



Lee Hornberger

The Chair's Corner

by Lee Hornberger

Introduction

A week's vacation in Saint Croix in January caused me to do some thinking. Charles Dickens wrote in *A Tale of Two Cities* (1859):

It was the best of times, it was the worst of times, it was the age of wisdom, it was the age of foolishness, it was the epoch of belief, it was the epoch of incredulity, it was the season of Light, it was the season of Darkness, it was the spring of hope, it was the winter of despair, we had everything before us, we had nothing before us, we were all going direct to Heaven, we were all going direct the other way – in short, the period was so far like the present period, that some of its noisiest authorities insisted on its being received, for good or for evil, in the superlative degree of comparison only.

There are those who might think that right now, the present, is “the worst of times [and] ... the season of Darkness ...” But being on a Caribbean island, seeing the ruins of the sugar plantations, one realizes that deep Darkness and despair existed centuries ago. This Darkness and despair led to 8,000 slaves on July 3, 1848, marching from the fields of Saint Croix to Fort Frederik and demanding their freedom. They assembled in front of Fort Frederik. If unsuccessful, the slaves' BATNA was either death or continued enslavement. On the other hand, if the slaves had a successful violent uprising, Governor General Peter von Scholten's BATNA was death or the destruction of every plantation on Saint Croix. Governor General von Scholten chose freedom by proclaiming “all unfree in the Danish West Indies are free.” This kept the plantations from being destroyed. It ended *de jure* slavery on Saint Croix. It also resulted in Denmark relieving the Governor General from his position and ordering him back to Denmark. No good deed goes unpunished.

There are several lessons to be learned from this. First, the realization of one's BATNA is important. Second, do not be afraid to make a big decision based on principle. Third, regardless of how bleak some may think the situation is, there have been people who have been in much more bleak situations.

The words on John Wayne's tombstone remind us that “Tomorrow is the most important thing in life. Comes into us at midnight very clean. It's perfect when it arrives and it puts itself in our hands. It hopes we've learned something from yesterday.”

In order to help the ADR Section and its members have successful tomorrows, the Section is engaged in many activities. Here are some of them.

Public Mediation Action Team

The ADR Section Council Executive Committee at its Friday, January 12, 2018, meeting passed a motion creating the Public Mediation Action Team (PMAT). **Zenell B. Brown** is Chair of the PMAT. Zenell is the Executive Court Administrator of the Third Judicial Circuit of Michigan. She is former head of the Wayne County Friend of the Court.

The PMAT works with Community Dispute Resolution Centers and other organizations to help promote ADR and reaches out to special interest groups such as affinity bar organizations, the LGBT community, low income individuals, and the elderly to determine how ADR might best address some of their unique dispute resolution needs. PMAT also seeks to increase awareness among potential end users of ADR about what ADR is and its benefits. In order to accomplish its mission, PMAT works closely with the other Action Teams and Task Forces, and especially the Judicial Action Team, Section to Section Team, and Diversity Task Force.

February 15, 2018, “The Neuroscience of Decision-Making: What’s Really Controlling the Way You Think?”

On February 15, 2018, nationally renowned speaker Kim Papillon presented on “The Neuroscience of Decision-Making: What’s Really Controlling the Way You Think?” at Detroit Mercy Law. The co-sponsors for this event were the ADR Section, Detroit Mercy Law, and Miller Canfield Paddock and Stone. Thank you to **Danielle A. Potter**, Chair of the ADR Section’s Diversity Task Force; **Phyllis L. Crocker**, Dean of Detroit Mercy Law; **Megan Fidorra Jennings**, Associate Dean for Student Affairs, Detroit Mercy Law; **Michelle P. Crockett** of Miller Canfield; and **Sheldon J. Stark**, Chair of the ADR Section’s Skills Action Team for making this outstanding and memorable program possible.

March 20, 2018, ADR Summit with Lee Jay Berman

The ADR Section Annual ADR Summit with world class mediator and trainer, Lee Jay Berman, will be on March 20, 2018, at Western Michigan University-Cooley Law School in Auburn Hills. Lee Jay’s cutting edge presentation will be “Harnessing the Power of the Master Mediator: Seeing New Things in the Same Old Rooms.” During his presentation, Lee Jay will take us to a higher level of appreciation and understanding. The Skills Action Team has worked very hard to make this a successful and worthwhile endeavor. Additional information and registration are at: <https://higherlogicdownload.s3.amazonaws.com/MICHBAR/2b10c098-e406-4777-a199-33b9d3e7c568/UploadedImages/pdfs/ADRRegMarch.pdf>

April 17, 2018, Mediator Lunch in Detroit

The Wayne County Family Bar Association and the ADR Section of the State Bar of Michigan are co-sponsoring a lunch for mediators and other ADR practitioners. The lunch will be noon to 2:00 p.m., Friday, April 17, 2018, at the Federal Reserve Bank Branch, 1600 Warren Avenue East, Detroit, Michigan 48207. There will be round table discussions of issues that face mediators. There is convenient parking located inside the security gates at the Federal Reserve Bank Branch. Please bring your driver’s license or other government identification to show for admittance to the building. <https://higherlogicdownload.s3.amazonaws.com/MICHBAR/2b10c098-e406-4777-a199-33b9d3e7c568/UploadedImages/pdfs/ADR04172018.pdf>.

This mediator lunch is being organized and moderated by **Zenell B. Brown**, Chair of the Section’s Public Mediation Action Team.

April 26, 2018, Teleseminar on Construction Dispute Mediation

The Section is sponsoring a teleseminar on “The Dirty Dozen: The 12 Biggest Mistakes in Construction Dispute Mediation” from noon to 1:30 p.m., April 26, 2018. Two respected and experienced construction law practitioners will share their perspectives and experiences on the most common errors even the best practitioners make when mediating construction law disputes. The insights provided by this program will elevate your practice and assist you in getting the most out of the mediation process every time. The panel members are **Marty Burnstein**, Law Offices of Marty Burnstein, Troy, and **Ronald A. Deneweth**, Deneweth Dugan & Parfitt PC, Troy. The moderator is **Michael S. Leib**, LeibADR, Bloomfield Hills. The Engineer is **Robert E. Lee Wright**. https://higherlogicdownload.s3.amazonaws.com/MICHBAR/2b10c098-e406-4777-a199-33b9d3e7c568/UploadedImages/pdfs/Ap26_Reg.pdf.

Spring 2018 webinar

The ADR Section and the Business Law Section will co-present a webinar to be produced and recorded by ICLE as part of its Partnership program. The topics are ADR contract language, enforcement, pitfalls, and selecting the right mediator. The presenters are **Daniel E. Sharkey**, Brooks Wilkins Sharkey & Turco, Birmingham, and **Michael P. Hindelang**, Honigman Miller Schwartz & Cohn, Detroit. **Michael S. Leib**, LeibADR, Bloomfield Hills will moderate the program. The webinar will be available at a date to be determined after April 17, 2018, and free to members of the Business Law Section and ADR Section who register for the webinar.

June 7, 2018, Mediator Mixer in Grand Rapids

The Section, in co-sponsorship with the Grand Rapids Bar Association, will have a Mediator Mixer from 4:30 p.m. to 6:30 p.m., Thursday, June 7, 2018, at Mika Meyers in Grand Rapids. Recent issues facing mediators and mediator techniques will be discussed in this exciting educational and social setting. **Scott S. Brinkmeyer** and **Michael S. Leib** are the organizers of this event. The presenters will be **Shon A. Cook**, Shon Cook Law, Whitehall; **Pamela C. Enslin**, Warner Norcross & Judd, Kalamazoo; and

Scott S. Brinkmeyer, Mika Meyers, Grand Rapids. Additional information and the registration link will be available in the future.

Tuesday, June 19, 2018, Special Program with Dr. Elizabeth Stokoe

University-Cooley Law School in Auburn Hills. Dr. Stokoe launched the journal *Mediation Theory and Practice* and is on the board of the College of Mediators. She is Chair of the Department of Social Sciences at Loughborough University in the United Kingdom. She has been Associate Dean (Research) since 2013. She is also Professor II at University College of Southeast Norway. **Barry Goldman** took the initiative to make contact with Dr. Stokoe. Here is a link to a "Conversation Analysis" talk that Dr. Stokoe has given: <http://www.carmtraining.org/media/talk-at-the-royal-institution>. Additional information and the registration link will be available in the future.

September 21, 2018, Mediator Lunch in Marquette

The Marquette County Bar Association and the ADR Section are co-sponsoring a mediator lunch from 11:30 a.m. to 1:30 p.m., Friday, September 21, 2018, in the Sample Room of The Vierling Restaurant, 119 South Front Street, Marquette, MI 49855. Attendees can purchase lunch from the restaurant menu during the lunch at their own expense. This lunch is being organized and moderated by Thomas L. Solka (Ret. Circuit Court). For additional information and registration, please contact **Thomas L. Solka** (Ret. Circuit Court) at tsolka67@gmail.com.

October 3, 2018, Mediator Ethics Teleseminar

The Section is sponsoring a teleseminar on mediator ethics from noon to 1:30 p.m., October 3, 2018. As mediators, we are faced with complicated delicate issues during the entire mediation process from disclosure obligations before mediation retention to our post mediation activity. Our panel of experienced professionals will share their viewpoints and experiences, including obligations under the SCAO Mediator Standards of Conduct. The presenters are **Donald D. Campbell**, Collins Einhorn Farrell PC, Southfield; **John A. Hohman, Jr.**, former State Court Administrator, retired Probate Court Judge, Ann Arbor; and **Alecia M. Ruswinckel**, Professional Standards Counsel, State Bar of Michigan, Lansing. The Engineer is **Robert E. Lee Wright**, The Peace Talks, Grand Rapids. Additional information and the registration link will be available in the future.

October 12 and 13, 2018, Annual Meeting and ADR Conference in Traverse City

The ADR Section's Annual Meeting and ADR Conference, including 8 hours of advanced mediator training, will be Friday, October 12, and Saturday morning, October 13, 2018, at the Park Place Hotel in Traverse City. This will be an exciting learning and networking event featuring Michigan presenters. The Park Place Hotel has reduced rates for our Section, based on availability, on reservations made by September 11, 2018. You can contact the Park Place Hotel at 231-946-5000 and reference "State Bar of Michigan." Neither the hotel's website nor its toll-free number has access to this group information. You must call to reserve at a discount. October is the most beautiful time of the year in Traverse City. There are art galleries, farmers' markets, restaurants, wineries, and out door activities. This is a do-not-miss event. Additional information and the registration link will be available in the future.

The Michigan Dispute Resolution Journal

The Section publishes *The Michigan Dispute Resolution Journal*. The *Journals* are available at: <http://connect.michbar.org/adr/journal>. **Erin Archerd**, the Editor of the *The Journal* is looking for articles for future issues. Proposed articles for the *Journal* can be emailed to Erin at archerer@udmercy.edu.

February 2019 ADR Theme Issue of the Michigan Bar Journal

The ADR Section is sponsoring the February 2019 ADR theme issue of the *Michigan Bar Journal*. June 1, 2018, is the deadline for proposed complete articles to be submitted as a Word attachment to me at leehornberger@leehornberger.com. **Please put the title of the article in the Subject of the email.** ADR theme articles of interest to the wider Bar (as opposed to only ADR practitioners) and cutting-edge topics are especially encouraged. **Under no circumstances can the article, including end notes, about the author, and fast facts be more than 2,500 words.**

Please follow the article guidelines at: <http://www.michbar.org/file/journal/about/artguidelines.pdf>.

