Minutes
Commission on Civil Court Alternative Dispute Resolution (ADR)
Utilization Subcommittee

June 22, 2011
2:00 PM
123 Hoyt Street
Conference Room 405B
Stamford, CT

The first meeting of the Utilization Subcommittee was held by teleconference at 123 Hoyt St., Stamford, in conference room 405B at 2:00 p.m.

Members present: Professor James Stark (chair), Hon. Linda K. Lager, Hon. Jon M. Alander, Hon. Elliot N. Solomon, Attorney Joseph Burns, Attorney Agnes Cahill and Attorney David W. Cooney.

Also present: Attorney Sarah F. DePanfilis

At 2:02 p.m. Professor Stark called the meeting to order.

1. Professor Stark reviewed the Utilization Subcommittee charge with the members and summarized it as: to assess existing civil court sponsored ADR programs by looking at the goals/objectives of each program and how well the program is meeting those goals/objectives according to set criteria.

2. Professor Stark attended the first meeting of the Delivery Subcommittee on 6/13/11 and reported that the Delivery Subcommittee discussed triggers for ADR, looked at data on case types of pending cases and will be looking at ADR programs outside of Connecticut as it moves forward with its work.

3. The subcommittee agreed to begin its evaluation of existing civil ADR programs by considering what the program's goals/objectives are, whether it is meeting those goals/objectives, and whether there might be other uses for the program. It was also agreed that ADR data provided would be reviewed in the context of a review of individual programs.

   A discussion was held regarding the arbitration program. Issues discussed included qualifications of the arbitrator, procedures, and availability of a trial de novo. It was agreed that the arbitration program is a relatively effective program which addresses the goals/needs of a variety of stakeholders. Positive aspects identified include the availability of a trial de novo; the evaluative nature of the process; both judge referral or party request for the program are available; and data

indicates that cases frequently are disposed within ninety days of an arbitration event, suggesting effectiveness. It was agreed that there should be a standard for the selection of arbitrators and better training provided; procedures need to be consistent and more formal; and defendants, not just counsel, should be required to attend. The subcommittee also discussed, but did not reach a consensus on, how cases should be identified as ready for participation in the arbitration program and whether the current eligibility limitation of $50,000 should be increased.

A discussion was held regarding the Attorney Trial Referee (ATR) program. It was noted that only two judicial districts currently use this program and that the quality of the ATR is important. It was agreed that ATRs should not be used to conduct pretrials. It was also agreed that using ATRs in more specialized cases and expanding use of the program to other judicial districts should be considered.

A discussion was held regarding the ATR/Special Master for Administrative Appeals program. It was noted that only two judicial districts currently use this program and use it in tax appeals. Positive aspects were identified as its use with a specific class of cases; providers had subject matter expertise; and providers could conduct additional sessions if needed.

4. The next meeting will be by teleconference on July 28, 2011 at 2:00 p.m.

5. The meeting was adjourned at 4:00 p.m.