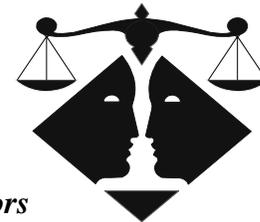


The Intermediary



A Bridge between the Dispute Resolution Commission and N.C.'s Certified Mediators

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From The Chair

by

J. Anderson "Andy" Little

By now, you should have received and had a chance to read the Supreme Court's new rules for the Mediated Settlement Conference and Family Financial Settlement Programs. Rules 4 and 6 address the finalizing of agreements and mediator reporting and include substantial revisions. They are intended to solve several problems in the mediated settlement conference program and represent several years of negotiations between mediators and superior court judges.

Some historical perspective might be useful to understand the need for and purpose of the rules changes. Many years ago, some superior court judges became concerned about the number of cases reported as "settled" by mediators that later turned up on their trial dockets or remained active because closing documents were not filed by the parties. In an effort to remedy this situation, several superior court judges adopted local rules requiring mediators to attach a copy of the settlement agreement to their Reports of Mediator.

Those superior court judges believed that the requirement helped them achieve finality and motivate the parties to draft, sign, and file their closing documents. Mediators, on the other hand, believed that such requirements compromised the duty of the mediator to maintain confidentiality of the parties' negotiation and the confidentiality of their settlement. A prolonged negotiation ensued to draft a solution that met the judges' need for finality and the mediators' and parties' need for confidentiality.

These rules increase slightly the administrative responsibilities of mediators by requiring them to obtain the name, address, telephone, and signature of the party who is responsible for drafting closing documents for the court. The Report of Mediator form has been revised to provide space for that information. When a settlement is reached before the conference or while the conference is recessed, the mediator must include the same information (minus the signature) for the person who reported the settlement. The mediator does not have to "track down" the parties in that situation in order to obtain a written copy of their agreement or closing documents.

Please note: under the old and new rules, agreements reached at mediation must be reduced to writing and signed by the parties and their lawyers before the mediator can report that the case is settled. In a paraphrase of a famous quote from the immortal Yogi Berra, **the mediation ain't over** (the case hasn't settled) **until the fat lady sings**.

I have received a number of calls since these changes were announced objecting to the new requirements on several grounds. The first is that they are burdensome and cumbersome. I would suggest, however, that the amount of time required for an attorney to fill in his name, address, telephone number, and signature on a Report of Mediator is a minor

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The Commission invites its readers to comment on any articles presented in *The Intermediary* or to write articles for inclusion. Send your thoughts to the editor, Leslie Ratliff, at leslie.ratliff@nccourts.org. We look forward to hearing from you!



task which can be completed before the other required information is filled in by the mediator. Further, the requirement may prompt us to do what the rules have always required us to do---and that is provide the name of the person who will prepare closing documents to the court. That requirement has often been honored more in the breach than in the observance.

Secondly, it has been proposed that the requirement that the parties report the settlement and send closing documents to the court within 14 days is unrealistic; dismissals, releases, checks, and other documents cannot always be drafted, signed, and returned in that period of time. Admittedly, these time frames are tight, but the parties can always seek extensions and should do so if the need arises. Our experience is that judges simply want to know that someone is tending to business and not letting the case drift without attention.

Finally, it has been said that mediators should not have to deal with administrative matters and that their only concern should be to assist the parties in exploring settlement. To that assertion I can only say that the mediated settlement conference program was conceived in 1990-91 as a court program with two functions. It was a device to help the parties explore and achieve settlement and a device to help the court better manage its case load. The rules were drafted with those two functions in mind and have always placed administrative responsibilities on mediators-----to schedule the conference, to conduct it timely, to get agreements reduced to writing, and to report to the court. These administrative functions are an integral and important part of the program.

It is to be expected that mediators will focus most of their attention on settling their cases. We are paid to help parties achieve settlement and it is from that work that we derive our satisfaction as professionals. It is easy to downplay and even forget our responsibilities to the courts. However, when we fail to report to the court that a case has settled before mediation, when we fail to file our Reports of Mediator on time, or when we tell the court that a case has settled when it has not, we undermine our mediated settlement conference programs and we undermine our credibility in the eyes of judges, court officials, and legislators.

If court ordered mediated settlement conference programs are to fulfill their role in helping the courts effectively manage their dockets, mediators must strive to be good case managers in the same way that they strive to help parties reach agreement. The Commission hopes that all mediators will do their best to comply with the new rules and to encourage parties and lawyers to do the same.



NOTICE!!!

All certified mediators should have received an e-mail from the Commission's office advising them that rules for the MSC and FFS Programs have been revised along with the Guidelines for Resolving Scheduling Conflicts. Also revised were a number of forms, including Reports of Mediator for both the MSC and FFS programs. If you did not receive notice of these revisions or

you had difficulties downloading and printing the new rules or the forms, please contact the Commission's office at (919) 981-5077. Copies of all the revised rules and forms are posted on the Commission's web site at www.ncdrc.org. To reach the rules, click on the individual program, either MSC or FFS. To reach the forms, click on the Judicial Forms box at the top of page.

New Advisory Opinion Adopted

The Commission has adopted a new advisory opinion. The opinion addresses a mediator's case management responsibilities when a party in a case s/he has been appointed or selected to mediate files for bankruptcy. The Commission's Advisory Opinion Policy and archived opinions may be accessed at www.ncdrc.org. Click on "Standards of Conduct for Mediators", then click on "Advisory Opinion Policy" or "Advisory Opinions".

Advisory Opinion of the NC Dispute Resolution Commission

Opinion Number 07-04

(Adopted and Issued by the Commission on March 18, 2004.)

N.C. Gen. Stat. §7A-38.2(b) provides, "[t]he administration of mediator certification, regulation of mediator conduct, and decertification shall be conducted through the Dispute Resolution Commission, established under the Judicial Department." On August 28, 1998, the Commission adopted an Advisory Opinions Policy encouraging mediators to seek guidance on dilemmas that arise in the context of their mediation practice. In adopting the Policy and issuing opinions, the Commission seeks to educate mediators and to protect the public.

Concern Raised

Mediator was ordered to conduct a family financial mediation. After the case was scheduled, one of the parties filed for bankruptcy. Mediator asks whether he should proceed to conduct the mediation.

Advisory Opinion

A filing of a petition for bankruptcy under section 301, 302, or 303 of Title 11 of the United States Code results in an automatic stay of **any judicial**, administrative, or other action or proceeding that was or could have been commenced against the debtor prior to the filing of the petition (see 11 U.S.C. 362(a)(i)). This stay may preclude the holding of the mediation conference ordered by the district court. After a mediator learns that a bankruptcy petition has been filed, it is the better practice for the mediator to notify the parties that the mediation cannot proceed until the stay has been lifted. If one or both of the parties wish to proceed with the mediation, a "Motion for Relief of Automatic Stay" or other relief may be sought through the bankruptcy court pursuant to 11 U.S.C. 362(d).

Subsection (b) lists exceptions to the stay including one for the establishment or modification of an order for alimony, maintenance, or support (see 11 U.S.C. 362(b)(2)(A)(ii)). However, even if the parties agree that only issues of alimony, maintenance, or support will be discussed in the mediation, the Commission believes it is still prudent and the better practice for the mediator to advise the parties to contact the bankruptcy court or the bankruptcy trustee, if one has been appointed, and request permission to proceed. Issues of equitable distribution are not covered by this exception.

Parties that seek to proceed with mediation after a bankruptcy petition is filed may face sanctions under 11 U.S.C. 362 (h). Subsection (h) provides that any individual injured by any willful violation of the stay shall recover actual damages, including costs and attorneys' fees, and, in appropriate circumstances, may recover punitive damages.

Upon learning that a bankruptcy petition has been filed in the case, the mediator shall report to the court that the bankruptcy has been filed and shall request that the court clarify the duty of the mediator.

Professional Organizations

This edition of The Intermediary will highlight three professional organizations for mediators that are either operating now in North Carolina or are in the formative stages. These organizations offer opportunities for mediators to come together to learn and to network. Some of the organizations serve the general mediator population while others cater to mediators that work in a particular arena, e.g., family mediators. Some are more focused on the work of court-based mediators while others serve the needs of private mediators.

The Commission hopes that mediators who are not already members will look into these organizations and consider the educational (including opportunities to complete CME hours) and networking opportunities they offer. Mediators may also want to think about what they might do to help these organizations raise public awareness of mediation services and programs.

If you are involved with an organization that we missed, please let the editor know and it will be featured in the next edition.

The NCBA's Dispute Resolution Section

The North Carolina Bar Association offers its membership an opportunity to join sections organized around practice specialties. One such specialty practice offering is the Dispute Resolution Section. The Section's membership includes judges, court-based mediators, mediators working in other arenas, e.g., community mediators and those working with school programs, and arbitrators, including those working in the courts or privately. The Dispute Resolution Section is one of the few sections to welcome non-attorneys as members.

The Dispute Resolution Section is very active in:

➤ **Promoting mediator skills development and encouraging networking** -- The Section's annual meeting is an opportunity for dispute resolution professionals to gather and attend programs and workshops designed to enhance their skills and to make them aware of program developments. Throughout the year, a newsletter, list-serve, and web-based forum discussions also promote

learning and professional development.

➤ **Developing dispute resolution policy and programs** -- The Section has been a leader in promoting the development of new dispute resolution programs and services in our State's courts. The Section has led lobbying efforts to establish new initiatives, collaborated with the Dispute Resolution Commission and other organizations in drafting program rules, and raised the seed money necessary to launch and evaluate new programs.

➤ **Helping to monitor program operations** -- Section members are often among the first to spot concerns in the operations of court-based dispute resolution programs and to offer suggestions for improvements. The Section's governing body, the Dispute Resolution Council, considers issues raised by members and brings them to the attention of other organizations, including the Dispute Resolution Commission and the Dispute Resolution Committee of the State Judicial Council.

➤ **Promoting dispute resolution programs and services** -- The Section works to raise the visibility of dispute resolution services and programs in our courts, communities, and schools and to educate the bench, bar, and public about the benefits of dispute resolution. Examples of the Section's work in this area include its sponsorship of a Dispute Resolution Month (October, 1999) as a part of the NCBA's 100th Anniversary celebration and its joint publication, along with the Dispute Resolution Commission, of *Alternative Dispute Resolution in North Carolina: A New Civil Procedure*, a 328-page text on the history and practice of dispute resolution in North Carolina that was mailed to all certified mediators this spring.

The Section's current Chair is Frank C. Laney, a mediator with the federal courts. Mr. Laney invites anyone interested in learning more about the Section and its activities or in joining to visit the Section's web site at: <http://disputeresolution.ncbar.org>

(continued on page 5)

Association for Conflict Resolution (ACR)

Three DRC certified mediators, Deborah Isenhour (Pittsboro), Marilyn Shannon (Raleigh) and Bernadette Rasmussen (Charlotte), believe that North Carolina mediators are looking for opportunities to network, to share information and experiences, and to grow professionally. In an effort to make more such opportunities available, they are planning to launch a statewide ACR chapter in North Carolina. They have already held one organizational meeting and have planned a second for **June 9 at Guilford College in Greensboro beginning at 11:00 a.m.** Any mediators interested in participating are invited to attend.

Based in Washington, D.C., the Association for Conflict Resolution or ACR, as it is more commonly known, is a professional organization dedicated to the practice and public understanding of conflict resolution. ACR is the result of the January, 2001, merger of three prominent dispute resolution organizations: the Academy of Family Mediators (AFM), the Conflict Resolution Education Network (CREnet), and the Society of Professionals in Dispute Resolution (SPIDR).

ACR is chapter-based. Members practicing or living in a common geographic region carry out locally focused activities and programs. Currently, there are 23 chapters. Most chapters are or-

ganized on a statewide basis, but others serve different geographical areas: e.g., New England; in the case of a large state, Northern California; or, in the case of a large urban area, a single city, e.g., Chicago. Annually members are invited to attend a national conference. The 2004 annual conference, *Valuing Peace in the 21st Century: Expanding the Art and Practice of Conflict Resolution* will be held September 29th through October 2nd in Sacramento, California. (More information about ACR and its upcoming conference is available at www.acrnet.org.)

In addition to chapters, ACR is also organized around special interest Sections. Included among the Sections are those devoted to the following areas of practice: courts, family, community, healthcare, workplace, and education. Both attorney and non-attorney members are welcome.

Ms. Isenhour and Ms. Shannon reported that they have already met the first requirement for establishing a chapter in North Carolina – collecting at least twenty signatures from ACR members interested in participating. At the June 9th meeting, those attending will consider by-laws and articles of incorporation, elect officers, and start to do some long-range planning.

Ms. Shannon and Ms. Isenhour envision that the new chapter

will serve all mediators working in North Carolina including those serving the courts, dispute settlement centers, and the private sector. They noted that the organization will likely establish several sections for specific areas of practice, including: courts, peer mediation, family, and work place mediation.

According to Ms. Isenhour and Ms. Shannon, most meetings will have an educational component to help mediators develop professionally and will also allocate time to peer sharing and networking. The meetings will, they suggest, allow mediators an opportunity to complete CME hours. Ms. Isenhour noted that once the chapter gets underway, they hope to be able to offer video conferencing at meetings as a convenience for those who live at the far reaches of the State or have limited travel time.

For more information, contact Deborah Isenhour at (919) 542-1882 or Marilyn Shannon at (919) 362-7133.

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North Carolina Association of Professional Family Mediators (NCAPFM)

The North Carolina Association of Professional Family Mediators (NCAPFM) is a fifteen-year-old organization of dedicated and experienced professionals in conflict resolution. Its standards for membership, and its level of continuing education programs, are designed for the professional private practitioner in family mediation. Most NCAPFM members are trained or credentialed in fields related to family dynamics and domestic relations issues such as law, child development, psychotherapy, social work, or financial planning. Within the organization, many members hold certifications in family mediation and other specialized areas, as well as advanced degrees in conflict resolution. Three of North Carolina's mediation training firms are represented in the membership, and NCAPFM is well represented in other state-level bodies related to mediation practice in North Carolina.

No matter which type of professional background a member has, the Association provides opportunities for learning about theoretic-

cal trends, skills enhancement, and career/practice development. NCAPFM members share professional support through opportunities for consultation with their colleagues, and they enjoy the personal exchange of thoughts and strategies that is integral to their commitment to the art of mediation and the quality of service for which Association membership has become known.

NCAPFM has two levels of membership, *Practitioner* and *General*. Practitioner Members, who are eligible to be listed on the Association's online referral directory, must meet at least one of the following criteria: Family Financial Mediator certified through the N.C. Dispute Resolution Commission; Practitioner Member of the Family Section of the Association for Conflict Resolution; or a Custody and Visitation Mediator employed by the Administrative Office of the Court.

Other persons who are interested in family mediation may join NCAPFM at the General level. Membership at this level entitles a person to attend the quarterly meetings and continuing education programs, but General members may not be listed on the NCAPFM referral directory.

NCAPFM's next meeting will be held on October 25, 2004 in Greensboro. This program will feature Zena Zumeta, a Michigan attorney and law professor who is a nationally-known trainer of professional mediators. Ms. Zumeta's expertise includes family mediation, workplace conflict, and labor negotiation.

The program will provide six hours of continuing mediation education credit and participation will be limited to the first thirty-five registrants. There is a fee for this event.

For more information about the Zena Zumeta Workshop or NCAPFM, please visit our web site at www.familymediators.org.

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Commission Meetings Scheduled

☆ The Commission will be meeting next on Friday, August 20, 2004, in Greensboro at the Smith Moore Law Offices. All mediators and anyone interested in mediation in North Carolina's courts are welcome to attend. If you would like to be present, please notify the Commission's office to ensure that seating and lunch are available. Additional Commission meetings are planned for the following dates: Friday, October 1, 2004, in Raleigh; Friday, December 3, 2004, in Greensboro; and Friday, February 11, 2005, in Raleigh.

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Upcoming Mediator Certification Training

SUPERIOR COURT TRAINING

Beason & Ellis Conflict Resolution, LLC: 40-hour superior court mediator training course, August 11-15, 2004, in Durham, NC, and November 10-14, 2004, in Durham, NC. For more information or to register, call (919) 419-9979. Web site: www.beasonellis.com.

Carolina Dispute Settlement Services: 40-hour superior court mediator training course, June 7-11, 2004, in Raleigh, NC. For more information or to register, contact Diann Seigle at (919) 755-4646, Ext.25, or (800) 960-3062. Web site: www.notrials.com.

Intercede Mediation/ADR Services: 40-hour superior court mediator training course, October 28-November 1, 2004, in Charlotte, NC. (A Mecklenburg County Bar, 26th Judicial District CLE Course. For information, call (704) 375-8624 or go to www.meckbar.org.) Web site: www.intercedemediation.com.

Mediation, Inc.: 40-hour superior court mediator training course, September 15-19, 2004, in Raleigh, NC, and November 10-14, 2004, in Raleigh, NC. For more information or to register, contact Thorns Craven at (336) 777-1477 or (800) 233-5848 (NC only). Web site: www.mediationincnc.com.

FAMILY FINANCIAL TRAINING

Atlanta Divorce Mediators, Inc.: 40-hour family mediation training course, June 3-7, 2004, in Atlanta, GA; August 5-9, 2004, in Atlanta, GA; September 30-October 4, 2004, in Atlanta, GA; and October 14-18, 2004, in Murphy, NC. For more information, contact Dr. Elizabeth Manley at (800) 862-1425. Web site: www.mediationtraining.net.

Carolina Dispute Settlement Services: 16-hour family mediation training course, June 24-25, 2004, in Raleigh, NC. See above for contact information.

Mediation, Inc.: 40-hour family mediation training course, October 13-17, 2004, in Chapel Hill, NC. See above for contact information.

6-HOUR FFS/MSC COURSE

Professor Mark W. Morris will offer the 6-hour course on NC court structure, civil procedure, etc., on August 28, 2004, in Durham, NC. To pre-register online, go to www.nccourts.homestead.com.

CME Opportunities

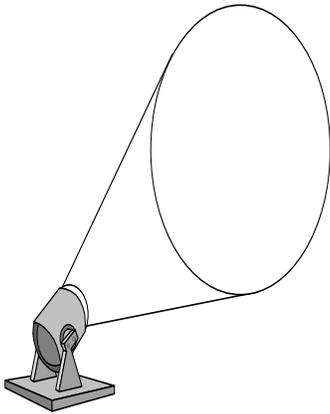
The **North Carolina Bar Association** is sponsoring "Worker's Compensation for Mediators: Training For The Industrial Commission Neutral" on June 3, 2004, at the Bar Center in Cary. Program organizers are Commission member Sherman Lee Criner and LeAnn Nease Brown. For more information, please call 1-800-228-3402.

The **American Arbitration Association** is offering advanced mediator training for court based settlement programs. Program "A" dates include May 21, 2004, in Tampa, FL. Program "B" dates include September 10, 2004, in Orlando, FL; September 24, 2004, in Tampa, FL; and October 14, 2004, in Tallahassee, FL. Sample topics offered for Program A: *Mediator Marketing; What Lawyers and Mediators Do to Disappoint Each Other; Mediator Malpractice; Recognizing and Responding to Negotiation Tactics; Attorney Mediator Ethics*. Sample topics offered for Program B: *Managing the Culturally Diverse Mediation; Power and Leverage: What a Mediator Needs to Understand; Competitive Parties and Attorneys; Mediator Ethics: Confidentiality of Information*. For additional information, please contact Dorothy O'Brien toll free at (877) 740-3837 or visit www.adr.org.

Mediation, Inc., and the Dispute Resolution Section of the Senior Lawyers Division is presenting an advanced mediation and negotiation course July 14-16, in Boulder, CO. The course will cover advanced mediation and negotiation techniques, with special emphasis on mediating and negotiating claims for money and insured claims. For additional information, call (336) 777-1477 or visit www.mediationincnc.com.

Atlanta Divorce Mediators, Inc., is presenting "Marketing Mediation on a Shoestring" August 13, 2004, in Atlanta, GA. For additional information, call (800) 862-1425 or visit www.mediationtraining.net.

SPOTLIGHT!!



*In the Spotlight today is **Cathie J. Witty, Ph.D.**, who was recently named Director of UNC-Greensboro's new master's degree program in conflict resolution. Dr. Witty received her Ph.D. in Anthropology from UC Berkeley in 1975. She also holds an MPA from Harvard University (1976) and most recently received an MFT (marriage and family therapy) from Nova Southeastern University (2001). Dr. Witty has eight year's experience teaching graduate level conflict resolution and analysis courses. She is certified in Florida as both a mediator and arbitrator and practiced privately there. While in Florida, Dr. Witty also developed a violence intervention program for families that combined mediation and systemic therapy using co-mediators who were cross-trained in both fields. Most*

recently, Dr. Witty was engaged in humanitarian development efforts in Kosovo, working in the areas of conflict prevention, community mediation, and social policy development.

The Intermediary interviewed Dr. Witty about the program she will be leading at UNCG and asked her to tell our readers what she thinks the future holds for dispute resolution practitioners.

Q: UNC-Greensboro (UNC-G) is launching a new program that will award a Master's Degree in Conflict Resolution. When is the program set to be up and running?

A: The new master's in Conflict Resolution is now accepting applications and classes will start in the Fall, August of this year.

Q: Can you tell our readers why you were tapped to lead the program?

A: I was a member of the faculty that started the Ph.D. program in Conflict Analysis and Resolution at Nova Southeastern University in 1994 and enlarged the master's program substantially from that year forward. I was also Chair of that Department from 1995-1997 so I have both program development and administrative experience in this area.

Q: Many more universities seem to be awarding advanced degrees in conflict resolution these days. In the southeast alone, your program will be joining Nova in Florida and Columbia in South Carolina. How many such programs are there operating nationwide?

A: We are the first Conflict Resolution

program in North Carolina and I believe we are ideally situated, between Florida and the DC area, to create a premier program for the Southeast region. Currently, there are over 60 master's and certificate programs in this field, so it is essential to have a broad based, quality program that will meet the needs of a variety of professionals.

Q: How did UNC-G decide this was the right time to launch this program?

A: Actually, due to administrative changes, the development of this program has been four years in the making. I believe the University was responding to the need for conflict resolution, at all levels of society, and given the broad range of courses and commitment to social issues, a core group of faculty felt it was time to train conflict professionals in North Carolina. I just arrived in Greensboro in March, and while startup is in August, we hope to have a class composed of traditional students and working adults to launch the program.

Q: Is this designed as a two-year program? How many credit hours are involved? Will there be on-line courses available or is traditional attendance expected?

A: This is a 30 credit hour master's degree, with 6 required core courses. Students can focus their studies toward interpersonal/family or community/workplace conflict with their choice of 4 electives to round out their degree program. We are starting this Fall with a residential program and classes are in the evenings, two nights a week, so working adults can work this degree

into their career plans and family commitments. We hope to put the entire program online in the Fall of 2005 to better reach people throughout North Carolina, the southeast, and the US. We are also offering a certificate program which does not include the mediation practice component or the practicum.

Q: What student demographic are you aiming to attract?

A: There are two target audiences for this program. One is the traditional college graduate in their 20's searching for an interesting career and graduate field of study. The other is the mid-career working adult who wants to expand his/her knowledge of the field, explore different career paths, or make lateral moves within his/her company or field of professional activity. We have social workers, probation officers, attorneys, teachers, human resource personnel, and a variety of professionals interested in the program.

Q: Many states, especially in the southeast, certify or otherwise qualify mediators upon completion of a 40-hour training program. Some in the field do not believe that 40 hours is enough and organizations such as the ABA's Dispute Resolution Section are studying the whole area of mediator credentialing. Obviously, your students will be receiving a great deal more than 40 hours of training. What do you think it takes to make an effective mediator in terms of temperament, education, hands-on experience?

A: Well, as you know, we will be applying to have our program certified by the DRC so graduates are ready to be certified as Supreme Court Mediators in NC. I have never felt the 40-hour course was sufficient as preparation as a mediator. Our program offers the history and theoretical foundations for the

field so that mediation practice is based on sound theoretical principles; it requires that students understand their own cultural and personal biases as well as a range of cultural differences to be encountered in real life experience, and we require 100 hours of practicum experience, in a community setting, to mentor future professionals as they practice in their chosen area of interest.

Q: In North Carolina, increasing numbers of attorney mediators seem to be concentrating their energies more and more on their mediation work and closing or curtailing their law practices. Are North Carolina mediators part of a nationwide trend in that respect?

A: That's an interesting question. Certainly research and practice-related publications have indicated for a long time that most cases an attorney handles do not go to trial, but conclude in some form of negotiated settlement. So clearly the need for mediation, negotiation, and collaborative problem solving skills is essential to any attorney practicing today. There is another trend, the collaborative law practice, that is also strong and I think it remains to be seen how this sorts out in North Carolina. The collaborative law practice is founded on the principle that it is ethnically important to offer clients a full range of negotiated settlement options before recourse to the courts is proposed. This means that law firms support and feel it is essential to offer a wide range of conflict resolution services in addition to litigation.

Q: Degrees like the one UNCG will be offering seem to suggest that it is time that we start thinking of dispute resolution providers as professionals in their own right, rather than, for example, as lawyers or family therapists who also happen to practice as

mediators or arbitrators. Is dispute resolution now coming into its own as a separate profession?

A: Yes, I believe so, though there is a lot of education and work to be done in this area in NC and elsewhere. However, I think the recent experience in Iraq has awakened the public to the fact that peacekeepers are not peacemakers, and that we have to broaden our vision to including peacemaking as an equal part of both interpersonal, community, and international conflicts. Ten years ago we talked about attorney and non-attorney mediators because, especially in Florida, attorneys gave the push to mediation and other services in their practice and in the courts. Today, I believe we are training conflict professionals with a wide range of skills that can be applied in a variety of settings: communities, schools, families, and regions between individuals and groups of people. Conflict professionals can initially be attorneys, but they are also teachers, anthropologists, sociologists, diplomats and citizen diplomats, social workers and therapists, police and correctional officers, corporate leaders, NGO administrators and program directors, and humanitarian relief and development workers.

Q: What specific types of positions will you be preparing your students for? What do you anticipate they will be doing following graduation?

A: We are preparing students with a broad range of skills such as: communication, listening, facilitation, training, conflict prevention, conflict system design, mediation, negotiation, collaborative problem solving, program design and evaluation, community advocacy and inter-group conflict transformation, and dialogues. How and where they apply these skills is up to them. That is one of the exciting aspects of becoming a conflict professional. Unfortunately,

there is conflict at all levels and settings in life, and it takes a well-educated and trained professional to know what skills and techniques to use in different situations.

Q: There is a lot of competition for work as a mediator in North Carolina, at least in terms of the court system. The Commission's office hears from non-attorney mediators and younger, attorney mediators, in particular, that they are not often selected to mediate cases and would like more work. Do you have any concerns about whether the market will be able to absorb your graduates? Will you encourage them to focus more on the private sector than the courts?

A: Since attorneys currently channel the market here, as in Florida and elsewhere, it will be important that students understand they will need to be somewhat entrepreneurial in the beginning. Former graduates have started community and corporate mediation services, for example, and found a great deal of interest from local city and county governments, schools, churches, and community groups. Others have gone into practice with attorneys and offered the types of collaborative services I spoke of earlier. Some teachers went forward to set up peer mediation programs in the schools, which they now mentor and students run; they train other school districts how to do the same. Social workers developed different techniques for interventions with violence, racism, and community tensions after they trained as conflict professionals. For me, the glass is half full, not half empty, and while there are challenges, the future of this field is enormous.

Q: There is much debate now as to what extent, if any, mediators need

to be experts in the facts and/or law of the cases they are mediating? In the family arena here in North Carolina, for example, there are some who believe that to be effective a mediator must be board certified in family law. A master's degree in conflict resolution seems to suggest that dispute resolution providers need not be experts in the facts or law of the cases they are seeking to resolve? Can you comment on this debate and where you think things may be headed?

A: I think any professional needs to know the law in areas in which they will practice. This is just part of good preparation and a systemic or wholistic approach to issues. However, you don't need to be an attorney to understand law; just to practice as an attorney. I developed a course in Guardianship Mediation, for example, and there are a number of states, Michigan is one example, where the courts have embraced this practice to replace or at least inform guardianship decisions in the courts. A guardianship mediator needs to know the law: family, guardianship, disability, and other areas. However, they also need to understand gerontology, family dynamics, and a broader range of issues that judges and most attorneys are not educated in unless it is their field of practice. So, yes, you need to be an expert in all aspects of your practice because that is what being a conflict professional should be about. If I have mediators who practice family or community mediation in the Hispanic community, for example, I suggest strongly that they not only learn as much as they can about the culture, but learn the language, learn cultural norms and values as well as relevant family law. Both will be important in providing the best mediation or reconciliation services that you can.

Q: Can you give us any other insights into the future? Do you think that interest in dispute resolution will remain high? Will the number of programs such as yours continue to grow? Which types of dispute resolution processes do you expect will be most heavily used in the coming years? Who will be providing the dispute resolution services?

A: It's hard to predict the future, so I will talk about what I would like to see. The licensure issue in all states is an attempt by attorneys to keep others out of the field. I believe there is a place for both attorneys who mediate and conflict professionals who mediate but also are capable of doing a variety of things I have talked about here. After a year of humanitarian work in Kosovo, I can tell you that NGO directors and program administrators are still in need of conflict resolution training and skills. Professionals of all types in developing countries and throughout the US need to design and implement basic conflict resolution and analysis skills in their communities and workplaces, and communities here and abroad are all struggling with how to create peace and co-existence once the shooting, beating, or hateful rhetoric has stopped. That's where conflict professionals can make a huge difference. In dealing with violence and hate in schools and communities, training people to collaborate in post conflict or violence torn communities, resolving family conflicts to prevent or heal issues of neglect, abuse, and violence.....these are all serious issues in their country and other countries abroad. The opportunity to practice in this field is challenging, but the need – at all social levels – is enormous. School violence is on the rise, even after Columbine. We need to address those issues, rather than pretend there are no visible danger signs. Children die needlessly in this country everyday because the social service system has not found the will or the methods to protect them from neglect and abuse.

These are family and community conflict issues that are in serious need of programs and professionals to design and staff them.

There is one student who will join our program who is from Colombia and wants to return after her degree, and promote peace, justice, and human rights in her country. There is another probation officer who wants to see both colleagues and inmates find better ways to deal with conflict, frustration, violence, and hopelessness. They will both be engaged in the same work – as a conflict professional – only the setting and application is different.



The Commission welcomes a new member – **Judge Robert D. Lewis**. Judge Lewis currently serves as an Emergency Superior Court Judge and active superior court mediator. Judge Lewis was appointed to the Commission by the Co-Speakers of the House of Representatives, the Honorable James B. Black and Richard T. Morgan.

Judge Lewis is a both a native and current resident of Asheville. He is a graduate of Duke University (A.B.) and UNC School of Law. After serving in the Navy aboard the USS Coral Sea, he practiced law in Asheville for ten years. In 1975, he was first elected as a superior court judge. Judge Lewis is a sports fan (all sports!) and an avid golfer.

Commission Chair Andy Little noted that he looks forward to working with Judge Lewis and expects that he will bring a great deal of insight to the Commission's work given his dual experience as both a mediator/arbitrator and a judge.

Judge Lewis replaces Commission member **Barbara Ann Davis**, also of Asheville. Ms. Davis was appointed by Speaker Black in 1999. During the last two years of her term, she served as chair of the Commission's Mediator Certification and Training Committee. Commenting on Ms. Davis' service, Commission Chair Andy Little noted, "We will miss Barbara. She has been an enthusiastic Commission member and a hardworking committee chair". During her term, Ms. Davis' committee tackled a number of controversial issues, including setting qualifications for family financial mediator certification and considering to what extent Commission files (both certification and disciplinary files) and disciplinary proceedings should be confidential. Her committee also considered whether to allow on-line training (the 6-hour course) and recommended that the Commission create an inactive status category for mediators. Ms. Davis was featured in the February, 2003, edition of this newsletter. The article described her two-month cross-county bike ride (from St. Augustine, Florida, to San Diego, California) during which she peddled over 3,100 mile to raise money for cancer research. The Commission thanks Ms. Davis for her many contributions and wishes her much success in her future endeavors – both professional and athletic!



Thanks!

The Intermediary thanks Dr. Witty for sharing information about UNCG's new master's degree program in conflict resolution and wishes both her and the program much success. Anyone seeking more information about the program may contact Dr. Witty at (336) 334-4117, ext. 4118 or cjwitty@uncg.edu.

If you know of another individual who is making news in the dispute arena, please let the editor know so that we may feature him/her in an upcoming edition of *The Intermediary*.