
From: Tennessee Association of Professional Mediators [tapm@tennmediators.org]

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MEDIATION NEWS FOR THE 21ST CENTURY™



MEDIATION NEWS

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**Quarterly Meeting Features
Justice Bill Koch, ADR
Commission Members Ben
Cantrell and Ed Silva and AOC's
Andrea Ayers**

**By: Marietta Shipley
TAPM President**

On September 20, TAPM met for a lunch and learn at Harper's Restaurant on Jefferson Street for the second time. It will now be our permanent home. The food is great and the service wonderful. It is easy to get to as it is just two minutes from the Jefferson Street exit off I-440 or straight down Charlotte or Jefferson from Downtown.

Marietta Shipley introduced Justice Bill Koch. Justice Koch was recently appointed to the Supreme Court several months ago by Governor Bredesen. He has taken over the responsibilities of liason to the ADR Commission from Justice Holder. He was happy to be present and learn more about mediation.

Andrea Ayers, Programs Director for the AOC, [She took over from Mary Rose Zingale] presented the amended changes to Rule 31 that were passed January 2006 but the most important of which will be effective January 1, 2008. You can find a full list of the amendments at the AOC website, at www.tsc.state.tn/geninfo/Programs/ADR/adrdir.asp at the very bottom of the page in the Spring Newsletter. Many of the changes were policy changes regarding



**Justice Bill Koch,
Liason to ADR
Commission**

**Mediation Day is
October 18, 2007**

**The Tennessee
Coalition for Mediation
Awareness Day is
Thursday, October 18,
2007. TAPM, along**

eligibility to become a Rule 31 mediator or trainer or fulfill the 6 hour every two year requirement. However, since most in the audience were already Rule 31 mediators, we were particularly interested in the reporting requirement beginning January 1, 2008. She stated that each person who conducts a mediation, who is a Rule 31 mediator, must report a mediation whether it is an official Rule 31 mediation or not. Likely the report will be whether the mediation was successful or not, the type of mediation, whether it was court-ordered, and possibly other issues. We should have a full report at the October 12 AOC training. Justice Koch assured the group that the reporting would be put to good use and help with the overall evaluation of mediation in the state.

Judge Cantrell, mediator and former Court of Appeals Judge gave us a history of evaluation of mediation in Tennessee. In January 2005, the Commission released an Evaluation of 12 counties in Tennessee. You can find that report also on the website above (in the middle of the page under Evaluation Report). Judge Cantrell said it was very difficult to measure the use of mediation because there was no information gathering mechanism. Even though there are over 900 Rule 31 mediators in the state, all information is anecdotal to date.

Ed Silva, mediator in Franklin, a new member of the Commission, explained how much is involved in the work of the Commission, from listing new mediators to planning training for the AOC and, certifying trainers. In this past year, they have spent a lot of time in making the policy changes as listed above and will continue to monitor the evaluation process. Judge Cantrell said that to date there had only been one grievance hearing which dealt with what was reported to the court following a mediation. Since mediations are confidential, a mediator cannot report to the court that a particular party did not act in good faith. One member of the audience asked what to do in such a situation. There was no specific answer, but a pre-mediation conference might have been helpful at the front end. There is also a provision in the rule that one can report to the court that the likelihood of a successful mediation is unlikely. See Section 10 of Rule 31. (b) *During Rule 31 ADR Proceedings, Rule 31 Neutrals shall:*

(1) Advise the court before which the proceeding is pending if the ADR proceeding is, or is likely to become, inappropriate, unfair, or detrimental in the referred action.

The meeting ended with the hope that a visit with commission members will be a part of TAPM's future meetings on an annual basis. We appreciated their participation.

ADR Commssion to present 6

with other supporting organizations, will meet to celebrate the day at the Ezell Center of Lipscomb University (where we had the March meeting.) Governor Bredeesen and Former Mayor Purcell proclaimed this as Mediation Day in Tennessee and Davidson County. Registration for the lunch will start at 11:30 a.m. The program will be in honor of Grayford Gray, an early pioneer in mediation at the University of Tennessee Law School. As a professor, Grayford started the mediation clinic there which provided law students with a real-world opportunity to participate in mediation in General Sessions Court as well as pursue course studies in mediation and negotiation. This year's theme is on mediation for minors, either peer mediation or mediation that results from juvenile court matters. Following the lunch, there will be 1.5 hours of CLE on Peer Mediation, led by Jocelyn Wurzburg from Memphis as well as Clay Phillips, of Nashville. The cost is \$20.00 for the lunch and \$20.00 for CLE. If you wish to attend, register online at <http://icm.lipscomb.edu/page.asp?SID=168&Page=5288>

**TAPM CIVIL
PEER GROUP**

hour training program at Vanderbilt University Law School October 12, 2007

This year the AOC will present Teresa Wakeen, J.D. as the main speaker for the annual mediation workshop. As Wakeen & Associates, she has offices in Seattle Washington and Baltimore, Maryland. She has been a professional mediator since 1992 and has successfully mediated over 3,000 disputes nationwide. She is known for her integrity, tenacity, ingenuity, and ability to bring parties together to settle the most difficult and complex of litigated disputes. She is a frequent speaker and trainer of dispute resolution at national organizations and in the State of Washington.

Ms. Wakeen serves as Vice President of the International Academy of Mediators and is a member of CPR's Panel of Distinguished Neutrals. She has trained at the Program on Negotiations at Harvard Law School, the Advanced Mediation Program at CDR Associates, and the Masters Forum at the Strauss Institute for Dispute Resolution.

Prior to her career as a full-time mediator, Ms. Wakeen was Associate General Counsel for CUNA and Affiliates. Her corporate practice included areas of commercial and business litigation, multi-party contract negotiations, and antitrust advising. Prior to joining CUNA, Ms. Wakeen was a litigator in products liability, medical malpractice, and general commercial and business matters.

This year's workshop will offer sessions on negotiation, effective marketing, new Rule 31 reporting requirements, and panel discussions. If you have not sent in your registration or have lost it, call Andrea Ayers at 741- 2687. The fee is just \$150 for this terrific CLE. TAPM will be at the training program, giving away mugs and memberships to prospective members.

TAPM MAKES TWO PROPOSALS TO BLUE RIBBON COMMISSION ON UNSPENT CLE MONIES

By: Marieta Shipley
TAPM President
&
Randal Mashburn
TAPM President Elect

The Supreme Court appointed a Blue Ribbon Commission to consider grants out of a 1.5 million

REPORT

BY Leigh Ann Roberts

The TAPM Civil Mediator Section enjoyed another successful breakfast gathering this month at its new location, Fido's in Hillsboro Village near Vanderbilt and downtown. Fido's Coffeehouse and Café is located at 1812 21st Avenue South, Nashville, TN 37212, (615)777-FIDO. Our next meeting will be **November 13th, 7:30 a.m.**, at Fido's. (the civil peer group will not meet in October, since there are so many mediation activities scheduled for October)

Members enjoyed the locally roasted coffee and equally stimulating conversation on tools for marketing and developing mediation practices. One topic, like cream, kept rising to the top- that topic being Blogs and using Blogs as a tool for increasing your practice's presence on the World Wide Web. This topic has grabbed the attention of mediators world-wide as evidenced by the "Featured Blog" Section at Mediate.com.

(www.mediate.com/blogs/) One of the Blogs featured on Mediate.com is the Mediation Marketing Blog of Dr. Tammy Lenski. Dr. Lenski's Blog is dedicated entirely to tools and tips for mediators looking to grow their practice and their practice's technology. This writer highly recommends Dr. Lenski's Blog as it is updated regularly and is chock-full of helpful tricks of the trade. An interview with Dr. Lenski will be featured in future TAPM newsletters.

If you are considering using a Blog to develop your practice, remember the following tips: 1. Understand the time commitment- blogs must be updated regularly

dollar fund resulting from penalty payments from attorneys who were late getting their CLE completed. TAPM made two proposals:

1. Peer Mediation - TAPM requested \$95,000 to set up six geographical sites across Tennessee for schools to apply for training for Peer Mediation in either elementary, middle or high schools. This program features training for several students and teachers in a school to learn how to resolve disputes within the school, such as playground disputes in elementary schools, fighting among students, personal disputes between students etc.

The training would be done by CRU Institute in Oregon. www.cruinstitute.org. This organization has a long history and excellent reputation across the country. It has a presence in Tennessee through the Memphis City Schools, where 80 schools have been involved in this program for over ten years. TAPM's role in the program, if it is approved, would be to help get the idea to the schools in Tennessee, so that they could request the grant money.

Each region would receive \$15,000 for a five day training of a combination of school and student training. A coordinator in each school would receive additional monies to help get the program organized and set up the mediations. We would hope that attorneys (particularly Rule 31 mediators) would get involved with the program either as trainers or as cheerleaders in the various schools.

2. STATEWIDE CONFERENCE ON THE FUTURE OF MEDIATION IN TENNESSEE

TAPM has made a proposal to the Tennessee Supreme Court for a grant to sponsor "A Bench & Bar Summit on the Future of Mediation in Tennessee." If the grant is awarded, it would fund a conference from a cross-section of judges, lawyers and government officials to discuss the current status of mediation in the state and to learn from representatives from other states where mediation is being successfully promoted.

In connection with the proposed conference on the future of mediation in Tennessee, TAPM proposed that the Blue Ribbon Commission provide funding for TAPM to sponsor the Summit that would have leaders of the Tennessee judiciary, bar and state government come together to discuss the status of mediation in Tennessee and to learn what other states are doing that have been particularly successful in promoting mediation as an alternative to litigation.

The proposal pointed out that, although Tennessee has made progress in the past few years in the use of mediation and other forms of alternative dispute resolution, it trails behind many other states in this regard. TAPM proposed pulling together a group of 50 to 60 selected members of the

for effectiveness; 2.) Understand your audience- know who is reading and why, and remember that information in all your postings; 3.) Understand your perspective and Style- you should have a unique perspective on your topic and stay true to your style to develop regular subscribers; and 4.) Understand your Subject-matter- since you will be viewed as a mini-expert on the topic you are discussing, make sure you have your facts straight and that you are able to offer insight on the material presented. Stay tuned for more great insights from the TAPM Civil Section Breakfast Crew and feel free to join us, it's free with your TAPM membership.

FAMILY MEDIATION PEER GROUP

Jan Walden, Family Peer Group Chair, reports that the Peer Group for family mediators continues to meet on the third Thursday of the month when there is no TAPM quarterly lunch/CLE/CME meeting. Our next scheduled meeting is on **Thursday, October 18 when we will join the Mediation Coalition at Lipscomb University in celebration of Mediation Day! Register online for your lunch and/or continuing education at**

<http://icm.lipscomb.edu>

On **November 15** we will again meet at the Oasis Center from noon-1:30 for our continuing discussion of

bench and bar, along with a number of state officials, to learn from the experiences of other states and to discuss how components of successful programs could be incorporated into Tennessee's system. In short, the goal would be to learn from the mistakes of others and benefit from the successes of others.

In order to have a good cross section of attendees but also keep the attendance to a manageable number both in terms of facilitating discussion and keeping costs reasonable – TAPM proposed that the Summit be by invitation only and at no significant cost to the attendees. In addition to certain state appellate judges, the majority of the judiciary attendees would be chief judges or their designees from each state judicial district. In addition, certain members of the bar – primarily presidents of the 10 largest bar associations -- would be invited to participate. The invitation list would also include the governor, various state commissioners and several other government officials.

The exact topics and speakers would need to be determined but the goal would be to have representatives from at least two or three other states with significant success in utilizing mediation in their court systems who could speak or serve on a panel to discuss their experiences. TAPM would also invite at least one nationally recognized authority on mediation to discuss trends in the field. In addition to having several out-of-state speakers to add that perspective, a portion of the program would be devoted to an interchange – likely through a panel discussion – about what various judges and districts in Tennessee are currently doing to promote mediation. Generally, the approach would be to have Tennessee judges and lawyers learn from each other as well as learning from outside resources.

The Board hopes to learn in the coming weeks whether either of its proposals will be approved. If the Bench & Bar Summit is approved for funding, it is anticipated that TAPM will be soliciting volunteers to assist in the planning of the event that would likely occur sometime in the first half of 2008.

We will keep you posted if we are successful. If we are not, the TAPM board may want to pursue the proposals in partnership with other organizations. Give us your thoughts on either proposal.

SEPTEMBER 2007

CASES & RESOLUTIONS:

Ninth Circuit Concludes Party Put on Notice by Information Despite Mediation Confidentiality

“Parenting Plans—One size does NOT fit all.” The November discussion will focus on fathers.

While we do have a specific presentation/discussion topic at each meeting, we will always first address any issues/problems a member brings to the group for assistance.

Public Education and Outreach Committee Activities

**by Dick Krebs
TAPM Secretary**

The TAPM Public Education Committee

has been researching ways to make people who are involved in some sort of legal conflict aware that Mediation may be a way to settle their dispute quickly, confidentially, and at less cost than going to court. We have had discussions on establishing a speakers bureau, promoting mediation in print media such as the Nashville Business Journal, Nashville Scene, City Paper, and The Tennessean. We have also looked into placing posters promoting mediation in the Court House. We have looked at the Maryland Mediation and Conflict Resolution Office program (www.marylandmacro.org)

Defendant was put on notice of the amount in controversy for purposes of the deadline for removing the case to federal court, even if plaintiffs' letter providing the information was covered by California's strict mediation confidentiality statute, according to the U.S. Court of Appeals for the Ninth Circuit in [Babasa v. LensCrafters, Inc.](#) The court held that the California mediation privilege did not apply because removal is an issue of federal law and that defendant neglected to assert a federal evidentiary privilege.

[Babasa v. LensCrafters, Inc.](#), 2007 WL 2331949 (9th Cir. August 16, 2007) (Subscription Required)

Federal Court Rejects Assertion of "Interest of Justice" Exception to Mediation Confidentiality

Denying a motion seeking materials prepared for mediation, a federal magistrate in Connecticut ruled that defendant failed to show that the requested materials fell within the "interest of justice" exception in Connecticut's short mediation statute. Plaintiffs provided defendant with all releases and settlement agreements reached in an earlier mediation with third party defendants and their insurer, and disclosed that there were no other written or oral agreements or understandings. Defendant argued that production of communications before and after settlement was necessary to evaluate third party claims and uncover any potential prejudice of witnesses. The court reviewed the requested materials *in camera*, listed them in the opinion, and held that mediation confidentiality outweighed any interests served by disclosure.

[Bradley v. Fontaine Trailer Co.](#), Civ. 3:06CV62, 2007 WL 2028115 (D.Conn., July 10, 2007) (Subscription Required)

Texas Court Enforces Strict Terms of Agreement

A Texas appellate court reversed the lower court and held that a mediated settlement agreement was breached and liquidated damages appropriate when a tenant's check bounced, even though the landlord had held the check for weeks, the tenant offered a cashier's check in replacement and had had no other problems with the payment schedule. The appellate court also reversed on the issue of the completeness of the agreement, concluding that the mediated agreement did not lack essential terms by failing to address the refund of a security deposit and timing for vacating the premises.

[E.P. Towne Center Partners, v. Chopsticks, Inc.](#), 2007 WL 2405212 (Tex.App. August 23, 2007) (Subscription Required)

Short Settlement Agreement Unambiguous and Enforceable

Despite one party's assertions that the short document signed at the end of the mediation was not intended to be a final settlement agreement, a North Carolina Court of Appeals

and some of the things they use to promote mediation. The TAPM Board decided to order some posters from MACRO for placement in the court houses. The Board has not made a decision as yet to place the information in the print media. If anyone has any suggestions or wishes to serve on the Public Education Committee please contact TAPM at tapm@tennmediators.org

Mediation Quote:

"During the proposal-swapping stage of traditional bargaining, reactive parties hurl epithets, engage in name-calling, and blame the other side for not getting the case settled. Out of a reactive state, they engage in behavior (make outrageous counterproposals) that drives the other side away and makes the result they give lip service to (settlement) harder to achieve. It is important for us to remember that, when negotiators react reflexively by slowing their movement or stopping movement altogether, they have lost control of their own creative processes.... [T]he mediator can help parties regain control over their own destiny."

- J. Anderson Little, *Making Money Talk: How to Mediate Insured Claims and Other Monetary Disputes* (ABA Section of Dispute Resolution 2007) at 92, 93.

upheld the agreement in [Capps v. Mecklenburg County](#), noting that signed agreements need not be thorough to be enforceable. The objecting party also asserted that the mediator, who filed an affidavit in the litigation, had said that strong confidentiality provisions would be negotiated and included in a subsequent settlement agreement.

[Capps v. Mecklenburg County](#), No. 03 CVS 10822 (N.C. App. August 21, 2007) (Subscription Required)

Copyright Royalty Terms Go to Mediation

Sirius Satellite Radio and XM Satellite Radio Service are attempting to negotiate royalty deals with the Copyright Royalty Board, as their current arrangements have expired, but the parties are so far apart that they have turned to mediation. The radio service providers are proposing a new approach, with royalties tied to performance rather than overall revenues, and the rate per performance increasing as subscriber targets are met. The process is generating great interest within the broader industry and is being closely followed.

[SeekingAlpha](#) (August 13, 2007)

Abuse Case Against Mormon Church Enters Mediation

The Church of Latter-day Saints has agreed to mediate a \$45,000,000 sex abuse case in which the church has already been ordered by the Oregon Supreme Court to produce detailed financial information for the first time since 1959. Larger battles over the rights of the church may be litigated in the absence of settlement. In addition to monetary damages, the alleged victim is seeking changes to the church's sex abuse policies in the mediation.

[OregonLive.com](#) (July 26, 2007)

City Council Turns to Mediation for Quick Resolution of Tax Dispute

After ten months of litigation that cost the city of Ashtabula, Ohio over \$120,000, the City Council has decided to seek to mediate its tax dispute with the Ashtabula Area Board of Education, rejecting the alternative of binding arbitration as too time consuming and costly. The dispute involves \$1.3 million in property tax revenues lost by the School Board due to tax abatements granted to residents by the city.

[Star Beacon](#) (August 3, 2007)

Court Requires Fire Department, City to Mediate Merger Dispute

In a dispute over the proposed consolidation of four local fire

Other Cases & Resolutions:

Johnson & Johnson Seeks Mediation in Trademark Suit Against American Red Cross Over Use of Red Cross Emblem, [Reuters.com](#) (August 16, 2007)

Parties in Cattle Fraud Lawsuits Begin Mediation; Criminal Charges Also Pending, [Booneville Daily News](#) (July 11, 2007)

Mediation Brings Some Success in Second Phase of Canadian Windmill Farm Dispute; Expected Length of Hearings Reduced Significantly, [Orangeville Citizen](#) (July 26, 2007)

Dispute Over Allocation of Water for Kayak Park Opposed by Colorado Water Conservation Board Continues in Mediation, Set for Trial, [The Durango Herald](#) (July 26, 2007)

Rapper Kanye West and Daredevil Stuntman Evel Knievel to Mediate Multimillion Dollar Trademark Infringement Suit, [Rap Basement](#) (July 11, 2007)

Court Hearings in Dispute Between New Orleans School Districts Delayed Indefinitely for Mediation, [The Advocate](#) (August 7, 2007)

Court Order for Mediation Seen as Victory for Local Florida Housing Agency Resisting Federal Takeover by HUD, [Miami Herald](#) (August 24, 2007) (Subscription Required)

Missouri Judge Orders Mediation of Open-Meeting

departments by the City of Stamford, Connecticut, a state court has ordered the dissenting fire department and the city to mediate, as set forth in a management contract between the parties. The court also required the fire department to post a \$5,000 bond to cover the city's legal costs depending on the outcome of the mediation.

[The Advocate](#) (July 10, 2007) (Subscription Required); [The Advocate](#) (August 23, 2007) (Subscription Required)

New Zealand Authority Finds Dismissal Unjustified for Post-Mediation Disclosures

After a successful workplace mediation, the employee mentioned to a co-worker that the manager had attended with her son and had been in tears during the mediation. The employer learned of the conversation, alleged a breach of the mediation confidentiality agreement and terminated the employee. The New Zealand Employment Relations Authority concluded in [Plimmer v. Hawksbury Community Living Trust](#), CA 31/07 (Christchurch, March 28, 2007), that the employee's disclosure was inadvisable but did not breach confidentiality since there was no disclosure of the settlement discussions or the details of what had been agreed.

[Independent \(NZ\)](#) (July 18, 2007) (Subscription Required)

NEWS & INITIATIVES:

Evaluating Mediation and Arbitration Clauses in Real Estate Contracts

Many residential real estate contracts include mediation or arbitration clauses in order to avoid drawn out, expensive litigation between buyers and sellers if a dispute arises, which may raise concerns about giving up future legal rights. Mediation clauses do not impact legal rights, and if the parties do not settle they continue to have rights to a jury trial, courtroom rules of evidence, and appeal. With binding arbitration these rights are waived and even a mistaken decision by the arbitrator is generally final and non-appealable. While mediators don't have the power to compel settlement, even when the parties don't reach agreement they at least may know better the position of their opponent. Real estate agents are not a party to the sales contract and so are generally not bound by mediation or arbitration clauses.

[Boston.com](#) (August 31, 2007)

North Carolina Encouraging Mediation of Criminal Cases

North Carolina is fostering mediation of all types of criminal cases through new legislation to establish a mediator

Dispute Among County Legislators, [The Examiner](#) (July 19, 2007)

Panel Investigating Toronto School District Recommends Mediation Between School Board Superintendent and Trustee to Heal Relationship; Parties Concur, [The Star Toronto](#) (August 30, 2007)

\$50 Million Real Estate Project in Australia, Delayed 18 Months by Opponents, Goes to Mediation a Second Time, [The Southland Times](#) (July 16, 2007)

Civil Fraud Suit Against Former Indonesian President Suharto Ordered to Mediation by Indonesian Court, [Radio Australia](#) (August 9, 2007)

Other News & Initiatives:

OECD Adopts Policy Recommendations to Ensure Better Consumer Access to Cost-Effective Dispute Resolution for E-Commerce, Including Cross-Border Transactions, [OECD Recommendation](#) (July 12, 2007)

United Nations Security Council Reaffirms Commitment to 2005 Resolution Regarding Peaceful Resolution and Prevention of Disputes, Including Use of Mediation, [U.S. Federal News](#) (August 28, 2007) (Subscription Required)

Croatia's Ministry of Finance Requests Proposals to Enhance Mediation Processes, Including Case Management, Recommendations on Mediation Law, and Development of Code of Ethics, [Tenders Electronic](#)

certification process and permit district attorneys to delay prosecution pending mediation. Enacted on August 19, the legislation applies to mediations conducted after the North Carolina Supreme Court adopts rules and regulations for training and certifying mediators, which the act requires by January 1, 2008. Community mediation centers are to assist in administering the criminal mediation program using volunteer or staff mediators. The act expressly provides confidentiality for work product and case files, as well as protecting conduct and statements made in mediation with listed exceptions that include threats, juvenile abuse, and evidence needed in felony cases that is not otherwise available. The act also provides that mediators in criminal cases are granted judicial immunity.

[Daily](#) (July 25, 2007)
(Subscription Required)

[North Carolina Session Law 2007-387](#)

New York City Expands Online Dispute Resolution

New York City has agreed to use the online dispute resolution systems of Cybersettle, Inc. for the next three to five years, and expand the types of claims covered, following a three-year pilot project with Cybersettle which resolved two-thirds of the claims submitted, dramatically reduced claim cycle times, and reportedly saved the city many millions in administrative costs and legal expenses. Initially limited to sidewalk, roadway, traffic device, public school and some personal injury claims, the extended agreement will also cover property damage claims by individuals and businesses, subrogation claims and medical malpractice. Cybersettle's double-blind system permits each party to submit offers and demands confidentially; cases settle when the offer exceeds the demand or by automatically splitting the difference when the offer and demand are within a specified range of each other. If the mechanized process does not succeed, optional telephone facilitation is also available.

[Cybersettle.com](#) (July 30, 2007); [GCN](#) (August 7, 2007)

Baltimore Increasing Mediation of Condemnation Disputes

The Baltimore Development Corp. is increasingly turning to mediation to settle disputes in condemnation proceedings in order to avoid the costs and burdens of trials. Caseloads are up, especially due to Baltimore's "quick take" policy, which has sparked public controversy and judicial criticism. The City Solicitor has stated that Baltimore will cautiously continue the "quick take" program in appropriate circumstances, and is focusing more on negotiations if disputes arise.

[Baltimore Business Journal](#) (July 11, 2007)

Mediation Effective in Katrina Insurance Claims in Mississippi

Two years after Hurricane Katrina, Mississippi mediation programs with different approaches are successfully resolving thousands of insurance claims. The U.S. District Court in Mississippi has reduced its Katrina caseload from over 1,000 to

about 500 cases this year by encouraging prompt and fair resolutions, leading many parties to successfully pursue mediation without court order. In the 174 cases in which mediation was actually ordered by the court, the settlement rate was 49 percent. In a second program, the Mississippi Department of Insurance sponsored mediations in nearly 3,700 cases that were voluntarily mediated by the parties, resulting in an 83 percent resolution rate.

[Sun Herald \(Biloxi, MS\)](#) (July 31, 2007) (Subscription Required)

Mediation Better Option for Religious Groups

A Huntsville, Alabama church and its presbytery opted for mediation in a dispute over church property that had gone from state to federal court and back. Potentially facing years of legal wrangling and damage to its public image, the presbytery suggested mediation and the parties successfully resolved the dispute, which involved underlying theological issues that caused the church to leave the presbytery with the disputed property. Religious groups are increasingly turning to mediation out of concern for public perception and to maintain consistency with their principles, as well as to avoid the costs and hassles of litigation.

[The Decatur Daily](#) (July 21, 2007)

Mediation Critical When Litigation Unaffordable

Mediation is crucial for those unable to afford the risks and costs of litigation, according to a strongly worded editorial by British High Court Justice Gavin Lightman. However, mediation was set back by the appellate decision in [Halsey v. Milton Keynes General NHS Trust](#), EWCA (Civ) 576 (2004), which refused to order parties to mediate over their objections and required a litigant seeking costs for an opponent's refusal to mediate to carry the burden of proving the refusal was unreasonable. The importance of these issues is heightened by the government's limitation on civil legal aid.

[TimesOnline](#) (July 31, 2007)

UK Using Mediation to Curb Gang Wars

In its efforts to reduce gang violence and murders, the police force in Manchester, England is looking to Northern Ireland's use of mediation in the late 1980s which helped Catholics and Protestants break the cycle of retaliatory violence and ultimately settle their issues. The process under consideration involves using community members as mediators between rival gangs in a police-sponsored program, which is already under way in Birmingham.

[Manchester Evening News](#) (August 7, 2007)

Asian Mediation Association Forming to Address Commercial Disputes

Mediation centers in Singapore, Hong Kong, Indonesia, Malaysia and the Philippines are joining together to form the Asian Mediation Association (AMA) in response to increasing trade and cross border activity among countries and businesses in the region. The AMA will pool resources and provide a regional infrastructure for conflict management and resolution. An AMA secretariat will be located at the Singapore Mediation Centre, where a memorandum of understanding forming the AMA was signed on August 17 at the 10th anniversary celebration of the Singapore Centre. The AMA hopes to expand to include China and India, as well as other Asian members.

[Channel NewsAsia](#) (August 17, 2007); [Business Times \(Singapore\)](#) (August 18, 2007) (Subscription Required)

Japan Upgrading Consumer Mediation Services

Japan's Cabinet Office plans to improve mediation services for consumers harmed by illegal business practices and defective products by creating a new Alternative Dispute Resolution system at the National Consumer Affairs Center. After submission of a final report in September, legislation will likely be introduced to give the Center greater authority to conduct mediations and resolve matters, including authority to request companies to participate, present materials and execute agreements with consumers. Sufficient resources are also needed to ensure success, as the Center's workload is already heavy. This proposal reflects the gradual change in Japan's approach to consumer protection, which is moving from reliance on extensive regulation to greater enforcement by consumers through the legal system.

[Daily Yomiuri](#) (August 8, 2007) (Subscription Required)

China's General Secretary Affirms Civil Mediation System

The importance of China's "people's mediation work," a civil reconciliation system in which publicly-elected local mediation committees mediate social contradictions and disputes out of court, was emphasized by General Secretary Hu Jintao in a recent speech at the Central Party School. Referring to that speech at a national conference on the people's mediation work, politburo member Luo Gan affirmed the great success achieved through mediation while stressing the need for institutionalization and standardization of mediation in China, including additional legislation. Luo Gan called on party officials at all levels to overcome any impediments and commit to the success of the people's mediation work.

[BBC International Reports \(Asia\)](#) (July 11, 2007) (Subscription Required)

Botswana Begins Court-Annexed Mediation

Botswana's chief justice announced a new judicial case management system, which includes court-annexed mediation, in order to reduce attorney control over cases and shift the focus to the interests of parties and the delivery of justice. To reduce the huge backlog, judges will intervene earlier to control civil cases, and direct cases to mediation when appropriate. The initiative, co-sponsored by the United Nations Development Programme, the U.S. Embassy in Botswana and the Botswana government, is bringing experienced American judges to work with local judges.

[AllAfrica](#) (July 24, 2007)

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