



ADR

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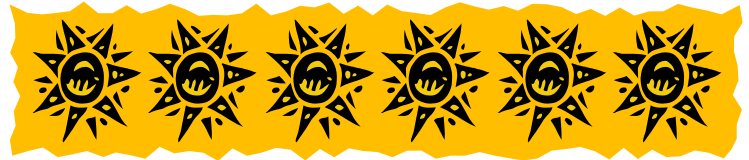
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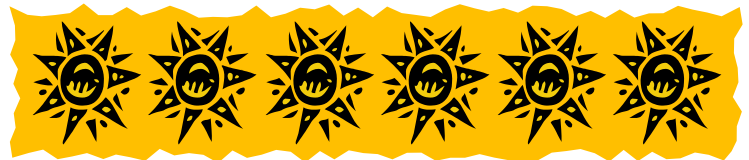
IMPORTANT NEWS

The ADRC is developing the agenda for the Eleventh Annual ADRC Workshop which will be held Friday, October 18, 2013 at Lipscomb University in Nashville. Please make plans to attend! Please note that the Workshop will *always* satisfy the CME requirements for *BOTH* general civil and family listed mediators.



At the April 23, 2013 quarterly meeting of the Alternative Dispute Resolution Commission, the Commission adopted Policy 16 defining practical work experience. To see all of the ADRC policies, go to:

<http://www.tncourts.gov/programs/mediation/re-sources-mediators/policies>



FAST FAQ - If you have recently changed your contact information it's easy to update it on the website. Simply send the new information in an e-mail to claudia.lewis@tncourts.gov. This will ensure visitors to the website will have the most current contact information.

legal spectator

The Mediator, W. Somerset Maugham and the Pearls

By: Jacob A. Stein, Esq.; © Jacob A. Stein, Esq.

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We are, I know not how, double in ourselves, so that what we believe we disbelieve and cannot rid ourselves of what we condemn.

-----*Montaigne*

The mediator concluded the mediation with success, as she usually does. I asked her to walk across the street to have a cup of coffee and to discuss her technique.

I told her, first of all, that I am not a successful mediator. I am impatient and I ask the litigants themselves the most important questions, and then an argument follows.

She said a mediator must be patient. Let the lawyers talk, but discourage the litigants from talking to each other. If the litigants ask and answer questions, the central issue gets out of focus, and there may be some acerbity.

She said, as an aside, that some years ago she read a short story, a very short story, by W. Somerset Maugham (1874-1965) titled "Mr. Know-All." She said there is something about the story that has helped her, and it might help me. "Read it and then give me a call," she told me. Here is the story.

It opens with Somerset Maugham on a crowded ocean liner. Therefore, the passengers had to double bunk. Maugham's roommate was to be a man named Max Kelada. Mr. Kelada had arrived before Maugham. Mr. Kelada had placed his own luggage and his other personal things in the bathroom. He had expensive personal effects, each with his initials. Maugham saw right away that Mr. Kelada was a show-off, a vain man, boasting of his success in business and other things. Maugham did not like him.

Nearby where Maugham and Mr. Kelada were bunking were a Mr. and Mrs. Ramsay. They had been separated for the past year because Mr. Ramsay had overseas assignments. Mrs. Ramsay had remained at home. Now they were together again, traveling home.

The third evening out, Maugham dined with the Ramsays. Mrs. Ramsay was attractive, well-dressed, and wore a string of pearls. Mr. Ramsay liked to talk.

Mr. Kelada decided that he would like to invite himself to join Maugham and the Ramsays. During the conversation, the subject of Mrs. Ramsay's pearls came up. Mr. Kelada announced that he knew all about jewelry, especially pearls.

Mrs. Ramsay blushed and slipped the pearls inside her scarf. Mr. Ramsay decided to challenge Mr. Kelada to determine whether the pearls were authentic or fake. Mr. Ramsay bet \$100 that the pearls were fake and said he would accept Mr. Kelada's decision. Mrs. Ramsey was not pleased with the bet.

Mr. Kelada removed his jeweler's magnifying glass from his vest pocket and examined the pearls. He smiled. Right away he saw that the pearls were authentic and very expensive. Just as he was ready to announce that he had won, he caught sight of Mrs. Ramsay's face. It had changed color. She stared at Mr. Kelada with an uneasy look of desperation.

Mr. Kelada put his glass back in his vest pocket. He said he lost the bet. "I think \$18 is just about as much as the pearls are worth," he said.

He took a \$100 note from his fat roll of bills and handed it to Mr. Ramsay who proudly said to Mr. Kelada, "Perhaps that'll teach you not to be so cocksure."

The next morning, Maugham and Mr. Kelada heard a scraping sound outside their bunk. An envelope had been pushed under the door. Maugham picked it up and then looked outside to see if anyone was there-nobody was.

The envelope was addressed to Max Kelada. Maugham handed the envelope to Mr. Kelada who opened it. In it, there was a \$100 bill. Mr. Kelada kept the money. Maugham asked Mr. Kelada, "Were the pearls real?"

Mr. Kelada responded that they were real and very expensive, adding that "If I had a pretty little wife, I shouldn't let her spend a year away from her husband."

During the rest of the cruise, the rumor was that Mr. Kelada was not so smart after all.

That's the story. After I read it, I called my friend, the mediator. I asked her what there was about the Maugham story that helped with their mediations. She said, "One of the things I learned is that I watch the facial expressions of the lawyers and the litigants when they speak at critical moments, just like Mr. Kelada did when he saw Mrs. Ramsey's face. Watch the face. There are even other things to learn."

Maugham led a troubled personal life. However, he made a fortune as a playwright, a novelist, and an essayist. His book, *The Summing Up*, is worth reading. In it, he gives his opinions on the way he sees himself and others.

...To take a trivial instance: how scornful we are when we catch someone out telling a lie; but who can say that he had never told not one but a hundred? We are shocked when we discover that great men were weak and petty, dishonest or selfish, sexually vicious, vain or intemperate; and many people think it disgraceful to disclose to the public its heroes' failings.

Well, I enjoyed meeting Mr. Maugham's Mr. Kelada, with the assistance of a wise mediator, and I shall watch the faces during mediation.

About the Author:

Jacob A. Stein, Esq.

Jacob A. Stein has been a trial lawyer for 55 years. Mr. Stein received an LL.B. in 1948 from George Washington University. His practice includes a wide variety of civil and criminal litigation, particularly the prosecution of personal injury claims. His books include: *Legal Spectator & More* (2003); *The Law of Law Firms* (1994); *Closing Argument, the Art and the Law* (1969), *Trial Handbook for Maryland Lawyers* (1972-2001); *District of Columbia Tort Casefinder* (1977 & 1983 supp.); *Damages and Recovery, A Survey of the Law of Damages* (1972). He is a senior editor of *Litigation* magazine. He is an adjunct professor at Georgetown U. Law School, where he teaches an advanced course in the Federal Rules of Evidence. He has also participated in many continuing education programs and has taught in the Harvard Law School trial practice course from 1974 through 1983. He is past president of the District of Columbia Bar and of the Bar Association of the District of Columbia. He served as chairman of the Local Rules Committee of the U.S. District Court for the District of Columbia. Mr. Stein is a Fellow of the American College of Trial Lawyers.

~ Roll Call ~

Congratulations to the following Newly Listed Rule 31 Mediators! These mediators were approved for listing at the ADRC Quarterly Meeting on April 23, 2013.

Mr. Charles J. Barnett	General Civil	Ms. Mary Elizabeth Maddox	General Civil
Mr. Stuart B. Breakstone	Family	Mr. Ronald K. Maye	General Civil
Mr. Bobby W. Brown	General Civil	Mrs. Tammy J. Maye	General Civil
Mrs. Teresa R. Bult	General Civil	Ms. Edna D. Mayes	Family
Ms. Mary A. Byrnes	Family	Mr. Matthew J. McCartney	General Civil
Ms. Melainie N. Cantrell	General Civil/Family	Mr. Eric D. McCray	General Civil
Mr. Marcus A. Caudel	General Civil	Mr. Dana C. McLendon	Family
Dr. Laura B. Clark	General Civil	Mr. Robert N. Meeks	General Civil
Mr. James S. Craven	General Civil	Mr. Jeff A. Miller	General Civil
Rev. Bobby L. DeBerry	General Civil	Ms. Phylanice A. Nashe	General Civil
Mr. Alan C. DeBusk	General Civil	Mr. Timothy A. Priest	General Civil
Ms. Cindi G. DeBusk	General Civil	Mr. Garrett W. Rea	General Civil
Ms. Theresa H. Denton	General Civil	Ms. Kathryn J. Reitz	General Civil
Mr. Clarence C. Easterday	General Civil	Ms. Natalie Riley	Family
Mr. Samuel L. Felker	General Civil	Mr. Peter R. Robinson	General Civil
Ms. Stephanie M. Freeman	General Civil	Mr. Joshua Rogers	Family
Mr. Richie P. Gammons	General Civil	Mr. David H. Rousseau	General Civil
Mr. John W. Gautier	General Civil	Ms. Angela N. Scruggs	General Civil
Ms. Paula D. Godsey	General Civil	Ms. Janie A. Short	Family
Mr. Croley W. Graham, Jr.	General Civil	Mr. Jonathan O. Steen	General Civil
Mr. Dan J. Groover	General Civil	Mr. Randy L. Tyree	General Civil
Mr. Roger W. Hudson	General Civil	Dr. John K. Vining	Family
Mr. Terence S. Jones	General Civil	Mr. John A. Walker, Jr.	General Civil
Ms. Jennifer Katzenmiller	General Civil	Mr. John L. Watson	General Civil
Ms. Ariel Langholtz	Family	Mrs. Tina M. Waymire-Collier	Family
Mr. Curtis M. Lincoln	Family	Ms. Lalia R. Wilson	General Civil
		Ms. Donna R. Wohlford	General Civil

ADRC CO-SPONSOR OF ABA ADVANCED MEDIATION INSTITUTE

11th Annual Advanced Mediation & Advocacy Skills Institute
November 21–22, 2013 | Omni Nashville Hotel | Nashville, TN
*The ADR Commission is a co-sponsor of the ABA Advanced Mediation and Advocacy Skills Institute in Nashville, November 21-22, 2013. Save the date. *CME hours pending*

This two-day interactive institute features rare opportunities to learn from some of the leading mediators and mediation advocates in North America. Each panel provides an opportunity to learn from an expert mediator, high powered in-house counsel, and a skilled outside attorney. Each phase of the mediation process will be discussed, followed by small group discussions led by experts in the field. The opportunity for mediators and advocates to interact in small facilitated groups provides a unique environment to enhance your skill, knowledge and understanding of the mediation process.



Important ADRC Dates

June 4, 2013	.....	Rule 31 Mediator Applications Deadline for ADRC review on July 23, 2013
July 23, 2013	.....	ADR Commission Meeting, Administrative Office of the Courts, Nashville
September 3, 2013	.....	Rule 31 Mediator Applications Deadline for ADRC review on October 17, 2013
October 17, 2013	.....	ADR Commission Meeting, Lipscomb University, Nashville
October 18, 2013	.....	ADRC Mediation Workshop, Lipscomb University, Nashville
November 21-22, 2013	.....	ABA Advanced Mediation Institute, Omni Hotel, Nashville

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 for publication 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 publication in the *ADR News*, please contact Claudia Lewis, AOC Programs Manager, at Claudia.Lewis@tncourts.gov.