MEMORANDUM

TO: Hon. John T. Broderick, Chief Justice, and the Associate Justices of the New Hampshire Supreme Court

FROM: Bruce W. Felmly

DATE: July 19, 2007

RE: Proposed Modification of Superior Court Rule 170 – Bruce W. Felmly Comments

INTRODUCTION

I am offering this memorandum to the New Hampshire Supreme Court (the "Court") pursuant to the Order R-2007-003 "In Re 2007 Annual Report of the Advisory Committee on Rules and January 3, 2007 Referral of the Advisory Committee on Rules." I am opposed to the elimination of the longstanding Superior Court Rule 170 ("Rule 170") Program, which has provided wonderful volunteer participation of New Hampshire lawyers in a process that has served the justice system and the public in a very positive way. I strongly support the effort of the Court to enhance ADR services and availability in this State, but believe the provisions proposed to replace Rule 170 will likely be ineffective, if adopted. I have shared some of these concerns with members of the Court previously, including an earlier version of this memorandum, and very much appreciate your consideration of my views.

My comments rest on the premise that our Rule 170 ADR system, predicated on volunteer participation of experienced New Hampshire lawyers is a unique, if not the best, example of Bar/Judicial System cooperation. It should be nurtured and expanded, not abandoned or eradicated. The draft proposals essentially extinguish that prior voluntary system, setting the stage for development of a cadre of semi-professional mediators who have undergone extensive formal training to be qualified initially and then undertake eight hours annually of continuing

training. Sadly, in my view, it seems the purpose of the proposal is to eliminate that volunteer base model; presumably, because it is seen by the proponents as ineffective. As a result, apart from the criticisms I make of the draft, and my predictions of the impractical and likely unworkable nature of the proposals, I believe that the proposed process is misplaced in both its mission and its goal. At a time when the Court is widely soliciting constituencies within the Bar to support and assist the New Hampshire Judicial System, and at a time when the Court reflects concern regarding the increased proliferation of private systems of adjudication at the expense of our constitutionally provided judiciary, this "pay as you go" mediation plan takes us in the wrong direction. In summary, the draft proposals eliminate a significant and quite successful basis of Bar/Judiciary interaction and cooperation, a cooperation that neither constituency can afford to lose.

I have been involved with Rule 170 since its inception, working on one committee or another when it was created, and continually serving as a trained mediator as well as a trial attorney presenting my own cases to other mediators. I have served as a mediator in five Superior Courts (Hillsborough North, Hillsborough South, Rockingham, Merrimack, Cheshire) and average five or six days a year serving in that role. I am occasionally called by the Court to handle especially difficult cases. With respect to presenting my own litigated cases, I probably mediate five or six a year under the Rule 170 procedure. It is true that the extremely large personal injury or complicated commercial case is often not mediated within the Rule 170 process, although I have done so. There are a variety of reasons why, even with available high quality private mediators, I often bring my cases into the Rule 170 process.

As a consequence of my experience, I am familiar with the Rule 170 process, have communicated extensively with clerks and other mediators about it, and I have provided

commentary over the years to Peter Wolfe and others dealing with proposed revisions, most significantly dealing with the issue of whether we should move to paid mediators. I attended the New Hampshire Bar Association ADA Section meeting in spring, 2006, with a number of experienced Rule 170 mediators. Together with others, I expressed concern about these proposals that were discussed at that meeting, although I must say the draft product that has actually emerged went beyond my concerns. I have also spoken with Chief Justice Broderick, who graciously met with me at my request after the ADA Section meeting, to air some of the concerns I have regarding these proposals.

More recently I had the opportunity to speak with Karen Borgstrom, the newly appointed director of the Office of Mediation and Arbitration. I was impressed by Karen's enthusiasm, experience and understanding of the issues surrounding this proposed Rule and her commitment to enhancing ADR services to the public through our Court system. Karen has been very helpful in listening to and questioning my concerns.

Finally, the views I express are mine personally, not those of my colleagues at the McLane Law Firm. Indeed, my core request that we save and enhance the unique voluntary program which has served the Court, Bar and public so well is likely contrary to the economic interest of my firm and others, who will no doubt expand their private ADR services as parties and practitioners opt out of the new paid mediator court program and select private mediators outside the system.

SUMMARY OF MY COMMENTS

1. **The Assumption That the Erosion of Efficiency in Rule 170 is Caused by the Volunteer Status of Mediators is Simply Wrong.** The Rule 170 volunteer model is sound, and I expect its settlement results continue to be significant, but it has been neglected by the Judicial

System, its operation and administration have been disorganized and deteriorated over the years, and, as a consequence, litigants' counsel, parties, and the Court administration do not seem to take it seriously. I am sure this was not intentional – the reality of acute funding shortfalls and higher priorities for judicial services necessitated the lack of attention and development. I am convinced, however, that none of these problems in any significant way relate to the volunteer status of the mediators. More importantly, I believe that the creation of the new office of ADR services in July, 2007, and Attorney Borgstrom's leadership and oversight, will unquestionably result in a dramatic improvement in the process. To eliminate the volunteer model at the exact moment when we are poised to put into effect the organization and direction Rule 170 has lacked for so long would be tragic.

2. **The Establishment of a List of Mediators Who are Qualified by Completing the 40-Hour Course and Who Will Bill at Market Rates is Unlikely to be Successful and Will Drive Civil Litigation Further Out of Our Courthouses Into Privately Available Options.** The plan ignores the experience of similar unsuccessful models, dramatically departs from Maine Rule 16B, which is reported to be successful, and seems to me to primarily advance the interest of a segment of the Bar seeking to create an ADR practice speciality. More than any other factor, I believe the ability of parties to select their mediator drives ADR participation and success. A system that requires selection from a court-sponsored list will result in my view in overwhelming opt outs by trial attorneys.

3. **The Proposed Rule is Unclear and Confusing.** The proposed Rule is unclear as to the procedures and circumstances under which a party or counsel can opt out. This will be a daily occurrence, so it is important to understand the criteria and procedure. It is unclear where the mediation services will occur, in the Court or at the mediator's office. The proposal sets out

"Guidelines" for the conduct of mediation which are largely self-evident obligations of neutrals, in other cases pronouncements of one school or another of mediation theory. They are poorly written, unclear, and unnecessary in this Rule.

DISCUSSION

A. **THE PROBLEM WITH RULE 170 IS NOT CAUSED BY RELIANCE ON EXPERIENCED VOLUNTEER MEDIATORS.** It is my observation that the discussion of these proposals, both in their promulgation and certainly in my criticisms, revolves around anecdotal evidence. I hope the Court obtains county by county data on settlement rates under Rule 170, actual complaints of supposed mediator impropriety or misconduct, detailed information on our own U.S. District Court paid mediator panel program, as well as the study undertaken by the federal judiciary to address the non-utilization of this program by the Bar, and participation data on the many volunteer attorneys who have served Rule 170. Notwithstanding the committee process through which this proposal has traveled, I believe it has not attracted the attention of the Bar nor the existing Rule 170 mediator panel. I fear there is not available data on the Rule 170 experience over the years; indeed, the failure to measure and evaluate it is a cardinal example of the lack of interest or attention paid to the program. I do not have very much of that data. I asked when this proposal came out about the Rule 16B experience in Maine and was told we did not have data on that, although it is the purported model for these drafts. In fact the Maine data is extensive.

I have inquired of colleagues in Maine and have read Justice Howard Dana's detailed report on Rule 16B – Honorable Howard Dana, "Court-connected Alternative Dispute Resolution in Maine." 57 Me. L. Rev. 349 (2005). I discuss my comments on the Maine Rule 16B below, but it is a very different plan, I believe, than this proposal. The discussion of the

expected enhancement in the efficiency of a paid mediator system, has in my experience been largely undocumented. In light of the stakes for the Court and the Bar of eradicating a volunteer model at a time when people are rushing out of courthouses into a variety of private adjudication models, I would hope that the assumptions and recommendations in the draft proposals would be critically challenged and examined on their facts. In the absence of having that data, I am setting forth my judgment and estimates of what I believe is occurring and what I think will happen if these proposals are put into play.

The proponents of moving to a semi-professional mediator panel contend Rule 170 effectiveness has declined, people do not take the proceedings seriously, compliance with the rules is lax, and if litigants are forced to pay $350 to $500 in mediator fees for a two- or three-hour session, they will take it more seriously. Right church -- wrong pew.

Rule 170 continues, I believe, to enjoy the participation of a large number of unquestionably skilled attorney mediators. I am attaching what I believe is a listing of those mediators and it really is quite impressive, actually amazing, in light of what I am going to say about the way that Rule has been administered. As best as I can tell, prior to July, 2007, there has been no centralized oversight or administration. The court budget had little or no money to centralize or provide such oversight. Clerks' offices in each participating county may do their best, but Rules or procedures in the participating courts are perfunctory, inconsistent from one venue to the other, and the ability of the judicial system to provide oversight or management of this important case disposition tool, in my observation, has been lacking. While at times certain court administrators or judges have given some visibility to the program (Judge Nadeau sent mediators certificates of appreciation, Hillsborough South used to host a mediator brunch), we have largely been left with a system-wide inability to provide funding, leadership, quality

control, or support for the process. Facilities for ADR, reception of mediators at the Court, the framing or handling of litigant attitudes, scheduling of mediators, dealing with continuances, assuring adequate preparation and distribution of mediation summaries, requiring proper attendance of parties with authority to settle the case, evaluation of mediators and statistical analysis, in my view are all in varying states of disarray. Parties do not comply with the Rules because they do not have to, and other than the mediator, no one seems to encourage or require that compliance. While there are sanction provisions stated and available to the mediator to implement, that is not a realistic or viable option to upgrade participation. If you want something to be important, you need to make it look and act important. As a result, insurance adjusters sometimes attend mediations by cell phone if their battery works -- "*Can you hear me now?*".

Let me tell you of my worst recent experience. On September 7, 2006, I was scheduled to mediate three cases in a court about 45 minutes away from my office. On the day before the mediation, my secretary was in touch with the Court to confirm the schedule, and we learned that one of the cases would be continued. That was legitimate, there was a family emergency. The remaining cases would be heard at 8:30 a.m. and at 10:30 a.m. In neither case had the parties filed mediation statements. I arrived at the Court on time, and by 8:40 a.m. I inquired of the Clerk as to the failure of the parties on either side to show up for the 8:30 a.m. case. As a result of that inquiry, I learned that that case was in fact settled, a fact that had slipped through the cracks in the Clerk's office. I asked about the 10:30 a.m. case -- why not check on them? – several calls from the clerk disclosed the defendant filed for bankruptcy earlier that week, but nobody ever called the Clerk. I drove back to the office, my time and the Court's resources wasted.

B. RECOMMENDED PRACTICAL IMPROVEMENTS. I believe it is not enough to urge retention of the volunteer model without defining in precise practical ways how performance of that model can be enhanced and expanded to meet the needs of the public and the justice system. I think those improvements are easy to identify and, with new focused leadership that we have now in place, practical to implement. Here is specifically what I propose:

1. Support and Empower Enthusiastic ADR Leadership Committed to the Success of the Volunteer Model for Court Annexed ADR. As noted, I think we are at a unique crossroads of opportunity with the establishment of the Court ADR office and the appointment of a qualified and enthusiastic leader. We need to promote this system, revitalize and revamp administrative procedures, centralize scheduling and develop a recruitment, training and evaluation program for attorney neutrals. The leadership of the New Hampshire judiciary should stand behind this effort and insist on a dramatic upgrade of procedures, visibility, and participation of qualified members of the New Hampshire Bar. The New Hampshire Bar Association, New Hampshire Trial Lawyers Association, and other constituencies should partner with the Court to assure the success of this program.

2. Day to Day Administration of Rule 170 Should Be Revamped. I believe enormous gains in efficiency and results can be achieved by improving the administration of the process. Specific scheduling orders and reminder calls should be made by trained staff to assure:

- Parties are reminded of the date, requirements, and investment of volunteer resources.
- Mediation statements are filed.
- Parties with authority will be present.[1]

[1] In a recent article in New Hampshire Bar News, perhaps New Hampshire's Leading Mediator – Attorney William Mulvey, stresses that nothing is more important than having parties with authority present at the mediation. Rule

- Lienors are notified – the lien positions are ready for negotiation or compromise.

3. **A Recruitment Process For Bringing In High Quality Mediators Should Be Established.** It seems odd to describe it as being "established", but I honestly do not believe there has been any serious effort to recruit and infuse new lawyers for many years. I am mindful that a critical component of a volunteer-driven plan is to secure and retain an adequate number of mediators. I believe that dramatic gains in mediator participation can result from a very public solicitation of New Hampshire lawyers by this Court and the NHBA. The Chief Justice has exemplified this effort on issues of pro bono participation and, hopefully, that can be replicated to recruit new mediators.

4. **A Reasonable and Meaningful Training and Education Program for Mediators Should be Established.** In one sense, more training I suppose is always better than less. However, I think the Proposal's 40-hour initial training requirement is unreasonable in dimension, as applied to an experienced practitioner. But some initial level of qualifying training is essential and I certainly favor an updating or continuing course of instruction. The training should be scheduled to meet the needs of busy volunteers and that continuing education should be very practical and technique-oriented, not just theoretical.

5. **Neutrals Should Commit to a Given Number of Participation Sessions and Should be Evaluated on Their Performance.** I think it was Jack Welch at GE who said, "Anything worth doing is worth measuring." Litigants should complete confidential evaluations on neutral performance and neutrals should receive evaluation reviews annually. Settlement success rates should be evaluated. Substandard neutrals or neutrals who do not participate in

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170 has evolved to the point where in routine personal injury litigation, often nobody with any real authority is present on the defense side of the case. This is a serious problem and, it is difficult to resolve in light of the role of the named defendant versus the adjuster, but something needs to be done about it.

accordance with their commitment should be discontinued. A special panel of the best mediators should be developed for system-wide deployment on challenging or difficult cases.

6. **Reports on ADR Performance and Results Should be Prepared and Publicized, With the Goal of Enhancing The Credibility of the Program and Encouraging Mediator Retention and Recruitment.** Good teams have good and enthusiastic cheerleaders. The system should recognize in an appropriate way the participation of neutrals and their accomplishments. There should be widespread publicity of mediator participation, similar to that afforded pro bono service. Certificates of recognition, courthouse posters, personal notes from the leaders of the program, . . . all of that and more.

C. **THE CRITICAL QUESTION – WHAT DOES "PAY AS YOU GO" ACUTALLY ACHIEVE?** I suspect when all is said and done there will be strong agreement on the practical recommendations set forth above. Most of these suggestions could be implemented immediately, with significant enhancement in participant satisfaction and concrete results.

This brings us back, however, to the critical question of the charging of market rates for mediators which must drive the Court's examination of this proposal. Exactly what critical purpose is intended to be met or achieved by requiring litigants to pay for mediation services to participating mediators? Certainly it cannot be offered just to sponsor or support economically a practice area of those with an interest for mediation or a desire to boost their practices. There are no shortage of private ADR options – they abound. The notion that paying the mediator will assure litigant and participant adherence to the Rules seems to me indirect and unnecessary. Rules compliance and enthusiastic participation by parties already spending money on counsel is not necessarily enhanced by this funding plan. There are much better ways to achieve

compliance and efficiency.[2] The answer has to be that only with a "pay as you go plan" can the court-annexed plan provide the required services. I will address this below and do not believe this rationale is true.

D. THE ESTABLISHMENT OF A CADRE OF SEMI-PROFESSIONAL PAID MEDIATORS, WITH THE QUALIFICATIONS PROPOSED, IS UNLIKELY TO BE SUCCESSFUL. At the heart of the draft proposals is the goal of turning over ADR annexed to our court system to a group of professionals highly interested in ADR, who have taken on stringent training and continuing education, and are paid at market rates for their efforts. In theory, the market should be good since most civil cases will be mandated to mediation.

I would expect most existing Rule 170 mediators to be uninterested in participation as the proposal is configured. Unless the neutral is motivated by an ADR practice model, there is little to attract them. The 40 initial / 8 continuing training obligation is large and the current cost for such a course is $775.[3] So neutrals who commit to the proposed plan of services will be drawn to it for practice building and economic reasons. Why should the justice system sponsor a practice area of the Bar for practitioners finding that they need more work or fund the semi-retirement of lawyers or judges who want to do this and, put the cost of it on the public? The cost for a typical mediator under this model is not insubstantial – say $350 to $500. Plus $1,000 or more per side for their lawyers' work on the process. While it is true that paying for mediation can potentially result in major savings down the road, the key is paying for an event and format which the parties support. My bias from my work on the Vision of Justice and

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[2] If this point is critical or the thought that pro se litigant response needs a financial trigger, an ADR administrative fee, say $75 per party, might be explored. It would be paid to the Court. This could be used for mediator training, conferences, communications, or other system expense. It would not upset the volunteer model.

[3] Existing Rule 170 mediators will also be required to undertake the 40 hours of training, although they will have twelve months to complete it. In part this supports my view that a purpose of the Rule is to extinguish any vestige of the volunteer system. I am sure this requirement is not intended as insulting, but it is.

Citizens Commission does not lead me in the direction of adding this cost as a mandated program. But this is not the major problem.

The major problem is it will not work.

Parties and lawyers who are forced to pay market rates for a mediator have no real incentive to use the Court-annexed program. They will opt out, select a widely available private mediator, and not enter the new Rule 170 procedures. I think it is widely accepted that the ability of the parties to select a neutral in which they have confidence is the key to the utilization. The paid mediator plan operating in our Federal Court, which provides a court approved list of mediators to choose from, has not attracted interest. In speaking last fall with Dan Lynch, he indicated they are now down to about ten mediations a year – with civil filings annually which would be eligible for this plan totaling about 350 to 400. (The filing data is after you cull out prisoner cases, etc.) The lawyers opt out primarily for private mediation. I believe the likely reason for the failure of the New Hampshire federal plan to attract participants is the limitations on mediator selection coupled with the administrative detail that encumbers the process. If I am going to pay for my mediator, why not do it on my terms? Trial attorneys can easily access top quality mediators -- the good ones are known, busy, and I think the proposed Rule 170 plan will immediately result in the proliferation of top quality private alternatives. Your existing top Rule 170 and private mediators and their firms will expand their efforts and advertisements.

Under the proposed Rule, I am not clear if the system would restrict such opt outs – the Rule specifies a motion, proof of the qualifications of the neutral, etc. Why? If the litigants agree on a mediator for a settlement process, other than the timing of the event not disrupting the Court's schedule, is the Court going to deny the parties' choice and force them to pay for

something and someone they do not want? It is hard to imagine the Court denying a motion to opt out for private mediation.

Although the proponents have stated the proposals here are modeled on Maine's Rule 16B, the differences are in fact startling. I have no real Rule 16B experience, but have read the Rule, Judge Dana's article, and spoken to my colleagues in Maine about it. It is a market rate paid mediator plan. But its core provision provides that the parties choose their neutral. See Maine Rules of Civil Procedure Rule 16B(d)(1). The Advisory Committee Notes regarding Rule 16B stresses the importance to the Rule that ". . . the parties are free to select their own neutral on their own terms." While the Court maintains a list of qualified neutrals, it does not mandate parties draw from that pool, and I am advised represented parties overwhelmingly select their neutrals without difficulty. In doing so the system works and a true private choice system would also work here, albeit in my view, losing a golden opportunity for Bar/Judiciary cooperation and volunteerism.[4]

Finally, let me address again the issue of recruitment, training and qualification of neutrals. It is my belief that there has been an inadequate effort to recruit more Rule 170 neutrals for many years. The extensive training or qualification requirements of the proposal function as a road block to the volunteer model. Without question Rule 170 neutrals need to be experienced, of high integrity, and qualified. How much training can or will we require – is more always better? I have for example longed for weekly continuing driver's education for teenagers, including my own kids at the time, which would extend for at least several years. (Huge cost, impractical, but much safer streets.) I think the 40/8 requirement in the proposal is excessive,

[4] The importance of selection of the mediator in Maine is strongly supported by the remarkable fact that in the study period Judge Dana examined out of a total of 509 ADR sessions, 20 out of a total of 91 participating neutrals conducted 81% of those cases. And the busiest four (4) neutrals conducted 230 or 45% of all the studied sessions. The next busiest four conducted 92 sessions or an additional 18%. See, Dana at 97 Me. L. Rev. 397-399.

probably designed and certainly likely to function to weed out those who are not interested in being semi-professional neutrals. It is either a fact of life or a common view of trial lawyers that many of the people who will likely be drawn to serve on this panel will not be acceptable neutral candidates. Experienced trial attorneys are notorious of relying time after time on the stars of the private mediation market. This is not because ADR training is without value. It is because those qualities of mediator technique, philosophy, and theory pale in significance to high level experience, personality, intuition, cynicism, resistance to being "spun" by parties and comparable real or perceived attributes which result in the concentration of mediator selection. It is pretty hard to get by the statistics in Maine showing 63% of statewide ADR sessions being performed by eight people.

Having said that, high quality, reasonably configured initial training, supplemented with on-line programs, and ongoing Rule 170 participant seminars offered by the State's best mediators on techniques and tips would be wonderful. Why not an eight-hour initial training module, offered in four evening seminars with annual training updates given by Bill Mulvey, Pat Coughlan of Portland, Charlie Bauer, Eric Green of Boston, Carol Hess, Ken Feinberg of New York, or Russ Hilliard?

E. <u>THE PROPOSED RULE IS UNCLEAR AND CONFUSING.</u> I will say relatively little about this feature. I am pleased that in its journey to this point the mediator discipline and grievance procedure of a prior draft has been dropped out. The incorporation of mediation philosophy and guidelines into the body of a procedure rule seems to me unnecessary and unusual for a Court Rule. As noted above, the most important question – How do I opt out? – is ambiguous. Is it good cause to simply say "we will find our own private mediator", or will

there be some pressure to use the Court list? Is the mediation session in the Court? Private mediator's office? Some of these questions are more important than others.

The incorporation of the "guidelines" creates problems that go beyond the fact they are unusual in a procedural Rule.

The proposed standards go well beyond the largely self-evident statements regarding impartiality and dishonesty, which predominate in the "Guidelines for Mediators", into ambiguous pronouncements on mediation philosophy. Is violation of the guidelines a basis for complaint against the mediator? While the "guidelines" seek to enhance professionalism and competence, I think trying to punish people for falling short of the following types of admonitions is a mistake.

" . . . [M]ediator shall work to ensure a quality process and to encourage mutual respect . . .;"

"[P]arties shall be given the opportunity to consider all proposed options. . .;"

"[I]t is a good practice for the mediator to . . .;"

"[P]ressures from outside the mediation process should never influence the mediator to pressure the parties to settle;"

". . . [U]nder no circumstances may a mediator offer a personal or professional opinion as to how the court . . . will resolve the dispute". . . and so on.

Some of these guidelines are obvious, most are probably laudable, maybe some are best practices, and some should be rewritten. The devil will be in the details. But "guidelines" are not a code of conduct and attempting to establish one here is unnecessary and a mistake.

CONCLUSION

I hope my comments are helpful in identifying issues important to your consideration. This is an important issue and I think a sea change in direction is needed to move us back to a system predicated on volunteer participation and feel that Rule 170 will only succeed with strong and enthusiastic leadership. We now seem to have that leadership and resources. The notions

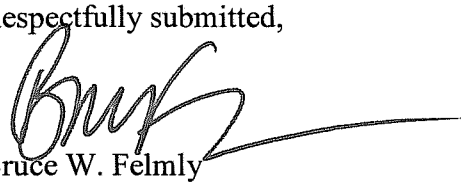
that the task is too large, the science of mediation too hard, or the difficulty of recruiting of volunteers in the past proves my suggestions are impractical, are premature and unfair. In truth, the justice system has never been able to even try to run a well-organized, centrally administered, Rule 170 program. Now we can and we should.

Certainly without strong Court and Bar support, my plan will not work. But, if it did work, it would serve as a beacon for court systems across the country and would significantly arrest the trend of litigants to move their dispute resolution out of our courts and into the private marketplace. I hope for and envision a report of the Chief Justice in 2009 describing the New Hampshire Court annexed plan as a terrific service, a model of Court/Bar cooperation for the public benefit. That report would hopefully describe the participation of a large number of mediators, substantial number of cases mediated, a 60%+ settlement rate, national recognition for our effort, and discuss a system of training and evaluation of neutrals which serves as a model for other states to follow. The value of this volunteer contribution of time will be published and be an enormous sum, a fact that will not be lost on the public.

By contrast, adoption of the draft proposals are very unlikely to result in the attorney support essential to succeed. If the Federal Court cannot get more than ten panels signed up out of hundreds of cases, this proposal will not likely achieve its goals. We will lose the mediators, we will lose the mediations. Perhaps a plan truly modeled with the freedom of choice of the Maine plan, without the attempt to create a specialized group of approved mediators, would work – but at what advantage? The Maine program is essentially a booking service, it is innocuous, easy to administer, but it is only loosely a Court-annexed plan. I think it would give the justice system little in terms of Bar/Court cooperation and stewardship.

I appreciate the opportunity you have permitted to provide these views and I am happy to discuss any of these ideas or considerations in any format or form that you desire.

Respectfully submitted,



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