

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

**August 31, 2011
2:00 PM
123 Hoyt Street
Conference Room 405B
Stamford, CT**

A 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. Elliot N. Solomon, Attorney Joseph Burns, Attorney Agnes Cahill and Attorney David Cooney.

At 2:05 p.m. Professor Stark called the meeting to order.

1. The minutes of the 7/28/11 meeting were unanimously approved.
2. The subcommittee continued its review of existing civil ADR programs, resuming its discussion re: Fact-Finding. Information obtained from the Presiding Judges and civil caseload coordinators in the judicial districts of Hartford, Bridgeport and Windham as to why those districts routinely use this program was shared with the members. The reasons include that the act of scheduling this event frequently leads to settlement; in larger districts with large numbers of program eligible cases pending it helps move cases to disposition; and in a small district, it is helpful because of the limited number of judges available. Another common feature noted was that actively practicing, well-regarded attorneys are available to serve as fact-finders in those districts, usually without compensation. A discussion was held regarding offering mediation to fact-finding eligible cases as the nature of these cases lends itself to mediation. Another option of referring some of these cases to a community mediation program was also discussed. It was agreed that the subcommittee would recommend a pilot program in a judicial district that uses the fact-finding program to offer a mediation option in fact-finding eligible cases. It was further agreed that an additional ADR option of referral to community mediation, if available and willing to accept the referral, should be considered.

A discussion was held regarding the Foreclosure Mediation Program (FMP). It was noted that this is a very successful, but expensive, program. Some factors in its success were thought to be that there is a great need for this program on both sides; there are dedicated staff

mediators; and participation is mandated. It was also noted that there are constraints imposed by legislation with regard to making any changes to this program.

A discussion was held regarding Housing Mediation. It was noted that this program is effective in that a lot of cases are mediated and a large percentage of them settle. Attributes of Housing Mediation identified were that it is narrow, evaluative, black letter; and there is a specific range of outcomes that can generally be predicted by staff mediators, most of whom are very experienced. It was agreed that this program does not require any changes.

A discussion was held regarding Medical Malpractice Mediation. It was noted that this program is mandated by statute and has been ineffective because it occurs too early in the mediation process; when cases are scheduled for this event, they report that it is too early and decline referral to private mediation. It was agreed that this issue should be noted.

A discussion was held regarding Summary Jury Trials. It was noted that the process is labor intensive, requiring a judge, staff, jurors and courtroom, and is non-binding. It was agreed that this program/option is not efficient or effective and should be eliminated.

3. A report, including recommendations, of the Utilization Subcommittee will be drafted for presentation to the whole ADR Commission at its 9/19/11 meeting.
4. The meeting was adjourned at 3:48 p.m.