

Walkathon for Community Mediation Maryland held inside Roxbury Correctional Institution

by Robert Stewart, Chairman, Life for Lifers,
Roxbury Correctional Institution

On Saturday, September 11, 2010, the Life for Lifers group at the Roxbury Correctional Institution (RCI) held a walkathon to support Community Mediation Maryland (CMM). The walkathon was held in a fenced-in exercise area within the facility, and 350 incarcerated citizens of RCI showed their support for mediation and for CMM through their walking, donations and pledges.

We had the privilege to have in attendance a number of distinguished guests. Lorig Charkoudian, executive director, and Caroline Harmon, office administrator, came from CMM. Also participating were Susan Fisher, executive director of the Harford County Community Mediation Program; Donald Meuer, co-director of the Conflict Resolution Center of Montgomery County; and Ramona Buck from MACRO.

Gregg Hershberger, warden; Keith Lyons, assistant warden and Veonn D. Exline, volunteer activities coordinator, were among the Correctional Institution staff who were present; and they were very instrumental in seeing that this event was successful.

The Life for Lifers members felt that by participating in the event the general population of the correctional institution was standing behind our Life for Lifers group to give us strength so that we won't feel that hope is lost. We appreciate each and everyone for their support.

The focus and ideals of our group include the idea that we will not just be token pieces within our system. We want to be men who show humanity. We want, through our deeds and actions, to show that we can be assets and not liabilities within society. Forever we will keep hopeful and know that living is worthwhile.



Rachel Wohl, Executive Director

Rachel's Notes

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I love the refrain in Leonard Cohen's song "Anthem"

*Ring the bells that still can ring
Forget your perfect offering
There is a crack in everything
That's how the light gets in.*

In one sense, it's a reminder that we can celebrate life despite our imperfections. More significantly, our growth or our redemption may lie in accepting (rather than denying or fighting) our failings.

In another sense, it implies that we can find joy in our relationships, despite or perhaps because of the imperfections, the cracks, that may show up as conflicts. Sometimes, as many of us know, when people get stuck in these relationship cracks, we're often able to help them transform them into opportunities—opportunities for learning, empowerment, creativity, connection, even healing—opportunities for the light to get in. When it happens, it feels so good to be of service in this way.

Perhaps this very good feeling accounts for the passion so many of us have for the conflict resolution field. The passion was evident at the fifth Maryland Mediators Convention, which was held on December 10, 2010. The convention began with video clips of several Maryland mediation pioneers: Martin Kranitz, Nancy Hirshman, Roger Wolf, Marvin Johnson and Aza Butler. After practicing for more than twenty years, their faces still light up when they talk about mediation and the love they have for their work.

More than 300 mediators and other participants spent the day at the convention engaged in terrific workshops, all presented by Maryland mediators (and a few Maryland judges as well). The convention is a real testament to the talent and diversity in Maryland's mediation community. Many who have attended all

five conventions (we hold them every two years) commented that this was the best of all. In this still evolving field, it is always exciting to see so many mediators coming together to continue learning, growing, and sharing new insights.

I want to give a special thank you to Ramona Buck, who puts her heart and soul into leading the convention planning committee and attending to all the myriad details that made the convention such a success. Thanks to all of the hard working committee members as well.

And the passion for conflict resolution is not just confined to the mediation community. The third annual Maryland Restorative Justice Conference was held at Howard County Community College on November 18 and 19, 2010. The conference had fascinating speakers and workshops. It was well attended, attracting people involved in community conferencing and other circle work, criminal and juvenile justice programs, prison and probation programs, and more.

This year, the folks who put on the last two RJ conferences formed a new non-profit organization called the Circle of Restorative Initiatives (CRI). CRI's first project was to organize and put on this latest conference, and it did a great job. Kudos to co-chairs Kathy Rockefeller and Lauren Abramson.

In the criminal and juvenile justice realm, I have been especially inspired by the inmates at Roxbury who organized a walk for peace around their prison yard and raised money for Community Mediation Maryland, and by the inmates at JCI who took basic mediation training and then applied to join the MPME. Also inspiring are the reentry mediation programs that bring family members together with juveniles and adults in prison pre-release units to make plans for the inmates to re-enter the community in a way that gives them hope.

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FORECLOSURE MEDIATION in Maryland - A New Program

by Denise Oakes Shaffer

As a result of House Bill 472, homeowners in Maryland now have the right to choose a mediation session when faced with an imminent foreclosure. Under the statute, that mediation session is conducted by an administrative law judge (ALJ) from the Office of Administrative Hearings (OAH). It is designed to allow the lender and the homeowner to have a face-to-face meeting to explore all possible options to avoid a foreclosure sale.

The OAH is an independent state agency in the executive branch. OAH conducts hearings, mediations and settlement conferences around the state for over thirty different state agencies in over 500 different case types. All of the ALJs at OAH are trained mediators. Because OAH had an experienced cadre of mediators and an infrastructure that already allowed for the ALJs to travel around the state, the Office of Administrative Hearings was a logical choice as a source of mediators for the foreclosure mediation program.

Prior to and since the law's effective date of July 1, 2010, OAH has worked closely with the Department of Labor, Licensing and Regulation

(DLLR), the Department of Housing and Community Development (DHCD) and the Circuit Courts to implement the program. As of November 5, 2010, the OAH had scheduled over 225 mediations. These mediation requests have come from homeowners in virtually every county in the state. Over 50 mediations have been conducted as of the last week of October, and the number of new filings has grown steadily over the first few months of this program.

In order to ensure that the ALJs were well versed in the substantive issues that arise in a foreclosure process, OAH worked closely with MACRO to develop a two-day training program. All perspectives on the foreclosure process contributed to the training. Lenders, housing advocates, DLLR and DHCD worked together to deliver an effective and efficient training to the ALJs. The training was followed-up by monthly "brown-bag lunch" sessions at OAH as well as electronic updates on changes to the regulations, court rules and other substantive law relevant to this topic.

As a result of the hard work by OAH's clerk's office, management staff and ALJs, in partnership with MACRO, the Circuit Courts and DLLR, the implementation of this program has been smooth. The ALJ mediators have noted that they feel well prepared to facilitate the discussions and many of the mediations have resulted in settlement agreements. Moreover, the ALJs find the work interesting and gratifying. OAH is pleased to be able to provide this valuable resource to Maryland citizens.

Denise Oakes Shaffer is an administrative law judge and the deputy director of Quality Assurance at the Office of Administrative Hearings at Hunt Valley, Md.

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Maryland Program for Mediator

by Cheryl Jamison, Esq., Director,
Maryland Program for Mediator Excellence (MPME)

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In April, Maryland Program for Mediator Excellence (MPME) members gathered in Annapolis for the first MPME Members Only Synergy Session or MOSS. The brainchild of Mae Whitehead, immediate past chair of the Mediator Excellence Council (MEC), the purpose of this historic meeting was to provide members with valuable information about the MPME and its website, as well as providing opportunities for skills and ethics workshops.

Richard Melnick, chair of the MEC, reminded participants that “. . . the logo of the program, the tree, symbolizes, among other things, the growth, strength and connectivity sought by the MPME in achieving its objectives.” Rich explained the title for the day, *Members Only Synergy Session or MOSS* (one of his creative ideas) this way: “Moss grows in and around a tree, providing nourishment and oxygen which help all of us breathe more easily. This session hopes to generate a synergy which, by definition, will result in the whole being stronger than the sum of its parts. By working together, sharing ideas, and participating in the work of the MPME and the MEC, each of us, individually and collectively, will grow, will breath more easily and more efficiently, and achieve our personal and collective goals.”

Quoting Thomas Fuller, Rich said, “He that plants a tree loves others besides himself.” Rich told the

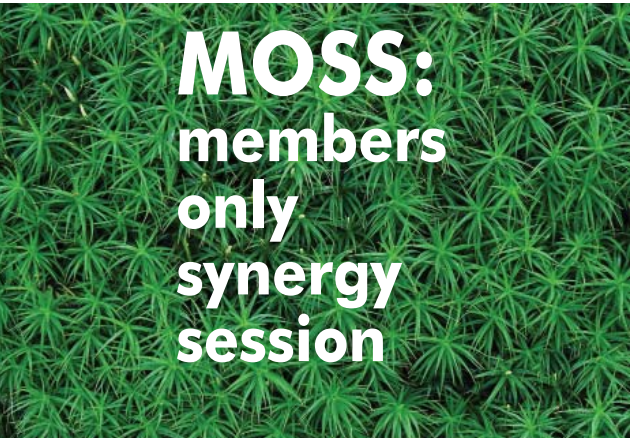
members that, for many of us, furthering conflict resolution and mediation is an act of love which we hope will help the world. He said that we share a common bond of peacefully resolving conflicts to make our individual lives, communities and the world better for all.

The morning also included sessions on the work of the Mentoring, Diversity, Self-Awareness, Definition and Consumer Awareness Task Groups. In the afternoon, participants took part in a real-time group measurement exercise using clickers, a new technology recently acquired by MACRO. The rest of the time was spent in workshops on topics including agreement writing, feedback, ethics, dealing with emotions in mediation and one session which gave participants an opportunity to be the mediator in some challenging mediation situations.

Based on the participant evaluations, the day was informative, entertaining and well worth the time. And yes, the day counted towards the continuing improvement commitment made by MPME members!

Mediation Descriptions

Recently, the MEC approved a set of mediation descriptions for the types of mediation being performed in Maryland: Analytical, Inclusive, Facilitative, Transformative. Which do you practice, what are the differences, and how would you describe each mediation framework? Those were the questions put to the MPME Definitions Task Group. To begin the work, a survey was designed to look at the strategies used by Maryland mediators during mediations. Participants in the survey were asked to check, “Often, Sometimes, Occasionally or Never” for each strategy, indicating how often they are likely to use it within one typical mediation. A cluster analysis revealed four basic mediating clusters in Maryland, as well as strategies that all mediators use and strategies that no mediators use. Based on the survey, the task group brought together leaders in each of the mediation frameworks that are most practiced in Maryland to work on developing descriptions for their particular framework.



**MOSS:
members
only
synergy
session**

Excellence Update

Think for a moment about the framework in which you practice and see if you could describe it in clear terms. Did you describe the ideal, what should happen, or did you describe what you actually do? Is there a difference between what you would describe, what you actually do, and what someone observing you would describe? Now you can appreciate the difficulty of the task.

After several years of discussions, rewrites and 20 drafts, the MEC approved a document which contains a description of the Analytical, Inclusive, Facilitative and Transformative frameworks. The goal and the strategies used by each framework are summarized as follows:

- ANALYTICAL MEDIATION FRAMEWORK**
 The goal of analytical mediation is to support the participants in reaching a solution acceptable and satisfactory to all. The analytical mediator will draw on a variety of styles as the circumstances require, including facilitative and evaluative techniques where appropriate. The analytical mediator adjusts the process to meet the parties' needs, even if the needs change during the mediation.
- FACILITATIVE MEDIATION FRAMEWORK**
 The goal of facilitative mediation is to support the participants in conversing constructively and reaching a solution acceptable and satisfactory to all. In facilitative mediation, the mediator helps people in a dispute to communicate with one another, to understand each other, and if it is possible and desired, to reach satisfactory agreements.
- INCLUSIVE MEDIATION FRAMEWORK**
 (formerly called Community Mediation Model)
 The goal of inclusive mediation is to support the participants in having difficult conversations and to guide a problem solving process to develop solutions that meet everyone's needs, with all content decisions made by the participants. Mediators focus on strategically listening for

values, feelings, and topics and reflect these back to the participants using language that captures the intensity the participants expressed.

- TRANSFORMATIVE MEDIATION FRAMEWORK**

The goal of transformative mediation is to work with people in conflict to help them change the quality of their conflict interactions from negative and destructive to positive and constructive as they discuss and explore various topics and possibilities for resolution. Transformative mediators look for barriers to effective interactions and assist the participants in dealing with and removing them.*

How might this information be used? Glad you asked that question. These descriptions could be used in selecting a mentor and learning partner for a mentoring program. The descriptions could be used in assessment and certification programs. They could also form the basis for describing to consumers what they can expect of the mediation process from one of the frameworks. The task group will be working on further developing the descriptions for use in these and other applications.

To read the descriptions in their entirety, go to marylandmacro.org and click the link to the MPME on the left side. Click the link at the top of the MPME page. The MPME Diversity Task Group will be hosting a Diversity of Practice Series during the spring of 2011 which will feature a presentation on each framework by those who practice in that framework and who helped to create the descriptions. Watch your email for additional information.

* *These definitions were taken from the MPME Approved Mediation Descriptions. Approved by the MEC on May 19, 2010.*



CHINESE JUDGES Share Mediation Approaches with Marylanders

by Robert J. Rhudy

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In early August, judges and senior administrators from the High People's Court of Jiangsu Province, People's Republic of China, visited Maryland. They participated in an extensive series of lectures, presentations and discussions on the American legal system coordinated by the University of Maryland's Maryland China Initiative. At the Chinese visitors' request, two of their sessions were with Maryland mediators to discuss the role of mediation to settle conflicts prior to and during the course of litigation. The Chinese judges also met with Rachel Wohl of MACRO, and with Roger Wolf and Toby Guerin of the Center for Dispute Resolution at the University of Maryland School of Law.

Maryland and federal presenters meeting with the Chinese judges and administrators were given copies of "The Introduction to Jiangsu Provincial People's Court," with parallel Chinese and English text, as background on Jiangsu Province, the Chinese judiciary, reform activities underway in Jiangsu's judiciary, and numerous other topics.

Jiangsu Province, on the eastern seacoast of China, has a population of nearly 77 million and is one of the most prosperous parts of the country. The jurisdiction of the High People's Courts seems roughly analogous to our circuit courts. The introduction indicated: "The courts should try every possible means to realize mediation out of court. Mediation out of courts should be integrated with people's mediation, cooperating with judicial administrative departments to enhance trainings of people's mediators and continuing to heighten their professional skills."

As a result of the meetings with the Chinese visitors, we learned that there are some key differences between mediation in U.S. courts and in those in China. The Chinese judges were very interested in the role of the retired judges who can

serve as co-mediators in the appellate mediation program and receive compensation, as well as serving as settlement judges or sitting judges for the convenience of the court. Whereas judges in Maryland are constitutionally required to retire at age 70, judges in China are required to retire at age 60 (the same as public servants), and it appeared that they did not have any equivalent compensated opportunities (public or private) in their retirement as in our state.

The Chinese visitors also indicated that they provide a substantial amount of mediation currently in cases before their courts. Their system appears to be a very controlled form of med-arb (mediation/arbitration). At least in some cases, a Chinese judge can order a case before him or her to mediation; can then serve as the mediator; and if the parties do not reach agreement in the mediation, that judge will then issue a ruling based on what has been discussed and that judge's legal rulings. The judges seemed very enthusiastic about how they conduct mediation, and somewhat surprised at how voluntary and informal our approach was in comparison.

The Chinese judges were very appreciative of the information they received regarding mediation in the U.S. and hope to continue the dialogue.

[Robert J. Rhudy is the Director of the Appellate Mediation Program at the Court of Special Appeals in Annapolis.](#)

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mediator excellence update

Did you know . . . ?

The **MPME Mediation Ombuds Program** allows those using mediation services to resolve questions, issues and complaints concerning a mediation or training. By contacting the ombuds, an individual can talk to an impartial third party who can help the mediation user determine what course of action he/she wants to take. Sometimes the consumer has a question about the process that can be answered by the ombuds. When there is a complaint, the ombuds and the consumer have a range of options available to resolve the issue. Be sure to tell participants that they can access the Mediation Ombuds Program by calling 410-260-3540.

Satisfying the **Continuing Skills Improvement Commitment** made by each MPME member may be easier than you think. Upon joining the MPME, each member commits to completing four continuing skills activities annually. Activities which satisfy the commitment include case discussions, skills training workshops, tele-seminars or webinar, participation in a mentoring program and attendance at a professional organization meeting which a mediation skills component, just to name a few. The activities do not have to be sponsored by the MPME and can occur anywhere in the world. Once you have completed the activity, do not forget to record it in your online account at **MPMEonline.org**.

Organizations and trainers can have their mediation related activities listed on the **MPME Events Calendar**. To have the activity listed, send

the following information to mpme@mdcourts.gov: name of the event, date of the activity, time, location, short description, brief information about the speaker, if applicable, registration information and directions to the location. All of this information must be provided to be listed. Do not forget to include the name and phone number for a contact person who can answer questions about the event. Please note that the website is not able to attach documents such as registration forms.

Want to be an MPME Member?

To become an MPME member, go to **MPMEonline.org**, click the "Member" button. Once on the home page, click "Click Here to Join," complete the application and click submit at the bottom of the page. Verification of 40 hours of mediation skills training is required to complete the application process. This information can be uploaded with the application, faxed to 410-260-3541 or mailed to MPME, 903 Commerce Road, Annapolis, Md. 21401. For answers to questions, contact Cheryl Jamison, quality assistance director at 410-260-3540 or cheryl.jamison@mdcourts.gov.

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mpmeonline.org



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ADR Luminaries Featured Prominently for Second Year

MACRO's popular "Evening With" seminars and its "ADR Practitioners Lunchtime Teleconference" series ended this year on a high note as both listeners and audience members alike participated from their choice of venue.

Teleconference participants called in from as far as Washington State, Los Angeles and Oregon to listen to Maryland ADR leaders sharing their perspectives on such issues as the role emotional intelligence and cognitive intelligence play in mediation. Another topic explored how facilitation can be used as a means to prevent disputes in large public policy decisions.

While many took advantage of the ability to listen to presentations from the comforts of a nearby phone, others preferred a more close up and personal format and attended lectures in our "An Evening With" series. National scholars and notables lectured on the latest industry trends, both standard and controversial, to the benefit of audiences. MACRO partners with the University of Baltimore's Center for Negotiations and Conflict Management on the "Evening With" series, and the university's Performing Arts Theater sets an intimate backdrop for the lectures.

The 2010 season kicked off in January as offerings rotated monthly between formats.

Lunchtime teleconferences

- "More than a Mediator: The Role of the Ombudsman," presented by Howard Gadlin, ombudsman and director of the Center for Cooperative Resolution at the National Institutes of Health, Washington, D.C. Issues raised included the systematic problems of the position of ombudsman and the ethical dilemmas that might surface.
- "Emotional Intelligence and Cognitive Intelligence: Partners at the Table in Mediation," presented by Linda Baron, master mediator and a member of FEMA's ADR cadre. This conversation delved into the unspoken role that emotional intelligence and cognitive intelligence play in mediation.

A point for debate: Can interpersonal intelligence be cultivated and are persons aware when intuition is in play or is it a subconscious use of unsupported assumptions and biases factoring during the mediation?

- "What Mediators Need to Know about the United States Institute of Peace (USIP)," presented by David Smith, national educational outreach officer, USIP. This conversation highlighted the mission and purpose of the USIP. Listeners learned about the agency's vast scope and its projects, ranging from conflict analysis, capacity building, civil military relations, and gender issues, to name a few.

- “Dispute Prevention: Facilitating Large Complex Public Policy Decisions,” presented by Doug Brookman, mediator, facilitator, trainer and president of Public Solutions, Baltimore, Md. In this discussion, examples were shared on how dispute prevention approaches can ward off potential conflict in many arenas. Also illustrated were scenarios of how Brookman has used collaborative processes in multi-party facilitations.

“Evening with” presentations

- “What You Need to Know about Culture: Its Impact on Communication, Negotiation and Mediation,” presented by nationally acclaimed mediator and trainer, Nina Meierding. Audience members were dazzled by the many cultural considerations mediators need to be aware of in order to help people in conflict understand one another. The mastery of these nuances is necessary to communicate effectively in a multi-cultural society.
- “The Challenges and Opportunities for Third Party Roles in the Protracted Arab-Israeli Conflict: A critique of the North American model, practice and theory,” presented by Alma Abdul-Hadi Jadallah, president and managing director of Kommon Denominator, Fairfax, Va. As an Arab American, Abdul-Hadi Jadallah shared her personal insights from her research on the use of North American models of intervention used for reconciliation efforts related to the Arab-Israeli conflict, and why in many cases these efforts are unsuccessful.

- “The End of Mediation: Why the Field Will Fail but Mediators Will Thrive over the Next Two Decades,” presented by Peter Adler, president of The Keystone Center in Colorado. In this lecture, Adler gave his theory behind the lecture’s premise and whether the “Conflict Resolution” field is really a field. He suggests conflict resolution is not a field. Adler implored practitioners to rethink using mediation only in traditional settings and think outside of the box regarding the skills and tools practitioners use. He said opportunities exist for these applications throughout society.
- “Conflict Revolution: How Mediators Can Help Save the Planet,” presented by Ken Cloke, master mediator, trainer, author, president and co-founder of Mediators Beyond Borders. Cloke is also director of the Center for Dispute Resolution in Santa Monica, Ca. Questions posed centered on whether we as mediators and global citizens are responsible for the social, economic and political and environmental conflicts that occur in the world. Cloke suggests that mediators can usher in a conflict revolution by using our skill sets to take on the problems of society and bring about social change.

conflict *revolution*

Rachel’s notes cont. from 2

Many congratulations to Lauren Abramson, Judge Eugene Wolf, the Maryland Department of Public Safety and Correctional Services, Cheryl Jamison, and John Windmueller for the well-deserved awards, honors and elections described inside on page 19. Everyone at MACRO is enormously proud of Lou Gieszl who is now serving as the president of the Association for Conflict Resolution (ACR), a preeminent international conflict resolution organization. No one who knows Lou is surprised that he was elected to such a prominent leadership role. With help from ACR vice-president and fellow MACROite, Cheryl Jamison, Esq., Lou is doing an excellent job making ACR an even better organization.

I hope you will enjoy this edition of the MACROSCOPE, which showcases some of the amazing work going on around the state. And as we move into the darkness of winter, may we all find ways to let the light shine in.

mediation

By Gustav Goldberger, Esq.

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“When you are saved from anger, you will acquire the trait of humility, which has no equal.” – Nachmanides

I recently saw the movie *Ushpizin* which triggered in my mediator’s mind a thought that I want to pass on to others in the field. The central character in *Ushpizin*, “Moshe,” is an ex-convict who has turned his life around and lives with his wife in an ultra-religious environment. Two former crime buddies—recently paroled—discover Moshe’s whereabouts and intrude into his now peaceful religious life. The audience becomes aware of

the protagonist’s prior penchant for extreme anger. Returning home after a day’s absence away, Moshe finds out that his former friends have exhibited violent behavior in the presence of his wife and the entire religious enclave. Moshe’s resolve to restrain his anger is put to the ultimate test. He is about to strike out when he abruptly leaves the scene. He passes the test, is determined to keep faith with his resolve to stay calm, and his anger dissipates.

I walked out of the theatre linking the fictional story to the anger that I routinely observe between parties in mediation. I suspect that my experience is not unique. It is well known that anger is one of the strongest emotions mediators encounter as they seek to diffuse it and as they attempt to develop creative ideas for dispute resolution. I am proposing that it



behooves all of us, as mediators, to be continually on guard for signs of anger and rage as the mediation process progresses.

With all due respect for the standard mediation practice of having each party tell his/her story early in the mediation process, it is my hypothesis that we should consider a different approach. This different approach effectively bypasses the *standard* practice and avoids having opposing parties chomping at the bit waiting to discredit each other as they recall the bitter details of the initial impact with the other party.

Each party to the dispute is naturally very anxious to convey to the mediator that his/her respective version of the facts is correct. The parties typically have a great need to tell the whole story, hoping to influence the outcome of the process. From my experience, however, I conclude that mediators would do well to make an early initial assessment to determine whether or not to use standard approach of the opening recital of the facts. It is unrealistic to expect good results if most of the mediation process is taken up with high-pitched, passionate, and self-serving accusations which have a strong tendency to re-ignite initial flames of anger, which in turn is likely to exacerbate the dispute. I think the mediator should instead engage the parties in a discussion focused just on their mutual anger which, in any event, will have them reveal facts more relevant to a resolution—and at a more rapid pace.

What follows is an edited version of a scenario I recently participated in as the mediator and indicates what the mediator said, leaving what the parties said to your imagination.

It is unrealistic to expect good results if most of the mediation process is taken up with high-pitched, passionate, and self-serving accusations . . .

and anger

Mediator: Mrs. Smith, you state in your summary—which I reviewed very carefully—that Mr. Jones borrowed your car while you were on travel; that you loaned it conditioned upon your expectation that it be returned to you by June 20; that you returned on that date only to find that Mr. Jones had an accident with your car which was totaled. You also discovered that Mr. Jones was charged with driving while intoxicated. Tell me, how did you feel when you found out about the car accident? You must have been very angry—tell me how you dealt with your anger at that time. How do you feel about it now? Are you still angry at Mr. Jones? Did you have words with Mr. Jones when you came back from travel? What did you talk about? Did he deny being involved in the accident? Did he offer to make restitution?

Mediator: Mr. Jones, you heard what Mrs. Smith just said. Do you wish to dispute anything about what she said? When she got angry at you and yelled at you, how did that make you feel? Can you now understand why she was angry? Do you think you can find it in your heart to apologize for what happened? Are you willing to make arrangements to make restitution? How much can you afford, etc.

Mediator: Do both of you feel that you can set aside your anger for the purpose of trying to resolve your dispute? You came to the mediation table voluntarily which suggests to me that you both want to have this matter behind you. Let's focus on that goal this morning. With a little bit of "give" on the part of each of you, I am confident that we

will walk out of here in an hour or so with a settlement that you both can agree on. I will help you explore settlement possibilities as best as I can. Are you both willing to give it a try?

From the moment the parties in the above scenario came to the table, they were at each other's throats. It took a while for me to gain control of the process, but when I finally did, I proceeded along the lines described above and soon was able to tone down the noise level. The session then focused on the restitution issue, and after about 30 minutes of negotiation the dispute was resolved. I am persuaded that had I urged each party to first "tell his/her story," I would have learned—as I did after the agreement was signed—that the parties had been bed partners for several years, that they developed a love-hate relationship, and that Jones was a hopeless alcoholic. Perhaps it would have served a therapeutic function to have them tell the whole story, but I doubt that it would have enhanced the progress of the mediation objective.

That brings me to the more fundamental thought that I have about the art of mediation, generally. I firmly believe that mediation cannot and should not be structured and wrapped up in tidy neat categories of experiences and conflicts. In fact, I can think of nothing worse than for a mediator to be burdened with "do's" and "don'ts." In that regard, I am often asked what makes for a good mediator. My response is that while competent training is important—especially if the trainee is afforded adequate opportunity for role

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A little help from our friends -

The NEW GUIDE for mediation

by Julie R. Linkins, Esq., Court ADR Resources Director, MACRO

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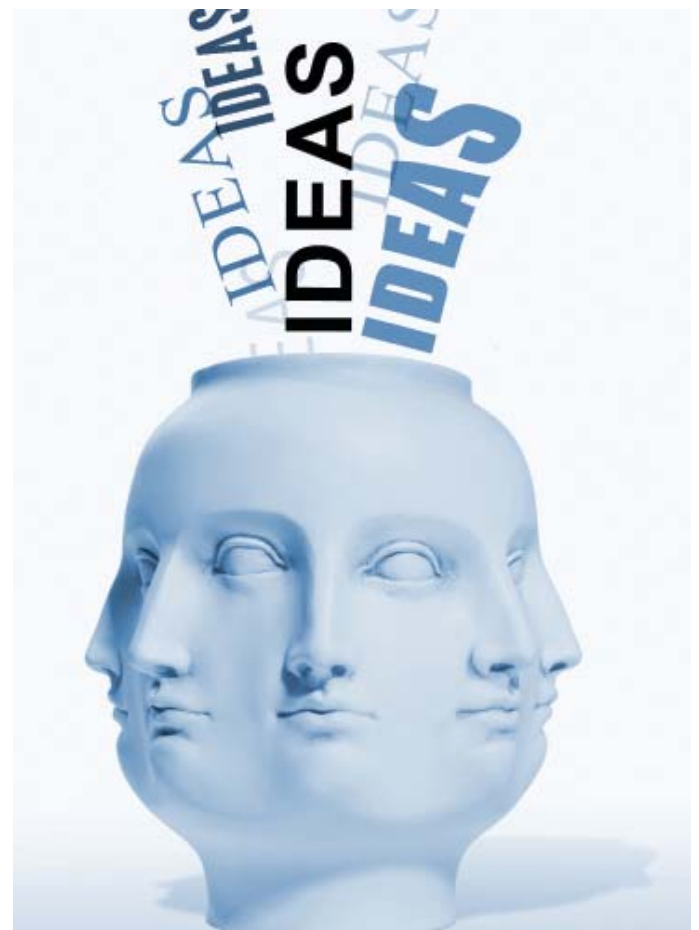
One of the many fun things I get to do as part of my job is work with the ADR Program Managers Committee, sponsored by the MPME and MACRO. Formerly known as the roster managers because they all run programs that use panels (i.e., lists or rosters) of mediators, this group gathers monthly for a working lunch to network, share challenges and opportunities, and develop ways to continue to improve the programs they administer.

ADR program managers often operate in isolation in their organizations because no one else in their workplace has similar responsibilities. Monthly committee meetings, therefore, usually open with a round of sharing issues, options, solutions, and opportunities. When asked what makes committee membership valuable, Tara Taylor, who directs the Maryland Commission on Human Relations Mediation Program and founded the committee, said, "It is the chance to bounce ideas off other like-minded roster managers. It's also a great group of thoughtful, caring, passionate ADR professionals who continue to show up and offer their insights, suggestions, and hard work! I think what's most valuable to me is having several sounding-boards for my questions, concerns, and ideas about how to improve my program." Likewise, Leona Elliott reports that working collaboratively with people who share similar issues helps her in her role as the coordinator of ADR roster and data management for the District Court of Maryland ADR Office.

The committee members represent diverse organizations, ranging from the courts, community mediation centers, government agencies, and business associations. Some programs pay their mediators; others work on a strictly volunteer basis. Some have large, open rosters; others have small, more restricted lists. Some are governed by rigid statutes; others operate under more flexible policies. Similarly, some of the committee members only recently entered the realm of ADR program management, while others have built substantial experience. Together, they bring

a wealth of experience and variety of perspectives that they are willing to share. Lisa Cameron, program administrator for the Maryland Association of Realtors Mediation Program, reflected on why she participates, saying, "There is no better think tank than the folks who serve on the committee. Sure, I can try and find resource info on the Web, but the substance of that information is not comparable to what I can learn from other roster managers and their programs."

In late 2008, the group decided that it would be useful to gather their collected wisdom into a single reference volume that program managers could turn to when they faced unfamiliar issues or sought ways to enhance their operations. This year, the committee will publish the *Guide for Mediation Program Managers*. According to Mae Johnson,



program managers

mediation coordinator for the Maryland Department of Agriculture's Maryland ACREs program, "The guide will serve as a tool to promote the effective management of mediation programs throughout the state. While it may be the basis for solving problems, it can also be the tool for preventing problems." Program managers who wonder how to handle participants who fail to show up for a scheduled mediation or what sort of questions to ask mediators who apply to the program can use the guide to gather ideas and suggestions. Both new and experienced managers can use it to solve problems, identify and consider options, and improve programs.

Writing a document with 15 co-authors has presented unique challenges, and the committee overcame each one with humor and grace. Now, these indefatigable authors have decided to celebrate completion of the guide by sharing their efforts

with other ADR program managers at a statewide conference in the spring. You might have picked up a preview of the *Guide for Mediation Program Managers* and a "save the date" flyer at the recent Maryland Mediators Convention. If so, you already know that this will be an event not to be missed. Presentations from nationally known speakers and a variety of practical workshops will fill the day. "Participation with this committee has provided me with the opportunity to meet and get to know others who coordinate an ADR program," says Jennifer Bowman, ADR coordinator for the Circuit Court for Howard County, "I hope others will find that the guide assists them in offering quality programs that are well run and effective."

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anger **cont. from 11**

playing—the real training comes from life experience and the degree of confidence and sensitivity one has in dealing with people's concerns. And this can only be acquired over time. A good mediator does not burden him/herself with distracting notes and pre-planned mediation paradigms. Attentive listening to each party, spontaneity, good humor, innate ability to quickly cultivate rapport, creativity, and flexibility of mind to go with the flow are essential attributes of a good mediator.

In sum, anger can be seen as an all-important variable that can make or break a given mediation session and should therefore be treated with much care. The mediator's critical mission is two-fold:

1. to guide the parties into a better understanding of the nature of anger, and
2. help the parties develop a resolution.

The latter can more easily be obtained when anger is set aside to make room for rational thought and compromise. The recitation of facts early in the process often compounds the existing anger and serves to exacerbate a given dispute. It may in fact aggravate chances of success, could cause an unnecessary impasse, and may result in the parties walking out in despair, in worse shape than before the mediation started.

Gustav Goldberger is a practicing attorney recently retired after 27 years of service as senior litigator with the U.S. Department of Energy.



Artistic Visions from Maryland Youth on Conflict Resolution Day

by Alecia Parker, Budget and Grants Director, MACRO

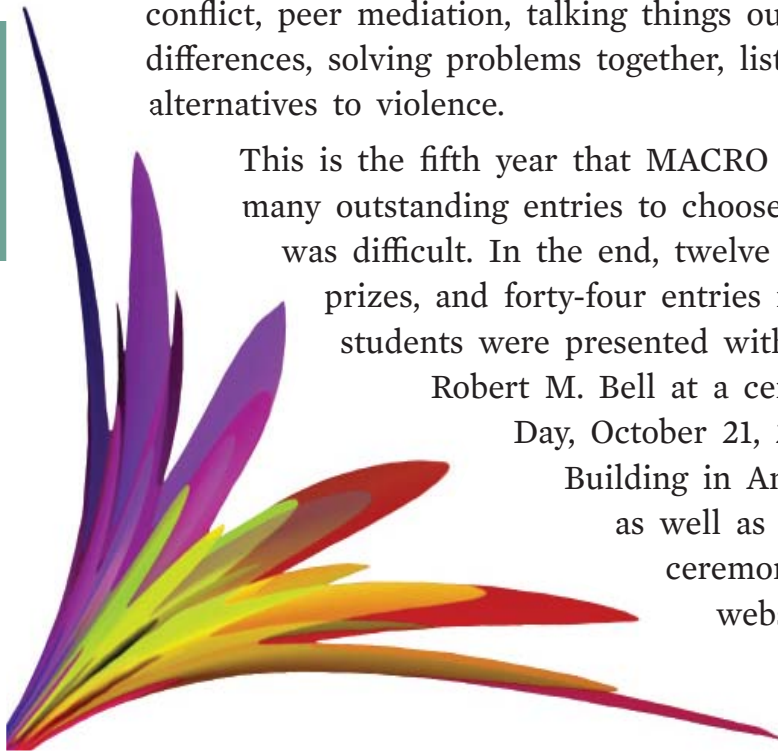
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MACRO celebrated Conflict Resolution Day again this year by holding a statewide student bookmark art contest. This year, entries were sought in three categories, kindergarten through second grade, third through fifth grades, and sixth through eighth grades. A record number of entries were received—over 500—from all across the state. Each of the bookmarks submitted creatively reflected themes such as resolving or preventing conflict, peer mediation, talking things out, apologizing, respecting differences, solving problems together, listening, tolerance, building peace, or alternatives to violence.

This is the fifth year that MACRO has held this contest. With so many outstanding entries to choose from, selecting this year's winners was difficult. In the end, twelve entries were selected to win cash prizes, and forty-four entries received honorable mention. The students were presented with their awards by Chief Judge Robert M. Bell at a ceremony held on Conflict Resolution Day, October 21, 2010, at the Courts of Appeal Building in Annapolis. The winning entries, as well as select photos from the awards ceremony, can be viewed on MACRO's website: marylandmacro.org.



staff

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Julie Linkins, Court ADR Resources Director
 Alecia Parker, Budget and Grants Director
 Felicia Watkins, ADR Resources Coordinator
 Nick White, Evaluations Director



L-R: Kellen Liu, Megan Cicerone, Nikki Lytle, Shivani Shah



Miguel Chavez and Chief Judge Robert M. Bell

photos by
Dan Clark

Maryland Department of Juvenile Services staff learn to provide trainings for youth on conflict resolution

The youth did an excellent job with participation. They engaged in activities and discussion. They took time to ask questions for understanding. The biggest hit of the group was The Big Wind Blows. I look forward to leading more groups to help youth identify the positive within them. Thanks again for the opportunity to encourage youth to have a more positive outcome in conflict.

This comment was written on an evaluation by a residential group life manager at the Maryland Department of Juvenile Services (DJS) who had just conducted her first facilitation of the *Youth Know-How Conflict Resolution Training*, thanks to funding from MACRO. Expert staff from Community Mediation in Baltimore provided a comprehensive 18-hour training to DJS staff. This training included the basics of understanding conflict, the role of mediation, and how to deliver fun exercises to youth and solicit thoughtful discussion.

Staff learned how to conduct such dynamic exercises as *Big Wind Blows*, *Battle Lines*, and *The Gathering*, and received instruction on strategic listening skills, reflective listening, asking open-ended questions, and different approaches to resolving conflict. Additionally, two follow-up sessions were required in order for DJS staff to co-facilitate actual trainings with youth, and receive coaching from the Community Mediation staff.

The expectation was that the training and follow-up sessions would allow DJS staff to deliver two-hour trainings to DJS youth in facilities and community venues. The trainings assist youth to explore how conflicts begin, and to learn what they can do to resolve conflicts in a positive way.

The training was originally planned to be delivered solely to residential staff at the Baltimore City Juvenile Justice Center. However, MACRO agreed with a recommendation from DJS's Community &

Family Partnership unit (CFP) to open up the training to all DJS staff throughout the state. Participation was completely voluntary, but staff who participated were committed to deliver four trainings throughout the coming year.

The response and participation were impressive. Forty-six staff attended the training representing all six regions of the state plus DJS headquarters, and included staff from facilities, case management, intake, office support, behavioral health, social work, education, gang prevention, recreation, child advocacy, training and policy. More than half of the attendees have already finished the required follow-up sessions, with approximately 25% needing to finish only one follow-up session. Another 25% need to finish both follow-up sessions in order to conduct the trainings with youth on their own.

DJS has been very pleased with the staff responses to the trainings and to the more than 250 youth who have been reached in conducting the follow up sessions. In surveys conducted by DJS's CFP unit, 96% of all respondents felt the Community Mediation facilitators were either "good to excellent" in their knowledge of the subject matter. 84% of respondents stated the instructional training met or exceeded their expectations. There was unanimous agreement that respondents looked forward to conducting follow-up sessions and felt the training would be useful to youth.

In responding both to the positive reaction from trained staff and to the need for offering the trainings to youth, DJS will be scheduling further trainings, starting with the Hickey and Baltimore City Juvenile Justice Center detention facilities and the Day and Evening Reporting Center in Baltimore. Following this, additional trainings across Maryland will be scheduled as an ongoing project of the CFP unit. All DJS staff who want to complete their required follow-up sessions or want an extra refresher will have an opportunity for co-facilitation, while other staff will facilitate sessions in pairs.



PARTNERSHIP events

Institute for Diversity, Ethics and Quality Practice

In June 2010, MACRO partnered with the Center for ADR to offer a one-day pre-conference Institute on Diversity, Ethics and Quality Practice. This first-ever event attracted more than 100 participants into thought-provoking workshops and a participatory dialogue on the future of our field. Subtitled “Connecting the Dots,” this impressive institute served to highlight the interconnectedness of diversity, ethics and quality in the practice of conflict resolution.

Third Annual Restorative Justice Conference

In November 2010, MACRO again co-sponsored a major conference on restorative justice, this time in partnership with a newly formed non-profit organization called the Circle of Restorative Initiatives. The conference attracted a diverse cross section of practitioners, educators and justice system insiders. Subtitled, “Expanding the Circle: Schools, Communities and Court,” this powerful event served to highlight restorative practices at the individual, institutional and community levels. Due to MACRO’s support, all attendees received *The Little Book of Restorative Discipline for Schools*, by Lorraine Stutzman Amstutz, a featured speaker at the conference.

Maryland Mediators Convention

The fifth Maryland Mediators Convention occurred on Friday, December 10, 2010 at the Maryland Maritime Institute and was co-sponsored by MACRO, Community Mediation Maryland, Maryland Council for Dispute Resolution, Maryland Roster

Managers (now Maryland ADR Program Managers Committee), District Court Office of Alternative Dispute Resolution, Maryland Program for Mediator Excellence, Maryland State Bar Association ADR Section, and the Maryland Chapter of ACR with the Center for ADR acting as registrar. Always a joyous event, this convention included a PEEPS diorama contest on the theme of conflict resolution as well as a contest on the wording for a new MACRO poster. The success of the convention is due to the active participation of the sponsors, the session presenters and the exhibitors.



Scottie Reid and
Kate Quinn



photos courtesy of Michael Benefiel

Now the goal for DJS is to sustain the opportunity provided by MACRO by scheduling the *Youth Know-How Conflict Resolution Training*. That opportunity presents itself with a comprehensive employment and education strategy funded by a \$3.1 million award to DJS from the U.S. Department of Labor. Conceived and now directed by the CFP unit, the CORPS Initiative will work with 400 Baltimore City youth returning from placements, detention or on probation.

Trained staff can work with youth in small groups to help them focus on root causes and solutions to conflict to help them deal with school and work environments.

This project will provide both needed information and encouragement as these youth take on new endeavors. Encouraging youth in positive activities is what the MACRO-funded training has provided for DJS staff.

by Ed Modell, JD
Maryland Judiciary Ombudsman



The Maryland Judiciary OMBUDSMAN: a unique ADR service

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What if there were a place for Judiciary employees to bring their workplace problems for non-judgmental coaching or to vent their frustrations in a safe and confidential place?

What if two Judiciary co-workers are just not getting along and could use the help of a neutral person to facilitate a discussion that could help them work together better?

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How can a citizen of Maryland find a pro bono (free) attorney to represent him/her in a civil lawsuit regarding identity theft?

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Maryland may be the only state that provides these ombuds services to some of its Judiciary employees as well as to its citizens.

The ombuds program does not serve all judiciary employees in Maryland, but I, the ombudsman, serve the Administrative Office of the Courts (AOC) staff and most of the court-related agencies in Annapolis, together with all

District Court employees throughout the state.

I now also serve as ombudsman for Maryland citizens who have complaints or concerns regarding the state courts.

With regard to the judiciary workplace issues, I can provide confidential, informal and impartial coaching, mediation, facilitation and training services. I report directly to Chief Judge Robert M. Bell of the Maryland Court of Appeals on systemic issues or workplace statistical trends, but I do not disclose the identity of any employee or the specific nature of their concerns without their express permission.

In my position as ombudsman for citizens, a recent expansion of my duties, I often hear from people who, for example, have complaints about services they received in a courthouse, or who don't understand how the judicial system works. While I am prohibited from providing legal advice or investigating the conduct of judges, I frequently make referrals to available legal services such as the District Court Self-Help Center and the Maryland Volunteer Lawyer Service, which most citizens are not yet aware of. During the first 10 months as the Judiciary

ombudsman, I was contacted by 128 Maryland citizens, largely self-represented litigants, seeking help.

The ombudsman program for Judiciary employees was created in 2006 at the suggestion of a personnel consulting study. Initially, it was set up as a pilot project serving the employees within the AOC. As the result of a favorable survey taken in early 2007, the program was expanded to serve all Annapolis complex support personnel and court-related agencies, and later was expanded to serve all District Court employees and the public. The Maryland Mediation and Conflict Resolution Office (MACRO) provided technical assistance in the drafting of the original RFP as well as funding for the part-time contract position.

I collaborate with a conflict management advisory committee to develop specific procedures, brochures and other employee awareness materials about the ombudsman program and recommend organizational improvements, as appropriate. I also collaborate with the Human Resources staff, the executive director of Legal Affairs, and the Fair Practices officer to uphold the standards of the Judiciary, while guarding participants' confidentiality.

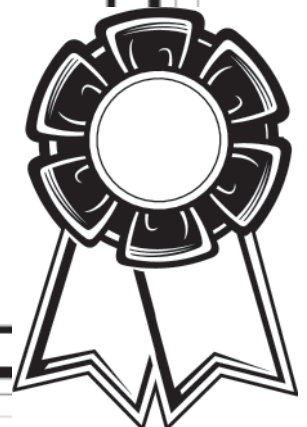
There are certain express limitations on the ombudsman's authority. In my position, I am not authorized to accept or provide formal organizational notice to the Judiciary or specific court-related agencies of alleged violations of policies, procedures or laws. I also cannot reveal the identity of those who contact me, without their permission. I also do not serve as part of any formal grievance or complaint process, do not advocate for any individual, and neither conduct formal investigations nor issue case specific investigative reports. As the ombudsman, I may not testify or serve as a witness, make or change policy or administrative decisions, make binding decisions, determine rights, or require anyone to follow my recommendations.

For further information, please contact Ed Modell at judiciaryombuds@aol.com or 410-260-1298.

AWARDS and ACHIEVEMENTS

- Community Mediation Maryland (CMM) gave a “**Commitment to Conflict Resolution Award**” to the **Maryland Department of Public Safety and Correctional Services (DPSCS)** at the CMM Fifth Annual Gala on June 12—accepted by Bonita Custer, Director of Re-entry and Integrated Program Services for DPSCS on behalf of the Secretary. DPSCS worked with CMM to develop prisoner re-entry mediation, an innovative approach to heal relationships between inmates and their family members and to help inmates prepare for release.
- **Lauren Abramson** received a **2010 PopTech Social Innovation Fellowship**. The PopTech Social Innovation Fellows program is designed to equip world-changing innovators with the tools, insights, visibility and social network to help them scale their impacts to new heights. Lauren says that her time at PopTech with the faculty and the fellows expanded her knowledge of the good work happening around the world, provided her with tools to scale the Community Conferencing work, and gave her a new network of friends and colleagues with whom she can collaborate.
- The Conflict Resolution Center of Montgomery County (CRCMC) gave a **Peacemaker Award** to **Judge Eugene Wolf** in honor of Conflict Resolution Day, October 21, and to appreciate his ongoing support of alternative dispute resolution in Montgomery County. He is the administrative judge for the District Court in Montgomery County. CRCMC volunteers work in the District Court, staffing three mediation programs. His support of the mediation program has made it a success, providing valuable dispute resolution services to litigants and to the court.
- Three Marylanders now hold leadership positions with the **Association for Conflict Resolution (ACR)**, a prominent international ADR organization for all kinds of dispute resolvers. **Lou Gieszl**, MACRO’s deputy executive director, became president of ACR at its September 2010 conference and has served as an ACR board member since 2006. **Cheryl Jamison**, director of the Maryland Program for Mediator Excellence, was elected to the ACR Board in 2009 and is now serving a one-year term as vice president. **John Windmueller**, Associate Professor at the University of Baltimore’s Program on Negotiations and Conflict Management, is a new member of ACR Board of Directors, elected in 2010.

If you know of awards or achievements, please contact
ramona.buck@mdcourts.gov





IN MEMORY OF



MACRO extends its sympathy to the family and friends of two special members of our community, Charles Tracy and Jack Shapiro, who have died, and who are remembered herein.

Dr. Charles Tracy, former director of the Mediation & Conflict Resolution Center (MCRC) at Howard Community College, passed away November 6, 2010, at his home in Mountain View, Calif., of esophageal cancer.

Charles came to MCRC in 2002 to begin a Victim Offender Mediation (VOM) program, and later became director. Charles broadened MCRC's VOM program into a restorative justice specialty. As a direct result of Charles' vision, MCRC enjoys a leadership role in Maryland's restorative justice movement, provides direct restorative dialogue services to youth referred by the police department, hosts a restorative justice conference, and oversees HCC's AA degree in conflict resolution, the first of its kind in the nation! Charles' young spirit lent special light to his daily interactions. People liked the peace they felt when he was around. Charles had a simple message to deliver: Words matter. Feelings matter. People matter. Thank you, friend, mentor, quiet leader, Charles.



Kathy Rockefeller, Director, Mediation and Conflict Resolution Center at Howard Community College

Jack J. Shapiro, long-time attorney and mediator, died on July 21, 2010. Jack had provided divorce mediation for over 30 years and had offices in Baltimore and Howard Counties. He was the author of "A Layperson's Guide to the Law of Divorce in Maryland," and "Parting Sense: A Complete Guide to Divorce Mediation." In addition to his mediation work, he was also a former assistant attorney general for the state of Maryland.