

# Creative Dispute Resolutions, LLC

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

E-Newsletter  
July 2009

## MEDIATOR OF THE MONTH



*Hon. Edward G.  
Ketchen (Ret.)*

Ed Ketchen served as an Administrative Judge for the Maryland Board of Contract Appeals (7 years), the U.S. Army Corps of Engineers Board of Contract Appeals (11 years), and the federal Armed Services Board of Contract Appeals (6 years). Following his retirement in 2006, Ed has been working as a full-time mediator and arbitrator. Ed has substantial experience with all types of government contract, private sector contract, construction, and other business and employment-related disputes.

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

## Feature

### Mandatory Arbitration of Some Discrimination Claims?

In April, the U.S. Supreme Court issued a decision that could have a significant effect on the appropriate forum for discrimination and retaliation claims brought against unionized employers. In *14 Penn Plaza, LLC v. Pyett*, a divided Supreme Court held that an employer and a labor union are able to agree that their represented employees will be required to submit their statutory employment discrimination claims to binding arbitration, if such a requirement is set forth in clear and unambiguous language in the parties' collective bargaining agreement. While the Court's decision focused only on an age discrimination claim, it has been seen as opening the door for provisions in CBAs that call for private arbitration as the sole and exclusive forum for many types of employment law claims. This is a departure from the heretofore generally accepted view that such provisions were unenforceable, and, unless addressed by future legislation from Congress, the decision could result in an increase in the demand for good labor arbitrators. A copy of the decision can be [found here](#).

- Erik C. Johnson

[Back to top](#)

---

---

## Recent ADR Articles and News

### Four Qualities Often Cited as Desirable for Mediators

In 2008, the Dispute Resolution Section of the American Bar Association released an enlightening task force report on the subject of improving mediation quality. The report laid out the results of extensive surveys exploring the perspectives of outside counsel, in-house counsel, non-attorneys, and mediators who frequently participated in the private mediation of civil (non-family law) cases. The survey participants consistently identified

## 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

[Email Us](#)

[Website](#)

---

Know someone who may be interested in our ADR services?

## FORWARD

[Forward](#) this email to a friend.

---

UNSUBSCRIBE

[Unsubscribe](#) from this newsletter.

the same four attributes as important to the quality of the mediator and the overall mediation process: (1) adequate preparation by the mediator, parties, and counsel; (2) case-by-case customization of the mediation process; (3) analytical assistance from the mediator; and (4) persistence. The report provides a useful explanation of the feedback received from the participants and what their expectations look like. A copy of the report can be found [here](#). [Back to top](#)

### Using ADR to Reduce Costs and Risk

It is now widely accepted that ADR can provide a number of benefits to disputants that traditional litigation cannot, including considerable savings in time and expense. There are different types of ADR, however, so how do the benefits compare among them? A recent article written by the Hon. Edward Ketchen (Ret.) (our "Mediator of the Month") helpfully sets out some of the primary ADR options (primarily, mediation, settlement facilitation, and arbitration) and compares each of them to the protracted litigation process. Here's a [link](#) to his article. [Back to top](#)

### Congratulations!

The Montgomery County Bar Foundation recently announced its newest "Bar Leaders," and included in the distinguished group are three of our mediators/arbitrators -- Bill Hewitt, Ellen Kandell, and Judge Ann Sundt. They join current "Bar Leaders" and fellow CDR mediators/arbitrators Judge DeLawrence Beard, Dena Feeny, Bob Park, Judge William Rowan, Don Ryder, and Suzanne Snedegar. On a separate note, Jim Astrachan of Astrachan Gunst Thomas, P.C. was just named a Super Lawyer in the field of Intellectual Property in the Corporate Counsel edition of Super Lawyers ®. Congratulations on these well-deserved recognitions.

### ADR Video

The Hon. Ann N. Sundt (Ret.) and Erik Johnson were recently on the local television show Inside/Out to discuss alternative dispute resolution. If you missed it, here's a link to the [video](#) of the broadcast.

---

## Upcoming Events

September 15, 2009 -- ADR Presentation with The HR Team, Inc.

Erik Johnson of Creative Dispute Resolutions will be part of an upcoming panel discussion on ADR hosted by The HR Team, Inc. that has been rescheduled for September 15 from 9 a.m. to 11 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.

Copyright © Creative Dispute Resolutions, LLC  
211 Little Quarry Road, Gaithersburg, MD 20878  
(301) 977-8002 | [info@creativedisputeresolutions.com](mailto:info@creativedisputeresolutions.com)

You're receiving this newsletter because you are a client or you signed up at [CreativeDisputeResolutions.com](#) or on a written sign-up sheet at one of our presentations or exhibitions.

---

Having trouble reading this email?  
[View it in your browser](#) or [download a PDF to read offline](#).

---

Not interested anymore? [Unsubscribe Instantly](#).