

MEDIATION WEEK OCTOBER 16-21



News for Alabama Neutrals

In this issue:

[Mediation Week](#)

[Training](#)

[Good Character Req't for Arbitrators](#)

[Fourth Quarter Mediation Statistics](#)

[Mediation Case Note](#)

[Foreclosure Prevention Mediation](#)

[Social Media Links](#)

3rd Quarter 2016 Newsletter

FROM THE DIRECTOR:

I have loved, loved this job for 22 years!

I have met the most fantastic people along the way, and have enjoyed every training, every CLE, every Commission meeting, every annual meeting, and every friend I have made. There are so many to thank, but I will have a couple more issues of the E-NEWS to write before I leave for my next adventure and more travel. The target time is **Spring 2017**.



The word is out, and now the **search is on for a new executive director**. As you know the Alabama Center for Dispute Resolution resides in the Alabama State Bar, was established by order of the Alabama Supreme Court in 1994, and incorporated as a 501(c)(3) so we could receive grant funding. If you want the job description and application information please look here alabamaadr.org/ED/.

Meanwhile, we have fall mediation training, both general civil and family, some advanced courses, and a train the trainer. [See details in this e-news.](#)

Also, **the date is set for Appellate Mediation Training**, when the Center and the Supreme Court get together for the day and train a new group of mediators for the appellate courts. Training date is **February 1, 2017**, at

the Alabama State Bar. We have another great appellate panel: Sally Bowers, Sam Kok, Bill Ratliff, and Marty Van Tassel. Allison Skinner and Jim Rives will be the trainers. 6 hours of CLE credit. Please let us know if you want a registration form. They will go out in December, but we have a notification folder with names of those who are interested.

The **Foreclosure Prevention/Mortgage Modification Mediation Program is BACK** with a new grant from Alabama Law Foundation and the Alabama Civil Justice Foundation. Mediation is free to homeowner and servicer. Homeowner must first qualify by calling Katherine Church at the Bar's Volunteer Lawyers Program: 334 517-2230. The same qualifications apply to LSA and VLP legal assistance and mediation. We also have a sample order for circuit judges to order cases to mediation that might be appropriate. Homeowner will receive a qualified or not qualified letter regarding the program that may be returned to the court. If you would like a sample order, please e-mail me at judy.keegan@alabar.org. There is more information at the website.

The **Family Mediation Program** continues for another year with grant funding from the Supreme Court of Alabama! There will be some changes to the program, including the family income limit which will be reduced from \$75,000 to \$60,000. The average family income for the program has been in the mid 40's. See below for Family Mediation 4th quarter statistics. See below for [Family Mediation 4th quarter statistics.](#)"

If you need to reach Betzy, the Center's administrative assistant, please e-mail her at betzy.medaris@alabar.org.

Judy

MEDIATION WEEK

MEDIATION WEEK is October 16-22, 2016. If your local mediation group is planning an event, you will want to register it with the ABA here: https://americanbar.qualtrics.com/jfe/form/SV_b09f8mtdG2dW7vn

On Thursday, October 20, 2016, in Room 114, Jones School of Law is hosting a program with Paul Firman, Chief of ADR Education & Training at Maxwell AFB. For more information check here: <https://www.faulkner.edu/wp-content/uploads/FINAL-2016-ABA-Mediation-Wk-Flyer.pdf>

Jimmy Walters will host a central Alabama Bar Section of Dispute Resolution mediators' roundtable at Capell & Howard on October 18 from 11:30 to 1.

[Back to Top](#)

TRAINING

IN-STATE MEDIATION TRAINING FOR REMAINDER OF THE YEAR

Dates	Training Topic	Location
October 20-21st	Train the Trainer	Birmingham
November 2nd	Advanced Mediation	Huntsville
November 3rd	Advanced Mediation	Birmingham
November 4-8th	Divorce Mediation	Birmingham
November 9th	Advanced Mediation	Montgomery
November 10th	Advanced Mediation	Mobile
November 29-30th	Domestic Violence	Birmingham
December 1-3rd	General Civil Mediation	Birmingham

Training by Troy Smith (with Sally Bowers for divorce mediation) at www.mediationmedia.com. Register at the website. Or 1-800-adr-firm

Save the Date!

Appellate Mediation Training

February 1, 2017

At the Alabama State Bar building in Montgomery.
More information to follow.
Contact the Center.
334 269-0409.



Past Appellate Mediation Training

LIPSCOMB UNIVERSITY & PEPPERDINE SCHOOL OF LAW

2nd Annual Professional Skills Program in Nashville, Tennessee

October 27-29, 2016, Nashville, Tennessee

Straus Institute for Dispute Resolution is pleased to partner with the Institute for Conflict Management at Lipscomb University for this program!



This program takes place on the campus of Lipscomb University.

MEDIATION AND OTHER DISPUTE RESOLUTION WORKSHOPS

For information and

registrationwww.law.pepperdine.edu/straus/psp/nashville

This program takes place on the campus of Lipscomb University.

***Register early for \$100 discount off regular registration and first 50 participants receive a complimentary Grand Ole Opry ticket!*

Details are online - [Register Now](#)

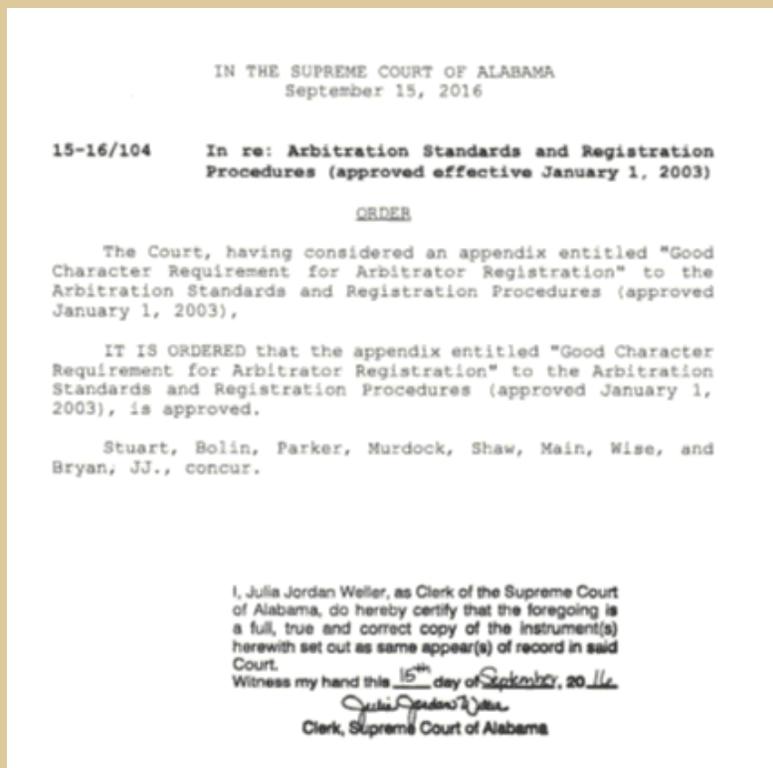
About the Program

Featuring a panel of nationally recognized experts in dispute resolution, this comprehensive program provides three days of unique educational opportunities for practicing professionals. Participants will network with nationally prominent faculty, as well as participants from the other specialties at plenary sessions, lunches, and receptions. Early enrollment is recommended since many of the sessions fully subscribe. Contact Lori Rushford at (310) 506-6342 or e-mail Lori.Rushford@pepperdine.edu to enroll or to request a brochure.

Participants select the process in which they desire expertise (one course only), as all programs will be presented simultaneously. To provide for personalized instruction, enrollment for each course is limited to ensure a close working relationship among the faculty and participants. Course sessions will include lectures, small group discussions, and practice exercises. Faculty and other participants will also provide performance coaching. The synergy of ideas will provide a truly unique learning experience.

GOOD CHARACTER REQUIREMENT FOR ARBITRATORS

The Supreme Court of Alabama has approved the “good character” requirements for arbitrator roster registration.



Appendix Good Character Requirement for Arbitrator Registration

1. General. No person shall be registered as an arbitrator unless the person first produces satisfactory evidence of good character, as required in the Arbitration Standards & Registration Procedures. An arbitrator shall have, as a prerequisite to registration and as a requirement for continuing registration, good character as set forth in subsequent sections.
2. Purpose and Disclaimer. The purpose of the good character requirement is to help protect participants in arbitration and the public, and to safeguard the justice system. Any inquiry into an applicant's good character should not be deemed to be exhaustive or conclusive. Participants to an arbitration also should use their

own due diligence to ascertain the fitness or capability of an individual arbitrator to serve appropriately as arbitrator in their particular dispute.

3. Registration and Removal. The following shall apply for initial and continuing arbitrator registration:
 - a. The applicant's or arbitrator's character is subject to inquiry.
 - b. In assessing whether the applicant's or arbitrator's conduct demonstrates a lack of good character, the Alabama Center for Dispute Resolution (Center) will consider, without limitation, the following factors:
 - (1) the extent to which the conduct would interfere with an arbitrator's duties and responsibilities;
 - (2) the factors underlying the conduct;
 - (3) the applicant's or arbitrator's age at the time of the conduct;
 - (4) the recency of the conduct;
 - (5) the reliability of the information concerning the conduct;
 - (6) the seriousness of the conduct as it relates to arbitrator qualifications;
 - (7) the effect of the conduct or the totality of information gathered;
 - (8) any evidence of rehabilitation;
 - (9) the applicant's or arbitrator's candor;
 - (10) denial of application, disbarment, or suspension from any profession; and
 - (11) treatment or commitment for treatment for alcohol or other substance abuse.
 - c. An applicant for initial registration who has been convicted of a felony shall be ineligible for registration until such person has received a restoration of civil rights or has been pardoned.
 - d. A registered arbitrator shall be subject to removal from registration for any knowingly and willfully incorrect material information contained in any arbitrator application. There is a presumption of knowing and willful violation if the application is completed, signed and notarized.
4. Conviction of Crime. A conviction of a felony or misdemeanor shall be reported by the arbitrator in writing to the Center within 30 days of such conviction. The report shall include a copy of the judgment of conviction.
 - a. Upon receipt of a judgment of a felony conviction, the Center shall immediately suspend all registration and refer the matter to the Alabama Supreme Court Commission on Dispute Resolution (Commission).
 - b. Upon receipt of a judgment of a misdemeanor conviction, the Center shall refer the matter to the Commission for appropriate action.
 - c. If the Center becomes aware of a conviction prior to the required notification, it shall suspend registration in the case of a felony, and refer the matter to the Commission for appropriate action.

Approved by the Alabama Supreme Court Commission on Dispute Resolution January 29, 2016, and the Supreme Court of Alabama, September 15, 2016.

Fourth Quarter Mediation Statistics

- 35 cases mediated; 21 agreements (4th quarter)
- \$36,038.13 average family income
- \$ 603.92 average cost per mediation
- 60% settlement rate
- 25 cases pending from 4th quarter
- 404 cases have come into the program since inception
- 39 counties participating

Mediation Case Note

Rose v. Interstate Oil Company, Inc., 2016 WL 1719921 (Ala. Civ. App 2016)

Rose property contaminated by underground tank of Interstate Oil. Alabama Underground and Aboveground Storage Tank Trust Fund also a defendant. Rose appealed from the lower court judgment enforcing the mediation agreement/judgment on the pleadings.

In this case, a mediation release was to be signed by a party not at the table, the mortgage holder. Interstate Oil claimed that Rose refused to present the settlement and release to mortgage holder for his consent and approval. Rose responded that the mortgage holder refused to sign.

The Court of Appeals noted that in the lower court neither party had presented evidence to support his claim. "The only evidence before the trial court was an assertion that an agreed upon term of the mediation agreement had not been completed"—nothing about why it was not satisfied. The record also failed to contain, "a legal argument regarding the effect that the failure of the mortgage holder to fulfill that requirement has on the enforceability of the mediation agreement."

The Court of Appeals found the summary judgment, enforcement of the mediated agreement, in favor of Interstate Oil was not appropriate, due to issues of material fact. They send the case back to the trial court for further proceedings based on the opinion.

Foreclosure Prevention/Mortgage Modification Mediation

Foreclosure Prevention/Mortgage Modification Mediation is back!

Homeowners will have to qualify by income with the VLP at the Alabama State Bar. Our grant is from the Alabama Law Foundation and the Alabama Civil Justice Foundation which received Bank of America settlement money.



Preventing foreclosure with a work-out is the goal; if that is not possible, then an exit which helps the homeowner move forward. Cases may be early, pre-foreclosure stage, or in court for wrongful foreclosure, eviction, bankruptcy, RESPA. We have had appellate cases in the past as well.

If you have homeowners in mortgage trouble, have them contact the Center.

Brochures. We also have printed brochures available. Contact us if you want some.

Let's go social!

Alabama Center for Alternative Dispute Resolution goes Social!

Did you know we're on Facebook? Visit our page at facebook.com/alabamaadr and Like us to keep up with the latest news and happenings at the Alabama Center For Dispute Resolution!



We're also on Twitter! While we don't have a lot of "fast-breaking news," we have a Twitter account to keep you up on the latest. Follow



us [@AlabamaADR](https://twitter.com/AlabamaADR) at twitter.com/AlabamaADR

We've been blogging for years! Get news when we learn it. Access training information. Learn the latest. Read our blog or sign up for the RSS news feed. Go to alabamaadr.org/blog.



And now we have a YouTube channel! We are loading videos and pointing to reference videos related to our favorite topics... mediation, negotiation, arbitration, restorative justice, etc.



Visit [Alabama Alternative Dispute Resolution Center on YouTube](https://www.youtube.com/channel/UC...).

Alabama Center for Dispute Resolution

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