Message From the Chair

My career in alternative dispute resolution began in securities arbitration. As a result I feel strongly that arbitration is a valuable tool for disputing parties to come to closure. The arbitration process has served individuals and corporations for centuries. International arbitration has grown exponentially to meet the needs of parties engaged in cross border commerce. In the last fifteen years arbitration has come under attack. That said, arbitration can still meet the needs of parties and lawyers when the parties understand the rules and the arbitrators manage the process.

Last year the College of Commercial Arbitrators received the Section’s Lawyer as Problem Solver Award for publishing the Protocols for Expeditious, Cost-Effective Commercial Arbitration. The protocols provide suggestions and guidance for advocates, arbitrators and ADR provider organizations. The Section’s Arbitration Committee is in the forefront promoting arbitration and educating the public and lawyers about the benefits of the process. This year’s Spring Conference has a strong arbitration track which I hope you will attend.

Arbitration Committee Co-chairs Edna Sussman and Barbara Reeves Neal are presenting to you in this issue with a plethora of tools and thought provoking articles that will remind you that the best of arbitration is yet to come.

Debbie Masucci
Chair, ABA Section of Dispute Resolution

Introduction from the Arbitration Committee Chairs

The Arbitration Committee is delighted to present this month’s Just Resolution E-Newsletter.

The Arbitration Committee has had a busy and productive year. Our committee has worked hard to create a renewed focus on arbitration at the Dispute Resolution Spring Conference on April 18-21, 2012, in Spring Conference in Washington, DC

Make your hotel reservations now at the Washington Hyatt on Capitol Hill. The cut-off for the special ABA rate is Tuesday, March 20, 2012 at 5:00 PM Eastern Time. Visit the conference web site for information about hotel and travel information, CLE programs, and our conference sponsors.

Member Pro Bono Activities

An Interview with Rachel Wohl
By: Duane Rohrbacher

Rachel Wohl, Executive Director of the Maryland Mediation and Conflict Resolution Office (MACRO), volunteers as a mediator/facilitator with a variety of organizations including Mediators Beyond Borders (MBB), a transnational non-profit organization, the Baltimore City Community Mediation Program and the Maryland Civil Rights Commission She says that she grew up with a sense of obligation “to give back” based on the Jewish requirement to participate in “tikkun olam,” which means “repair of the world.” Wohl also finds that the “juiciest most interesting people” are those involved in pro bono efforts and she loves collaborating with them. She is attracted to people from different walks of life, and says she learns a lot from amazing people she would never encounter if she didn’t volunteer to assist them. She especially values her work with MBB, where she serves on the Board of Directors, because she believes that as the organization grows, it has great potential to make a real contribution towards creating “a more civil and peaceful world.” She is currently part of an MBB project team that is collaborating with Israeli Jewish and Arab mediators to strengthen cross-cultural, “grass roots” conflict resolution efforts. Her advice for those involved in the dispute resolution field is to “become members of MBB.
programs on April 19th and 20th. Please join us for sessions that we are sure you will find both insightful and helpful to your practice.

We invite all Dispute Resolution Section members to participate in our bi-monthly conference calls which focus on topics of interest to those involved in arbitration as advocate, arbitrator or client. New developments in arbitration law and practice are presented by experts in the field and an opportunity for a Q&A for call participants is provided. You will find these calls enlightening and useful. Our remaining calls this year are on April 24, 2012 and June 19, 2012, at 12:00 Noon EST. If you are not already a member of the Arbitration Committee, please join and add yourself to the committee list serve to get notices of these calls.

Our project on Best Arbitration Practices Guides, for both domestic arbitration and international arbitration, has been completed and is posted on our website. These Guides contain a substantial list of arbitration best practice materials, collected from providers or other organizations. This project follows the well-received committee project previously posted on the web site which provides a discussion of all court decisions concerning provisions of the Arbitrators Code of Ethics.

The committee is in the process of developing a brochure highlighting the benefits of arbitration. The current draft of the brochure is included in this newsletter. We invite your comments and suggestions for improving the brochure before we send it to print.

There are other on-going projects including tracking and lobbying on proposed arbitration legislation in Congress and staying abreast of developments relating to arbitration at the Consumer Financial Protection Bureau. We invite your suggestions for committee activities and for expanding the use of arbitration.

In this issue we are pleased to present six articles dealing with various aspects of arbitration and related dispute resolution topics. The draft of the brochure on the benefits of arbitration prepared by Edna Sussman and John Wilkinson is offered for your input and comment. Richard Chernick and Barbara Reeves Neal’s article on Expediting Arbitration explores the cost savings and efficiencies to be had by adopting procedures that include time deadlines and stricter control over discovery and other steps in the arbitral process. Robert Davidson delves into the law and the pitfalls surrounding arbitrator disclosures, with a checklist for how to avoid problems. Online Dispute Resolution (“ODR”) is the topic of two articles, an indication of just how important this new development will be to arbitration. Erin Gleason Alvarez takes a broad look at ODR, the many ways in which it can be used, and offers pointers to arbitrators and clients on using ODR. Jo DeMars and Ben Schuster investigate using online dispute resolution to settle low-value financial issues. Richard Grossman’s article on Comprehensive Adjudication explores a form of dispute resolution in which a single litigator functions as an adjudicator, an interesting and controversial topic that should give rise to debate.

We hope you enjoy this month’s Just Resolutions E-Newsletter and we welcome your participation in the Arbitration Committee.

Edna Sussman
Barbara Reeves Neal
Co-Chairs, Arbitration Committee

Ethical Dilemma – Process Advice

By John Lande

Every other month the Section’s Ethics Committee presents an Ethical Dilemma for a second month to gather additional comments to add to the discussion. Read the ethical dilemma and then submit your answers. May’s Just Resolutions E-News will include a summary and discussion of all the answers.

Committee Activities

Securities ADR Committee

This year, under the leadership of Chair Jill Gross, the Section launched the Securities ADR Committee. Committee members are interested in arbitration and mediation to resolve securities disputes. Various sub-committees have begun work on tracking legislative developments and changes in arbitration and mediation dispute rules and standards. The Committee’s official mission statement, now posted on its website page, states: “The Securities ADR Committee focuses on the mechanisms of arbitration and mediation that fairly and efficiently resolve securities disputes, including customer, employment and intra-industry disputes. The Committee also fosters the awareness, use and improvement of securities ADR processes.” Committee members are actively planning its first educational program, and seeking to recruit new members who share their interest in securities arbitration and mediation. If you are interested in joining, please sign up on the Committee homepage.

Publication of the Month

Stories Mediators Tell is a collection of inspirational stories shared by experts in the field who want others to experience the art of mediation. Their stories share advice on how to handle certain situations. The stories were not collected to glorify or to vilify mediation, but to make it accessible to readers generally to share what mediation is about and how certain situations were handled. The authors are motivated by the belief that mediation is not well understood-

Benefits of Arbitration for Commercial Disputes

By Edna Sussman and John Wilkinson

The Arbitration Committee of the ABA Section of Dispute Resolution is preparing a brochure for broad dissemination to educate users on the benefits of arbitration for commercial disputes. You can help us make it better, so please do take the time to review this draft brochure.

Expediting Arbitration

By Richard Chernick and Barbara Reeves Neal

Explore the cost savings and efficiencies to be had by adopting procedures that include time deadlines and stricter control over discovery and other steps in the arbitral process.

Conflicts of Interest, What Are They, and Must They All Be Disclosed?

By Robert B. Davidson

Delve into the law and the pitfalls surrounding arbitrator disclosures, with a checklist for how to avoid problems.

Arbitrating Online

By Erin Gleason Alvarez

Take a broad look at Online Dispute Resolution, the many ways in which it can be used, and learn some pointers for arbitrators and clients on using ODR.

Like It, Lump It... or Arbitrate It?

By Jo DeMars and Ben Schuster

Investigate using online dispute resolution to settle low-value financial issues.

Section Calendar of Events

Teleconference: The Settlement Discussion Rule and Litigation's Dirty Little Secret
March 13, 2012
12:00 pm – 1:15 pm ET
Register Now

Teleconference: “Please Don’t Kill the Umpire” – Arbitration in Baseball
April 5, 2012
12:00 pm – 1:15 pm ET
Register Now

Section Spring Council Meeting
April 18, 2012
Hyatt Regency Washington on Capitol Hill
Washington, DC
Teleconference: Civil Discourse in Mediation
May 8, 2012
12:00 pm – 1:15 pm ET
Register Now

7th Annual Advanced Arbitration Training Institute
June 21-23, 2012
DoubleTree by Hilton Philadelphia
Philadelphia, PA
Litigators Become Adjudicators -- The Formation of an Attorney Network to Provide Better Dispute Resolution at Half the Cost

By Richard Grossman

Learn about this new form of arbitration procedure in furtherance of our ongoing efforts to explore options in the field of arbitration and dispute resolution in general.

Learn More...

2012 ABA Annual Meeting
August 2-4, 2012
Chicago, IL

Section Council Meeting and Elections
August 4, 2012
Chicago, IL

Other ADR Events

Tennessee Association of Professional Mediators
Annual Meeting and Program featuring Julie Macfarlane
March 9, 2011
Nashville TN

Virginia Mediation Network
2012 Spring Conference
March 17-18, 2012
Richmond, Virginia

"Please join the 9th Judicial District of Georgia ODR, Judges, Attorneys and Mediators March 22-24, 2012 at the King and Prince Resort, St. Simons Island, Georgia, for our Best Practices Conference. Dr. Joan Kelly will be the keynote speaker and address issues concerning Child Relocation, Domestic Violence and High Conflict Parenting, and Parental Alienation. In addition, several Chief Superior Court Judges from across the State of Georgia will be speaking. Attendees will be eligible to receive 12 hours of CLE and MCJE credits. Due to the size of the venue, space is limited. Registration and lodging will be on a first come first serve basis. For more information or to register, please visit our website at http://www.adr9.com, email nicolewoolfork@adr9.com, telephone (770) 535-6909 or fax 770.531.4072."

Boston Law Collaborative | 99 Summer Street  Boston, Massachusetts
May 2 - 4, 2012

What Is It?
The 20-Hour Advanced Family Mediation Training "Breaking Impasse and Managing Difficult Personalities in Mediation" is designed to provide you with an in-depth look at the mediation process, examining the various reasons why impasse occurs (economic, emotional, cultural, psychological, etc.). It will also provide you with the tools and resources needed to break through these barriers and help the parties reach a durable resolution in mediation.

Who Should Attend?
This training will be invaluable if you're a mediator seeking to advance your practice to the next level or a family law attorney looking to help your client overcome barriers in mediation.

It's for attorneys who have been exposed to family law mediation, mediators interested in the area of family law, and seasoned family law mediators. Divorce coaches and financial professionals, as well as those with a therapy background that work with couples or families, would also benefit from this training.

What Will the Training Involve?
The training will involve active participation in addition to lectures, discussions, and multimedia presentations. Participants will be provided with at least three opportunities to role-play as a mediator over the course of the three-day training.

Training and role-play coaching will be provided by experienced practitioners and mediators. Participants will also receive a notebook of resources, articles, forms and template materials.

To learn more click here.

Membership

Are You Taking Advantage of Your ABA Membership?

Did you know that as an ABA Member you have access to the entire ABA Membership Directory? Whether you are seeking a mentor in your field of practice, geographic area, or looking to locate other ABA members in your city, your membership gives you the ability to search the ABA Membership Directory. You can search by name, geographic area, or ABA committee. Click Here to access the ABA Membership Directory. You must log on to the ABA web site in order to access the directory!

Join a Committee

Interested in meeting practitioners with years of experience and thriving practices?

Want to get involved with interesting and substantive work?
Or just want to learn more about an ADR area of interest?

Join a Dispute Resolution Committee. Our Committees offer the chance to get involved in monitoring and encouraging the development of ADR in specific subject areas; they provide a community for section members who are interested in the subject area; committees help develop CLE/training programs to assist members and formally liaise with other ABA entities that have a shared subject matter focus. Subject Matter Committees and Process Committees are open to Section members for free!

See a list of the Committees

Just Resolutions Submissions

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Make Your Likes Count Sweepstakes!

Coming next week – a chance to support ABA charities and win great prizes like Smartphones and vacation packages! Watch for information about the Make Your Likes Count Facebook Sweepstakes beginning on March 23. And, get a head start by Liking the ABA today!

Save us from your spam filter! Don't miss an issue of Just Resolutions! Please add DRList@americanbar.org to your safe senders list.