

Minutes of the Alternative Dispute Resolution Committee

A Research Committee of the NH Citizens Commission on State Courts

November 14, 2005

The first meeting of the Alternative Dispute Resolution Committee was held on November 14, 2005 in the main conference room of the Administrative Office of the Courts, Noble Drive, Concord, New Hampshire.

Committee members in attendance were:

- Attorney Jonathan Baird
- Ms. Anne Botteri
- Ms. Sally Davis
- Attorney Joseph (Mike) McDonough
- Dr. James Squires – (Chair of the committee)

Committee members unable to attend:

- Mr. Michael Kenison
- Mr. Timothy Markley
- Mr. Michael Prozzo
- Mr. Gary Tasker
- Mr. Peter Wolfe

Mr. Paul Clemens has requested an assignment to another committee.

I. **Review of the committee's charge:** The committee reviewed its charge:

What are the Alternative Dispute Resolution Options, how are they make available, and do they/could they work effectively in New Hampshire?

The committee accepted this charge.

II. Attorney McDonough then described his impression as to how the current system works based on his long experience as a practicing attorney in New Hampshire. In the context of his remarks, it is understood that the word "alternative" means a course of action that is an alternative to a trial. In layman's parlance, this is sometimes referred to as a "settlement." The most common path by which an alternative solution is reached was described as being "mandated" by the court. This approach is used exclusively in civil actions works as follows:

Attorneys for the litigants appear before a judge who inquires as to whether or not the litigants are interested in the Alternative Dispute Resolution process. If the answer is “yes” then a volunteer attorney is appointed who, at a future meeting, seeks common ground by shuttling, as it were, between the two parties and their attorneys as proposals are offered. Approximately 98% of civil suits are settled in this manner. Without this process, the entire process “would grind to a halt. Attorney McDonough then indicated that Attorney Peter Wolfe, a member of this committee is recognized as being an authority on this process in New Hampshire.

III. A question was raised as to whether or not there were other “Alternative Dispute Resolution processes in New Hampshire as, for example, **private mediation** and **court diversions for juvenile defenders**. It was agreed that these two examples were, indeed, other areas that the committee should pursue.

IV. It was then agreed that the committee should ask the following questions about the Court Mandated Process:

- How extensively is Court Mandated Alternative Dispute Resolution used?
- How effective is the system, meaning how frequently the dispute is resolved?
- How expensive is this process?
- What are the problems?

The committee decided that it might be helpful if we were to speak with an individual who had participated in the process and to listen to the experience at least one volunteer mediator

V. **Timeline:** It was agreed that the Committee will have at least one meeting between today’s date and the next meeting of the entire Commission at a time and place to be determined. The committee chair will be responsible for arranging this.

VI. At this point, the Chair had to leave the meeting the time being 11:00 am. Attorney Baird agreed to keep the minutes for the remainder of the meeting.

Respectfully submitted,

James W. Squires M.D.
Committee Chair