

Coalition strives to reduce court docket

It's frequently bad news when businesses sue each other. Perhaps it's bigger news when hundreds of Oakland County businesses and lawyers sign a pledge to avoid taking their disputes to court.

Businesses as varied as banks to personnel staffing, international consultants to design, and from manufacturing to the automobile industry have signed the pledge.

The ADR pledge program is simple: Businesses and their lawyers are being urged to sign a non-binding pledge to use alternative dispute resolution before they enter into lawsuits. The Oakland County Bar Association, with co-sponsors from the Oakland County Chamber of Commerce and the Oakland County Executive's Office, have created this ADR pledge partnership program to promote

the use of ADR instead of traditional litigation whenever it is appropriate.

ADR stands for alternative dispute resolution. ADR refers to various mechanisms designed to keep a dispute out of court. It provides an opportunity to resolve conflicts effectively while finding the process that best handles a particular dispute. Arbitration and mediation are two primary types of ADR.

"Lawyers have increasingly utilized innovative methods to resolve disputes as early as possible. Now it is time for lawyers, business and government to join together to make dispute resolution user friendly. The public and business will benefit from this," said Rochester Hills resident Lawrence Terman, president of the Oakland County Bar Association.

GUEST COLUMN

cination and a Bloomfield Hills attorney.

Lawyers like the program, too. Birmingham attorney Steven L. Schwartz has signed the pledge as has every lawyer in his firm. With nearly 25 years of trial experience, Schwartz says, "I have litigated cases from Traffic Court to the U.S. Supreme Court, and I am convinced that ADR is good for lawyers and good for clients. At least 95 percent of all cases settle. ADR gets the parties talking and working on settlement sooner and avoids much of the rancor that traditional litigation causes."

The crowded court dockets make it difficult for civil cases to get to trial. The total number of civil court cases started

in Oakland County Circuit Court in 1994 was 28,029; in 1995, that number increased to 28,241. With the use of ADR, many more disputes can be settled out of court rather than crowding the system.

Judge Edward Sosnick, chief judge of the Oakland County Circuit Court, has long been a proponent of ADR. Sosnick says, "ADR can contribute substantially to alleviating congestion in the courts. The greatest benefit, however, is for the parties because ADR provides an acceptable way to resolve their disputes without compromising their access to the courts. In fact, the best decisions are often those which the parties reach themselves by agreement. ADR gives the parties and their lawyers acceptable alternatives to the courtroom for settling their disputes. The

Oakland County Circuit Court plans to continue and expand upon its use of ADR in helping resolve disputes."

Thomas Moore, II, chairman of the Oakland County Chamber of Commerce board of directors, describes the chambers' reasons for supporting ADR and the pledge program: "I believe the Alternative Dispute Resolution, ADR, program properly implemented will definitely help our chamber members' profitability. If there comes a time for an adversarial business relationship, the ADR program should be the first line of approach toward solving the problem. If that does not work the parties involved can then turn to other alternatives. However, ADR is the least costly to one's business, time and energy."

The ADR pledge program

has been proven to be effective in other areas around the country. In Denver, St. Louis and San Antonio, to name a few places where pledge programs have been implemented, benefits have been evident. Businesses see that other methods for resolving disputes exist which has contributed to fewer lawsuits and a more constructive environment to resolve problems. The role of lawyers and their image have improved since they are being viewed as "counselors at law" and not solely as antagonists in a court fight. The public has benefited because ADR is being successfully adapted for community use. For example, schools are teaching students peer mediation and conflict techniques.

The Oakland County Bar Association is based in Bloomfield Hills.

State seeks to regulate Indian gambling locations

Getting up to date on Indian casino gambling issue:

Q. What was the state Senate voting on last week and this?

A. Gov. John Engler has negotiated pacts with three federally-recognized Indian tribes. They are:

- The Pokagon band of the Potawatomi tribe, with a site in New Buffalo Township on I-94 in the southwest corner of the state.

- The Little River band of the Ottawa tribe, with a site in Manistee on the Lake Michigan shoreline.

- The Little Traverse Bay bands of Odawa tribe, with a site on Mackinaw City.

Q. If senators dislike gambling casinos, can't they just vote "no"?

A. Many don't think they dare. Sen. Harry Gast, R-St. Joseph, one of the craftiest legislators and a non-gambler, calls a casino in his bailiwick

"a foregone conclusion. This leaves us in the position of trying to get the best deal we can for the state and community."

Supporters say that if the state won't deal with them, the tribes will run to Washington for permits, and the state will lose all chance to regulate them. That's how it works under the 1988 federal Indian Gaming Regulatory Act (IGRA). Currently 24 states have compacts with tribes for gaming.

Q. What kind of state regulation are we talking about?

A. The compacts call for 10 percent of Class III gaming net winnings to go to our governments — 8 percent to the Michigan Strategic Fund, 2 percent to local units.

Q. What's that worth?

A. Seven tribes operate 13 casinos. In 1995-6, they are estimated to take in a net of \$384 million, pay the state \$34

million and local units \$8.5 million, up 58 percent from the prior year. That's from the state racing commission.

The big casino is the Chippewas' in Mount Pleasant. It takes in almost as much as the other 12 combined.

Q. What do you mean by Class III gaming?

A. Class I is social games for prizes of minor value. Class II is bingo and other non-banking games.

Class III includes slot machines, blackjack, parimutuel racing, jai alai, and video poker. Patrons play against the "bank" rather than each other.

Q. The figures make it



TIM RICHARD

sound like a growth industry.

A. My old economics professors would flunk a student for calling gambling an "industry." No car is produced.

No jar of baby food or pair of shoes is produced. No bad tooth is pulled. Money flows from one pocket to another without producing anything of economic value.

Q. Don't the tribes have a better way to make a living?

A. Apparently not. According to the pro-gaming propaganda, the Hydraburg tribe of Alaska has no gambling and a 50-55 percent unemployment rate. Nationally 32 percent of Indians live in poverty.

That's strange because in Michigan, people with only a fraction of Indian "blood" are entitled to tuition-free college, but barely 3 percent of Indians take advantage of it.

By the way, Engler wants to stop that — just give scholarships to the needy, regardless of their "blood." This time he's right.

Rather than see the state collect \$34 million in gaming taxes, I'd rather spend \$68 million on job training and teaching accounting.

Q. What else is the Senate voting on?

A. There's a resolution asking the federal government to let the states and locals have more regulatory control — zoning, building codes, liquor law enforcement, liability insurance requirements, and the like.

Q. Are the feds likely to give in?

A. Hard to say. It depends on whether the state-local controls are used to regulate or just to block.

Q. Lots of folks see casinos as Mafia-controlled dens of iniquity and prostitution. You too?

A. Maybe. I'm more concerned that Americans increasingly think they can strike it rich at gambling. My econ profs said you should work, budget, save part of what you earn, and invest it in productive enterprise.

Their way took years, but you produced something of value to other humans, and you relied on yourself, not luck.

In the last two centuries, white traders degraded Indians by selling them booze. Maybe gambling is the Indians' way of getting even.

Tim Richard reports on the local implications of state and regional events.

Gov. Engler's right: Redirect the adult education funding

For years and years, Michigan has been spending big bucks — 185 million last year, 10 times the national per capita average — on adult education, programs that help high school dropouts go back to the classroom.

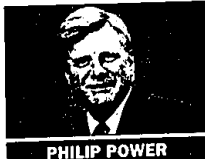
Everybody admits the results are meager. Of the 185,000 students enrolled in adult ed, only 14,000 graduate, more than one-third drop out, and less than one in 10 find jobs or improve their earnings.

Worse, for years adult ed has been, in practice, the slush fund that lots of school districts used to balance their budgets.

Salaries for adult ed teachers have been traditionally less than for regular K-12 classroom teachers, so districts have been taking the "profit" from the per capita state grant for adult ed and using it to bolster their books. Newspapers used to be filled with advertisements touting adult ed class openings just after the autumn fourth Friday head count set state funding levels for school districts.

Gov. John Engler wants to change all this. Predictably, he's getting a lot of flak for it. But in this instance, I think he's right on target.

First, he wants to put \$50 million into community and workplace literacy grants to meet the reading, math and work-readiness of adults. These grants will be awarded to Michigan's 27 local workplace development boards, which will seek competitive proposals from school districts, charter schools, community colleges, nonprofit organizations and other institutions that provide training.



PHILIP POWER

Wonderful! One of the fundamental reasons government works so badly is its habit of designating monopoly — "presumptive provider" is the bureaucratic language — agencies to carry out certain tasks.

Engler wants to bust up the monopoly on adult education that K-12 school districts have had for so many years and use links between job training providers and employers to introduce competitive incentives into the system.

Engler argues that costs in the present system are high (up to \$15,000 per participant) and results low. He compares this with Michigan's Economic Development Job Training program which "prepared" (whatever that means) 70,000 workers for jobs at an average cost of \$800.

Equally important, Engler argues, "Adult education is now a one-size-fits-all program; the wrong students are locked in, the right students are locked out, and no one gets ahead."

This is so. Kids who finish school and get a job threatened by changing technology can't get help from the current adult ed system because they already have a high school diploma. On the other hand, high school dropouts over 20 are unlikely to be interested in high school

classes; they want job training to get a better job, not 10th-grade civics. School districts are good at basic education; expecting them to be good at job training is asking too much.

The part of the Engler program that is drawing the most criticism is the proposal to provide a free public education to any Michigan resident only through age 20. After 20, though, only adults who are recommended by their employers would be eligible for tax-paid tuition. School districts could offer adult ed to anyone over 20, but students would have to pay tuition.

Educators and others are screaming this is unfair. They cite statistics showing that 40 percent of beginning adult education students have skills below eighth-grade level. Of that group, 70 percent have less skills than fourth-graders. With low skills, they have low wages; with low wages, they're unlikely to see much point in paying to improve their skills.

They may have a point. I suspect issues of tuition will be debated hard when the reform legislation starts working through the Legislature.

But the main points of Engler's proposals are sound: Distinguishing between K-12 basic education and job training, and making providers compete for state funding, are both worthy objectives. The Legislature should adopt them.

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