual print publication, *Analyzing the Alternatives*, which we have discontinued this year. In the new *Connection* we'll bring you tips and tricks to get the most from all of our resources, as well as information on some of the people working behind the scenes on our mission to strengthen justice by enhancing court ADR.

Help CourtADR.org Cross the Finish Line!

RSI is in the final months of a total renovation of [CourtADR.org](#) – the preeminent national source for advice and information about court-related ADR – and we need your help. A generous donor has offered a new \$5,000 matching grant to help us over the finish line. Every dollar you give will be matched 1:1 by our anonymous friend. [Please make a contribution today](#) so that we can finish the renovation by the end of the year.

On the renovated site:

- RSI experts will offer all-new in-depth guidance to [design, manage and evaluate every phase of a court ADR system](#)
- The face of the site will have more [intuitive architecture, making it easier for you to find what you need](#)
- The inner workings of the site will be totally restructured, providing a [more robust search with tailored results](#)

All these improvements are being built around the core information – thousands of articles, rules, laws, research and program reports – that you and others expect from RSI.

RSI is very grateful that the JAMS Foundation generously underwrote half the costs of the renovation with a matching grant. Many big-hearted individuals matched that JAMS grant. Unfortunately, as sometimes happens with tech projects, the costs have risen. A simple way to access information requires complex technology.

Please [click here](#) to send your tax-deductible, matching contribution today! If you would prefer to mail a check, please make it out to RSI and send it to RSI, 11 East Adams St., Suite 500, Chicago, IL 60603.

RSI doesn't ask for your support often; please help now. Your support will ensure that courts nationwide have free access to high-quality support for their ADR programs.

NEW RESEARCH

For High-Conflict Custody Mediation, Move Between Fact and Emotion

Peder Kjø, Odd Arne Tjersland & Katrina Roen (2014) "The Mediation Window: Regulation of Argumentation and Affect in Custody Mediation," *Journal of Divorce & Remarriage*, 55:7, 527-538.

This month's research article contributes to a newly burgeoning area of research on mediation: analysis of what occurs inside the process. In this study, conversation analysis was used to find out what mediators do in high-conflict custody cases to reach a successful resolution, with both parents satisfied with the process. In the 38 high-conflict cases examined, successful mediators were found to control the course of the conversation and effectively move it between emotional content and factual content. This contrasts with the actions of the mediators in the unsuccessful mediations. Those mediators tended to steer away from emotional issues and focus more on factual ones.

In the case presented in depth, when the conversation became too emotional, the mediator asked a factual question, defusing the parents' emotional intensity. She then reopened the emotional content at a later time. This balanced the discussion between the father's desire to keep the conversation factual and the mother's need to work through her emotions before making decisions.

The authors acknowledge that the mediator's actions are only part of the equation in a successful mediation. The parents must follow the mediator's lead and allow her to control the discussion. However, the pattern in their study shows the benefits of a mediator skillfully balancing discussion between emotional and factual content.

This article is not available online. It can be accessed through [the publisher](#).

QUICK TIPS

Are you writing rules for a new mediation program or thinking about revising the rules for a program that's been up and running? RSI's [Court ADR Rules Nuts & Bolts](#) can help you to get them right. There, you'll find suggestions for rule writing, along with a detailed analysis of what's good and bad about sample rules for all types of programs.

RSI Board Of Directors

Hon. Morton Denlow (ret.), President

Terry Moritz, Vice President

Prof. James J. Alfini

Hon. Allen S. Goldberg (ret.)

Frances Kao

Mitchell Marinello

Raven Moore

Hon. Stephen Pacey (ret.)

Judith Rice

Brian Roche

Hon. Karen G. Shields (ret.)

Hon. James Sullivan (ret.)

RSI Staff

Susan M. Yates, Executive Director

Kimberly Ackmann

Shawn Davis

Olga Kordonskaya

Kevin Malone

Mary Novak, Editor

Jennifer Shack



RSI thanks JAMS and the JAMS Foundation for their support of this publication.

Copyright © 2014 Resolution Systems Institute, All rights reserved.

Our mailing address:

11 E. Adams, Suite 500

Chicago, IL 60603

[unsubscribe from this list](#)

[update subscription preferences](#)

[view this email in your browser](#)

Not a subscriber yet?

[Subscribe here.](#)

SUPPORT RSI

RSI is a non-profit organization that strengthens

justice by enhancing court ADR systems through

expertise in program development, research and

resources.

DONATE ▶

NEWS & UPDATES

RSI is Hiring!

We're seeking a versatile non-profit professional to work as part of a small, dedicated staff, serving unmet needs and developing creative ways to do so. The Manager of Finance and Administration is responsible for all accounting and administrative functions of RSI. [Learn more here](#). Applications are being

accepted on a rolling basis. James Alfini Wins Award RSI Board Member Jim Alfini received the "Sharon Press Excellence in ADR Award" on August 15 at the annual convention of the Florida Dispute Resolution Center. The Award is bestowed to an individual who demonstrates the qualities of visionary leadership, professional integrity and unwavering devotion to the field of alternative dispute resolution.

Farewell to Lindsey Fila With pride and sadness we bid farewell to Lindsey Fila, our Director of Financial Operations. In her four-year tenure at RSI, Lindsey worked tirelessly to ensure that the many complex systems behind RSI worked smoothly. We wish Lindsey the very best as she follows her passion for nonprofit operations to a new challenge.

FROM OUR BLOG

[The Ups and Downs of ADR Policymaking](#)

This post by Mary Novak explains how a British law intended to increase family mediation use led to a dramatic drop-off in family mediation, and what has been done to correct the situation.

HOW CAN WE HELP?

How Can We Help You? RSI offers a clearinghouse of information on CourtADR.org and also responds to request for information. Do you have a question about court ADR?

EMAIL US ▶

[RSI Site](#)

[CourtADR.org](#)

[LinkedIn](#)

[Facebook](#)