

**ANNUAL REPORT OF THE
ALTERNATIVE DISPUTE RESOLUTION COORDINATING
COMMITTEE
TO THE ILLINOIS JUDICIAL CONFERENCE**

Hon. John O. Steele, Chair

Hon. Harris H. Agnew, Ret.
Hon. Patricia Banks
Hon. Joseph F. Beatty
Hon. John P. Coady
Hon. Claudia Conlon
Hon. Donald J. Fabian
Hon. Robert E. Gordon

Hon. David E. Haracz
Hon. Michael D. Kramer
John G. Laurie, Esq.
Kent Lawrence, Esq.
Hon. Stephen R. Pacey
Hon. Lance R. Peterson
Anton J. Valukas, Esq.

October 2006

I. STATEMENT OF COMMITTEE CONTINUATION

Since the 2005 Annual Meeting of the Illinois Judicial Conference, the Alternative Dispute Resolution Coordinating Committee ("Committee") has found that the climate for alternative dispute resolution ("ADR") continues to be favorable and the legal community has become increasingly receptive to ADR programs. This Conference year, the Committee was busy with many activities, including the consideration of a few proposed Supreme Court rule amendments and formulating a plan to accomplish the projects and priorities set forth by the Court for Conference Year 2006.

As part of the Committee's charge, court-annexed mandatory arbitration programs operating in fifteen counties continued to be monitored throughout the Conference year.

In the area of mediation, the Committee continued to observe the activities of the court-sponsored major civil case mediation programs operating in ten circuits.

During the 2007 Conference year, the Committee will continue to monitor court-annexed mandatory arbitration programs, oversee and facilitate the improvement and expansion of major civil case mediation programs, consider proposed amendments to Supreme Court rules for mandatory arbitration and continue to study and evaluate other alternative dispute resolution options. The Committee will also continue to work on the projects and priorities delineated by the Supreme Court and stand ready to accept new projects for Conference Year 2007.

Because the Committee continues to provide service to arbitration practitioners, recommendations on mediation and arbitration program improvements, information to Illinois judges and lawyers and promote the expansion of court-annexed alternative dispute resolution programs in the state of Illinois, the Committee respectfully requests that it be continued.

II. SUMMARY OF COMMITTEE ACTIVITIES

Court-Annexed Mandatory Arbitration

As part of its charge, the Committee surveys and compiles information on existing court-supported dispute resolution programs. Court-annexed mandatory arbitration has been operating in Illinois for a little more than nineteen years. Since its inception in Winnebago County in 1987, under Judge Harris Agnew's leadership, the program has steadily and successfully grown to meet the needs of fifteen counties. Most importantly, court-annexed mandatory arbitration has become an effective case management tool to reduce the number of cases tried and the length of time cases spend in the court system. Court-annexed mandatory arbitration has become widely accepted in the legal culture.

In January of each year, an annual report on the court-annexed mandatory arbitration program is provided to the legislature.¹ A complete statistical analysis for each circuit is contained in the annual report. The Committee emphasizes that it is best to judge the success of a program

¹The AOIC's Court-Annexed Mandatory Arbitration Fiscal Year 2006 Annual Report will be available on the AOIC portion of the Supreme Court website (www.state.il.us/court) and on the website of the Center for Analysis of Alternative Dispute Resolution Systems (www.caads.org).

by the percentage of cases resolved before trial through the arbitration process, rather than focusing on the rejection rate of arbitration awards.

The following is a statement of Committee activities since the 2005 Annual Meeting of the Illinois Judicial Conference concerning court-annexed mandatory arbitration.

Conference Year 2006 Projects and Priorities Prescribed by the Supreme Court

The Supreme Court prescribed a new, general Committee charge and outlined several projects and priorities for the Committee to examine in Conference Year 2006. The Committee reviewed the list of projects/priorities for 2006 and formulated a plan to address those projects. The Committee elected to create subgroups to study each of the projects. As part of the plan, each subgroup will study a specific project and make a recommendation to the Committee to consider as a whole. Below are the projects/priorities the Committee began to study for Conference Year 2006.

Standardized Data Forms for Collection of Statistical Information

The Supreme Court requested that the Committee examine the issue of "creating standardized data forms for use in local courts in collection of statistical information and develop a framework for the analysis of that data." For State Fiscal Year 2006, the Committee, in conjunction with the Administrative Office of the Illinois Courts, asked arbitration centers to begin reporting on three new statistical categories.

The first new category of statistics to be collected is on the various types of cases that proceed through arbitration. With the assistance of arbitration administrators, seven case types were identified and collection of statistical information began. The seven case types include auto/subrogation, collections, contracts, liability/tort, property damage, personal injury and other. The purpose in collecting this information is to decipher which types of cases are processed in arbitration and to begin to examine the settlement rates for certain case types.

The second new category of statistics will identify information on the monetary value of a case at the time of filing. The collection of this statistic will be broken down into two ranges, \$10,001 to \$30,000 and \$30,001 to \$50,000. The collection of these numbers will help the Committee analyze the case value and identify shifting trends in monetary limits for arbitration programs.

The third new category of statistics will present information on the average dollar amount for awards granted by arbitration panels in the various case types (i.e.; auto/subrogation, collections, contracts, etc.) and will also depict the average number of days a case spends in the arbitration process. The collections of these statistics will assist the Committee in measuring program efficacy. All three of the new categories for arbitration statistics will be reported in the Administrative Office of the Illinois Court's Annual Court-Annexed Mandatory Arbitration Statistical Report to the Illinois General Assembly.

Training of Arbitrators

The Supreme Court charged the Committee with "reviewing materials to develop a training curriculum for mandatory arbitration personnel and conduct a needs analysis for training of arbitrators." Annually, the Committee meets with arbitration administrators and supervising judges to discuss mandatory arbitration programs and suggest program improvements. At that meeting, it was determined that arbitration programs would benefit from a training manual, developed by the Committee, outlining core competencies and program curriculum for arbitrators. The Committee circulated a copy of the Circuit Court of Cook County's Arbitrator Reference Manual for review. Subsequent to a thorough review, the Committee may consider adopting Cook County's Manual as a recommended training document for all jurisdictions with arbitration programs.

Child Custody Mediation

The Supreme Court charged the Committee with "studying, examining and reporting on the efficacy of mediation in child custody cases in domestic relations courts as an appropriate ADR application." During Conference Year 2006, the Committee observed the Supreme Court's adoption of the Article IX Rules with respect to child custody proceedings. The Committee plans to monitor the effectiveness of the new mediation provisions set forth in the Article IX Rules. The Committee plans to gather any current studies from those circuits which have existing child custody mediation programs regarding the effectiveness of those programs. From those reports, the Committee will attempt to compare/contrast and assess those programs. In addition, the Committee will report on the progress of programs being initiated in other circuits.

Summary Jury Trials

The Supreme Court charged the Committee with "continuing to examine the possibility of summary jury trials as a viable ADR option and craft a proposed rule for consideration by the Court." The concept of summary jury trials was introduced to the Committee in Conference Year 2003. Summary jury trials are a specialized process designed to address cases in which significant damages are sought and/or are complex in nature and will consume disproportionate amounts of court time and resources. The summary jury trial process can be described as a process that is conducted in one day or less wherein counsel for each side presents an entire case, both evidentiary and argumentatively, and then the case is decided by a jury panel of six individuals. The jury verdict is advisory unless the parties agree otherwise, however, the jury is unaware of this fact while deliberating.

During Conference Year 2006, the Committee reviewed statutory authority and court rules in other jurisdictions with ongoing summary jury trial programs to determine which practices might best accommodate such a program in the state of Illinois. Subsequently, the Committee drafted a proposed rule governing summary jury trials and pursuant to Supreme Court Rule 3 will submit the proposal to the Supreme Court Rules Committee. The Committee believes it is a good idea to offer multiple settlement techniques, such as summary jury trials, to the trial bench to have at its disposal and to use on a discretionary basis.

Other Initiatives

The Supreme Court charged the Committee with "undertaking any such other projects or initiatives that are consistent with the Committee charge." As part of this general charge, the Committee is investigating the possibility of utilizing *voluntary* arbitration for arbitration eligible cases in certain circuits. In particular, this arbitration practice would be viable for smaller counties where it would not be feasible to have a mandatory arbitration system. The Committee has begun preliminary examination of this issue and plans to continue its evaluation of voluntary arbitration to determine if it is a plausible arbitration practice and suitable for Illinois' current arbitration system.

The Committee also plans to consider matters regarding Supreme Court Rule 87 with respect to arbitrator compensation levels and Supreme Court Rule 93 with respect to the rejection fee for an arbitration award.

Certificate of Appreciation

The Court-Annexed Mandatory Arbitration Program has been operating in Illinois for more than nineteen years. The Committee recognizes that the effectiveness of the program, in large part, stems from the commitment and dedication of its arbitrators. The continued success of the arbitration program is dependent upon retaining experienced, qualified arbitrators. In the interest of arbitrator morale, the Committee drafted a Certificate of Appreciation to be awarded to arbitrators and plans to forward the certificate to the Supreme Court for its consideration. A copy of the proposed certificate is appended hereto.

Mediation

Presently, court-sponsored mediation programs operate in the First, Eleventh, Twelfth, Fourteenth, Sixteenth, Seventeenth, Eighteenth, Nineteenth, Twentieth Circuits and the Circuit Court of Cook County. Supreme Court Rule 99 governs the manner in which mediation programs are conducted. Actions eligible for mediation are prescribed by local circuit rule in accordance with Supreme Court Rule 99.

Court-sponsored mediation programs have been successful and well received, and have resulted in quicker resolution of many cases. It is important to recognize that the benefits of major civil case mediation cannot be calculated solely by the number of cases settled. Because these cases are major civil cases by definition, early settlement of a single case represents a significant savings of court time for motions and status hearings as well as trial time. Additionally, in many of these cases, resolving the complaint takes care of potential counterclaims, third-party complaints and, of course, eliminates the possibility of an appeal. Finally, court-sponsored mediation programs are considered by many parties as a necessary and integral part of the court system. They are responsive to a demonstrated need to provide alternatives to trial and have been well received by the participants.

The Committee continues to observe the implementation of new programs as well as monitor existing programs. The Committee is also working on the area of child custody mediation in accord with the Supreme Court's Article IX Rules with respect to child custody proceedings.

III. PROPOSED COMMITTEE ACTIVITIES FOR THE NEXT CONFERENCE YEAR

During the 2007 Conference year, the Committee will continue to monitor and assess court-annexed mandatory arbitration programs, suggest broad-based policy recommendations, explore and examine innovative dispute resolution techniques and continue studying the impact of rule amendments. In addition, the Committee will continue to study, draft and propose rule amendments in light of suggestions and information received from program participants, supervising judges and arbitration administrators. The Committee will continue to study the projects/priorities and other assignments delineated by the Supreme Court for the upcoming Conference year.

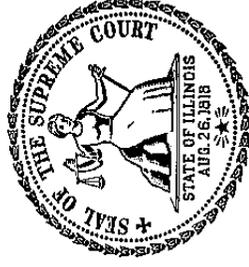
The Committee plans to facilitate the improvement and expansion of major civil case mediation programs. The Committee also plans to actively study and evaluate other alternative dispute resolution options.

IV. RECOMMENDATIONS

The Committee recommends that the Conference concur with forwarding the Certificate of Appreciation acknowledging arbitrator service and dedication to the Supreme Court for consideration.

The Committee respectfully recommends that the Supreme Court allow the Committee to continue its work toward completing the projects and priorities outlined for Conference Year 2006, which included creating standardized data forms for collection of statistical information, training of arbitrators, examining child custody mediation and other initiatives as directed by the Supreme Court.

Supreme Court of Illinois



is awarded a

Certificate of Appreciation

for dedication and commitment to service

as an Arbitrator in the

Court-Annexed Mandatory Arbitration Program

Honorable Robert R. Thomas, Chief Justice

Date