Dispute Resolution Center’s 25th Annual Conference

Passion, Purpose & Peacemaking: Conference Highlights

By Dawn Burlison, Dispute Resolution Center

The DRC’s 2017 annual conference began, as it often has, with a welcome from Justice Peggy A. Quince. For the last 18 years she has served as a Florida Supreme Court justice and is a liaison to several State Courts committees including the Committee on Alternative Dispute Resolution Rules and Policy. In her welcome, she never fails to remind those in attendance how important mediators are to the court system, and so this year, the DRC chose to remind Justice Quince of the same message, “we need you and we could not do it without you” by naming her as the 8th recipient of the Sharon Press Excellence in ADR Award. The award, initiated in 2009, is bestowed upon an individual for visionary leadership, professional integrity, and unwavering devotion to the field of alternative dispute resolution.

Following the presentation of the award, it was appropriate that Sharon Press could return to Florida and deliver an inspiring keynote address to conference attendees. As one long time participant noted simply, “this year’s plenary speech by Sharon Press was special.”
At the start of the afternoon plenary, the DRC presented two awards. The first was presented to Leonard Helfand for his role in initiating the celebration of Mediation Day in Florida by successfully petitioning and receiving the first Mediation Day Proclamation from the late Governor Lawton Chiles in 1996. Since that time, successive governors have issued annual Mediation Week proclamations along side many local courts and county boards of commissioners. In addition, the Association of Conflict Resolution (ACR) began celebrating the third Thursday of October, which has ties to the dates of Florida’s Mediation Week celebrations, as International Conflict Resolution Day. In presenting this award, the DRC applauds Lennie for starting a movement whereby methods of peace are celebrated around the globe.

The DRC’s second Award of Appreciation recipient, Elizabeth M. White, better known as Betty White, was recognized posthumously and the award was presented to her husband, PJ, and sons Justin and Brandon. Betty was a passionate supporter of peaceful conflict resolution, especially of conflicts involving families and children. As the 5th Judicial Circuit ADR Director and then Director of Case Management, Betty oversaw tremendous growth in the circuit’s mediation programs in county, family and dependency. In June, Betty was honored by the 5th Circuit when it named its self-help center after her. From 2011 until her passing in 2016, Betty was a member of the Mediator Qualifications and Discipline Review Board, having been twice appointed to serve by the chief justice.

Following the awards, Supreme Court of Florida Marshal Silvester Dawson presented an important and informative plenary session on Safety and Security for Mediators. The session provided guidance in maintaining a safe and secure professional environment that promotes the safety and security of attendees at a mediation.

The Pre-Conference Workshop on Exploring Mediator Ethics along with the Arbitration Track, the Appellate Mediation track and diverse selection of conference workshops were all well received. The DRC appreciates your feedback and completed evaluations as we begin preparations for next year!

Finally, please see separate article below for a recap of this year’s Ethics Plenary presentation. We have included a link to all the materials from the session as well in hopes that it will be beneficial to those who could not attend.
The DRC was not the only one to present awards at the conference. Long time conference supporter, the Florida Academy of Professional Mediators presented Stanley Zamor with their Appreciation Award for serving as the president of their organization for the past four years.

Pictured: Cary Singleary and Stanley Zamor

Audio Recordings

Audio presentations from the Conference are available for purchase from Convention Recordings. Please be sure to make note of their updated website (now located at www.cmerecordings.com) which makes it easier than ever to obtain continuing mediator education credits. For added benefit, the conference materials for each session are available. A link to the materials available for each session are located at the end of the workshop descriptions.

Save the Date

Mark your calendars now for the next two Conferences:

DRC’s 26th Annual Conference: August 8-11, 2018
DRC’s 27th Annual Conference: August 14-18, 2019
A popular axiom among motorcycle riders is, “There are two types of riders, those who have fallen and those who have yet to fall.” We can extend that very same notion to our field by stating: “There are two types of ADR professionals: those who have been confronted with an ethical scenario, and those who have yet to be confronted with an ethical scenario.” The seriousness of laying down your bike and discerning whether or not the ADR ethical scenario is a dilemma depends on the conditions which are present and the perceptions of the people involved. The Florida Dispute Resolution Center (DRC) is acutely aware of the need to address ethical situations that have the potential to evolve into a dilemma for ADR professionals and decided to address the subject in a thoughtful, compelling way at this year’s annual conference.

In order to provide a stimulating means of learning about mediator ethics and the disciplinary process under the Florida Rules for Certified and Court-Appointed Mediators, the DRC staged a live example of a Mediator Qualifications and Discipline Review Board (MQDRB) hearing panel proceeding at the afternoon plenary session. The DRC staff came together to devise a mock MQDRB case designed to include some common ethical concerns and illuminate how the deliberations of an ethics panel are initiated, the processes and procedures employed, and emphasize how the Florida Rules for Certified and Court-Appointed Mediators inform the panel’s decisions regarding the imposition of sanctions.

The DRC invited various people associated with ADR to represent all of the parties involved in an ethics complaint, including the mediator, complainant, mediator’s attorney, MQDRB investigator/prosecutor, a witness, and hearing panel comprised of five MQDRB members chaired by a circuit judge. In addition, there were verbal references made to the complainant’s wife, the chair of the Rules Violation Complaint Committee, and the complainant’s attorney.

Susan Marvin and Kimberly Kosch opened the plenary session by presenting the audience with an overview. The staff had created a script for the cast to follow with an assemblage of supporting documents including: the court Order of Referral to Private Family Mediation; an investigative report; the complaint against the mediator from the complainant, a set of formal charges against the mediator; the mediator’s response to the complaint filed by his attorney; direct testimony from the complainant and the mediator; cross-examination of the complainant and the mediator; and direct testimony of a witness. The presentation by the parties was followed with the ethics panel deliberations.

The panel considered the four charges referred to it by the Rules Violation Complaint Committee in the formal charges document. Although the hearing panel conducted their deliberations so that the attendees of the ethics plenary could hear, in real life the deliberations are confidential and held in a closed setting.
The first rule the mediator was charged with violating was rule 10.310(a) and (b), Self-Determination, Coercion Prohibited. The second charge pertained to a violation of rule 10.340(d), Conflicts of Interest, Conflict During Mediation. The third charge was rule 10.350, Demeanor, and the fourth was rule 10.380(c), Written Explanation of Fees.

The panel deliberated by examining the allegations, reviewing the party and witness testimony, and carefully discussing the Florida rules. The burden of proof was clear and convincing evidence. The panel found the mediator in violation of Charge One - violating rule 10.301(a) and (b) as “The mediator told the complainant if he didn’t pay $400 in additional fees, the judge would hold him in contempt and possibly put him in jail.”

The panel also found Charge Two was proven – a violation of rule 10.340(d). They concluded: “At the conclusion of the mediation, the mediator gave the parties and their attorneys his realtor business card and offered them a discount on vacation rentals booked through him.”

For Charge Three – rule 10.350, the panel stated there was no clear and convincing evidence found to support an allegation that the mediator was anything other than patient, dignified, and courteous during the mediation process; therefore, no violation was found.

Regarding the last charge, Charge Four – rule 10.380(c), the mediator was found to be in violation as “The mediator admitted that he did not provide the parties or their attorneys with a written explanation of fees and costs prior to the mediation.”

The result from the panel deliberations were five specific sanctions that were imposed by the panel as authorized by rule 10.840. They were as follows:

1. a written reprimand;
2. six hours of mediator ethics CME in addition to the CME hours required for renewal; Chief of ADR to pre-approve CME training(s) prior to attendance; completion within six months from the sanction date including verification via a certificate of attendance to the MQDRB;
3. observation of five family mediation sessions conducted by a Florida Supreme court certified family mediator who is pre-approved by the Chief of ADR; no fees shall be accepted for the observations; completion within six months from the sanction date including written verification via the mentor mediators to the MQDRB;
4. remittance of all of the fees received for the mediation to the complainant and his former wife respectively; completion within 30 days of the sanction date including written verification to the MQDRB; and
5. the DRC is awarded the reasonable costs of the proceeding, such costs to be determined by the panel chair. The DRC shall submit and serve on the mediator its motion and affidavit for such costs within 30 days of the date of the signing of the panel decision and the mediator shall serve any response within ten days of service of the motion and affidavit.
You will want to note that as directed by the board: “The mediator will remain certified during the pendency of the sanctions. Failure to complete the sanctions timely will result in further action by the board.”

One of the purposes of this article is to stimulate your thinking about the ethics of mediator behavior and the possible consequences if any of the rules are deemed breached by an ethics hearing panel. The written materials for the ethics plenary are posted here.

Another purpose of this article is to ask: Do you agree with the panel’s decisions? Were they too harsh or too lenient? Should all, some, or none of the charges be dropped? What would you do if you sat on the panel and why? Has this ethics presentation provided you with the information you need to make informed decisions about the ethics of your practice?

If you have any comments, suggestions or questions about the ethics plenary presentation, please send them to DRCMail@flcourts.org by November 30, 2017.

Message from the Director

Two Separate Trees in the Florida Supreme Court’s Forest: the Practice of Alternative Dispute Resolution and the Practice of Law

I write this article in response to some common misconceptions people hold regarding the role the Florida Dispute Resolution Center (DRC) fulfills at the Florida Supreme Court’s direction, the roles of the court’s five alternative dispute resolution (ADR) committees and boards, the jurisdiction of the Florida Supreme Court over Florida mediators, and the separate, but corresponding roles of the court, The Florida Bar, and the Florida Board of Bar Examiners pertaining to the practice of law.

Using the illustration of a tree to picture the structure and relationships of the court, the DRC, and the ADR committees and boards, the court serves as the roots or foundation of the tree. Section 44.106, Florida Statutes, provides the statutory authority for the system of court ADR in Florida. The section provides:

The Supreme Court shall establish minimum standards and procedures for qualifications, certification, professional conduct, discipline, and training for mediators and arbitrators who are appointed pursuant to this chapter. The Supreme Court is authorized to set fees to be charged to applicants for certification and renewal of certification. The revenues generated from these fees shall be used to offset the costs of
administration of the certification process. The Supreme Court may
appoint or employ such personnel as are necessary to assist the court in
exercising its powers and performing its duties under this chapter.

The Supreme Court employs the DRC to assist the court in “exercising its powers and
performing its duties” under Chapter 44. Continuing the tree illustration, the DRC, a unit of the
Office of the State Courts Administrator, serves as the administrative tree trunk of court ADR
processes. Among the DRC’s duties are staffing five Supreme Court committees and boards that
are the branches of the tree: the Florida Supreme Court Committee on Alternative Dispute
Resolution Rules and Policy (ADR Committee), the Mediator Ethics Advisory Committee (MEAC),
the Mediator Qualifications and Discipline Review Board (MQDRB), the Mediation Training
Review Board (MTRB), and the Parenting Coordinator Disciplinary Review Board (PCDRB).

The ADR Committee is the tree branch, created by
administrative order, that establishes “minimum standards
and procedures for qualifications, certification, professional
conduct, discipline, and training for mediators and
arbitrators” by filing petitions with the court proposing new
rules and revisions to the Rules for Certified and Court-
Appointed Mediators and the state court rules of procedure
pertaining to mediation and arbitration. The ADR Committee
also proposes policies which may be adopted by the court
through administrative order. See In re: Committee on
Alternative Dispute Resolution Rules and Policy, No. AOSC16-
40 (Fla. June 28, 2016).

The MQDRB is the tree branch whose members
investigate and adjudicate qualification issues (good moral
character) and grievances filed against Florida Supreme
Court certified and court-appointed mediators with the administrative assistance of the DRC
staff, pursuant to rule 10.730, Rules for Certified and Court-Appointed Mediators. The cases
involve applications for certification and renewal of certification and allegations of violations of
the mediator ethical rules in Part II Standards of Professional Conduct, Rules for Certified and
Court-Appointed Mediators.

Providing interpretation of the rules pertaining to mediation, the MEAC branch of the
tree issues formal advisory ethics opinions in response to inquiries posed by certified and court-
appointed mediators under rule 10.910, Rules for Certified and Court-Appointed Mediators.
The opinions are posted on the DRC website for use by mediators, as well as courts, attorneys,
and the general public.
The fourth branch is the Mediation Training Review Board (MTRB) which reviews complaints against certified mediation training programs and training program principals. See In re: Mediation Training Standards and Procedures Including Appointments to the Mediation Training Review Board, No. AOSC17-25 (Fla. May 3, 2017).

Appointed in 2016 in In re: Parenting Coordinator Disciplinary Review Board, No. AOSC16-95 (Fla. October 11, 2016), the newest and fifth tree branch is the PCDRB whose members consider complaints against Qualified and Court-Appointed Parenting Coordinators.

The leaves of the tree, which grow from the educational elements, qualifications requirements, ethical standards, and disciplinary process provided by the committees and boards, represent certified and court-appointed mediators. Such mediators are charged by rule 10.200, Rules for Certified and Court-Appointed Mediators, with performing their services so as to “instill public confidence in the mediation process. The public’s use, understanding, and satisfaction with mediation can only be achieved if mediators embrace the highest ethical principles.”

The Court’s Jurisdiction over the Mediation of Court Cases

The Florida Supreme Court’s authority over the judicial branch, provided in article V, §2(a), Florida Constitution, includes authority over the mediation and arbitration of court cases. Additionally, section 44.1011(a) – (e), Florida Statutes, lists the type of court mediations in which mediators are appointed, but neither source includes that the court has authority over mediations and arbitrations conducted in disputes which are not filed with the court system, some of which take place in programs established and operated by agencies of the executive or legislative branches of government. For example, the Department of Business and Professional Regulation has a program for the mediation of “complaints where harm caused by the licensee is economic in nature or can be remedied by the licensee,” under section 455.2235(1), Florida Statutes. According to section 455.2235(2), “the department or any agent of the department may conduct informal mediation to resolve the complaint.” Some agency mediations are conducted pursuant to statutes requiring they be conducted by Florida Supreme Court certified mediators, while other statutorily authorized agency mediation programs have no such requirement. A search of the word “mediation” on the Online Sunshine webpage, official internet site of the Florida Legislature, results in a 12 page list of Florida Statutes which mention mediation. Many of the statutes pertain to agency mediations.

A Separate and Distinct Tree for the Practice of Law

The Florida Supreme Court’s authority over the judicial branch also includes exclusive jurisdiction to regulate the admission of persons to the practice of law and the discipline of persons admitted to practice law as provided in article V, §15, Florida Constitution. The court serves as the roots of a tree separate from the ADR tree in its performance of these responsibilities. The responsibilities are performed through the tree trunk of the Florida Board of Bar Examiners (BBE), which screens, tests and certifies candidates for admission to the
practice; and The Florida Bar (the Bar), the investigative and prosecutorial authority in the lawyer regulatory process. Thus, the BBE and the Bar perform administrative and educational duties for lawyers similar to those the DRC performs for mediators and arbitrators.

The first distinction between the two trees is that, although the Bar regulates lawyer conduct, when an attorney is acting in the role of a mediator who is mediating a court case, the MQDBR is the body with jurisdiction to discipline the attorney/mediator regarding their conduct as a mediator in the event a complaint is filed with the MQDRB. According to rule 10.650, Florida Rules for Certified and Court-Appointed Mediators, “in the course of performing mediation services,” the Rules for Certified and Court-Appointed Mediators “prevail over any conflicting ethical standards to which a mediator may otherwise be bound,” although “other ethical standards to which a mediator may be professionally bound are not abrogated by these rules.”

The second distinction is that in the ADR Committee’s charges, the Court designates the ADR Committee, a branch of the ADR tree, as the body charged with proposing new rules and rule revisions to the Rules for Certified and Court-Appointed Mediators and the state court rules of procedure pertaining to mediation and arbitration. Rule 2.140(a)(3), Rules of Judicial Administration, lists ten rules committees the Bar is tasked with appointing to consider rules proposals.

The Bar has many sections specific to different subject matter areas of the law. “A section is a voluntary group of bar members organized to provide information and education in a specific area of law and to allow bar members to meet other practitioners in that specific area,” according to policy 5.50, Standing Board Policies of The Florida Bar Sections/Divisions. The Bar established an ADR Section in 2010; however, the ADR Section is separate and distinct from the Court’s ADR Committee which is a branch of the court’s ADR tree. The ADR Section’s purposes are set forth in its bylaws. The ADR Committee and the ADR Section communicate and collaborate with each other in order to benefit from the knowledge and experience of the members of each group. When filing a rules petition or considering an issue, the ADR Committee also receives comments by non-attorney mediators as there is no requirement that one be an attorney in order to be a certified or court-appointed mediator.

In summary, as the root system for its ADR committees and boards as well as its lawyer committees and boards, the Florida Supreme Court relies on the DRC to assist it in exercising its powers and performing its duties regarding mediation and arbitration and the Bar and BBE in exercising its powers and performing its duties relating to lawyers. The DRC and the court’s ADR committees and boards comprise the trunk and branches of the court ADR tree in the forest, and The Bar, BBE, and Bar committees and boards comprise the trunk and branches of the court lawyer tree.
ADR News and Updates

Collaborative Law Update

After hearing oral argument on the proposed amendments to the Rules Regulating the Florida Bar and the Florida Family Law Rules of Procedure regarding the collaborative law process in family law cases, the Florida Supreme Court released *In re: Amendments to Rule Regulating The Florida Bar 4-1.19 and Florida Family Law Rule of Procedure 12.745 (Collaborative Law Process)*, SC16-1685 (Fla. Feb. 15, 2017), requesting that The Florida Bar and the Family Law Rules Committee file an amended proposal for Rule Regulating The Florida Bar 4-1.19 to include “provisions requiring collaborative lawyers to inform clients as to the fees or costs the client can reasonably expect to incur in the process, including the lawyer’s fees and reasonable fees for mental health and financial professionals.” Amended proposals were subsequently submitted by The Bar and the Rules Committee adding subdivision (a)(8) to Bar Rule 4-1.19 and a comment regarding the attorney’s responsibility to inform the client about costs and fees. On May 18, 2017, the Court adopted the amendments to the rules, effective July 1, 2017.

Mediation Week 2017

Florida celebrated Mediation Week 2017 from October 16-22, 2017. The third week in October is celebrated as Mediation Week in Florida and nationally by organizations such as the ABA Section of Dispute Resolution and the Association of Conflict Resolution (ACR). The ABA’s theme this year was Mediation, Civility and the Power of Understanding while ACR celebrated Conflict Resolution Day on October 19. In keeping with the goal of promoting awareness and education, the DRC hosted local elementary school students for a tour and learning activities which included mock mediation sessions. Be sure to let us know how you commemorated Mediation Week. We look forward to hearing from you.

WINGS Initiative: Improving Guardianship Through Collaboration

The WINGS Initiative which stands for Working Interdisciplinary Network of Guardianship Stakeholders is seeking common solutions to better serve the state’s most vulnerable. The program aims to map a strategy for improved and more effective processes for protecting Floridians who may need or who are under legal guardianship. More information is available in a recent press release on the initiative.
DRC News and Updates

Update Your Favorites Link for DRC Mediator Search

If you have the DRC Mediator Search link marked as a favorite on your computer, please make sure to delete it and create a new link which can be found below. The DRC database experienced a crash in May, which means any old links may be producing out of date information. We have had mediators report that our system is not showing the correct information on the web, and after determining the information is correct in our database, we believe that anyone using a “favorites” link or internet search engine may be pulling up information from before the crash. You can find the updated link to the DRC Mediator Search here.

Let’s Chat: Demystifying the Point System
By Kimberly Kosch, Dispute Resolution Center

Each type of Florida mediator certification – county family, circuit and dependency – requires an individual to obtain a minimum of 100 points. There are categories in the point system for training, education and mentorship with a required minimum of points in each category. The summary below is framed to address common misconceptions:

1. The educational minimum of 25 points for family, circuit and/or dependency mediation requires one to have a:
   a. Master’s degree or higher; or
   b. Mediation experience over 5 years and a bachelor’s degree; or
   c. Graduate certificate in ADR and a bachelor’s degree.

2. The schemata to complete the required points via mentorship is up to the mediator; there is no minimum number of required observations or supervised mediations.

3. If one does not have the required minimum 100 points, one can gain additional points via higher education, additional mentorship activities, and miscellaneous points.

4. For county mediation, having more than 10 points for education does not reduce the required 60 mentorship points.
<table>
<thead>
<tr>
<th>100 Points Required in Each Area of Mediator Certification Except Appellate <strong>All mediators must be at least 21 years of age and be of good moral character</strong></th>
</tr>
</thead>
</table>
| **County** | **Minimum Points**: 30 certified county mediation training, 10 education points for HS Diploma or GED and 60 mentorship = **100 points**  
[Note: Mentorship points cannot be reduced as a product of having more than 10 points in the educational or mediation experience component] |
| **Family** | **Minimum Points**: 30 certified family mediation training, 25 educational and 30 mentorship; **plus** 15 additional points via mentorship, higher education, mediation experience, or options under miscellaneous points below = **100 points** |
| **Dependency** | **Minimum Points**: 30 certified dependency mediation training, 25 educational and 40 mentorship; **plus** 5 additional points via mentorship, higher education, mediation experience, or options under miscellaneous points below = **100 points** |
| **Circuit** | **Minimum Points**: 30 certified circuit mediation training, 25 educational and 30 mentorship; **plus** 15 additional points via mentorship, higher education or mediation experience, or options under miscellaneous points below = **100 points** |
| **Appellate** | An applicant must be a certified circuit, family or dependency mediator and successfully complete a certified appellate mediation training program |

### Education Point Options for Family, Circuit and Dependency

[Note: County education minimum listed above.]

| 40 points | Ph.D. from accredited conflict resolution program |
| 30 points | Doctorate (e.g., J.D., M.D., Ph.D., Ed.D., LL.M) |
| 30 points | Master’s degree in conflict resolution |
| 25 points | Master’s degree |
| 25 points | Graduate certificate conflict resolution program **AND** a bachelor’s degree |
| 25 points | Mediated 15 cases *of any type* a year as a Florida certified mediator for a consecutive 5 year period **AND** a bachelor’s degree |
| 25 points | Minimum of 100 mediations *of any type* conducted as mediator over a consecutive 5 year period **AND** a bachelor’s degree |
Mentorship Options: You Choose How to Reach Required Points
[Note: Must work with at least 2 different certified mediators and must be completed for the type of certification sought.]

<table>
<thead>
<tr>
<th>Points</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>Observation</td>
</tr>
<tr>
<td>10</td>
<td>Supervised mediation</td>
</tr>
</tbody>
</table>

Miscellaneous Point Options: Helping You Reach 100 Points

<table>
<thead>
<tr>
<th>Points (total)</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>Licensed to practice law, psychology, accounting, social work, mental health, health care, education or mediation in any U.S. jurisdiction</td>
</tr>
<tr>
<td>5</td>
<td>Florida Supreme Court certified mediator</td>
</tr>
<tr>
<td>5</td>
<td>Foreign language conversational ability as demonstrated by certification by ACTFL Oral Proficiency Test; qualified as a court interpreter; accredited by the American Translators Association; or sign language interpreter as demonstrated by approval by the Registry of Interpreters for the Deaf</td>
</tr>
<tr>
<td>5</td>
<td>Completion of additional mediation training program (minimum 30 hours in length) certified or approved by a state or court other than Florida</td>
</tr>
</tbody>
</table>

Featured Articles

Updated Snapshot of Eldercaring Coordination in Florida
By Linda Fieldstone, M.Ed. and Judge Michelle Morley

What opportunity is there in Florida specifically for high conflict families to resolve issues regarding the care and safety of an elder, perhaps an aging parent or grandparent? It is difficult enough to manage the medical treatment, emotional needs and physical challenges of an elder, but nearly impossible when the kitchen table becomes the battleground for feuding family members. Cross allegations run rampant as each holds fast to ancient memories, layered by disappointments through the years, feelings of marginalization, and perceptions of favoritism of the older or younger sibling. These personal unresolved issues permeate relationships, making conversational tones heavy and every decision cumbersome. Mom or Dad may even have unwittingly perpetuated these perceptions, which now eclipse reasoning and thwart collaboration. Add in-laws, new relationships, maybe spouses, and blended families, and the
artillery of issues supersede efforts to focus on the elder. Multiple generations of family become alienated. Legal actions take over and the new arena for discourse is the courtroom, as family members turned “parties” involve themselves in patterns of relitigation, often over non-legal issues that belong within households, not courthouses. Some try elder mediation to disembroil the animosity when everyone is sizzling over decision-making power; but when compromise is impossible and the emotionality exacerbates rather than decreases the conflict, a different approach may be needed.

Eldercaring coordination is defined as: a dispute resolution process during which an Eldercaring Coordinator assists elders, legally authorized decision-makers, and others who participate by court order or invitation to resolve disputes with high conflict levels in a manner that respects the elder’s need for autonomy and safety by:

- Facilitating more effective communication, negotiation, and problem-solving skills;
- Offering education about elder care resources;
- Facilitating the creation, modification, or implementation of an elder care plan if such a plan is necessary to reach a resolution;
- Making recommendations for resolutions; and
- Making decisions within the scope of a court order or with the parties’ prior approval.

Eldercaring coordination was reported in the DRC News by Director Susan Marvin in the November 2016 issue of The Neutral. Since that time, we have continued to learn from the eight dedicated Florida circuits (5th, 7th, 9th, 12th, 13th, 15th, 17th and 18th) that have continued as pilot sites, and four other states: Idaho, Indiana, Minnesota and Ohio. In 2014, Guidelines for Eldercaring Coordination were created by twenty statewide organizations comprising a Task Force of the Florida Chapter of the Association of Family and Conciliation Courts (FLAFCC), using the parenting coordination statute, section 61.125, Florida Statutes; rule 15.000, Florida Rules for Qualified and Court-Appointed Parenting Coordinators, 142 So. 3d 831 (Fla. 2014); and rule 12.742, Florida Family Law Rules of Procedure, as guides to developing this innovative approach to elder needs and situations. The FLAFCC Task Force worked concurrently and collaboratively with the Association for Conflict Resolution Task Force on Eldercaring Coordination, resulting in twenty US and Canadian national organizations providing a broader framework for the development of this process to address the care and safety of elders caught in the middle of family conflict. Twenty-four highly experienced and skilled eldercaring coordinators (ECs) were trained in Florida in July 2015 to use this person-centered, trauma-informed conflict resolution process. To date, approximately 50 cases have been referred to eldercaring coordination through the approved standard court order. The FLAFCC Guidelines for Eldercaring Coordinators can be found at EldercaringcoordinationFL.org.

What makes eldercaring coordination different from other processes already addressing elder issues, such as legal representation, elder mediation and supportive decision-making, professional guardianship, aging life care management, and social work? Eldercaring coordination does not replace these resources, it compliments them. These processes, and
others, can work well when the parties are issue driven – when the conflict is directed to the outcome of specific issues. When parties are motivated to resolve issues, the conflict subsides once the disputes are addressed. Eldercaring coordination is used when the parties are conflict driven, when parties are so immersed in their hostilities that their primary motivations become blame and punishment. The parties are not able to focus beyond themselves at that point, which often poses health and safety risks for the elder with delays in decision-making, lapses in medical treatment, and inconsistencies in the general care of the elder. The EC helps the family feel the calm in the middle of their hurricane-like stormy relationships, and reorient their energy to more productive collaboration. Once the EC is able to assist the parties in identifying the issues at hand and focus on the needs and care of the elder, health and safety risks are reduced.

A research team headed by Pamela Teaster, Ph. D., Director of Virginia Tech Center for Gerontology, and Megan Dolbin-MacNab, Ph.D., Director of Virginia Tech Marriage and Family Doctoral Program, has been studying the development of the process since its onset, including the training of the first ECs. Pre- and post-process surveys are available for the elders, participants, judges/magistrates, and ECs. What are we learning so far?

- Cases are being identified when there are multiple motions regarding non-legal issues, imbalances of power and family/stakeholder alliances, multiple cross allegations with repeated disputes about unsubstantiated items, possessive or controlling behavior, and concerns about risks and safety of the elder. The expeditious referral and entry of the court order is crucial as in several cases the elders have died before eldercaring coordination was initiated. Procedures have been created to identify cases in partnership with Adult Protective Services.

- ECs have identified safety issues including elder neglect, over-extended caregivers, mental vulnerability, unsafe environment, coercion, physical problems, mismedication, deception, exploitation, domestic violence, extortion, physical abuse, fraud and kidnapping.

Eldercaring coordination has provided differentiated case management of guardianship cases, recognizing that not one-size-fits-all when it comes to resolving conflicts. Like parenting coordination for high conflict family cases, even at this early stage in the development of eldercaring coordination it appears that the number of motions to the court is reduced. With a focus on the elder, the family is better able to use available resources and participate more cooperatively with legal, medical, mental health, aging life care and other crucial professionals. Family support systems are fortified when members build on the strengths rather than the faults of each other. With the cognitive shift of family members from personal agendas to present common goals, intergenerational benefits are possible, with the youngest family members learning from more positive role modeling about the dignity of aging and respectful caregiving.
News from the Field

Notable Achievements and Milestones

Member of the Mediator Qualifications Dispute Resolution Board, Judge Angelica Zayas, Eleventh Circuit, was presented with an In the Company of Women: Outstanding Woman in Government and Law Award 2017 for her service, leadership and contribution to women. The award was presented by the Miami-Dade County Commission for Women, the Parks Foundation of Miami-Dade, and the Miami-Dade Parks, Recreation and Open Spaces Department. She also received the Women of Impact Award for her professional accomplishments, presented by the Women’s History Coalition, which honors trailblazing women in labor and business.