MSBA MINNESOTA STATE BAR ASSOCIATION

ADR Section Newsletter

Volume IV Issue 3 Editor: Molly Darsow

In this Issue

Message from the Co-Chair

Dear Section Members,

As we head into the home stretch of our annual ADR section calendar, Vildan Teske and I are pleased to recap both the activities presented thus far and some interesting and important items still upcoming this year.

Regarding our activities so far this year, if you are reading this message you know that the Section has now published three editions of its newsletter. Credit for that goes to our editor, Molly Darsow. Our monthly CLE presentations have continued as well, with fascinating presentations in February on the role of Community Dispute Resolution Programs in Minnesota, and in March from Dan Simon on the theory and practice of transformative mediation. We also had a virtual roundtable discussion led by Council member Alex Glassmann on the subject of DEI.

Looking forward, in April we will once again welcome Professor Sharon Press of Mitchell Hamline School of Law for a CLE on new developments in the ADR field. As we have done the past several years, the April meeting will be a hybrid format, with both a Zoom option and a live presentation, including lunch. Please join us if you can. Finally our May CLE will focus on Intercultural Awareness.

In addition, we have a social event planned on April 29 at the Doubletree in St. Louis Park. It's a great opportunity to meet and talk with other mediators.

Finally, we will be electing next year's officers and some new members of next year's ADR Council. Vildan and I have greatly enjoyed the opportunity to serve as Co-Chairs of the Section the last two years, but we also welcome the chance to give someone else a chance to move into that role.

— David Trevor

The Roundtables Are Back

If you've attended one of our monthly CLEs this bar year, you know the format: a great presenter, a solid topic, and useful skills we can apply in our own practices. There's real value in that.

But an hour with most cameras off and microphones muted doesn't give us a real chance to talk to one another. In a profession built around dialogue, it turns out we don't always make enough space for our own. That's what the roundtables are for.

A few times each bar year, the ADR Section hosts informal one-hour conversations over Zoom. No CLE credit. No formal presentation. Just a room full of people who do this work, talking openly about something that matters to them.

The format is simple. A host offers a brief icebreaker and about ten minutes of opening remarks to set the table—then the conversation belongs to the room. At least forty-five minutes of each hour is just people chiming in. And one of the things I value most about our section is that "people" means attorneys and non-attorneys alike, including mediators, therapists, and many others working in and around dispute resolution. That range of perspective is the whole point.

This year, the conversations have gone where the room needed them to go. In February, we held space for a candid discussion about Operation Metro Surge and what it means to live and practice in a community under that kind of pressure. In March, Carl Arnold hosted an open conversation on DEI.

That's the idea. No agenda beyond introducing a topic and allowing space for discussion.
If you haven't joined a roundtable yet this bar year, I hope you will. Keep an eye on the section calendar for the next one.

— Alex Glassmann, ADR Section Council Member

Minnesota ADR Goes Digital: New Portal to Manage Rule 114 Roster

By Kristi Paulson | PowerHouse

The End of Paper Roster Renewals

If you have ever written a check, printed a form, and mailed a roster renewal packet to the ADR Program office, that familiar process is about to change. On March 23, 2026, the Minnesota Judicial Branch launched the Minnesota ADR Portal (MAP), a new online platform designed to manage the Rule 114 ADR Roster. The portal marks a shift away from the paper-based system neutrals have long relied on to submit forms, report continuing education, and pay renewal fees.

The change comes through an administrative order issued by State Court Administrator Jeff Shorba, requiring that Rule 114 roster applications, renewals, continuing education reporting, reapplications, and payments be submitted through the portal once it goes live.

A Move Toward Digital Administration

For many neutrals, the most noticeable change will simply be convenience. Instead of completing forms, writing checks, and mailing materials to the ADR Program, roster maintenance will now happen entirely online. Through MAP, neutrals will be able to submit roster renewals electronically, pay required fees online, report continuing education credits, and update their profile information whenever necessary.

For years, many aspects of ADR administration have lagged way behind the technology lawyers use every day in their practices. Roster renewals have required printing forms, writing checks, and sending materials through the mail—steps that increasingly felt out of sync with the digital systems already used by courts and law firms. The Minnesota ADR Portal is intended to bring roster administration into that modern environment.

Kristi Paulson
Founder | **PowerHouse Mediation**
Attorney | Mediator | Arbitrator

Managing Your Public Rule 114 Profile

The portal also introduces greater flexibility for managing the information that appears on the public Rule 114 roster. Neutrals will be able to update their contact information, list additional email addresses for program notifications, modify their areas of experience, identify the counties where they are willing to serve, and list languages spoken. The Judicial Branch has indicated that the ability for the public to search the roster by languages spoken by a neutral may also be added in the future.

For neutrals, that means it will be important to take time, once accounts are created, to review and update their profiles. Information such as counties served, subject-matter experience, and languages spoken may affect how attorneys and parties locate neutrals through the public Rule 114 directory.

What Neutrals Should Expect

Importantly, this transition is not simply an additional option. The administrative order makes clear that as of March 23, submissions and payments required for the Rule 114 roster must be made through MAP in order to be processed. Paper submissions may still be permitted in limited circumstances with advance permission, but the order authorizes the ADR Program to charge an additional $20 administrative fee when a neutral elects not to use the portal.

Qualified neutrals received instructions on March 23 explaining how to create their MAP accounts and activate their profiles. Once the system is operational, it will also provide automated reminders—including renewal notices issued 90 days before an invoice due date, to help neutrals keep their roster status current. For many practitioners, those reminders alone may help simplify an administrative task that can sometimes fall through the cracks of a busy practice.

A Small Change That Reflects a Larger Trend

While the launch of MAP is primarily an administrative change, it reflects a broader trend toward modernizing court processes and professional administration. For Minnesota's ADR community, the portal should simplify roster management and make it easier for neutrals to maintain accurate, up-to-date information in the public Rule 114 directory. For Minnesota's ADR community, that small shift may ultimately make it easier for neutrals to spend less time managing paperwork and more time doing what they were trained to do: helping people resolve disputes.

Jen Henderson
Attorney I Mediator

The Art and Science of Mediation: A Tribute to Sheila Engelmeier

By Jen Henderson, Engelmeier & Umanah, P.A.

I recently joined the mediation and employment law practice of Sheila Engelmeier at Engelmeier & Umanah, P.A. in Minneapolis. For Minnesota employment lawyers, Sheila needs no introduction. A member of the National Academy of Distinguished Neutrals, a Best Lawyers "Lawyer of the Year," a perennial Top 50 Woman Super Lawyer, and a Minnesota Lawyer Power 30 honoree, she is one of the finest employment lawyers and mediators in this state and, I would argue, the country. Joining her practice has given me a front-row seat to mediation at its highest level, and it has also prompted me to think more intentionally about the different approaches I bring to the table.

Most mediators operate along a spectrum between two approaches: facilitative and evaluative. I come from the facilitative tradition. A facilitative mediator is a process architect. She does not offer opinions on the merits or predict outcomes. Instead, she asks open-ended questions, helps the parties identify their underlying interests, reframes positions into shared concerns, and creates a structured environment in which the parties themselves generate solutions. The facilitative mediator trusts that, given clarity and space, the parties will find their own path to resolution. This style works well when the parties' ongoing relationship matters and they need to feel heard, or when creative, non-monetary solutions are on the table.

Evaluative mediation takes a fundamentally different posture. The evaluative mediator draws on deep subject matter expertise to assess the strengths and weaknesses of each side's case, offer candid opinions about likely trial outcomes, and guide the parties to negotiate in a way grounded in legal and factual reality. A key part of the evaluative process is facilitating information sharing so each side can appreciate risk. This approach is particularly effective when the parties are entrenched, the legal framework is complex, or counsel and clients need a credible third party to deliver hard truths.

This is where observing Sheila Engelmeier's practice has been instructive for me and, I think, offers something useful for any mediator from an evaluative background. Sheila brings nearly four decades of employment law experience to the table, having represented both employers and employees, tried discrimination and harassment cases across the country, and mediated hundreds of civil disputes. That resume might suggest a purely evaluative operator. But what I find most striking is how much of her effectiveness comes from facilitative instincts: reading the emotional temperature of the room, building rapport with each party before offering any assessment, and creating space for the parties to arrive at their own conclusions. Sheila is also genuinely empathetic. Expressing sincere empathy, where appropriate, goes a long way towards building trust and a foundation for more difficult discussions about risk later in the mediation.

The two styles share more common ground than practitioners sometimes acknowledge. Both require active listening and depend on the mediator earning the room's trust. Both work best when the mediator has prepared and understands the facts cold. The difference lies in what happens after that foundation is built. Where an average evaluative mediator might move quickly to assessment, Sheila often lingers in the facilitative space, asking questions that lead the parties to identify weaknesses in their own positions rather than telling them what those weaknesses are. Sheila acknowledges that the parties rarely, if ever, align on all facts, but she makes sure that each side understands the other's "version of reality," as she calls it. In other words, both parties must understand the other side's "take" on the situation.

The practical lesson for me was one of sequencing and calibration. Sheila understands that lawyers often look to the mediator as the voice of reason, and she is willing to fill that role, but she stresses that mediations succeed when the parties are educated about their options before the mediator weighs in. (cont.)

For mediators trained in the evaluative tradition, the instinct is to lead with analysis: here is the law, how a jury will see the facts, and the likely range. Sheila's method inverts that sequence. She invests time in understanding each party's perspective, validates their positions, and only when the parties are ready offers the candid assessment her experience makes credible.

What drew Sheila to mediation was, characteristically, a desire to do better. As she told Minnesota Lawyer, after years of representing individuals against workplace bullies, "it made me start mediation practice. I thought, there's got to be a better way." *The Power 30: Sheila Engelmeier*, Minn. Law. (Apr. 28, 2022). That belief, that there is always a better way to resolve conflict, animates everything she does in the mediation room.

Watching Sheila work has changed how I think about my own practice. She has shown me that the best mediators do not fit neatly into one camp. They read the room, calibrate their approach, and draw on a career's worth of experience to know when to ask and when to tell, when to listen and when to push. Sheila does all of this with a rare combination of intellectual rigor, warmth, and tenacity. It is a privilege to learn from her, and Minnesota's legal community is fortunate to have her.

Jen Henderson is a former Global Senior Director at Cargill, and a former General Counsel, Chief Administrative Officer and Chief Compliance Officer for start-ups and smaller international companies. She has put her suitcase in storage, and now happily works with Sheila Engelmeier practicing Mediation and Employment Law.

Expanding the Role of Mediation in Guardianship and Conservatorship Disputes

By Dave Burns, Dave Burns Law Office, LLC
& Molly Darsow, Still Waters Mediation, LLC

Disputes are common in guardianship and conservatorship cases. They often arise from disagreements about a person's capacity, who should serve as guardian or conservator, the scope of authority, or whether the fiduciary is acting in the protected individual's best interests. Many of these cases escalate quickly into litigation. While court intervention is sometimes necessary, mediation remains an underused but highly effective option.

Dave Burns I Attorney
Dave Burns Law Office, LLC

Mediation can be integrated at multiple stages of a matter. It may help resolve conflicts among family members before a petition is filed. It can also be introduced after litigation begins to address contested appointments or disputes over authority. Even after a guardianship or conservatorship is established, mediation can be particularly effective in addressing communication breakdowns, decision-making disputes, accounting concerns, or potential removal issues. In each of these settings, mediation can supplement court proceedings and, in some cases, significantly reduce the need for ongoing judicial involvement.

One of mediation's greatest strengths is its ability to address the relational dynamics that often drive these disputes. Guardianship conflicts frequently reflect deeper family tensions, grief, mistrust, or competing views about autonomy and protection. Mediation provides a neutral, structured environment where those issues can be acknowledged and managed, often leading to practical, durable resolutions that would be difficult to achieve through litigation alone.

Confidentiality is another important advantage. Cases involving diminished capacity or medical conditions often involve sensitive personal information. Unlike courtroom proceedings, mediation allows families to explore options privately without creating a public record of family conflict. (cont.)

From a practical standpoint, mediation can also conserve substantial time and expense for the parties and for the court. Contested cases often require discovery, expert evaluations, and evidentiary hearings. Even when mediation does not fully resolve the matter, it can narrow issues, generate stipulations, and establish workable frameworks for communication and oversight. It can also open the door to less restrictive alternatives, such as supported decision-making, limited guardianships, powers of attorney, trusts, or structured care plans.

Mediation is not appropriate in every case. Situations involving ongoing abuse or clear exploitation may require immediate court intervention. However, even in cases involving allegations of financial mismanagement or neglect, mediation can provide a constructive forum for accountability and resolution. In some instances, an individual accused of wrongdoing may acknowledge concerns and agree to step aside voluntarily, avoiding more contentious removal proceedings. When used thoughtfully, mediation can help families rebuild trust, safeguard the vulnerable, and find solutions that promote stability without prolonged litigation.

If the individual contests the need for a guardianship or conservatorship, litigation may be necessary to determine incapacity. Court proceedings help protect the individual's rights and liberty interests by considering evidence from all sides. Even so, mediation can play a role in identifying less restrictive alternatives and shaping practical solutions that respect both autonomy and safety.

Molly Darsow I Mediator
Still Waters Mediation, LLC

Timing is critical. In some cases, allowing limited discovery or investigation ensures that participants have enough information to engage meaningfully. In others, early mediation, before positions harden and costs escalate, can preserve resources and reduce conflict. The optimal timing depends on the facts, the relationships involved, and the issues at stake.

Expanding the use of mediation in guardianship and conservatorship matters is a logical and beneficial step. When used thoughtfully and at the right time, it can support the court process, protect vulnerable individuals, and help families reach durable, practical resolutions that litigation alone often cannot achieve.

Dave Burns is an experienced litigator who helps clients navigate complex probate, trust, guardianship, and bankruptcy disputes with strategic advocacy and practical solutions. www.daveburnslaw.com

Molly Darsow is the owner of Still Waters Mediation, LLC; an ADR Section Council member; and the editor of this publication.

Join Us for the ADR Spring Social Hour

Networking • Appetizers • Great Conversations
April 29 | 5:30–7:30 PM
St. Louis Park
Register Here