



ADR

NEWS

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IMPORTANT NEWS



(Left to Right: Justice Gary R. Wade, D. Bruce Shine, Tommy Lee Hulse, Allen S. Blair, J. Wallace Harvill, ADRC Chair Howard H. Vogel)

ADR Commission Members D. Bruce Shine, Tommy Lee Hulse, Allen S. Blair and J. Wallace Harvill were recognized by Supreme Court Liaison Justice Gary R. Wade and ADR Chair Howard H. Vogel at the November 6, 2014 ADRC Quarterly Meeting for their dedication and years of outstanding service as ADR Commission members. Their terms expire January 9, 2015.

The link to the Supreme Court Order soliciting written comments to proposed amendments (as modified by the ADR Commission) to Supreme Court Rule 31 can be found on the AOC website. This Order was filed on November 21, 2014. Per the Order, if you would like to comment on the proposed amendments, please submit your written comments to the Clerk on or before Monday, December 22, 2014.

<http://www.tncourts.gov/courts/court-rules2/proposed-rules>

The deadline for submission of your 2015 Renewal Form is December 31, 2014. ADRC Policies 19 and 20, which set out the renewal fee structure, can be found on the AOC website.

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

Mediation Mastery and Improvisation- The Art of Mediating Above What We Know

By: Leigh Ann Roberts, Esq.

What do rappers, surgeons, jazz pianists and master mediators all have in common? Each has learned to harness their skills, creativity, and awareness, including information from both intuitive and unconscious sources, to adapt, adjust and improvise in the heat of the unpredictable moment. The idea of “shooting from the hip” or “winging it” in a complex dispute is likely to make even the most highly trained ADR professionals cringe just a bit. And, while there is comparatively little writing about this kind of risk-taking in mediations compared to other areas of skill development, few mediators would deny its necessity. Let’s face it, our training and our skill prepare us for many issues and dynamics in the mediation room, but not all. That’s where practicing the skill of improvisation becomes the next tool we sharpen for our ever growing master mediator’s toolbox.

Improvisation is defined as generating words or ideas on the spot, where planning and time are limited. Many professionals engage in processes where order, control and predictability are ideal but not always possible. Many of the greats in their fields talk about the role improvisation plays and how the confidence and skill to engage in successful improv, takes time and practice. They say things like “you have to get out of your head”; “I got out of my own way and the solution just came to me”; “Out of the blue, I did something which was totally outside the box but made all the difference.” These momentary leaps or “letting go” of the intellect, lead to innovative solutions and the most creative outcomes. Think of the joy of musical improvisation and how master musicians often take a seemingly chaotic collection of notes and effortlessly weave a work of art:

If you put a musician in a place where he has to do something different from what he does all the time, then he can do that- but he’s got to think differently in order to do it. He has to use his imagination, be more creative, more innovative; he’s got to take risks. He’s got to play above what he knows- far above it.... I’ve always told the musicians in my band to play what they know and then play above that. Because then anything can happen and that’s where great art and music happens. – Miles Davis, Renowned Jazz Trumpeter and Band Leader

For those of you who are fascinated by the neuroscience of mediation, fear not. There is well-documented research that lends credence to the need for mediators to engage in well-placed improvisation. When a mediator engages in the creative act of improvisation the dorsolateral prefrontal cortex section shows a reduction in self-censoring, i.e.- worrying about what you will say next, and how it will be received by others-the kind of thought pattern that can effectively halt the creative flow and synthesis of information. The medial prefrontal cortex, on the other hand, shows a large increase in activity during improvisation and this engenders creativity, self-expression, storytelling and connecting seemingly unrelated concepts and opportunities. This means that we as mediators can literally practice and develop intentional strategies to move ourselves and parties “off-script” past inhibiting thoughts, positions and set communication patterns into elegant creativity, even in the most complex scenarios.

Science author Sandra Blakeslee wrote in her new book, [The Body Has a Mind of Its Own: How Body Maps in Your Brain Help You Do \(Almost\) Everything Better](#), that “our brains are teeming with body maps...even a map that automatically tracks and emulates the actions and intentions of other people around you....These body-centered maps are profoundly plastic-capable of significant reorganization in response to damage, experience or practice.” This “self-directed neuroplasticity” is exactly what top mediators are seeking when they opt to balance their advanced mediation training with alternative educational paths such as meditation, improv, stand-up comedy, etc. These practitioners

understand that the information needed in mediation comes from a variety of sources, if we are only able to perceive it and put it to use in the conversation. Whether it is being aware of our own surfacing creativity or simply being more skilled at “divining” the concerns of the participants, practicing improv helps improve mediator presence (or state of mindfulness) in mediation and reduce the knee-jerk need to squash or tamp down “off-script” input or reactions from participants that may contain valuable information. And, as Author Blakeslee points out, this practice will affect our ability to listen not only in professional settings but also with friends, family, colleagues and ourselves.

The Ladder of Learning dictates that as we grow in our practice we move from novices not knowing what we don’t know (unconscious unknowing) up several rungs until finally we are at unconscious knowing. This kind of unconscious knowing is what Miles Davis woke up with every morning and what author Malcolm Gladwell talks about achieving after 10,000 hours of practice in his book Outliers. But the perilous side of unconscious knowing is being on “auto-pilot;” a certain departure from the “beginner’s mind” that so many artisans and master mediators urge their colleagues to maintain. Several years ago TAPM members enjoyed a wonderful lecture from Texas mediator Eric Galton in which he talked about how he revamps his opening statement at least 3 or 4 times a year so he doesn’t get “stale” or sound “robotic” when delivering this important educational and potentially trust-instilling message to mediation participants. Doug Silsbee, author of The Mindful Coach, cautions master coaches about this is a kind of “self-hypnosis that can result when we believe we have mastered something,” while promising mindfulness and awareness as the antidote to this potential pitfall. Much in the same way, improvisation training encourages practitioners in our field to approach each mediation with a fresh pair of eyes; to resist the leaning on old scripts; and choose different routes for the sake of avoiding the same dispute resolution road-blocks.

If you practice mediation long enough, you have a story or two or ten about how your own assumptions, attachments or aversions slowed or blocked the resolution process. Improvisation heightens your professional presence and ability to reflect and adjust in the moment of need. You become better able to react and respond to uncharted territory of interpersonal conflict without always trying to take control or limit what appears to be “unhelpful” content. You may find, like so many other experts, that you “get out of your own way”, and the way of the parties. I hope you will experiment, mediate above what you know and find yourself on the way to an unscripted and artful solution.

To experiment more with how improvisation skills and tools can improve your mediation practice, Mediator Roberts and local improvisation coach Jackie Schlicker will be hosting an improv training for advanced mediation skills January 17, 2015, in Nashville, Tennessee. Participants will receive CME credits. All approved CME programs can be found on the AOC website at: <http://www.tncourts.gov/programs/mediation/resources-mediators/continuing-meditation-education>.

About the Author

Attorney Leigh Ann Roberts was raised in Jackson, Mississippi and attended undergraduate and law school at the University of Mississippi. Leigh Ann has been a civil mediator for over 15 years and is listed as a Tennessee Supreme Court Rule 31 Civil Mediator. Leigh Ann has mediation, arbitration, facilitation, training, coaching and conflict resolution skills and experience for a wide spectrum of parties and disputes. She is a founding member of the Brentwood law firm of Papa & Roberts, PLLC, and has represented many businesses, corporations, both for and nonprofit, in Tennessee. In addition to having served as an Adjunct Professor of Alternative Dispute Resolution, Mediation and Negotiation at Belmont University’s Massey Graduate School of Business and the Belmont University College of Law, Leigh Ann is a frequent lecturer and corporate trainer on topics such as ethics, conflict resolution, mentoring, leadership, organizational coaching, mediation, negotiation, group dynamics, giving/receiving feedback, emotional intelligence, diversity, harassment/employment law issues and other topics related to law, communication and professional development.

~ Roll Call ~

Congratulations to the following Newly Listed Rule 31 Mediators!
These mediators were approved for listing at the ADRC Quarterly Meeting on November 6, 2014.

Mrs. Brenda W. Alexander/Family
Mr. Mohammed Almumayiz, General Civil
Dr. Teresa A. Bicknell, General Civil
Ms. Karen T. Boyd, General Civil
Mr. Thomas Boyers, V., Family
Mr. Robert P. Bramlett, General Civil
Mr. Aubrey L. Brown, Family
Mr. David J. Callahan, General Civil
Dr. James M. Clyburn, General Civil
Mr. James H. Conger, General Civil
Mr. Allen R. Daubenspeck, Family
Mr. Bradley M. Davis, General Civil
Mr. Jason C. Davis, Family
Ms. Aisha I. DeBerry, General Civil
Mr. Radford H. Dimmick, General Civil
Mr. Jason R. East, General Civil/Family/DV
Hon. Daniel B. Eisenstein, General Civil
Ms. Mary Katherine Everette, Family
Ms. Gloria D. Giannetto, Family
Mr. Roger R. Graham, Family
Hon. Robert P. Hamilton, General Civil
Mr. Oyama Hampton, General Civil/Family/DV
Ms. Reba M. Hinkle, General Civil
Ms. Brendi E. Kaplan, Family
Ms. Teresa M. Klenk, General Civil
Ms. Nina M. Kumar, Family
Ms. Angela Lawson, General Civil
Ms. Rashidah A. Leverett, General Civil
Ms. Corletra F. Mance, General Civil
Dr. Julia A. McAninch, Family

Ms. Mary A. McCarthy, Family
Ms. Kristen E. Menke, Family
Ms. Jean A. Mezera, Family
Ms. Danielle N. Mitchell, Family
Ms. Melissa A. Morris, General Civil
Ms. Julie E. Myrick, General Civil
Mrs. Haley M. Newton, General Civil
Mr. Carter N. Paden, III, General Civil
Mr. Edricke L. Peyton, General Civil
Dr. Phillip R. Pistole, Family
Ms. Sharon L. Reddick, Family
Mr. David H. Rousseau, Family
Mr. John M. Rudolph, Family
Ms. Amanda L. Russell, Family
Ms. Jill M. Sexton, Family
Dr. Anne Simpson, General Civil/Family
Hon. Carol L. Soloman, General Civil/Family/DV
Mr. Keith H. Solomon, General Civil/Family/DV
Ms. Jennifer C. Surber, General Civil
Mr. Karl D. Warden, General Civil/Family
Mr. Joseph P. Weyant, General Civil
Mr. Hoyt (Mark) White, General Civil
Ms. Paula Dee Wilson, General Civil
Mr. Clifford Wilson, General Civil
Hon. Steven L. Wolfenbarger, General Civil
Ms. Bonnie M. Woodward-Weller, General Civil/Family
Ms. Deborah J. Wright, General Civil
Mr. Charles P. Yezbak, General Civil
Mrs. Pamela A. Youngblood, General Civil

Important ADRC Dates

January 27, 2015.....ADR Commission Meeting, Administrative Office of the Courts, Nashville
March 3, 2015.....Rule 31 Mediator Applications Deadline for ADRC review on April 28, 2015
April 28, 2015.....ADR Commission Meeting, Administrative Office of the Courts, 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 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 Claudia Lewis, AOC Programs Manager, at Claudia.Lewis@tncourts.gov.