

Minutes  
Commission on Civil Court Alternative Dispute Resolution (ADR),  
Evaluation Subcommittee  
June 21, 2011

The Evaluation subcommittee met by conference call on June 21, 2011 at 1:00.

Participating members: Attorney Timothy Fisher (chair), Judge Aaron Ment, Judge Dawne Westbrook, Attorney Roland Schroeder, Attorney Pat Kaplan  
Support Staff: Attorney Tais Ericson

At 1:00 Attorney Fisher called the meeting to order and asked members to identify themselves on the call.

Agenda Items:

I. Mission:

Evaluation subcommittee charge was reviewed. Charge of the Utilization subcommittee was reviewed. Discussion was held as to whether the charge of the Evaluation subcommittee would be duplicative of the Utilization subcommittee, with regards to evaluation. Members agreed that the Evaluation subcommittee should clarify the charges of the ADR subcommittees to avoid duplication of efforts.

The charge of the Delivery subcommittee was reviewed, and the same concern over duplication of efforts was expressed. A proposal was made that the Evaluation subcommittee chair and support staff meet with the other three ADR subcommittee chairs and the chair of the Commission on Civil Court Sponsored Alternative Dispute Resolution to review the charges.

II. Experience of Committee Members:

The chair of the Evaluation subcommittee asked each member to talk about their experience with ADR programs, and each member made a brief statement in response. Subcommittee members' experience ranged from little or no exposure to ADR, limited experience with housing and foreclosure ADR programs, to working with major global providers of ADR and serving as the corporation's policy and point person with ADR arbitrators.

III. Goals and Key Components of Evaluation Systems:

Discussion was held about which issues to consider in determining types of evaluative tools would be most effective to evaluate ADR programs. Among the issues proposed for consideration were: "fairness" v. "perception of fairness"- an objective v. subjective standard; participant satisfaction with the ADR neutral; substantive outcomes relevant to satisfaction; are there contradictory issues to consider?

Commentary was made as to the use of ADR terminology; these ADR programs should not be the “alternative” method of handling cases, but should be utilized more as the usual manner to handle cases; perhaps having a case go to trial is actually the “alternative”.

The need to distinguish between arbitration and mediation was pointed out; there is a broad spectrum of programs and criteria; we need to define purpose for mediation v. arbitration.

Discussion was held regarding the need to combine speed and efficiency when considering “early” resolution of cases. Maybe whether a case is resolved “early” is not the right question to ask when considering the goal/success of an ADR program.

Discussion was held regarding the question “What is the purpose of evaluation?” Commentary included: we evaluate to determine whether the parties view the ADR program as productive and worth it; the evaluation should address the program and the neutral providing the service.

#### IV. Review of Resources Distributed to Date:

The members commented on the research resources and materials provided; they will provide a good basis for continued research to determine which types of tools/techniques will be most useful to evaluate ADR programs.

#### V. Connecticut Judicial Branch’s Experience and Practices with Evaluation Systems:

The question posed was “What, if any, evaluative measures have been utilized to evaluate the current ADR programs offered by the Branch?”; largely, there has been no formal evaluation process. Anecdotal information was presented regarding an inquiry made of the civil caseflow coordinators, asking whether they utilized any type of evaluation tools for the ADR programs in their respective judicial districts- some have received verbal feedback (solicited and unsolicited) from the attorneys and parties, but they had no formal procedure (e.g. questionnaire or survey).

Differentiated Case Management was discussed as a method for determining what types of cases would be appropriate for certain ADR programs. This method had been utilized in the past by the Branch.

#### VI. Input Needed from Other Committees

Discussion was held about whether there should be a consensus of amongst the subcommittees in determining the purpose of ADR programs. The subcommittee chair and support staff will follow up on this question.

#### VII. Methodologies:

The subcommittee will table for discussion at a later date. Members will research methods other organizations are using; proposal was made to

investigate how the Federal Judicial Center maintains data.

VIII. Follow-up Tasks:

The subcommittee finalized the task list:

- clarification of the Evaluation subcommittee's mission
- define purpose of ADR programs
- research methodologies for evaluation
- evaluation of neutrals providing ADR programs

The meeting adjourned at 2:00 pm.

The next meeting of the Evaluation subcommittee will be by conference call on Wednesday, July 13, 2011 at 1:00 pm.