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TO: MEMBERS, ASSEMBLY JUDICIARY COMMITTEE

FROM: KAREN SMITH, 2010 PRESIDENT

RE: AB 2475 (BEALL) - OPPOSE SET FOR HEARING: 5.4.10

DATE: APRIL 26, 2010

On behalf of the California Dispute Resolution Council, I write to inform you of our strong **OPPOSE** position on AB 2475 related to removing judicial immunity and quasi judiciary immunity from third persons who practice within the Family Courts. CDRC was organized in 1994 to advocate for fair, accessible, and effective alternative dispute resolution processes before the legislature, state administrative agencies, and the courts. The membership of the CDRC consists of several hundred individual ADR neutrals, together with community dispute resolution organizations and providers of ADR services which, taken together, represent more than 15,000 mediators and arbitrators in California. CDRC positions do not represent the views of any individual member.

AB 2475 was recently amended and, although the amendments are a step in the right direction, the CDRC believes that the language is too broad and would be significantly detrimental to those professional mediators who are not associated with the Family Court either as employees or as independent contractors. The practice of the professional mediators is governed by the confidentiality provisions of the Evidence Code section 1115 et seq and they are chosen by the parties to assist their efforts in mediating their family law issues or any other legal or commercial issue separate from the operation of or oversight by the Courts. The foundational premise for mediation is that it is voluntary and completely confidential; this is why these mediators enjoy judicial immunity. If the guarantee of confidentiality was removed from mediation, it would severely harm the effectiveness and success of the process, and in turn remove an invaluable option to subscribing parties.

CDRC also requests that the terminology associated with Family Court be modernized and that any third party working with the courts not be referred to as mediators but rather as "evaluators". CDRC would also recommend that the term be "evaluator" be specifically defined. Finally, CDRC intends to work with the broader stakeholder community on this most important issue to the families of the State of California and to the professionals whose practice it is CDRC's mission to protect.

If you have any questions or concerns regarding the information contained in this letter, please do not hesitate to contact our lobbyist in Sacramento, Donne Brownsey at 916.448.1222. Thank you.

### **CDRC Administration**

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