



ADR NEWS

A publication of the Tennessee Alternative Dispute Resolution Commission

Spring 2017 Volume 17, Issue 2

Conflict Resolution
Agreement Solutions
Family General Civil
Negotiation Mediation
Tennessee Mediator
Dispute Rule 31

TENNESSEE ALTERNATIVE DISPUTE RESOLUTION COMMISSION

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IMPORTANT NEWS

For a list of approved Continuing Mediation Education courses, please see page 3 or go to: <http://www.tncourts.gov/programs/mediation/resources-mediators/continuing-mediator-education>.

To file online mediation reports, go to: <http://www.tncourts.gov/programs/mediation/resources-mediators>. If you have forgotten your username and password needed to submit an online mediation report, please contact Caitlin Vasser, Programs Assistant, at (615) 741-2687 or by email at caitlin.vasser@tncourts.gov.

IMPORTANT ADR DATES

May 30, 2017-Rule 31 Mediator Applications Deadline for ADRC review on July 25, 2017

July 25, 2017-ADR Commission Meeting, AOC Office, Nashville

August 17, 2017-Rule 31 Mediator Applications Deadline for ADRC review on October 12, 2017

October 12, 2017-ADR Commission Meeting, Nashville

FAST STATS:

There were 1,610 mediations reported in the 1st Quarter of 2017. Of those mediations, 64.7% had all issues resolved; 9.1% had issues that were partially resolved; and 26.2% had no issues resolved. There were 68 pro bono mediations and 3 additional court ordered pro bono mediations reported. These mediation statistics were compiled from online mediation reports submitted by Rule 31 listed mediators per ADRC Policies 10 and 22. Quarterly statistics can be found on the AOC website at: <http://www.tncourts.gov/programs/mediation/resources-mediators> in the "Submit Rule 31 Report" section.

SUMMARY OF ADR COMMISSION MEETING

The ADR Commission held its Quarterly Meeting and all-day Retreat on April 25, 2017. In addition to considering 60 new mediator applications and reviewing Committee reports, the April Retreat focused on a thorough review of Rule 31 to determine proposed revisions. The Retreat was facilitated by Leigh Ann Roberts, a Rule 31 Listed Mediator and Trainer, of The Circle Center Consulting.

The Ethics Advisory Committee has issued Advisory Opinion 2017-0002 (see page 4) regarding whether a Rule 31 Neutral can prepare a Marital Dissolution Agreement or other legal document for presentation to the court. This Advisory Opinion along with previously issued Opinions can be found by visiting <https://www.tncourts.gov/programs/mediation/resources-mediators/opinions>.

The Training/Education Committee is developing the program for its annual ADR Workshop which will offer 6 hours of CME credit and be held at Lipscomb University's Ezell Center on Friday, October 13, 2017.

ADRC REMOVES APPLICATION FEE FOR DOMESTIC VIOLENCE DESIGNATION:

At its April 25th Meeting, the ADRC voted to cease charging an application fee for the "Specially Trained in Domestic Violence Issues" designation that can accompany a Family Listing. Please note a Rule 31 Listed Mediator must be Family Listed in order to add the "Specially Trained in Domestic Violence Issues" designation. Please visit

https://www.tncourts.gov/sites/default/files/webform/policy_23.pdf for the revised application fee structure.

We Would Like to Hear From You!

In an effort to encourage education and communication between and for Rule 31 listed mediators, the ADRC accepts proposed article submissions from Rule 31 listed mediators and others in the *ADR News*. All submissions may or may not be published and are subject to editing according to the Program Manager's discretion. If you are interested in submitting an article for possible publication in the *ADR News*, please contact the AOC Programs Manager at (615) 741-2687.

NEWS AND EVENTS

PASSING OF WILLIAM T. "BILL" WRAY OF KINGSFORT

We are saddened by the news of Bill Wray's passing on May 5, 2017. Mr. Wray was appointed to the Alternative Dispute Resolution Commission by the Tennessee Supreme Court in 2015, and we are grateful for his service. For more information, please visit:

<http://www.timesnews.net/Obituary/2017/05/06/William-T-Wray-Jr.>

AOC SEEKS FEEDBACK ON TNCOURTS.GOV WEBSITE

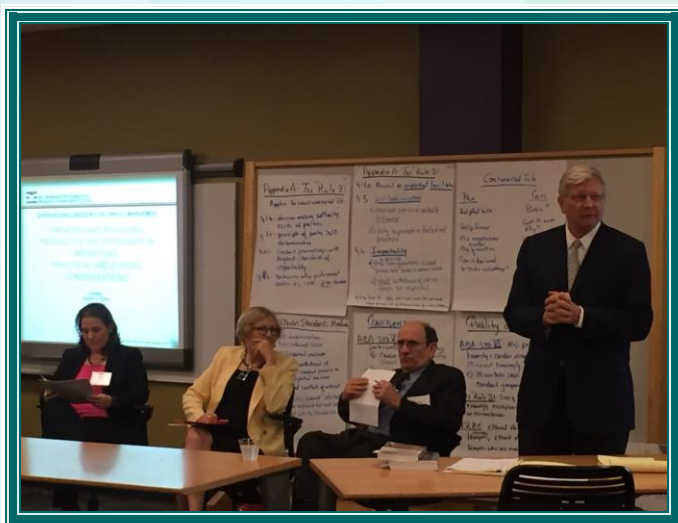
The Administrative Office of the Courts (AOC) will be revamping our website, www.tncourts.gov. We need all of our stakeholders' and end users' input to create the best, most useful web experience for all of our many constituents. The more feedback we receive, the better site we can create. We created a brief survey to collect your thoughts, opinions and suggestions about our current website and its effectiveness and usability. Please take a moment to fill out our survey using the link below and help us make our new tncourts.gov site the best that it can be for all of you! Click here to take the survey:

<https://www.surveymonkey.com/r/tncourtswebsitesurv>.

LIPSCOMB'S SOUTHEAST CONFERENCE ON CONFLICT MANAGEMENT

Three Alternative Dispute Resolution Commissioners provided their insight at the event. Commissioner Larry Bridgesmith served as a panelist during the Diagnosis Conflict: Treatment Options session covering mediation techniques in a healthcare setting. Commissioner Frank Cantrell shared his perspective as an employment law mediator during the Developing and Managing Good Relationships in Mediation, Practical and Ethical Considerations session. Commissioner Jack Waddey moderated a panel on Effective Advocacy in Mediation covering items such as how to prepare your client for mediation, conduct during joint sessions and in caucus, and being prepared for settlement.

Please visit <https://www.tncourts.gov/news/2017/05/12/three-adr-commissioners-share-expertise-southeast-conference-conflict-management> for further details.



CONGRATULATIONS TO THE FOLLOWING NEWLY LISTED RULE 31 MEDIATORS!

THESE MEDIATORS WERE APPROVED FOR LISTING AT THE ADRC QUARTERLY MEETING ON APRIL 25, 2017.

Family

Ms. Jaclyn M. Anderson	Ms. Mary Ann M. Babrich*
Mr. Brandon J. Cox	Ms. Veronica L. Fair-Miller
Mr. Craig L. Garrett	Ms. Kimery T. Irby
Mr. Jeff McCord	Dr. Lisa D. Norris
Mr. Mark R. Orr	Mrs. Kimberly Avery Patterson
Ms. Tecia Puckett Pryor	Mr. William S. Scott
Ms. Joan Signorille	

General Civil/Family

Ms. Angela M. Blevins	Mr. John E. Evans
Ms. Dawn M. Forshay	Ms. Pamela L. Hicks*
Ms. Felisha D. Johnson-Williams*	Ms. Adelia J. Jones*
Ms. Terri M. Lankford	Mrs. Kim Mackie-Austin
Dr. Kalai Mugilan	Ms. Cathrine D. Phipps
Mr. Timothy B. Sullivan	

General Civil

Ms. Raumesh Aleza Akbari	Mr. James Shannon Barnhill
Mr. Michael T. Begley	Mr. Zachary D. Blair
Mr. Christian Yale Cahill	Mr. Scott D. Carey
Mr. Jerome Cochran	Mr. Jerry E. Farmer
Ms. Mary Beth Hagan	Mrs. Wendy Keen Harkness
Hon. Robert Price Harris	Mr. Phillip R. Hilliard
Mr. Jimmy D. Holbrook, Jr.	Mr. Sean A. Hunt
Mr. Joseph A. Kelly	Ms. Robin Harris Kimbrough
Mr. John D. Kitch	Mrs. Crystal Morgan
Mr. Jesse D. Nelson	Mr. Joshua G. Offutt
Mr. Gregory M. O'Neal	Mr. Peter C. Robison
Mr. Thomas S. Santel, Jr.	Mr. Thomas W. Shumate IV
Mr. James M. Simpson	Mr. Warren M. Smith
Mr. Saul A. Solomon	Mr. Larry M. Teague
Mr. Andrew R. Tillman	Mr. Robert L. Trentham
Mrs. Bishakha R. Van Voris	Mr. Robert J. Walker
Mr. Richard E. Wayland	Mr. Ronald Woodard

*Designation as "Specially Trained in Domestic Violence Issues"

CONTINUING MEDIATION EDUCATION OPPORTUNITES

<u>DATE</u>	<u>Course Name</u>	<u>Type of Credit</u>
<u>13th Judicial District Child Support Office</u>		
9/5/2017	<u>Upper Cumberland Family Law Seminar</u>	3.5 Hours Family Law; 1 Hour Mediation Ethics & Mediation Issues
<u>AENZI</u>		
Ongoing	<u>Effectively Mediate with Motivational Interviewing</u>	1 Hour Continuing General Education OR Family Law OR Mediation Ethics
	<u>Effectively Mediate with Motivational Interviewing</u>	2 Hours Continuing General Education OR Mediation Issues
	<u>Mediate with Emotional Intelligence</u>	2 Hours Mediation Ethics
	<u>What Shape is Your Triangle?</u>	2 Hours Mediation Issues
	<u>Ethical Mediation Course</u>	1 Hour Mediation Ethics
<u>Effectively Mediate Medical Malpractice Cases</u>		
<u>CONSENSUS PROFESSIONAL DEVELOPMENT - LAW & MEDIATION PRACTICE PROFESSIONALISM</u>		
10/13/16 - 10/12/17	<u>Leading with Influence and Persuasion</u>	.75 Hour Mediation Ethics; 1.25 Hours Mediation Issues
	<u>Strategic Communication</u>	1.25 Hours Mediation Issues; .75 Hours Continuing General Education
	<u>Anger Management</u>	2 Hours Mediation Issues
	<u>Co-Worker Conflict Resolution</u>	
	<u>Employee Peer Mediation</u>	
	<u>Ethics for the Office Environment</u>	
	<u>Meaningful Listening</u>	
	<u>Mindfulness 1: EIEQ</u>	
	<u>Mindfulness 2: A1</u>	
	<u>Negotiating for Resolution</u>	
	<u>Problem-Solving & Decision Making</u>	
	<u>Resolving Conflict with Difficult People</u>	2 Hours Continuing General Education
	<u>Critical Thought & Practice</u>	
	<u>Diversity in the Workplace</u>	
	<u>Stress Management</u>	
	<u>Time Management for Peak Performance</u>	
	<u>Workplace Bullying</u>	
	<u>Workplace Etiquette</u>	
	<u>Workplace Safety</u>	
<u>Workplace Violence & Prevention</u>		
<u>KNOXVILLE BAR ASSOCIATION</u>		
11/8/16 - 11/7/17	<u>Mediating a Family Law Case: The Good, The Bad and The Ugly</u>	1 Hour Mediation Ethics
11/16/16 - 11/15/17	<u>Techniques to Avoid Impasse</u>	
12/20/16 - 12/19/17	<u>Tax Issues In Divorce</u>	
<u>NASHVILLE BAR ASSOCIATION</u>		
6/29/2017	<u>Don't Just Get an Agreement, Get an Approval</u>	2 Hours Continuing General Education or Family Law
<u>ROSEMARY FRANK FINANCIAL</u>		
11/14/16 - 11/13/17	<u>Avoid Financial Pitfalls in Divorce Cases</u>	2 Hours Mediation Issues or Family Law
<u>TENNESSEE ASSOCIATION OF PROFESSIONAL MEDIATORS</u>		
On Demand	<u>Mock Mediation of an Employment Dispute</u>	1.33 Hours Mediation Issues
<u>TENNESSEE BAR ASSOCIATION</u>		
11/29/16 - 11/28/17	<u>Mediation in Juvenile Court</u>	2 Hours Mediation Ethics or 2 Hours Family Law
11/2/16 - 11/1/17	<u>Creating and Managing Productive Relationships in Mediation</u>	1 Hour Mediation Ethics
7/18/16 - 7/17/17	<u>ADR 2016: Construction Dispute Mediation</u>	
	<u>ADR 2016: Ethics</u>	
<u>ADR 2016: Neuroscience</u>		
<u>THE NATIONAL ACADEMY OF DISTINGUISHED NEUTRALS</u>		
8/17/2017 - 8/19/2017	<u>2017 Advanced Mediation Training Retreat</u>	15.75 Hours Mediation Issues & 1 Hour Mediation Ethics

IN THE TENNESSEE ALTERNATIVE DISPUTE RESOLUTION COMMISSION

ADVISORY OPINION No.: 2017-0002

The Alternative Dispute Resolution Commission received a request for an advisory opinion from a Tennessee Rule 31 Listed Mediator. The request has been modified for purposes of response within the context of Rule 31. The Ethics Advisory Committee, consisting of George Brown, Bill Young, and Virginia Story, Chair of the Committee, reviewed the request. The Ethics Advisory Committee presented it to the Alternative Dispute Resolution Commission and issued the following opinion.

Inquiry: Is drafting a Marital Dissolution Agreement or other legal document for presentation to the court by a Neutral in a mediation setting considered “participation as attorney” or is it considered an appropriate memorialization of a settlement agreement under Rule 31?

A Rule 31 Listed Mediator may assist the parties in memorializing the terms of the agreement by preparing a Memorandum of Understanding (“MOU”). A Rule 31 Listed Mediator should not prepare a Marital Dissolution Agreement or other legal document for presentation to the court. If the parties have attorneys, then the attorneys can prepare the paperwork necessary for filing with the court. If the parties do not have attorneys, then the parties can prepare the paperwork necessary for filing with the court.

Rule 31 § 10(c) regarding obligations of Rule 31 Neutrals advises:

“During and following Rule 31 ADR Proceedings, Rule 31 Neutrals shall:

- (1) Refrain from participation as attorney, advisor, judge, guardian ad litem, master, or in any other judicial or quasi-judicial capacity in the matter in which the Rule 31 ADR Proceeding was conducted.”

Rule 31 Appendix A §10 (a)(1) addresses concluding a dispute resolution proceeding by stating:

“The Neutral shall request that the terms of any settlement agreement reached be memorialized appropriately and shall discuss with the participants the process for formalization and implementation of the agreement.”

A Rule 31 Listed Mediator’s role can include preparing a Memorandum of Understanding (“MOU”). Rule 31 § 10(e) explains:

“The Neutral may assist the parties in memorializing the terms of the parties' settlement at the end of the mediation.”

A MOU can show that the parties have agreed to certain items in their divorce and the parties expect those items to be made a part of their divorce decree. Following the conclusion of mediation, the parties can then take the MOU to a lawyer and have the lawyer draft a Marital Dissolution Agreement that uses the MOU and includes additional language prepared by the attorney.

If the parties do not have attorneys and/or they choose to fill out the Parenting Plan themselves and submit it to the court for approval, the Mediator may discuss with the parties which categories their MOU agreements pertains to within the body of the Parenting Plan. The parties can review a copy of a Parenting Plan with the Mediator to make sure that it covers the results of the mediation. If both parties agree on all items in the Parenting Plan, then the parties must reduce that Parenting Plan to a formal Order and that Order must be submitted to the court for approval. A Rule 31 Mediator should not prepare legal documents, such as a Parenting Plan, that can be filed with the court for the parties to a mediation that the Mediator conducted.

As a public policy, it is important that the parties understand that the Mediator is not the advocate for either party nor is the Mediator the advocate for both parties. The obligation is on the Rule 31 Neutral to “refrain from participation as attorney” per Rule 31 § 10(c) and ensure this prevailing public policy is explained to the parties.

Date Issued: April 25, 2017