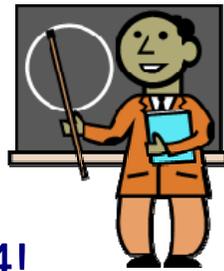


ARBITRATION & MEDIATION NEWS

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Mark Your Calendar – The 21st Annual Northwest Dispute Resolution Conference is March 28–29, 2014!



By: Melissa Fuller, WAMS House Counsel

WAMS is proud of its long-standing support of the Annual Northwest Dispute Resolution Conference. The Conference is celebrating its 21st year, and for those who have attended in the past, you may know the wealth and breadth of relevant, thought-provoking topics offered over its esteemed history. For those who have never attended the annual event – this year should not be missed!

Striving to include informative and highly interactive sessions to educate and promote the use and benefits of alternative dispute resolution, the 2014 Conference curriculum will provide a broad range of offerings to anyone interested in ADR. From lawyers advocating on behalf of their clients to attorney-neutrals and those involved in community mediation, the Conference subject-matter is intended to act as a “big tent bringing together all persons in mediation and arbitration,” says veteran committee co-chairperson, Julia Gold.

While at the time of this newsletter’s printing the

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Conference program was not yet finalized, committee co-chairpersons Julia Gold and WAMS mediator Kathleen Wareham shared certain details that attendees can expect from the 2014 Conference. To start, the plenary session to kick off the first day of the Conference will be a presentation by the highly engaging developmental molecular biologist, Dr. John J. Medina (author of New York Times bestseller “Brain Rules: 12 Principles for Surviving and Thriving at Work, Home, and School” and “Brain Rules for Baby: How to Raise a Smart and Happy Child from Zero to Five”). Dr. Medina will discuss conflict resolution within the context of the human brain's executive function, including the impact that stress has on decision-making. The plenary closing session, “The Language of Conflict,” will be presented by Kenneth Cloke, international mediator and world-renowned author (“Conflict Revolution – Mediating Evil, War, Injustice and Terrorism” and “The Crossroads of Conflict – A Journey into the Heart of Dispute Resolution”).

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Mark Your Calendar, Continued from page 1 ...

WAMS panelists Monte Bersante, Tom Harris and Larry Levy will discuss the common pitfalls and challenges faced when transitioning from advocate to mediator and the evolution in perception that occurs. The presentation will involve the viewpoint of three mediators at different stages in their respective ADR practices, utilizing specific case examples and engaging the audience in an interactive dialogue.

WAMS panelist Kathleen Wareham will be part of a panel presentation on "The Art of Negotiation", described as a session designed to emphasize useful, practical skills in fulfilling the ethical duties that arise for lawyers while representing clients during mediation. Over 30 sessions will be offered during the 2014 Conference, with presentations on apology, ethics in ADR, bad faith and pre-mediation conferencing.

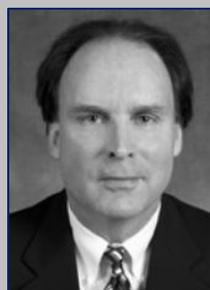
2014 WAMS Conference Presenters



Kathleen Wareham



Larry Levy



Tom Harris



Monte Bersante

The Annual NW Dispute Resolution Conference – A “Not So Humble” Beginning.

By: Melissa Fuller, WAMS House Counsel

WAMS has supported the NW Dispute Resolution Conference since its inception. In fact, the very first Conference which occurred in 1991, was the result of the combined efforts of WAMS founder, Michael Gillie, and University of Washington School of Law Professor (and former WAMS mediator), Alan Kirtley. During the mid to late 1980's, Gillie was running Washington Arbitration Service (WAMS predecessor organization) as a venue for litigated matters to be resolved outside of the traditional courtroom forum. Gillie was also working with Seattle attorney Alan Alhadeff to develop

mediation training and marketing programs geared for use in resolving insurance-based claims. Around this same time, Professor Kirtley was developing and teaching mediation courses at UW School of Law. Kirtley attended an ADR training session offered by Alan Alhadeff and soon was introduced to Gillie.

Gillie and Kirtley shared the opinion that it was both timely and necessary to have a forum for everyone interested in ADR to exchange ideas and promote alternative methods for resolving

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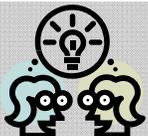
A “Not So Humble” Beginning...Continued from Page 2

disputes. Gillie and Kirtley presented the idea to WSBA committee members, including Tacoma attorney Claude Pearson, involved in the early stages of forming what would soon become the WSBA’s ADR Section. The committee members were on board with the idea and, ultimately, the WSBA agreed to co-sponsor an ADR symposium with the administrative support and efforts of UW Law School, which Kirtley was able to secure, and financial support from WAMS and others interested in ADR.

Hoping to promote not just practical skills for ADR, but to also introduce cutting-edge methods and topics, Gillie and Kirtley put out a call to the community for presentation proposals. The response was overwhelming, with over 70 submissions received for the one-day event.

Kirtley credits the response and ultimate success of the Conference to the fact that “it was a good idea, the timing was right, and people were interested.”

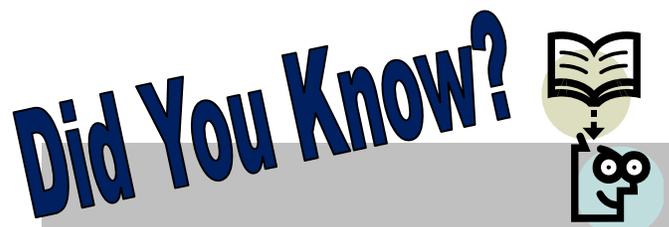
The first Conference was held on September 7, 1991, with WAMS panelists Harry Goldman and Bill Joyce among the group of presenters on the new topic of ADR. Since then, WAMS panelists and staff members have presented at almost every Conference in its 20-plus year history. Today, the Conference is a two-day event offering approximately 35 separate program sessions to its attendees. What has remained unchanged is the Conference Committee’s perseverance in developing and delivering a forum for diverse programming relevant and important to all who are interested in ADR.



Mediation Tips

Less-experienced plaintiffs’ personal injury attorneys may not know how to handle the subrogation part of a case at mediation. Don Kelley can appreciate such uncertainty and often uses it as an opportunity to help educate with respect to that aspect of practice:

“Generally, I ask for the opportunity to speak to the attorney separately, away from the client. I explain that the subrogation question cannot be completely solved in the four hour mediation, but there are several ways to proceed without necessarily reaching agreement with a subrogation claim source. I explain the various options, reassuring the attorney that I experienced the



WAMS offers free ADR seminars to claims personnel, law firms and other clients upon request. Some topics may include:

- Choosing If/When to Mediate
- Pre-suit Mediation - Pros/Cons
- Mediation Basics for New Advocates
- What Not to do in Mediation
- Advanced Mediation Workshop
- Preparing submissions for mediation
- Preparing your Client for Mediation

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Mediation Tips Continued...

same issue many times when I was still in practice. Having briefed the attorney on how he or she might proceed with respect to the subro, the attorney can return to the client much more confident about how the net settlement might look”.

Another educational opportunity that arises in mediation might be dealt with like this, according to Don:

“Less experienced attorneys can sometimes be overly assertive with their negotiating steps and thereby paint themselves into a corner quickly. If I perceive that might happen, I suggest that I explore with the defense what they expect the plaintiff’s opening demand might be in advance of the plaintiff actually making an opening demand. I can then return to the plaintiff’s caucus and, without sharing exactly what the defense said, suggest an ‘opening demand range’ that might be viewed as ‘productive’ by the defense. Usually, the plaintiff’s attorney will accept my advice and reposition himself or herself into a more reasonable range. I may continue this process by ruminating about how the next move might be received in the defense room. I do not dictate specific counter offers, but find that many attorneys will consider my ‘ruminations.’ In this fashion, I can help new attorneys and their clients move through the offer/counter-offer process in a way that maximizes the likelihood of reaching an agreement.”

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For last-minute availability, rates and bios



Scott Holte

“I really appreciate his service and how he handled the mediation. He provided a great education to my clients about the risks associated with litigation and jurors.”

-WAMS client

Larry Levy

“Your efforts yesterday helped bring some peace and finality to a family desperately in need of exactly that. Your patience and compassion, along with your passion to reach a mutually agreeable resolution, make you a credit to the profession. Thank you.”

-WAMS client

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