



ADR NEWS

A publication of the Tennessee Alternative Dispute Resolution Commission

VOLUME 12, ISSUE 1

WINTER 2012

Contacts

Tennessee Alternative Dispute Resolution Commission

- D. Bruce Shine, Esq.
Chairperson, Kingsport
- Harold D. Archibald, Esq.
Memphis
- Allen S. Blair, Esq.
Memphis
- Hon. Ben H. Cantrell
Nashville
- J. Wallace Harvill, Esq.
Centerville
- Tommy Lee Hulse
Kingsport
- Hayden D. Lait, Esq.
Memphis
- C. Suzanne Landers, Esq.
Memphis
- Glenna M. Ramer, Esq.
Chattanooga
- Edward P. Silva, Esq.
Franklin
- Howard H. Vogel, Esq.
Knoxville

Supreme Court Liaison

- Justice Sharon G. Lee

Programs Manager

- Claudia M. Lewis, Esq.

Programs Assistant

- Sue Ann Olson

Send questions and comments to:

Tennessee ADR Commission

Administrative Office of the Courts
Nashville City Center, Suite 600

511 Union Street

Nashville, TN 37219-1768

Phone: 615-741-2687

Fax: 615-741-6285

Email: Claudia.Lewis@tncourts.gov

Web: www.tncourts.gov

IMPORTANT NEWS



D. Bruce Shine is the new Chairperson of the Alternative Dispute Resolution Commission, succeeding Hayden D. Lait, who has been the Chairperson for the last six years. Mr. Shine has been a member of the Alternative Dispute Resolution Commission since 1996 and was appointed to a two year term as Chairperson by Order of the Tennessee

Supreme Court. Mr. Shine's appointment runs from January 10, 2012-January 9, 2014. Mr. Shine is an attorney and Rule 31 Listed General Civil Mediator in Kingsport, Tennessee.



At the January 24, 2012 quarterly meeting of the Alternative Dispute Resolution Commission, the Commission adopted a new policy. Policy 12 states that credit may be earned through teaching in an approved continuing mediation education activity. CME credit will be given on the basis of two (2) hours of credit for each hour of presentation. To see all of the ADRC policies, go to:

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

Summary of Grievance Opinion

Section 11(b)(18) of Tennessee Supreme Court Rule 31 provides for the following:

Once the Grievance Committee has issued an opinion, a synopsis of the case may be published in the ADRC quarterly newsletter. If the mediator is not publicly sanctioned, the name of the complainant and mediator will not be included in the synopsis.

This matter came to be heard before the Grievance Committee of the Alternative Dispute Resolution Commission and on appeal from the mediator with a de novo hearing before the remaining members of the Alternative Dispute Resolution Commission. The mediator conducted a custody mediation. After the mediation, the mediator sent the final report via email to the Judge and copied the parties' attorneys, the guardian ad litem, the court clerk, and the co-mediator. In said email, the mediator addressed the Judge by the Judge's first name and conveyed the mediator's concern whether an attorney present at the mediation could properly (equally) represent the interests of all of his/her clients. The Alternative Dispute Resolution Commission decided that the mediator violated the following list of Rule 31 and Standards of Professional Conduct sections. The Alternative Dispute Resolution Commission sanctioned the mediator by private admonition and required the mediator to complete a Tennessee Continuing Legal Education Commission approved one (1) hour course on mediation ethics.

Rule 31, § 5(a)

The Order of Reference shall require the Rule 31 Neutral to file a final report pursuant to Rule 5.06, Tenn. R. Civ. P., with the court at the conclusion of the Rule 31 ADR Proceeding. The final report shall state only: (i) which parties appeared and participated in the Rule 31 ADR Proceeding; (ii) whether the case was completely or partially settled; and (iii) whether the Rule 31 Neutral requests that the costs of the Neutral's services be charged as court costs.

- Noting that the rule does not permit the mediator to provide any further information to the Court, the mediator, by providing this email to the Judge with the language as described, violated Rule 31, §5(a).

Rule 31, § 9(a)

Rule 31 Neutrals shall avoid the appearance of impropriety.

- By addressing the Judge by his/her first name in the email final report and simultaneously copying all parties, the mediator violated Rule 31, §9(a).

Rule 31, § 10(d)

Rule 31 Neutrals shall preserve and maintain the confidentiality of all information obtained during Rule 31 ADR Proceedings and shall not divulge information obtained by them during the course of Rule 31 ADR Proceedings without the consent of the parties, except as otherwise may be required by law.

- Because the email report contained information that is beyond what is allowed by Rule 31, §5(a), the mediator violated Rule 31, §10(d) by copying the email to the other parties.

Appendix A, § 6(a)

Impartiality. A Neutral shall be impartial and advise all parties of any circumstances bearing on possible bias, prejudice, or impartiality. Impartiality means freedom from favoritism or bias in word, action, and appearance. Impartiality implies a commitment to aid all parties, as opposed to an individual party conducting Rule 31 ADR processes.

- The mediator violated Rule 31, Appendix A, §6(a) by favoring one party's interests over another party's interest.

~ Roll Call ~

Congratulations to the following Newly Listed Rule 31 Mediators! These mediators were approved for listing at the ADRC Quarterly Meeting on January 24, 2012.

Ms. Edubina B. Arce - General Civil
Ms. Margaret R. Barr-Myers - GC/Family
Ms. Aliya R. Benford - General Civil
Ms. Ruby L. Black - General Civil
Mr. Charles E. Boyd - Family
Ms. Michelle L. Caggiano - Family
Mr. Robert A. Caldwell - Family
Mr. Lynn H. Caldwell - Family
Ms. Bette Christofersen - General Civil
Mr. Brian M. Clifford - General Civil
Mr. Michael E. Clift - General Civil
Ms. Allison L. Costley - Family
Ms. McKenna L. Cox - Family
Mrs. LaVerne G. Craig - GC/Family
Dr. David T. Duncan - General Civil
Mrs. Lisa M. Fiehweg - Family
Dr. Sara L. Figal - Family
Ms. Rachel W. Figueroa - Family
Ms. Rosemary Frank - Family
Mr. Timothy P. Freese - General Civil
Mr. David A. Hart - Family
Mr. Kelly O'Neil Herston - Family
Mrs. Druanne S. Hogstrom - General Civil

Ms. Rebecca B. Jenkins - Family
Ms. Anne E. Johnson Mead - Family
Mr. Joe R. Johnson, II - Family
Mr. Andrew S. Johnston - Family
Mr. Donald G. Jordan - General Civil
Dr. Sheryl J. Kae - GC/Family
Ms. Kimberly M. Keller - Family
Dr. Phillip R. Kemmerly - General Civil
Mrs. Lisa A. Kerney - General Civil
Ms. Nancy Kirkland - General Civil
Mr. Ralph Krisher - Family
Ms. Maggie D. Lawrence - General Civil
Ms. Cassie L. Martin - Family
Ms. Yolanda D. Martin - General Civil
Ms. Susanne P. McGowan - Family
Mr. Lawrence K. Morehead-General Civil
Ms. Earlean B. Morgan - General Civil
Ms. Jennifer J. Moroney - Family
Mr. Rob A. Mortensen - General Civil
Ms. Sharon Ann Murphree - Family
Mr. Dennis L. Nordhoff - Family
Mr. David S. Parsley - Family
Ms. Renee M. Pembroke - General Civil

Ms. Sheri Sensing Phillips - Family
Mr. Christopher J. Pittman - Family
Ms. Wyla M. Posey - Family
Ms. Suzanne S. Queen - GC/Family
Ms. Holly Jackson Renken - Family
Mrs. Tracey L. Ross - Family
Mr. Stacey L. Rucker - General Civil
Mr. Phillip E. Schell - General Civil
Ms. Barbara L. Schrader - General Civil
Mr. John R. Selser - Family/DV*
Mrs. Rebecca M. Shepherd - Family
Mr. Dennis W. Stanford - Family
Mr. Gary W. Starnes - General Civil
Ms. Tracy E. Steyer - Family
Mr. William D. Trousdale - Family
Ms. Charlene R. Vance - Family
Mr. Kenneth D. Waddell - General Civil
Mr. William B. Walk, Jr. - General Civil
Mr. Joshua P. Weiss - General Civil
Mr. Charles G. Whitmer - General Civil
Dr. Margaret M. Wilson - Family
Mr. Michael C. Woods - General Civil
Mr. Clayton T. Wraith - General Civil

Important ADRC Dates

March 6, 2012.....Rule 31 Mediator Applications Deadline for ADRC review on April 24, 2012
April 24, 2012.....ADR Commission Meeting, Administrative Office of the Courts, Nashville
June 5, 2012.....Rule 31 Mediator Applications Deadline for ADRC review on July 24, 2012
July 24, 2012.....ADR Commission Meeting, Administrative Office of the Courts, Nashville
September 4, 2012.....Rule 31 Mediator Applications Deadline for ADRC review on October 23, 2012
October 19, 2012.....Annual ADRC Workshop, Lipscomb University, 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.