



ADR UPDATE

Member Newsletter

October 2006

PRESIDENT'S PAGE

Change = Opportunity: Let's Go For It!



While our present period of change may seem at first to be a time of turmoil, I believe we are in a period of healthy change that will ultimately make ADRIO stronger and more

responsive to the needs of its members as well as more accessible to the public at large, which are our twin mandates.

Thank you Dave Caryl

I have only recently become President, more by a fluke than deliberate planning on anyone's part, and my first task is surely to thank David Caryl for his stalwart efforts and hard work as your immediate past president. I hope that Dave visits often, because I need his perspective on the issues we face and his companionship at Swiss Chalet for dinner discussions on books, films and ideas.

Lynn Bevan's Resignation

Next I must say a word about the resignation of Lynn Bevan who was to be President this year but who, in the highest tradition of integrity, foresaw that she might be placed in a position of conflict of interest in respect of one of ADRIO's initiatives this year (of which more below) and so tendered her resignation to the Board in late August. This was accepted with extreme regret at our September 7th meeting, so I am the one writing this note instead of her. We are bereft of her drive and energy for the moment, but it may well be that she can come back to us and soon. Let's hope so.

Good-bye to Judy Ballantyne

I cannot go any farther in this narrative without remarking with some personal sadness that we have now said goodbye to our long serving and indefatigable Executive Director, Judy Ballantyne, who is moving back to Alberta. A wonderful farewell tribute dinner for her was held at the Capocaccia Restaurant in Toronto on September 7th. The party was attended by many of Judy's long time friends in the ADR community, a who's who of movers and shakers, and it was a swell affair where the wine was flowing and the food was first class. Judy was feted with a number of speeches lauding her numerous qualities that have helped ADRIO to advance to its current strength (not the least of which was her ability to get on your case to make sure things you promised actually happened). Judy was presented with a great digital camera to take away with her when she moves. We all wish her the very best in the future!

Welcome to Our New E.D.

Our sadness at Judy's retirement is, however, tempered by the growing realization that we have found in our new Executive Director, Mary Anne Harnick, a person of similar drive and ability as she quickly gains experience in the ways of ADRIO and asserts her organizational skills to keep us on the right track - moving forward to achieve new strategic goals. Since joining us recently she has already demonstrated an uncanny ability to prod yours truly on several matters (to prepare these remarks for one example) and this bodes well for her becoming a seamless replacement as the source of "power behind the throne", as was Judy. Welcome Mary Anne—we all look forward to many years of working with you to improve ADRIO in countless ways, to make it the leading ADR organization in Ontario or, as our National President Dave McCutcheon is fond of saying, The Gold Standard in ADR.

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Directors:

Les O'Connor, *President*
 Carol Seglins*, *Secretary*
 Jeffrey Smith, *Treasurer*
 Gary T. Furlong, *VP Standards*
 Heather Swartz Bullock,
VP Promotion
 Dawna Marie Borg,
VP Professional Development
 Richard Beifuss, *VP Education*
 Allan Revich,
National Board Representative
 David B. Caryl, *Past President*
 Dean Benard*
 Blaine Donais*
 Peter D. Dreyer
 Susan A. Easterbrook*
 David R. Elliott*
 Anne Gottlieb*
 Barbara Landau*
 Milad R. Matthias
 Warren Morris
 Joyce Young*

Staff:

Mary Anne Harnick
 Mena Peckan
 Julia Savitch

* New Directors

Past Directors

I would be remiss if I did not, in my first official comment to the members, thank all of those of my fellow directors from last year who crowded around the table in the ADRIO offices or coped with less than perfect sound transmission on the conference call and who, for one reason or another, did not run for re-election this year. Your dedication and hard work without any prospect of reward other than the communal advancement of ADRIO itself were a continuing source of encouragement and are a source of renewed dedication to those of us who carry on the fight.

New Board Is Rolling Up Its Sleeves

That fight, let it be said, is now to be ably continued by a slew of new directors and as I can attest from attending this year's first Board meeting, there is a sense of renewed optimism and "roll up your sleeves and dig in" energy that promises to make this year's Board a very active one, brimming with accomplishments. I personally look forward to working with each of them on your behalf to reach our goals of service and heartily welcome the newly elected and appointed directors (shown with an asterisk in the listing on page 1 of this newsletter). What a dynamic team we have. Let us accomplish much together!

New Initiatives

In addition to all these changes, we have also embarked on some important new initiatives. First, as you may already know, ADR Institute of Ontario Director Barbara Landau led the institute team and others from OAFM who were busy preparing and then submitting an excellent brief to the government on Bill 14 over the summer. These efforts were directed at seeking the total exemption of mediators from the net cast by the Bill and seeking other changes to the Bill meant to protect mediators in their daily practice from running afoul of the legislation (in its form to date anyway), in order to try to stop some paralegal activities viewed as harmful to the Public. Her paper is available at our website (www.adrontario.ca under "News").

Next I want to tell you that we are now in the process of developing a request for proposals for a total revamping of our web capabilities, under the able guidance of director Allan Revich and his web committee. We hope

to be able to have responses by a date in October, so we can consider them at our next board meeting. This initiative is the one responsible for Lynn's decision to withdraw temporarily from her ADRIO directorship, as her firm is one of the pool of firms from whom we will be seeking web savvy proposals. I am sure that we all await the fruition of this drive for more interactive and more easily searchable data bases with baited breath. Go Allan!

There are several other Board activities underway now as well, involving a number of directors working together in committees, that have not yet reached a stage of completion where I can easily share them with you. Suffice it to say, however, that if they pan out, ADRIO may become the focal point of new initiatives that will draw on the strengths of its members across the Province to provide mediator and facilitator services to the public, thereby accomplishing our twin goals of proving benefits to members and the general public.

A Time of Change and Renewal

A time of turmoil? No, I choose to see this as a time of healthy change and renewal. The infusion of fresh talent into the ADRIO family will enable us to reach even higher levels of pre-eminence as ADR professionals and to remain a centre of ADR excellence in the eyes of business and the public.

Get Involved!

Next, may I issue a challenge: This is your organization too and if you value your membership, get involved somehow - in the Board's own committee activities, in the leadership activities of one of our many sections, or just by offering to speak at some function that is being run under the ADRIO auspices. Your contribution will enhance ADRIO in ways you never thought possible. Finally, I leave you with a bit of a riddle. Why do I enjoy calling this number so much: (416) 487-4447? I will give my answer in the next instalment of the President's Page. Until then, stay tuned for more from ADRIO.

Respectfully Yours,

Les O'Connor, President

Congratulations to Ontario's newest Chartered Mediators and Arbitrators!

James I. Cameron, C.Arb.
Susan Houston, C.Med.
Gordon D. Lemon, C.Med.
Delwin Lawson McLennan, Q.C., C.Arb.
Marc A. Potvin, C.Med.
Carol Seglins, C.Med.
Gemma Smyth, C.Med.
Sidney H. Troister, C.Arb.

How Do We Protect the Public When Anyone Can Hang a Shingle?

By Heather Swartz Bullock, MSW, C.Med.

While the ADR community ponders the question of regulation of the profession, just about anyone can hang up a shingle advertising his or her ability to conduct private mediations. The field is caught in a "buyer beware" service delivery system, despite most ADR practitioners' intent to provide a trustworthy dispute resolution alternative that protects the public.

As paralegal regulation becomes a reality in Ontario, it is incumbent on ADR practitioners to find answers to some tough questions.

- Should ADR regulation be the next step?
- How will the public and the public interest be protected?
- How can mediation become a recognized and authentic profession?
- Is regulation in the ADR community's own best interest?
- How can we be sure that those who practice are competent and continue to be competent?

There are no easy answers and lots of questions.

At the joint presentation of the ADR Institute of Ontario and OBA-ADR section, May 26, 2006, Hilary Linton, President, ADR Section, OBA, moderated an informative panel that presented thought-provoking perspectives that shed light on some, if not all, of these questions.

Public Risk

Panel member Susan Healey, then President of the Ontario Association for Family Mediation, described situations that place the public at risk. She described an extreme example of Maureen Boldt, Boldt Paralegal, a North Bay councillor who was practising law without a licence. Despite complaints from 1995 to 1998 that led to the Law Society of Upper Canada obtaining a permanent injunction in 2000 restraining Ms. Boldt from preparing separation agreements, petitions for divorce, wills and incorporation documents, Boldt, now Boldt Paralegal and Mediation, continued to do so, leading to a recent hearing in 2006 in which there was a finding of contempt of court made against her, from which she has appealed. While the OAFM has permanently revoked her membership in that voluntary organization, Susan indicated to the audience that, without regulation of mediators, it is difficult to protect the public interest. Yet, with regulation comes the need for a rigorous complaint and discipline process. Are we up to the challenge? What's the downside? What's involved?

Community Mediation

Peter Bruer of Conflict Resolution Services, St. Stephen's Community House, Toronto, addressed the potential impact of regulation on community mediation in particular.

While the field of mediation is maturing, Peter suggested that how mediation is defined in the future, including who we are and what we do, will have an impact not only on the standards of training, on the involvement of third parties in the resolution of community issues, but also on the accessibility to mediation for communities. St. Stephen's is committed to social justice, social change and developing a culture of non-violence through a transformative conflict resolution approach. Peter challenged the audience to use regulation to define the opportunity to change the world – from our heart and soul.

Regulation

Donna Campbell, Senior Legal Counsel with the Ontario Energy Board raised a number of important questions in relation to regulation of a profession.

- How to define mediation and who is/is not a mediator?
- Should regulation be voluntary or imposed?
- What minimal objective criteria would be appropriate for overall regulation and would Colleges be appropriate for mediation specialty areas with additional criteria beyond the standard skill set?

Donna restated a familiar theme: that regulation on its own cannot ensure morality and ethics, once again raising the need for effective complaint and discipline procedures.

Should regulation be our next step? Is the creation of a College of Mediators in Ontario to be or not to be? Thinking about the future, including the pace and direction to proceed with regard to regulation will have an important impact on the recognition and validation of the profession and most importantly on protection of the public.

Report to the Standing Committee on Justice Policy RE: Bill 14, 2005, Access to Justice Act, Submitted by Dr. Barbara Landau, Board of Directors, ADR Institute.

We would like to thank Dr. Landau and all those who contributed to this important report advocating that ADR professionals should not be caught in the overly broad net cast by Bill 14, an Act to regulate paralegals.

Barbara Landau's submission on behalf of the ADR Institute of Ontario on Bill 14 is now available on our website: www.adrontario.ca under "News".

IMPORTANT EVENTS

**ADR Energy! National Conference**

Calgary is this year's host to the ADR Institute of Canada Annual Conference for Mediators, Arbitrators and leading organizations who use these critical services.

Key topics will include: Gold Standard ADR, Using ADR Principles to Manage a Booming Economy, the new Court Mediation Program, ADR at the EUB - Staying Out of the Hearing Room, Good Negotiations = Good Business, Use of Experts, Complex ADR, Drafting ADR Clauses, Commercial Arbitration Update, the Municipal Regulator's Panel, and more.

Hear ADR experts from Fraser Milner Casgrain, Borden Ladner Gervais, Miller Thomson, Macleod Dixon, Bennett Jones, Alberta Environmental Appeals Board, Alberta Arbitration & Mediation Society, Petro-Canada, Deloitte & Touche, Alberta Justice, Alberta Municipal Affairs, and more.

Network and learn from the experts on **Friday, November 17, 2006.**

For a detailed program description, go to http://www.adrcanada.ca/documents/ConferenceBrochure_000.pdf and send your registration form to us to reserve your place.

We look forward to seeing you at our conference.

For further information or to register, please call 416-487-4733 or email admin@adrcanada.ca.

Book Launch

Title: **"Workplaces that Work: A Guide to Conflict Management in Union and Non-Union Work Environments"**

Date: Wednesday, October 11, 2006

Location: The Imperial Pub, 54 Dundas St. East, Second Floor, Toronto
Blaine Donais, Author

You are invited to join in celebrating the book launch of Blaine Donais' new publication **"WORKPLACES THAT WORK"** on Wednesday, October 11, 2006. There will be a special 15% discount on purchases made at the launch for ADR Institute of Ontario Members.

Fifth Annual "Meet N Greet" for Chartered and Non-Chartered Members

Date: Tuesday, November 28, 2006

Location: Ontario Bar Association, 20 Toronto St., 5:30 p.m. to 9:30 p.m.

Panel Presentation with Ruth Cameron, Moderator.

Speakers and topics will be announced shortly.

Come out and learn from your colleagues, honor New Chartered Members and participate in an interactive panel discussion led by high profile Mediators.



Civil Procedure Workshop on Saturday, December 9, 2006

The ADR Institute is pleased to present a full-day of workshop covering the basics of civil procedures in Ontario for non-lawyer mediators. The workshop goes toward fulfilling the civil procedures requirement for the OMMP Roster. To register in advance, please contact Mena at 416-487-4447 or admin@adrontario.ca.

Basic Civil Procedure for Non-Lawyer Mediators: This session will cover the litigation process from start to finish, each of the steps in a lawsuit, cost implications, a glossary of legal terms, and what mediators need to know about the process; Gary Furlong, Instructor

Civil Procedure for Contract & Employment Claims: This session will cover legal concepts and terminology related to basic contract disputes, as well as wrongful dismissal, two of the most common file types that reach mediation; Gary Furlong, Instructor

Civil Procedure for Tort & Insurance Claims: This session will cover concepts and terminology specific to both insurance and personal injury claims and the various automobile insurance acts passed over the last 10 years. Gary Furlong, Instructor

Member Fee: \$150.00 (Early-bird rate *before November 20*)

Member Fee: \$165.00 (after November 20)

Non-Member Fee: \$250.00 (Early-bird rate *before November 20*)

Non-Member Fee: \$275.00 (after November 20)

(GST to be added)

Location: ADR Institute of Ontario office

SECTION MEETINGS

OMMP SECTION MEETING

Date: Thursday, October 12, 2006 from 5:45 pm to 7:15 pm

Location: Office of the ADR Institute of Ontario, 234 Eglinton Ave. E., Suite 500, Toronto

Speaker: Ms. Mei-Mei Clarke, Counsel, Sun Life Assurance Company of Canada, Toronto

Topic: "Mediation of Long Term Disability Insurance Disputes"

Mei-Mei Clarke is an in-house lawyer at Sun Life Assurance Company of Canada in Toronto. She was called to the Bar in 1996 after receiving her LL.B from the University of Ottawa Law School.

Ms. Clarke works on Sun Life's litigated disability claims in Ontario, many of which are mediated. She will speak about her experiences with these claims, and what she looks for when selecting a mediator.

There will also be a brief section business meeting to discuss section activity for coming year, including Section executive selection.

OMMP Section Chair: Brian Williams

RSVP to Mena by e-mail: admin@adrontario.ca

CONSTRUCTION SECTION MEETING

Date: Thursday, October 19, 2006 from 5:45 pm to 7:15 pm

Location: ADR Institute of Ontario, 234 Eglinton Ave. E., Suite 500, Toronto

Speaker: Gary T. Furlong, C.Med.

Topic: "Multi-Party Disputes in the Construction Industry"

Construction Section Chair: Robert (Bob) Silver

We are looking for a Co-chair to assist Bob with the Section, so if you can, and are available to help, we would appreciate hearing from you.

RSVP to Mena by e-mail: admin@adrontario.ca

NEW DEVELOPMENTS

ADR Institute of Ontario members residing outside of the GTA area can now join section meetings through teleconferencing by dialing in. Should you wish to participate in any of the above meetings, please notify the office in advance of the meeting(s).

Call 416-487-4447 or email admin@adrontario.ca for further details.

The number of spaces available for teleconferencing is limited, so please don't delay contacting us to register!

WANTED: YOUR TALENT AND IDEAS!

If you have ideas for speakers or topics for future professional development programs, please e-mail Dawna Borg at dawnaborg@rogers.com

ADR REFERENCE MATERIALS

If you have not yet purchased the Commercial Mediation Practice Handbook and/or the Arbitration Practice Handbook, now may be the time...

The Commercial Mediation Practice Handbook	The Arbitration Practice Handbook
<p>The Mediation Handbook is designed to function as a guide for professionals working in the field of commercial mediation. It is also:</p> <ul style="list-style-type: none"> ▪ a superb primer in commercial mediation; ▪ a primary resource for those wanting to familiarize themselves with the mediation process; ▪ a valuable source of information for those wanting to understand mediation within a commercial or business context; and ▪ a handy reference for legal practitioners in the field. <p>The handbook has been published in an easily referenced three-ring binder format which allows the subscriber to insert revisions and supplements as additional materials to meet their own requirements.</p> <p>Price: \$95.00 per copy (plus GST) R125294660</p>	<p>The Arbitration Handbook is designed to function as a guide for professionals working in the field of commercial arbitration. It is also:</p> <ul style="list-style-type: none"> ▪ a superb primer in commercial arbitration; ▪ a primary resource for those wanting to familiarize themselves with the arbitration process; ▪ a valuable source of information for those wanting to understand arbitration within a commercial or business context; and ▪ a handy reference for legal practitioners in the field. <p>The handbook has been published in an easily referenced three-ring binder format which allows the subscriber to insert revisions and supplements as additional materials to meet their own requirements.</p> <p>Price: \$85.00 per copy (plus GST) R125294660</p>

Commercial Mediation Practice and Arbitration Practice Handbook ORDER FORMS are available on the national website of the Institute: www.adrcanada.ca under "Practice Essentials".

The Correspondence Course in Arbitration

This two-part correspondence program is designed for those with post-secondary education. Lawyers admitted to the bar in Canada do NOT have to complete Part I of the course; however, a law degree or training in arbitration is not essential. The twelve lessons which comprise the program cover concepts and procedures of contract and tort law, arbitration acts and procedures, evidence and court control of arbitration.

Students must complete one assignment each month, which are marked by ADR Institute of Canada members who are practicing and experienced arbitrators. The course culminates in a case study where students must apply their skill and newly acquired knowledge to a practical arbitration problem.

PART 1

Part 1 of the program is designed to provide non-lawyers with an understanding of the law of contracts and torts, and an introduction to commercial arbitration statutes. After completing each of the assigned chapters, students must complete and submit an assignment. After all assignments have been completed, there is an exam. (Price \$589.00 per Module.)

PART 2

Part 2 provides members of the legal profession and graduates of Part 1 with detailed information on the appointment, authority and role of the arbitrator; steps involved in the arbitration process; rules of evidence; and arbitration awards. As in Part 1 of the correspondence program, each lesson is followed by an assignment. After all assignments have been completed, there is an exam. (Price \$589.00 per Module.)

Those who are not members of the legal profession must complete the first part of the correspondence program successfully before enrolling in Part 2.

ORDER FORMS for the Correspondence Course in Arbitration are available on the national website of the Institute: www.adrcanada.ca under "Practice Essentials".

Questions/Comments? Please email admin@adrontario.ca or call us at **416-487-4447**.



ADR Institute of Ontario, Inc.

Ontario Dispute Resolution Centre

234 Eglinton Ave. East, Suite 500

Toronto, Ontario M4P 1K5

Tel: 416-487-4447

Fax: 416-487-4429

admin@adrontario.ca

www.adrontario.ca