

# Creative Dispute Resolutions, LLC

*Mediation, Arbitration, and Other Dispute Resolution Services Throughout Maryland and Washington, D.C.*

E-Newsletter  
October 2009

## FEATURED MEDIATOR



*Robert C. Park, Jr.,  
Esq.*

Bob Park is an accomplished real estate attorney with Linowes and Blocher in Bethesda. Bob has been practicing for over 35 years and was one of the true pioneers of ADR in Maryland, becoming one of the first court-approved mediators in Montgomery County and then serving as Chair of the ADR Sections for both the Maryland State and Montgomery County Bar Associations. Bob's primary practice areas include eminent domain and condemnation actions, construction disputes, and real property assessment and taxation.

To review Bob Park's complete biography, please [click here](#).

## Feature

### The Use of ADR Clauses

One of the best ways to ensure the timely use of ADR is to make it a pre-dispute, contractual obligation between the parties. This can be accomplished by inserting mediation and/or arbitration clauses directly into the underlying contracts as part of a mandatory dispute resolution procedure. In essence, the clauses make clear that the parties agree to use ADR either before, or in lieu of, proceeding with an action in court. These clauses can be used effectively in virtually any type of commercial, construction, financial, or employment contract. As we indicated in last month's e-newsletter, there are bills currently in Congress that may strike down certain types of pre-dispute arbitration agreements. That does not mean, however, that the use of ADR clauses -- especially those requiring mediation -- is unwise or unenforceable. In fact, when drafted properly, these clauses can be highly effective because they standardize an ADR process that can provide numerous benefits for all involved. Sample ADR clauses can be found on our website (linked [here](#)), or feel free to [contact us](#) should you have questions about their use.

- Erik C. Johnson

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## Recent ADR Articles and News

### Probate Mediation in Montgomery County

Starting this month, the Office of the Register of Wills in Montgomery County will be launching a new mediation program for probate disputes. Parties who file objections to the administration of a decedent's estate are immediately provided notice of the program and all of the benefits associated with mediation, and then asked whether they will agree to seek a resolution of the dispute through mediation. The disputants must

## MORE Info

Interested in learning more about mediation, arbitration, or our other ADR services? Please contact us with any requests or questions you may have, or to inquire about a free seminar or presentation to your organization regarding the various ADR options.

Tel: (301) 977-8002

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return forms noting their decisions to the Register of Wills, who, in turn, will then notify the assigned judge of the parties' intentions. In situations when one party agrees and one does not, a scheduling conference with an Orphan's Court Judge will be held to determine the reasons why mediation is not being utilized. The program allows the parties to select whomever they want as the mediator, thereby giving the parties the opportunity to select someone with subject matter expertise and the appropriate style for each particular situation. Our panel of mediators consists of several very experienced probate attorneys who can assist with these types of disputes. Please click [here](#) for more information. [Back to top](#)

## Mediation and Arbitration of Real Estate Disputes

Mediation and arbitration are valuable and helpful processes for all kinds of disputes, including those involving real estate. In particular, ADR can help facilitate resolutions in the following types of real estate matters: eminent domain/condemnation actions, commercial/office leasing disputes, real estate financing disputes and negotiations, land use and zoning, real estate brokerage claims, breach of contract claims, landlord/tenant disputes, easements, construction-related disputes, and HOA and property management issues. Not only does ADR typically save the parties considerable time and money in these types of cases, it also allows them the creativity to agree to remedies the courts are incapable of providing -- *e.g.*, re-writing contractual obligations. Here is a link to an outline from a recent presentation on ADR in the context of real estate disputes, which covers this subject in greater detail.

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## Upcoming Events

### October 14, 2009 -- CLE on Mediation Confidentiality

Steve Moss, family law attorney with Delaney McKinney (and mediator with Creative Dispute Resolutions), will be giving an important presentation on mediation confidentiality. This CLE will cover the rules, regulations, and best practices governing confidentiality in the mediation process. The presentation will take place on October 14 from 5:30 to 7:30 p.m. at the Bar Headquarters for the Montgomery County Bar Association in Rockville, Maryland. Registration information for this CLE can be found at [www.montbar.org/Calendar/](http://www.montbar.org/Calendar/).

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October 28, 2009 -- ADR Presentation with The HR Team, Inc.

Erik Johnson will also be part of an upcoming panel discussion on ADR hosted by The HR Team, Inc. that has been rescheduled for October 28 from 8:30 a.m. to 10:30 a.m. The presentation will focus on the different types of ADR, the benefits associated with each, and the utility of ADR clauses in various contracts and agreements.

The audience for this presentation will be CEOs, business owners, CFOs, and Human Resources managers. If you or someone you know may be interested in attending, please contact [us](#) or [Eileen Levitt at The HR Team](#) for more information.

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