

Winter
2008/2009



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Utah Dispute Resolution

Volume 3, Issue 1

Ogden Office Gets A New Face!

Evie Brinkerhoff is our new Ogden staff member. She assumes the position of Program Development Manager for the northern UDR office. Evie comes to us after working at a crisis shelter as a domestic violence advocate. She graduated from Weber State University with a Bachelor's Degree in Political Science. She also attended the J Rueben Clark Law School at BYU and graduated in spring 2007. While at BYU Law School, she became interested in alternative dispute resolution and is court-qualified in both basic and domestic mediation. She interned



with the mediation program at BYU during her final semester at law school, which served to

heighten her interest in the field of alternative dispute resolution.

Evie is excited about being back in Ogden and is looking forward to getting back to snowboarding. Along with boarding, Evie also enjoys hiking, reading, sewing, and traveling. She has two pets: a Labrador retriever mix dog named Buffy and a Siamese named Catalina. Evie is enthusiastic about developing the Ogden office and working to increase conflict resolution and mediation throughout northern Utah.

Peer Mediation Service Project Grant Approved!

Contributed by Kat Hollister

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The Peer mediators at Horizonte High School have taken on a new project! They are currently working on a service project funded by a grant from YouthLINC and the National Youth Day of Service 2009. The peer mediators are planning an event for an elementary school to teach conflict resolution skills and promote better understanding.

The peer mediators are developing lesson plans to be presented in April. Their conflict resolution lesson plans are aimed at elementary school students in grades 4-6. Teams of peer mediators will teach groups of 20-25 elementary students in workshops lasting half a school day. The peer mediators are working in small groups to develop lessons that are fun and practical under the supervision of their advisor, Heather Threlkeld at UDR.

The intent of the project is to teach the youth of Salt Lake City better ways to handle conflict. They will use a compilation of different types of lessons directed at increasing tolerance, communication, active listening, and problem solving. They hope to promote knowledge and respect.

The peer mediators will also prepare a workbook that students will use in class and take home after the workshop. The students



and peer mediators involved with the project will be better equipped to solve their problems in peaceful ways. The peer mediators will also gain an appreciation for teachers and learn how to organize lesson plans and run classrooms.

The project provides an opportunity for both students and teachers to acquire a deeper, more meaningful understanding of conflict resolution styles, build greater tolerance, learn active listening and problem solving skills, and realize why communication is so crucial for peaceful co-existence. In addition to learning techniques that ensure social acceptance and cooperation, this project will provide students and peer mediators with a safe, friendly environment for learning.

UDR Holiday Party



The food was catered by Sue Petty and her daughter, Cami Bingham. Everyone enjoyed the chocolate fountain, shrimp, chicken salad, punch, wine, and more.

We want to thank all who attended for making our open house fun and encourage those who couldn't attend to join us next year. We missed you! Thank you for all of the time and energy you devote toward helping Utahns in need!

Another year passes and brings the arrival of snow, winter, and the annual appreciation open house for volunteers in the UDR family!



On December 5, 2008 we opened our doors and our hearts to welcome all of the wonderful volunteers, trustees, staff, court clerks, attorneys, and affiliates of Utah Dispute Resolution to come enjoy time together and socialize. This annual gathering allows us to connect with one another and to build relationships based on our shared interests and values.



If I have been of service, if I have glimpsed more of the nature and essence of ultimate good, if I am inspired to reach wider horizons of thought and action, if I am at peace with myself, it has been a successful day.

—Alex Noble

UDR Receives the Peter W. Billings Sr. Award

Contributed by Pamela Nelson

Utah Dispute Resolution (UDR) received the prestigious Peter W. Billings Sr. Award for Excellence in Dispute Resolution on Friday, November 21, 2008, during the Utah State Bar Fall Forum. The Peter W. Billings, Sr. Award is given annually on behalf of the Dispute Resolution Section of the Bar. UDR is the first organization rather than an individual to receive this award. The Award is intended to honor the legacy of Peter W. Billings Sr., who was both a pioneer and a champion of the collaborative dispute resolution process and mediation in Utah.

Association, served as president of the Utah Association of Mental Health, and was a member of the Board of Trustees of Westminster College, the Board of Family Services Society, and the Utah Health Association.

Past recipients of this distinguished recognition include Gerald Williams, Michael Zimmerman, William Downes, Hardin Whitney, James Holbrook, Diane Hamilton, Karin Hobbs, Palmer DePaulis, and Brian Florence.

Utah Dispute Resolution accepts this award with great pride. By giving this honor to UDR, the Dispute Resolution Section recognizes everyone who has contributed to UDR's success: founders, trustees, volunteer mediators, and staff.

Over the years, UDR case managers have assisted over 40,000 people in conflict, and an estimated 500 volunteers have mediated over 8,500 disputes. Without the generosity of all UDR's volunteers, many low- and middle- income Utahns would not have had the opportunity to resolve their disputes collaboratively through mediation. On behalf of all those who have benefited from your generosity, we extend our deepest gratitude to you.

Utah Dispute Resolution thanks the Dispute Resolution Section of the Bar and the Billings Selection Committee for this honor.

Mr. Billings was born and raised in Salt Lake City. After graduating from the University of Utah, he attended Harvard Law School and worked with the law firm of Fabian and Clendenin for fifty years. He helped draft the bill that formed the state's Board of Regents; later, then Governor Rampton appointed him as the first chairman of that organization. Among his many accomplishments, Mr. Billings opened the Utah office of the American Arbitration



UDR Best Practices for Family Mediation

Contributed by Nancy McGahey

About a year ago, members of UDR's Family Mediation Roster convened and reached consensus on a list of best practice standards to be followed when conducting family mediations for Utah Dispute Resolution. The following excerpt comes from these standards and is provided as a reminder to mediators. You may access the full list on UDR's website at

www.utahdisputeresolution.org. Click the "Volunteer Resources" button. The login and password are "volunteer."

Mediator Opening Statement and Agreement to Mediate

- Confirm the UDR assessed fee verbally and in writing for each mediation session.
- Remind clients that audio and video tape recordings of mediation sessions are not allowed.
- Disclose any conflicts of interest verbally and in writing using the space provided on UDR's Agreement to Mediate.
- Obtain signatures of all participating parties on the Agreement to Mediate.

Conducting the Mediation

- Conduct all caucus sessions in private; if a separate room is not available, ask the participants to exchange places

using the same mediation room. Avoid holding confidential discussions in public lobby areas.

Memorializing the Agreement

When parties reach agreement, prepare a written Memorandum of Understanding in these instances:

- Mediations involving Pro se clients
- Mediations in which parties participate without their attorneys
- Mediations in which one party is represented by counsel and the other party has no counsel present.

NOTE: If clients refuse to have the mediator prepare a written memorandum in these cases due to cost considerations, it is advised that the mediator prepare a hand-written summary of the agreement ("Deal Sheet") in order to memorialize the agreement without asking parties to sign the document.

- Do not include signature lines on any Memorandum of Understanding that the mediator prepares and sends or gives to the parties.
- Include a "disclaimer statement" on all memoranda of understanding stating that the memorandum is:
 - ♦ The mediator's

understanding of the agreements reached during mediation

- ♦ Not legally binding on the parties

- Allow parties to sign a summary of the agreement ONLY when each participant is represented by legal counsel in the mediation and ask attorneys to sign as well.
- Include a statement regarding the participants' intention for formalizing the agreement; include their decision as to who will prepare a legal stipulation, if required, and how the cost to prepare this document will be paid.
- Include the parties' decision for handling any existing motions that stand before the court if a legal stipulation is not needed.

New Procedure for UDR Family Mediators

Beginning in 2009, we are asking family mediators to send us an electronic copy of any memoranda of understanding (MOU) that you prepare for a UDR client. This will allow us to attach a copy of the MOU to the electronic case record, which will provide easy access to the document for future reference. Please send the MOU to: info@utahdisputeresolution.org and indicate "MOU Case Name" in the Subject field. Thanks to

Peace has to be created, in order to be maintained. It is the product of Faith, Strength, Energy, Will, Sympathy, Justice, Imagination, and the triumph of principle. It will never be achieved by passivity and quietism.

- Dorothy Thompson

UDR Trustee Emeritus: Hardin Whitney

Contributed by Nancy McGahey

After twelve years on UDR's Board of Trustees, Hardin "Din" Whitney has moved to Emeritus status, which means he is a lifetime member of the Board without having the responsibilities that come with serving as a trustee.

Din graduated from the University of Utah in 1949 with a B.S. degree in Law and received his Juris Doctorate degree from the University of Michigan in 1952. He has been a member of the Utah State Bar for over 56

years. Din practices in the areas of business law, construction law, trusts and estate planning, wills and probate, and general law. He works with the firm of Moyle and Draper in Salt Lake City. In 2001, Din received the Peter W. Billings Sr. award from the Dispute Resolution Section of the Utah State Bar for his leadership in advancing ADR in the legal profession and in the community.

Din is truly the Founding Father of Utah Dispute Resolution. As the Chair of the ADR Committee

of the Utah State Bar in 1996, the Bar asked him to oversee an effort to establish UDR as an independent nonprofit corporation. He was instrumental in creating the Articles of Incorporation, By-Laws, and obtaining our 501(c)(3) status from the IRS in 1997. Din served on UDR's Board of Trustees from the beginning and acted as President of the Board for many years.

Thank you, Din, for all you've done to make UDR a success!

UDR Volunteers of 2008



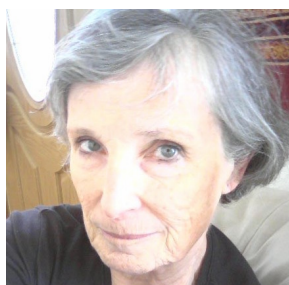
Lois received her mediation training in 2006 from instructor Sue Petty through Salt Lake Community College (SLCC) and continues to participate in on-going training opportunities from UDR and UCCR. Lois volunteers weekly to mediate for small claims court and volunteers for law and motion mediations about once a month. She is a member mediator of SLCC's Mediation Council, which provides internal mediation services for workplace relationship disputes at SLCC. She has conducted 54 mediations for UDR since she began volunteering here less than two years ago! We thank her for her time and devotion to UDR's court programs.



Mary Ann Erickson is an IT Manager with the State of Utah. She completed training in mediation in April 2003 through the Conflict Resolution Certification Program at the University of Utah. Since July 2003, Mary Ann has mediated many debt/loan, property, landlord/tenant, consumer/merchant and accident disputes through UDR's court and community mediation programs. She has conducted 95 mediations at UDR and we thank her for her time and energy!

First keep the peace within yourself, then you can also bring peace to others.

-Thomas A. Kempis



Sue got into mediation in the early 1980's and worked with Len Hawes and others to create the first mediation conference at the U of U in 1989. It was their vision that each community of people (educators, medical professionals, realtors, family counselors, social workers, and government employees) would explore how mediation could serve their communities and professions. She now limits her practice to domestic mediation. She also volunteers with the schools and juvenile courts. In the last year, Sue has conducted 46 mediations in UDR's Law and Motion court program. We recognize this achievement and thank her for committing her time to our program.



Orson B. West is an experienced family law attorney and a member of the Collaborative Family Lawyers of Utah. He is a partner in the law firm of Carver & West, LLC and has practiced family law in Utah since 1983. He received a Bachelor of Science degree from the University of Utah in 1975. After serving three years in the United States Marine Corps, he attended law school at the University of Nebraska, graduating in 1982. He frequently volunteers with Utah Dispute Resolution when he can take time from his family law and private mediation practices. Orson works with UDR as a family mediator and has conducted 44 mediations for families through our program. Thanks for your commitment!

New Trustee: Michele Mattsson

Contributed by Nancy McGahey

We are pleased to welcome Michele Mattsson as the newest member of UDR's Board of Trustees. Michele has been active in the dispute resolution community for a number of years and has served on several boards and committees, including the Alternative Dispute Resolution Committee for the Utah Courts, the Symposium Committee for the Utah Council on Conflict Resolution, the Executive Board of the Dispute Resolution Section of the

Bar, and Legal Aid of Salt Lake. An avid University of Utah alumnus, Michele has served on the Crimson Club board and as past president of the Interfraternity Alumni Association. She is currently the President of the U of U Alumni Association.

Michele received her mediation training locally and at the Straus Institute for Dispute Resolution at Pepperdine University School of Law. She is a graduate of the

University of Utah where she received an Honors B.A. in English in 1985 and a J.D. in 1988. After working for a number of years in private practice, Michele joined the Utah Court of Appeals as a staff attorney and was appointed chief appellate mediator in 2001, a position she still holds.

We are grateful that Michele found time to support UDR's efforts. Please welcome her to the UDR family!

Marvelous Mediator

Dear Marvelous Mediator,

I have been volunteering at Small Claims Court for a year and would like to branch out into other kinds of mediation. What other volunteer opportunities are available without having to take domestic training?

Fearing Stagnation

Dear Stagnation,

Small Claims Court is a great starting point to practice the mediation skills you learned in your training class and to become comfortable with your mediation style. The format allows for one or two issues that need to be discussed along with minimal emotional distress involved. Most of the time anyway... UDR has small claims programs in Logan, Ogden, Farmington, Bountiful, Salt Lake City, West Valley City, West Jordan, and Taylorsville.

While it's a great starting point, wanting to progress and try new types of mediation is understandable and commendable. There is a variety of other kinds of mediation that require no additional or minimal training. At UDR we coordinate mediations for the Law and Motion calendar at Matheson Courthouse; these mainly involve debt collection or eviction matters. UDR also coordinates mediations for small claims appeals cases; these present a challenge because a judgment has been rendered. Russ Osguthorpe would be the main contact for those programs.

UDR also coordinates community mediations in Salt Lake City and Ogden that involve a variety of disputes. Those are done during the work day and you would need to be able to take time off or have an open schedule to do those mediations. If you have that flexibility, great! Let us know!

Some other venues for mediation that don't require more training are the Law and Motion mediations in

West Jordan and Layton that are coordinated by court employees. The West Jordan calendar convenes every other Monday at 8:30 AM and Dean Campbell is the coordinator. He can be reached at (801) 578-3982. The Layton calendar is held every Wednesday at 8:30 AM and Natalie Threlkeld coordinates that. You can reach her at (801) 578-3976.

The Community Action Program works with evictions and housing disputes at the Matheson Courthouse in Salt Lake City. That program is run by Josie Turner and happens three days a week. Her phone number is (801) 359-2444 x 225.

"Wanting to progress and try new types of mediation is understandable and commendable"

The Mountain Mediation Center coordinates small claims mediations in Park City. Contact Vic Rainey to volunteer for this program. He is available at (435) 615-6807.

For anyone in Utah County, there are several options. Grant Richards coordinates several locations in the area and is looking for volunteers to help. Please call him at (801) 863-8316 if you are interested in mediating. The programs are offered in American Fork, Orem, Provo, and Spanish Fork.

Two other court programs, victim/offender and truancy, require a day of specialized training beyond the basic mediation training.

The juvenile victim/offender program is run by the juvenile

court system. Mediators bring together victims and the offenders that committed crimes against them to talk about the impact the crime has had on both parties. These cases can be intense but gratifying.

The truancy mediation program exists to help keep teenagers in school. The mediations include the student, parent, and administrative personnel. They usually involve a caucus with each participant. The format is different, but it can help put a kid's life back on track. What a great opportunity!

Contact Bart McKay or Gina Trujillo to learn more about the victim/offender and truancy programs. E-mail works best for them: bartm@email.utcourts.gov or ginat@email.utcourts.gov

If working with teens sounds like fun to you but you don't have time for the training, Horizonte High School and UDR have a youth program where students are trained to be mediators for their peers. We are always looking for help with role play coaching, supervising mediations at peer court, and helping with our newest service project! For information on that, see page 1 of the newsletter.

I hope this provides you with some resources to expand your mediation experiences!

Marvelous Mediator



Upcoming Training

Watch for more information and a date in the coming month for a training on **mediating with participants from different cultures!**

Emphasis will be given to Hispanic culture mediation, which is a growing need in northern Utah. Awareness of other cultures will be included as well. Meggan McLean-Stein will be presenting for our volunteers! More information to come!



Conflict Mediation Across Cultures: Pathways and Patterns

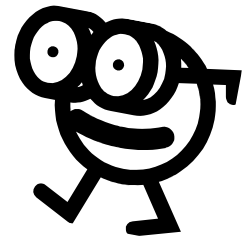
by David W. Augsburger

Review by Evie Brinkerhoff

All cultures create their own paths through which they settle disputes; each culture has a pattern of behaviors, sets of values, laws, and processes for handling conflict. These are ways in which the culture attempts to create fairness and reach a mutually satisfactory resolution. Whether a culture tends toward avoidance of



conflict, practices patience and the passage of time to resolve conflict, or brings the parties involved in the conflict face to face, they have all developed ways in which to resolve disputes that, according to Augsburger's book *Conflict Mediation Across Cultures: Pathways and Patterns*, reflect upon the core values of the culture. This is the premise upon which Augsburger focuses his book and study: that every culture deals with its conflict in a unique manner, and when there is a cross-cultural conflict, we are blocked from resolving the conflict because of the differences in how we view the conflict and the processes that we are taught to deal with conflict.



Augsburger writes that conflict is a universal experience that is distinct and unique to every culture and every individual. He argues that in order to truly open ourselves up to understanding another culture's process of conflict, we must first rid ourselves of our concept of common sense and fairness. In doing this, we become open to viewing how other cultures and individuals sort out disputes and we can collaborate with others more easily without the baggage of our own hardwired responses to conflict and its resolution.

As individuals, according to Augsburger, we also struggle to resolve within us the different cultures, sub cultures, and groups of which we are comprised. The result of this struggle is that each individual has a unique path to and idea of conflict resolution. Augsburger does not tell us how to mediate cross-culturally, but provides us with the information needed to understand different cultural patterns and models of conflict resolution.

This book presents us with this information so that we may better understand ourselves and others, which helps us to have an openness and understanding in conflict resolution rather automatically falling back on hardwired ideas and notions that prevent true collaboration. Augsburger presents a way in which we can understand not only our own, but also other cultures' responses to conflict.

Utah Dispute Resolution Staff

Executive Director: Nancy McGahey

Operations Manager: Pam Nelson

Office Manager and Case Management Supervisor: Rachelle Geary

Court Mediation Programs: Russ Osguthorpe

Spanish Program Case Manager: McLean Smithson

Ogden Office Development Manager: Evie Brinkerhoff

Youth Program and Training Coordinator: Heather Threlkeld

UDR Newsletter Editor: Heather Threlkeld



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