



Mediation Times

Utah Dispute Resolution

Volume 1, Issue 1

Special points of interest:

- How the Uniform Mediation Act affects mediations
- Find out what's happening in each of our departments
- Meet our new employees
- Marvelous Mediator helps you have a discussion about fees with the parties
- Learn about the effects of meth in our upcoming training
- Help us choose a name for our newsletter

Hello Utah Dispute Resolution Volunteers!



Welcome to Utah Dispute Resolution's latest newsletter. We hope that this message finds you enjoying your summer.

The purpose of the newsletter is to keep you informed of what is happening in the office and to help you feel connected as a commu-

nity of volunteer mediators. The newsletter will be distributed twice a year.

Inside you will find letters from each of our departments, information about the Uniform Mediation Act, and spotlights of two of our volunteer mediators. It contains a question and answer section dealing with how to have a conversation about fees with the parties as well as news about an upcoming training for all of our volunteers. If you are interested in brushing up on your skills, don't miss the suggested resources section, and be sure to read about our newest

staff members.

We want to thank each of you for the service you give to UDR and the community. The time and talents that you share with the people you serve is invaluable. You are providing a much needed service - not only are you helping people create a workable plan for the future, but you also model ways of dealing with conflict that may influence future behavior and interactions. Utah Dispute Resolution appreciates you. Thank you for YOU!

Inside this issue:

Departmental News	2,3
Volunteer Spotlight	4
Uniform Mediation Act	4
Marvelous Mediator	5
Upcoming Training	6
Resources	6

Farewell and Welcome

FAREWELL It is with much sadness that we announce Julene Fisher is leaving Utah Dispute Resolution. After seven years of service to UDR, Julene has decided it is time to garden more, write more, play more, and spend more time with her husband.

Julene has been a stalwart volunteer and employee at UDR since 1999. She has been the sole case manager of the Spanish speaking cases, using her talents to help the Spanish speaking community of Salt Lake. Julene believes in mediation's purpose of uniting people to solve their problems versus pitting them against each other.

Julene has shown professionalism and concern towards those she encounters, whether it is people inquiring about mediation over the phone, parties setting up mediation, or working with her fellow co-workers. Her kindness, peaceful demeanor, and laughter contributed to the positive atmosphere at UDR. We are grateful for the many hours of service Julene has given in behalf of Utah Dis-



pute Resolution and the community. Julene will be greatly missed. We wish her the best.

WELCOME Utah Dispute Resolution would like to welcome two new members of the staff: Heather Hansen and Smith Monson.

Heather joins our staff as a part-time case manager and will be assisting in the Spanish speaking cases. She was raised in California and Utah and plans to study nursing at the University of Utah. Heather loves the water and enjoys being outside. Her interests

con't page 2

Mediation Times

Family and Community Mediation

"No person was ever honored for what he received. Honor is given by what he gave."
Calvin Coolidge



We here at Utah Dispute Resolution would like to honor each of you that serve on our Family and Community Mediation rosters. We thank you and honor you for the time, caring, and expertise you give to the people UDR serves. There are not enough words to express the gratitude we have for each of you who are so willing to volunteer by helping the people in our community resolve their conflicts through mediation.

The Family Mediation program is busier than ever. With the passage of UCA 30-3-39, the law requiring mandatory mediation for all contested divorces in Utah, our caseload has increased. The success of this program is due to the mediators who serve on this roster.

Their tireless commitment to mediate these difficult cases is gratifying.

The Community Mediation program is growing. We have daily inquiries from people in our community about mediation. However, it is difficult to get both parties to agree to participate in the process. This could be attributed to an overall lack of knowledge about the benefits of resolving conflict through mediation. As the public becomes educated to the advantages of using mediation this program will flourish.

Those of you who serve on these rosters are familiar with the case file you are given prior to the mediation session. In the file, you are provided with case information and a packet of forms. One of those forms is the Mediator Report

which is on blue paper for the family cases, and cream colored paper for the community cases. We ask you to be vigilant about filling out this form. The information on the Mediator Report is essential to helping us efficiently process the case to completion.

Another form in the case file mediator packet is the Mediator Evaluation, one for each participant. Please have the participants fill out the evaluations at the conclusion of the mediation. It is a good tool to examine the clients' satisfaction with you as a mediator and UDR case managers as conveners. We have been compiling statistics from the evaluation forms. If any of you who mediate on these rosters are interested in your stats, call Pam Nelson at 532-4841.

We at UDR honor and thank you.

"We work on ourselves in order to help others, but also we help others in order to work on ourselves."

Pema Chod



The passing of UCA 30-3-39 (formally referred to as HB4) requires divorcing couples to participate in mediation when cases are in dispute. These cases need to be done by court approved mediators. We ask all our volunteer mediators to be on the court roster. If you are not yet on the court roster and would like to be, you can download an application from the court website: <http://www.utcourts.gov/mediation/application/>.

Farewell and Welcome continued

include water and snow skiing, tennis, biking, and reading. Heather is a certified EMT and also works as a life guard. She has a wonderful family and enjoys spending time with them. She is excited to learn about mediation.

Smith (Smitty) Monson also joins our staff as a part-time case manager and will be assisting in the Spanish cases as well. He was raised in Utah and Virginia, and recently graduated from the Uni-

versity of Utah with degrees in Spanish, psychology, and history. Smitty has been a counselor at the Boys and Girls Ranch and was a program coordinator for the Benion Community Service Center for the ESL program at Guadalupe School. Smitty enjoys anything outdoors, especially kayaking and rock climbing. He looks forward

to learning about mediation and putting his Spanish skills to work.

Utah Dispute Resolution is glad to have these two wonderful people join the staff. Next time you come to UDR, be sure to meet Heather and Smitty.



WELCOME

Small Claims Court: Thank You All

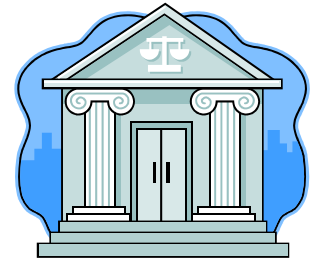
I would just like to take this opportunity to thank all the volunteer mediators who make the Small Claims Court Mediation Program a success. We are currently serving in the Matheson Courthouse, Bountiful Justice Court, West Valley City Justice Court, Taylorsville Justice Court, and the West Jordan Small Claims Court. Also, every case that is appealed from Matheson or West Jordan is mediated using mediators who volunteer their valuable time.

The appeal cases are especially difficult and if there is anything I can do to support you in these cases, please don't hesitate to give me a call. Over the years that we have been doing appeal cases, certain patterns have emerged and I may be able to give pointers that have been developed during the debriefs of these cases. I love to mediate at small claims court. The cases are always different and most are very interesting. In my opinion, it is the best

place for new mediators to get experience and a great place for seasoned mediators to hone their skills.

Your volunteer efforts make it possible for me to do the work that I enjoy so much. Again, thanks!

Russ Osguthorpe



Horizonte Now Has a Peer Mediation Program



We have been busy at Horizonte. Last spring, five students were trained to be peer mediators to assist in the new Horizonte Peer Mediation Program. They are doing wonderfully! We have already done our first peer mediation! The student mediators have learned principles of conflict resolution and have role played different scenarios of conflicts that are common to high school students, such as name calling and rumors.

They look forward to helping other students with their problems and are excited about being a resource for peaceful solutions to conflicts.

To get the word out to the students about the Horizonte Peer Mediation Program, the student mediators made a video that explains what mediation is. They did a really good job with it. The video was taken around to classes and was well received.

It is hoped that the Horizonte Peer Mediation Program will provide students and teachers an alternative way of solving prob-

lems that can lead to new perspectives on dealing with conflict. We hope that the Horizonte Peer Mediation Program will become a much-used program.

The Horizonte Training and Instructional Program is an alternative high school and adult education center in Salt Lake City. The school serves a diverse population, where the students represent over 88 countries and over 82 languages and dialects are spoken.



Sue Petty, UDR's Training Director and Youth Program Coordinator, was the recipient of a service award given by Horizonte school during its May 31st graduation ceremony. The award honors Sue for all the time, energy, and selfless service that she has given to students and staff at the school.

Wanted: Spanish Speaking Mediators

With the burgeoning Hispanic population in our state, Utah Dispute Resolution is sending out an SOS—Speaks Outstanding Spanish—for bilingual mediators. We have letters in Spanish, forms in Spanish, pamphlets in Spanish, and cli-

ents who speak Spanish. What we could really use now are more mediators—especially family mediators—fluent in both English and Spanish. Say you are a crack, Spanish-speaking community mediator but lack domestic training. Don't let that

stymie you. We might be able to work out a training-for-mediation exchange. Please contact Nancy McGahey or Pam Nelson at (801) 532-4841 if you are one of the polyglots we are looking for.



Mediation Times

Volunteer Spotlight: Al Pedersen and Steve Kelson



Our volunteers
are the best!
We appreciate
YOU!

*“Be a good listener.
Your ears will never
get you in trouble.”
Frank Tyger*

Al Pedersen and Steve Kelson share the honor for this issue's volunteer spotlight. During the annual holiday party in December 2005, both men received recognition and acknowledgement for their years of service to Utah Dispute Resolution.

Al Pedersen has been a volunteer with UDR since 1998. He began mediating at small claims court in Murray and Salt Lake City, and he assisted as a volunteer case manager by conducting intake interviews. Later, he began conducting family mediations. Al was drawn to mediation initially because he wanted to learn a new skill and contribute to his community in a meaningful way.

Over the years, Al has conducted about 750 mediations for UDR, most of which were pro bono cases. In addition to UDR's family program, Al mediates with the Co-Parenting Program at the Courts and as a private practitioner. When asked what he likes about mediation, Al responded, "I like it when people are empowered to solve their own problems rather than depend on the legal system alone." As advice for new mediators, he suggests they "put their faith in the process and in the clients - remember, you don't

have to have an answer. Sometimes it's better to just be quiet."

In his early career, Al worked as a real estate broker, but soon ended up in the motion picture business where he spent about 30 years. He learned the business from the ground up, serving in distribution and public relations, then as production manager and producer.

Al now lives less than a mile from the home where he was raised. His two sons live in California, and a daughter lives in Sandy. Al is a proud grandpa to three granddaughters. Al's eclectic tastes are reflected in his favorite pastimes: hiking and backpacking, listening to music (opera and classic rock), reading, and spending time with Magic, his nearly 13-year-old giant schnauzer.

Steve Kelson has volunteered for Utah Dispute Resolution since December 2001, when he began mediating disputes with the small claims program. Steve received his mediation training while attending the J. Rueben Clark Law School at BYU. Currently he is an attorney with the law firm of Kipp and Christian, where he specializes in insurance and corporate defense.

Many volunteers know Steve as the coordinator for UDR's small claims appeals program. In this role, he schedules volunteer mediators for appeals cases and acts as the point person to connect disputants and mediators. In addition to coordinating the appeals program, Steve coordinates the small claims mediation program at Taylorsville.

Steve has a variety of interests besides law and mediation. He earned a Master's Degree in modern European history. He has run a marathon and often competes in 5K and 10K races. He is also involved in research and creative writing.

Steve is a native Utahn and is married to Rachel.

Please join us in thanking both these volunteers for their devoted service to our community!

Uniform Mediation Act



The 2006 Utah legislature has enacted the Uniform Mediation Act. This bill "sets waiver provisions for privileges and communications within mediation; states mediation information is confidential and not admissible in court, and specifies exceptions; and provides for mediator's disclosure of conflicts of interest." In addition, the act states that parties may

bring their attorney or other designated person to participate in the mediation. This means that parties have the right to bring a significant-other or other kind of support person to the mediation, if their attorney is not attending. Utah Dispute Resolution will make the necessary accommodations to make sure UDR is in compliance with this law.

This bill went into affect May 1, 2006. To access the complete act, go to <http://www.le.state.ut.us/~2006/bills/sbillamd/sb0061.htm>. Please read the act so that you will be informed as to how this legislation affects mediation and so you will know what your responsibilities are as a mediator.

Dear Marvelous Mediator: How do I talk about fees with the parties?

Q: Dear Marvelous Mediator:

I have a problem. When I am mediating through UDR, sometimes one or both parties tell me they can't pay. However, according to the income survey they filled out, they should pay. How should I handle this?

Signed: Empty Pockets

A: Dear Empty Pockets:

A couple of thoughts come to mind in response to your question. First, UDR clients represent the low-income population of our state. Fee status may be different for several reasons. There may be a legitimate financial need the UDR case managers did not catch, or the client's income situation may have changed since completing the income survey. In this case, you may recalculate the fee based on new information obtained during mediation. If you need help in understanding the UDR fee scale, please ask a case manager to assist.

If the parties' income situation has not changed enough to alter the fee and you suspect the issue has more to do with reluctant parties, then you might consider how you present the fee arrangement during your opening statement. Do you present yourself as confident and matter of fact, or do you appear apologetic and unsure of yourself? All fees and expectations should be summarized during your opening statement. Presenting this information with con-

fidence may help. For example, you might say: "UDR is a non-profit organization that provides low-cost services for people with financial need. Based on your income and family size, your fee is assessed at \$40 per hour. Payment is expected at the end of our mediation today. I can accept a check or credit card. How would you like to pay?"

If parties say they aren't prepared to pay today, you might suggest several options: the parties might take a break in one hour to allow them time to fetch checkbooks or cash, or you might reschedule the mediation for a time when parties are prepared to pay their fee. As an alternative, you may agree to invoice clients for payments due or create a payment plan. It is your choice as a private practitioner to accept payment plans.

If you agree to try this option, treat it as you would any negotiated agreement: define due dates, amounts due, and consequences for nonpayment; then, record the plan in the agreement to mediate.

While you are explaining the hourly fee for the mediation, be sure to talk about the fee for writing the memorandum of understanding. Parties can expect mediators to charge them for 1-2 hours for the memorandum – 1 hour for a typical MOU, and 2 hours if the memorandum is complex and contains a lot of detail.

There is another consideration concerning nonpayment of fees due. As a private practitioner, you may want to adopt an attitude that a certain percentage of your mediation cases will never reap payment. Professional mediators

suggest we accept a standard range of 1% to 5% of your total annual mediation income for which you will not receive payment. This is a factor of doing business and maintaining a private practice.

UDR is willing to help in circumstances when you've tried and failed to collect unpaid fees. UDR will send an invoice to these clients. In some cases, this might add emphasis that payment is required. If you want this help, contact Pam Nelson after you have attempted to collect the fee on your own.

"Do you present yourself as confident and matter of fact, or do you appear apologetic and unsure of yourself when going over fees?"

Some UDR mediators hesitate to charge fees after learning about the low income circumstances of clients. This is your choice. However, you might keep in mind that people sometimes feel greater commitment to the process by having to pay a fee for service received. Consider this factor. You may be helping the process by asking parties to pay a fee for service received.

Please note: it is contrary to UDR's policy to withhold a memorandum or understanding until payment is received. Please do not use this tactic to address payment issues.

UDR provides a service to our mediators by accepting credit and debit cards, which are processed by the Utah State Bar. If you elect to accept a credit or debit card, then UDR will reimburse you after the card has cleared; this may take several weeks. UDR issues checks twice a month. Be sure to complete the credit card payment form if a client elects to pay with VISA, MasterCard, or American Express credit or debit card. (Note: we do not accept Discover card.) You must differentiate between a personal VISA and Corporate VISA account. If you



fail to note that a card is a Corporate card, there may be additional service fees deducted from the amount you receive. Presently, the major credit cards charge 3.1% service fee on all charges. UDR will deduct this amount from the fee you collect, and you will receive the remainder by check after the card is processed and cleared.

Signed: Marvelous Mediator



Upcoming Volunteer Training

Effects of Methamphetamines



Reserve **Monday, August 28th from 5:30-7:30 PM** on your calendar. Shelly Wilkerson, a child welfare mediator with the Administrative Office of the Courts, will be presenting information about the prevalence of meth use in Utah and the effects this may have on mediations. Pizza will be served. More information is forthcoming.

Are you looking for something to help you improve your mediation skills?



The following resources were suggested by our staff:

- The Mediator's Handbook by Jennifer Beer with Eileen Stief, published by New Society Publishers.
This book is a valuable basic mediation handbook. It gives an overview of mediation and conflict, lays out the steps of the mediation process, and details skills and approaches that are useful whether you are a beginner or an old pro.
- The Art of Mediation, Second Edition by Mark Bennett and Scott Hughes, published by NITA.
The National Institute for Trial Advocacy (NITA) released the second edition of this book in 2005. It is written as a workbook to complement a basic-level 40-hour mediation training course and provides a good overview as well as pointers for managing mediations. The appendix section includes templates, worksheets, and sample documents used in mediation. This new edition is a valuable general reference for mediators who want a quick review or to improve existing skills.
- High Conflict Personalities by William A. Eddy, published by William Eddy, www.eddylaw.com.
This book provides insight into those difficult personality types that can present a particular challenge in mediation. Mr. Eddy spoke at the UCCR Symposium in 2005 and presented an overview on this topic. The book includes suggestions for managing high conflict personalities in mediation.
- Bringing Peace into the Room edited by Daniel Bowling and David Hoffman, published by Jossey-Bass.
This collection of essays explores the personal characteristics and qualities that make mediators effective. Going beyond techniques, rules, guidelines, or advice, these essays delve into the aspects of who a mediator is rather than what a mediator does. The book provides food for reflective thought and would be valuable reading for the experienced as well as the novice mediator.

You can do better than “Mediation Times!”



We need your help! Utah Dispute Resolution is having a contest to help them select a name for the newsletter that's a little more creative than the one we've got now. The person who enters the winning name will receive a prize. Please submit your entries by phone, email or in person to Sara at 532-4841 or sara.johnson@utahstatebar.org.

Utah Dispute Resolution Staff Executive Director: Nancy McGahey Office Director: Pam Nelson
Small Claims Court Mediation Program: Russ Osguthorpe Training Director: Sue Petty
Case Managers: Sara Johnson, Heather Hansen, Smitty Monson Spanish Case Managers: Heather Hansen and Smitty Monson
UDR Newsletter Editor: Sara Johnson



If you have any questions or comments about mediation, Utah Dispute Resolution and our office procedures, or this newsletter, please contact us at 801-532-4841.