INTRODUCTION: BREWING LEMONADE: CONFLICT RESOLUTION AND THE ECONOMIC CRISIS

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Determined to make lemonade from the abundant lemons of our ongoing economic crisis the Saltman Center for Conflict Resolution, in February 2010, hosted a conference entitled "Conflict Resolution and the Economic Crisis."[1] Drawing together practitioners and academics from around the country the conference featured panels on such matters as foreclosure mediation, bankruptcy dispute resolution, community mediation, and cost-effective dispute resolution. Those of us fortunate enough to attend the conference found it highly stimulating, and yes, even fun. We are now doubly fortunate because many of the speakers at the conference have agreed to publish written versions of their talks in the *Nevada Law Journal*.

In light of the foreclosure crisis, quite a few jurisdictions around the country are exploring whether mediation might be used to help homeowners and lenders resolve their disputes more effectively and efficiently. Nevada's own foreclosure mediation program is one of the biggest in the country.[2] Barbara Buckley, then Speaker of the Nevada State Assembly and Executive Director of the Legal Aid Center of Southern Nevada helped author the Nevada legislation.[3] We were honored to have Barbara Buckley as the keynote speaker at the conference.

This symposium offers two in-depth reviews on how several other jurisdictions have chosen to set up their mediation foreclosure programs, and thereby offers guidance to all jurisdictions contemplating establishing or revising such programs. Sharon Press, formerly Director of the Florida Dispute Resolution Center, writes about the challenges Florida faced in trying to set up foreclosure mediation programs.[4] Like Nevada, Florida has many properties in foreclosure. Unlike Nevada, Florida came into this economic crisis with a

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[1] *Conflict Resolution and the Economic Crisis—A Conference*, UNLV LAW, http://www.law.unlv.edu/node/3435 (last visited Mar. 16, 2011).

[2] For discussion of the Nevada program, see *Foreclosure Mediation*, NEV. JUDICIARY, http://www.nevadajudiciary.us/index.php/foreclosuremediation (last visited Mar. 16, 2011).

[3] Assemb. 149, 2009 Leg., 75th Sess. (Nev. 2009).

[4] Sharon Press, *Mortgage Foreclosure Mediation in Florida—Implementation Challenges for an Institutionalized Program*, 11 Nev. L.J. 306 (2011).

highly regulated highly institutionalized statewide mediation program. As Press notes, one might have thought that Florida's vast experience with mediation would help it get a foreclosure mediation program up and running more quickly. Yet, as Press explains, in some ways, Florida's extensive laws and rules got in the way of a speedy start. In the end, however, Press believes that the institutionalized framework helped Florida establish a *better* program that more fully protects the rights and interests of all parties. Andrea Schneider and Natalie Fleury in their contribution describe a different model for building a foreclosure mediation program.[5] Professors at Marquette University Law School, Schneider and Fleury describe how their school partnered with the city of Milwaukee to design a unique approach to foreclosure mediation in Wisconsin. With their unique program now having completed over 250 mediations, their Article considers the program's design, successes, and future.

The conference also featured several speakers on bankruptcy and dispute resolution. In this symposium Nancy Welsh has written an article raising important concerns about the appropriate uses of alternative dispute resolution in the bankruptcy context.[6] Welsh observes that while we need more dispute resolution in the bankruptcy context, we also need more stringent education and regulation to ensure that the blending of dispute resolution and bankruptcy do not lead to unethical conduct or other abuses. Next Stephen Ware, observing that he is "one of very few law professors in the United States who regularly teaches courses in both bankruptcy law and arbitration law,"[7] explores similarities between the two modes of practice. Noting that bankruptcy and arbitration share the fact that they are not litigation under the Federal Rules of Civil Procedure, Ware questions whether we should revise those rules to obtain the quicker, cheaper dispute resolution available through bankruptcy and arbitration. He concludes, however, that there may be advantages in some circumstances to the more extensive litigation process.

Another set of panelists explored the uses of community mediation centers as a means to resolve disputes more quickly, effectively, and at lower cost than might be possible through litigation. Wendy Hollingshead Corbett and Justin Corbett, both with significant experience in the world of community mediation, present the results of a significant empirical study regarding how community mediation centers are responding to the economic downturn.[8] Drawing on the results of their survey, the Corbetts come up with a series of practical suggestions for how community mediation centers can weather the turbulent economic times. While recognizing that the crisis has caused many centers to close, they are nonetheless optimistic about the potential future for community mediation. Also focusing on community mediation, Becky Jacobs examines the role of

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[5] Andrea Kupfer Schneider & Natalie C. Fleury, *There's No Place Like Home: Applying Dispute Systems Design Theory to Create a Foreclosure Mediation System*, 11 NEV. L.J. 368 (2011).

[6] Nancy A. Welsh, *Integrating "Alternative" Dispute Resolution into Bankruptcy: As Simple (and Pure) as Motherhood and Apple Pie?*, 11 NEV. L.J. 397 (2011).

[7] Stephen J. Ware, *Similarities between Arbitration and Bankruptcy Litigation*, 11 NEV. L.J. 436 (2011).

[8] Wendy E. Hollingshead Corbett & Justin R. Corbett, *Community Mediation in Economic Crisis: The Reemergence of Precarious Sustainability*, 11 NEV. L.J. 458 (2011).

volunteers in staffing such centers.[9] Emphasizing the great monetary and other benefits provided by volunteers to both disputants and the public at large, Jacobs makes a series of suggestions for how community mediation centers might better attract, train, evaluate, and reward their volunteers.

Finally, a number of panelists examined how creative uses of dispute resolution can help individuals and businesses resolve disputes more expeditiously. Rebecca Golbert focuses on the international business side of conflicts.[10] Noting that the economic crisis is having an impact around the world, Golbert urges all businesses to consider using new and better tools to resolve their disputes. In particular, Golbert suggests that mediation and conciliation can be the most cost effective tools. She also urges that businesses pay greater attention to avoiding and preventing conflicts. Last, David Allen Larson recommends that companies and individuals pay more attention to how technology and dispute resolution can be combined to reduce dispute resolution costs.[11] From video conferencing to avatars to robots, Larson examines what technology is currently being used for dispute resolution, how technology can advance the field, why more technology is not being used, and where he thinks the future lies.

None of our panelists was so optimistic as to suggest that conflict resolution tools can end our economic crisis. Nonetheless, we all came away believing that there may at least be a small silver lining inside the dark thunderclouds of the crisis. Perhaps once we have come out of this storm, we will have learned a few things and invented a few new approaches to conflict that will help our society operate more efficiently and more justly as well. Maybe we can squeeze a few sweet gains from our painful economic times.

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[9] Becky L. Jacobs, *Volunteers: The Power of Community Mediation*, 11 Nev. L.J. 481 (2011).

[10] Rebecca Golbert, *The Global Dimension of the Current Economic Crisis and the Benefits of Alternative Dispute Resolution*, 11 Nev. L.J. 502 (2011).

[11] David Allen Larson, *"Brother, Can You Spare a Dime?" Technology Can Reduce Dispute Resolution Costs When Times Are Tough and Improve Outcomes*, 11 Nev. L.J. 523 (2011).