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# Tennessee Supreme Court

ALTERNATIVE DISPUTE RESOLUTION COMMISSION

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Hon. Sharon G. Lee

## Rule 31 Continuing Mediation Education Accreditation Request Form

**Provider Name:** Association of Attorney-Mediators  
**Address:** P. O. Box 741955, Dallas, TX 75374-1955  
**Telephone/Fax:** 972-669-8101; fax 972-669-8180  
**E-Mail Address:** aam@attorney-mediators.org  
**Course Title:** Advanced Attorney-Mediator Training: No More Strike Outs or Fouls!  
**Date(s) Held:** September 14, 2018  
**Location(s):** DoubleTree Hotel at Hobby Airport, Houston, Texas  
**How to Register:** www.attorney-mediators.org/register  
**Fee for Members/Non-Members:** \$250 for members / \$275 for non-members  
**Does this course have CLE Commission Approval?** Yes, TN CLE approval is 5.0  
**General hours and 2.25 Dual hours.**

Session Description	Type of Credit Requested (General Continuing Education, General Mediation Issues, Mediation Ethics, or Family Law)	Start Time	End Time	Credit Approval (Office Use Only)
Strategic Negotiations: The Right Number at the Wrong Time is the Wrong Number	General Mediation Issues	8:30a	9:30a	1 hour General Mediation Issues
Mediation Strikeouts and Fouls? But... I Prefer Getting to Sí with Fútbol!	General Mediation Issues	9:30a	10:15a	.75 of an hour General Mediation Issues
Ethical Strategies and Tactics for the 21st Century Third Party Neutral	Mediation Ethics	10:30a	11:45a	1.25 hours Mediation Ethics
Take Me Out To Ballgame . . . What Generation Did That Come From?	General Mediation Issues	12:45p	1:45p	1 hour General Mediation Issues
Getting to First Base in an Intellectual Property Mediation	General Mediation Issues	1:45p	2:30p	.75 of an hour General Mediation Issues

<b>No Unforced Errors – Advance Planning for the Supposedly Unanticipated (Yet Inevitable) Ethical Dilemmas</b>	<b>Mediation Ethics</b>	<b>2:30p</b>	<b>3:30p</b>	<b>1 hour Mediation Ethics</b>
<b>Breaking the Cookie Cutter— Changing and Challenging Traditional Mediation In #MeToo Time</b>	<b>General Mediation Issues</b>	<b>3:45p</b>	<b>4:30p</b>	<b>.75 of an hour General Mediation Issues</b>
<b>Mediating the Multi-Party Insurance Coverage Case (or, Who Pays First, What Pays Second, and I Don't Know Pays Third)</b>	<b>General Mediation Issues</b>	<b>4:30p</b>	<b>5:15p</b>	<b>.75 of an hour General Mediation Issues</b>

<p><b>OFFICE USE ONLY</b></p> <p><b>Total Approved CME: 7.25 hours maximum</b>  <b>Date Approved: August 6, 2018</b></p>
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**ASSOCIATION OF ATTORNEY- MEDIATORS**  
Presents its  
*Advanced Attorney-Mediator Training*



# No More Strike Outs or Fouls!

**Friday, September 14, 2018**

*DoubleTree Hotel by Hilton at Hobby Airport  
8181 Airport Boulevard, Houston, TX*

- 8:00 - 8:15 am**      **Conference Check-in, Registration and Continental Breakfast**
- 8:15 - 8:30 am**      **Welcoming Remarks**  
*Paul Clote, AAM National President, Houston, TX*  
*Brenda Rachuig, AAM Executive Director, Dallas, TX*  
*John Trimble, AAM National President-elect, Indianapolis, IN,*  
**Moderator**
- 8:30 - 9:30 am**      **Strategic Negotiations: The Right Number at the Wrong Time is the Wrong Number**  
**Don Philbin, San Antonio, TX**

Decisional errors are costly. Drawing on law, behavioral economics, psychology, and historical data, including a one-of-a-kind offer pattern database, we will explore ways to reduce impasse. We'll graph specific negotiations and watch as the parties fall into predictable patterns – including the cognitive biases that make negotiations interesting. That data will provide the grist for group discussion and forming tools mediators can use to reduce impasse immediately.

(1.00 hour)

**9:30 - 10:15 am      Mediation Strikeouts and Fouls? But... I Prefer Getting to Sí with Fútbol!**  
**Josefina Rendón, Houston, TX**

Experienced mediators are increasingly coming across parties from different countries or cultures. In just the Greater Houston Area, over 3,300 firms, foreign government agencies and non-profits are involved in international business. Over 45 percent of Greater Area Houstonians live in homes where a foreign language is spoken and over 28 percent are actually foreign-born. Additionally, more than 90 languages are spoken throughout the area. These numbers are reflected, to a lesser extent, throughout the nation. As a result, mediators are seeing more and more mediation participants with surprising and significantly different worldviews than expected. These differences can easily derail a mediation and cause miscommunication, dissatisfaction and impasse. Knowledge of personal, cultural and language differences can greatly add to the mediator's toolbox to help parties reach mutually understood and satisfactory agreements. This presentation will discuss some of these important differences and how to address them in mediation.

(.75 hours)

**10:15 - 10:30 am      Break**

**10:30 - 11:45 am      Ethical Strategies and Tactics for the 21<sup>st</sup> Century Third Party Neutral**  
**Kay Elliott, Fort Worth, TX**  
**Angela Downes, Dallas, TX**

The 21<sup>st</sup> century third party neutral must have an elevated skillset. Building trust and finding commonalities are some of the most important areas of development for the effective mediator. During this interactive session, presenters will discuss three skills sets: 1) the importance of **knowing your biases and how to work on reducing biases**. Also any **ethical duties you have as a third party neutral**, 2) knowing and improving your emotional intelligence. Harnessing your feeling as well as understanding those of the participants, and 3) using **knowledge of bias and emotional intelligence** to build awareness and build trust with mediation participants.

(1.25 ethics hours)

**11:45 - 12:30 pm      Buffet Lunch**

*(No CLE Credit Requested for Lunch)*

**12:30 - 12:45 pm      Break and Return to the Meeting Room**

**12:45 - 1:45 pm      Take Me Out To Ballgame . . . What Generation Did That Come From?**  
**Joe Bontke, Houston, TX**

This in-depth look at mediating and working with generational differences will **take a swing** at emerging challenges of value differences among the generations and how this affects their responses to negotiations and settlement issues. Expectations, hidden agendas, needs, and trust in the negotiation process vary by age group. Joe will show us the generational differences so that we may understand and accept the new normal and apply them in our mediations. This will get you thinking and maybe acting in a different way toward various generations.

(1.00 hour)

**1:45 – 2:30 pm      Getting to First Base in an Intellectual Property Mediation**  
**Charles Hanor, San Antonio, TX**

Intellectual Property cases present unique problems to mediation. The typical cases involve patents, trademarks and copyrights. These distinct areas of Intellectual Property are often lumped together but they are very different and are distinct. The U.S. Patent and Trademark Office share a name but little else and the patent division and trademark division are separate. The U.S. Copyright Office is also different and distinct. The laws for each are very different. Most Intellectual Property cases involve injunctive relief, in addition to monetary relief which can complicate settlement. It is difficult to use Solomon's justice and give each person half to settle an Intellectual Property case. Trademark cases cannot usually be settled by letting both parties use similar marks since this can effectively be an abandonment and loss of trademark rights. Trademark licensing requires that the licensor control the licensee which is not usually practical or palatable with competitors. Patent cases are typically complex and require patent claim interpretations and a Markman hearing to determine infringement. Determination of the proper interpretation of the patent claims goes a long to determining the outcome. Copyright cases cover a wide breadth of works ranging from books to software to music to architectural plans to name a few. Understanding the basics for each of these types of Intellectual Property laws will help you fashion a settlement to get the dispute resolved.

(.75 hours)

**2:30 - 3:30 pm      No Unforced Errors – Advance Planning for the Supposedly Unanticipated**  
**(Yet Inevitable) Ethical Dilemmas**  
**Christopher Nolland, Dallas, TX**

This highly interactive presentation will raise tough ethical issues that mediators deal with on a daily basis and will invite the audience to be a part of the chatter to find the answers to these ethical dilemmas. Mediators can face hard ethical dilemmas when they get thrown a curveball. This fun and fast moving ethics learning session is a must to make your mediation ethics a complete game shut-out.

(1.00 ethics hour)

**3:30 – 3:45 pm      Break with refreshments**

**CLE sign-up sheets** will be available at the break. Your bar number is required for state sign-in sheets. *Please sign on each state sheet in which you wish to receive credit.*  
**Certificates of Attendance** will be available at the end of the day.

**3:45 – 4:30 pm      Breaking the Cookie Cutter—Changing and Challenging Traditional**  
**Mediation In #MeToo Time**  
**Gloria Portela and David López, Houston, TX**

We all learned classic mediation and the format has seen some adaptations, but there is ample room for new, unconventional ideas to meet new circumstances. Looking outside the box, suggestions on different approaches and when and how they might be applied will be offered and opened for discussion, with some examples described.

(.75 hours)

**4:30 - 5:15 pm      Mediating the Multi-Party Insurance Coverage Case (or, Who Pays First,  
What Pays Second, and I Don't Know Pays Third)  
Jimmy Lawson, Lakeland, TN**

What do you do when faced with mediating a dispute between multiple insurance carriers that all *may* have coverage for a loss, but some or all claim to have defenses against coverage? This session will focus on the unique challenges a mediator will face in such a situation, and will provide insight into the most efficient ways to handle the parties and their positions so that the end result is an agreement.

(.75 hours)

**5:15 pm              Adjourn**

**5:15-6:00 pm      Networking Reception**

*Please join us for networking and recapping the day with mediator colleagues from across the country. Refreshments will be served in the foyer outside of our meeting room.  
Complimentary with paid registration.*

**MCLE Credits:**

Texas has approved 7.25 hours, including 2.25 ethics hours. Application has been made in Alabama, Arkansas, Colorado, Illinois, Indiana, Louisiana, Mississippi, Missouri, Oklahoma and Tennessee.

AAM will be pleased to facilitate obtaining MCLE credit in other states. Please contact us as soon as possible (1-800-280-1368 or [aam@attorney-mediators.org](mailto:aam@attorney-mediators.org)) if you would like our assistance in this regard.

**Association of Attorney-Mediators  
Advanced Attorney-Mediator Training  
September 14, 2018  
Houston, Texas  
Speakers and Panelists**



**Joe Bontke** is the acting deputy director for the Houston District office of U.S. Equal Employment Opportunity Commission. Joe has been in the field of Human Resources & Civil Rights for the past 27 years & has experience in employment law and adult education. With a Bachelor's in Philosophy and a Masters in Education, he has been a Human Resources Director, a Training Coordinator for the American Disabilities Act (ADA) Technical Assistance Center for Federal Region VI, was appointed as Assistant Professor at Baylor College of Medicine & was recently commissioned an honorary Admiral in the Texas Navy. Using his entertaining style, Joe has educated groups throughout the country & most recently, his work at the EEOC has enabled him to empower employers and employees with the understanding they need to work effectively

at their jobs. Joe's philosophy of education is - that 90% is knowing where to find the information ... when you need it.



**Professor Angela Downes'** law career has focus on public service, policy, and legislative efforts to protect the public trust. After positions with the Collin and Dallas counties' District Attorney's offices, Professor Downes served as the Attorney for Court Programs at the national office of Mothers Against Drunk Driving (MADD), the largest nonprofit dedicated to drunk driving and impaired driving issues. She is a former Senior Attorney at the National District Attorneys Association in Alexandria, Virginia, where she focused on child abuse, domestic violence, human trafficking, victims' rights, and elder abuse. A credentialed Texas mediator since 1996, she focuses on assisting parties with resolving disputes. She is Assistant Director of Experiential Education where she oversees the Mediation Program at the UNT Dallas Community Lawyering Center Legal Clinics and coordinates the Credentialing Program for law students. She has provided training, policy expertise and technical assistance

to non-profit agencies on the interpersonal violence issues of child abuse, child protection, domestic violence, human trafficking, and elder abuse. She is a recognized subject matter expert on interpersonal violence issues. In 2008, Professor Downes was appointed by the governor to serve on the Texas State Board of Examiners of Psychologists and was re-appointed in 2013. The Board is the regulatory and licensing agency for psychologists in the state. She also served as a member of the Texas Violent Gang Taskforce from 2001-2004. Professor Downes also serves as an associate municipal judge for the City of Glenn Heights, Texas.



**Kay Elliott, J.D., LL.M., M.A.** is the 2017 outstanding TMCA Credentialed Mediator who coaches national championship ADR teams and has taught Negotiation, Mediation, Family Mediation, and Advanced Dispute Resolution Courses at Texas Wesleyan and Texas A&M School of Law as well as Texas Woman's University, Baylor and U.N.T. Law schools. She has mediated and arbitrated over 2200 cases since 1982 and has trained over a thousand mediators and facilitators in universities, graduate schools, businesses, bar association and government agencies. She has also taught mediation in China, France and the U.K. She has served on the SBOT-ADR, TMCA, and TMTR councils, is a past president of ACR – Dallas, and is the former chair of the Tarrant County Bar Association ADR section. She is a board member of the Texas Academy of Distinguished Neutrals. In 2015 she was a judge at the international law student Negotiation Competition in Europe, and her ADR teams have won seven national ADR competitions. She has been named a Texas Super Lawyer for the past seven years. Ms. Elliott is the current managing editor of the SBOT-ADR newsletter and a frequent contributor of articles to the TAM newsletter. Her current areas of research, writing, and workshop presentations are the neuroscience of implicit bias, emotional intelligence enhancement, and cross-cultural competency for mediators. She is the co-editor and chapter author of the 2018 State Bar of Texas ADR Handbook and Simple Dispute Resolution, a Handbook of Settlement Science Solutions (2009). She has helped the Texas A&M ADR program to be recognized as first in Texas and recently recognized by the A.B.A as one of the top ten advocacy programs in the U.S.A.



**Charles Hanor** is the manager of the Hanor Law Firm PC in San Antonio, Texas. He practices patent, trademark, copyright and related intellectual property law. He was born and raised on a farm in Southeast Missouri. Prior to forming the Hanor Law Firm in 2001 he was a partner at Cox Smith, Akin Gump and Gunn, Lee and Hanor in San Antonio, Texas. From 1970-1972 he was an examiner in the United States Patent and Trademark Office. From 1972-1975 he was Technical Advisor-Briefing attorney ("law clerk") to the Honorable Howard T. Markey, Chief Judge of the U. S. Court of Appeals for the Federal Circuit. He has been doing Intellectual Property mediations since 2013. He has also been an adjunct professor of Intellectual Property Law since 1980, and teaches patent law, trademark law, copyright law and computer and internet law at St. Mary's University School of Law in San Antonio. He is a member of the Texas Bar Foundation, American Bar Association Intellectual Property Section and Section of Dispute Resolution, American Intellectual Property Law Association, Texas State Bar Intellectual Property Section and Alternative Dispute Resolution Section, Association of Attorney Mediators, Texas Association of Mediators and San Antonio Bar Association. He graduated from the University of Missouri at Columbia with a degree in Engineering in 1970 and received his law degree from The National Law Center, George Washington University in Washington, DC in 1975. He is admitted to practice before the U.S. Supreme Court, Supreme Court of Texas, United States Court of Appeals for the Federal Circuit, United States District Courts for the Western, Southern, Northern and Eastern Districts of Texas and United States Patent and Trademark Office.



**James D. “Jimmy” Lawson** has owned his own practice, James D. Lawson, P.C., located in Lakeland (Shelby County), Tennessee since March, 2013. His law practice emphasizes construction law, construction litigation, insurance defense and issues of insurance coverage, along with alternative dispute resolution services. Prior to obtaining his license to practice law in Tennessee, he was an associate (1986-1993) and a partner (1993-2008) at Hilburn, Calhoun, Harper, Pruniski & Calhoun, Ltd., in North Little Rock, Arkansas. After moving to Memphis, he was associated with the Law Offices of William M. Jeter, PLLC, in Memphis, Tennessee (July, 2008-February, 2013). He left the Jeter Firm in 2013 to focus his practice on mediation. Over his thirty-one (31) year career as an attorney, Jimmy has handled a wide variety of civil cases, representing plaintiffs and defendants, in state and federal courts throughout

Arkansas and Tennessee. He has been associated with Hamlin Dispute Resolution, LLC, based in Little Rock, Arkansas, since May, 2012, and regularly mediates civil cases of all varieties throughout Arkansas and western Tennessee. In October, 2016, he obtained his certification as a family law mediator in Arkansas and has been mediating in that field as well for the last six months. He is a frequent speaker on the topic of mediation for the Arkansas Bar Association, the Pulaski County (Arkansas) Bar Association, and the Arkansas Alternative Dispute Resolution Commission, and he has contributed his time to assist with mediation courses that are offered by the University of Arkansas School of Law (Fayetteville, AR) and the Bowen School of Law at UALR (Little Rock, AR). Jimmy resides in Lakeland, Tennessee with his wife, Vicki. He has been a member of AAM since 2012.



**David T. López** has been active in ADR since 1995, was a JAMS mediation and arbitration panelist and presently is on AAA and ICDR panels. He is a fellow of the Chartered Institute of Arbitrators, served as president of the Houston Bar Association ADR Section and has been active in state and national bar groups, including serving as subcommittee chair of the ADR Committee of the ABA Section of Litigation. He recently was appointed to a 3-year term on the Publications Board of that Section. He has been an active litigator since being graduated first in his class at South Texas College of Law in 1971 and still maintains a limited litigation practice of complex and international cases. In 2007, the Texas Bar Foundation presented him with the Ronald D. Secrest Outstanding Trial Lawyer Award. He received a journalism degree from The

University of Texas, where he was managing editor of the daily student newspaper and editor of the monthly magazine. Prior to being admitted to the Bar, he was a prize-winning journalist for Texas newspapers and director of public affairs and publications for an international trade union organization which was based in Mexico City and published in Spanish, Portuguese and English. He has conducted labor negotiations training in Peru and Bolivia and dispute resolution training in Mexico, Panama and Ecuador. At the 2017 AAM Annual Training he presented “The Future of International Conflicts in Global Commerce.”



**Chris Nolland** is an attorney-mediator in Dallas, Texas. Chris' resume as an attorney shows a distinguished record from his student days forward. After law school, Chris Nolland served as an appellate law clerk and thereafter practiced law in New York City and Dallas, Texas. He was a partner in a well-known national business litigation firm. In 1993, Mr. Nolland began his own practice with an emphasis on complex business and commercial disputes, bankruptcy and debtor/creditor related matters and with an additional focus on the development of a mediation/arbitration practice. Since that time, Mr. Nolland has mediated or arbitrated over 2,400 cases and has earned a reputation as the "go to" guy for the resolution of complex disputes. Over the past 15 years Nolland has established a practice as Special Settlement

Counsel, acting as the primary negotiator for one party *in a non-neutral role*. Nolland has been engaged as Special Settlement Counsel in over 100 significant matters, primarily business and complex probate, trust, insolvency, D&O, partnership, and professional liability disputes. Special Settlement Counsel activities now account for over 50% of Mr. Nolland's practice. Mr. Nolland is an Adjunct Professor of Law at SMU Law School and for the past twenty-two years has taught a full semester course on Negotiation to 2<sup>nd</sup> and 3<sup>rd</sup> year law students and LLM candidates. Mentoring younger attorneys has always been one of his greatest satisfactions and he easily connects with younger attorneys and students, and they with him. He is a frequent speaker at ADR programs and training courses, including AAM's Advanced Trainings, and has been profiled in numerous legal and business publications. Chris has made an unusually rich and diverse contribution to the ADR movement, to litigants, to his fellow mediators, to students, and to the young attorney-mediators and negotiators who will be serving the public when our generation has retired. Chris is the recipient of the Association's Steve Brutsche' Award for 2016.



**Don Philbin**, J.D., M.B.A., LL.M., was named mediation "Lawyer of the Year" in San Antonio by Best Lawyers® (2014, 2016), was recognized as the 2011 Outstanding Lawyer in Mediation by the San Antonio Business Journal, is one of nine Texas lawyers listed on the 2016 Who's Who Legal: Mediation list, and is listed in Texas Super Lawyers. He is an elected fellow of the International Academy of Mediators, the American Academy of Civil Trial Mediators, the Texas Academy of Distinguished Neutrals, and is past chair of the State Bar of Texas ADR Section. Don is also president of Picture It Settled®, Moneyball for negotiation, curator of [www.ADRtoolbox.com](http://www.ADRtoolbox.com), and an adjunct professor of law.



**Gloria M. Portela** is an attorney/mediator specializing in employment, FLSA, non-competition and ERISA cases, including multi-party and class action work, following three decades as an employment litigator and counselor. She also mediates intellectual property and commercial cases. She is Senior Counsel in the Houston office of Seyfarth Shaw, LLP. She is the founding partner of the office and formerly served as its managing partner. She is currently a director of Houston Grand Opera and St. Luke's Episcopal Hospital and serves on the Advisory Council of the Greater Houston Community Foundation and on the Governing Council of Rice University's Shepherd School of Music. She is a past chair of the Board of the University of St. Thomas. She was a Director of Bowne & Co. (BNE-NYSE) from 2002 to 2010. From 1994 to 2002, she was a member of the governing council of

the ABA's Section of Labor and Employment Law. She is a founding fellow and past governor of the College of Labor and Employment Lawyers. She was one of the founders of, and served as special counsel to, the Texas Employment Law Council from 1984 to 1986. In 1992, she was named one of the nation's best employment litigators by the National Law Journal. Ms. Portela lectures frequently and has published numerous articles, including "Workplace Mediation: Are You Helping or Hindering?," Texas Bar Journal, Vol. 70, No. 7; "Let's Make A Deal" Texas Lawyer, November 17, 1997; and "Mediating Employment Disputes," Just Resolutions, American Bar Association Section of Alternative Dispute Resolution, October 1999. She also co-authored the chapter "Employment and Labor Disputes" in the book, Alternative Dispute Resolution: The Litigator's Handbook, published by the American Bar Association's Litigation Section in 2000. Her past government service includes: the Illinois Advisory Committee to the U.S. Civil Rights Commission (1993 to 1995); the Commission on Workforce Quality and Labor Market Efficiency (1988 to 1998); the Texas Advisory Committee to the U.S. Civil Rights Commission (1984 to 1986); and the Civil Rights Reviewing Authority of the U.S. Department of Health and Human Services (1981 to 1983). A native of Havana, Cuba, Ms. Portela came to the United States in 1961. She is completely bilingual in Spanish and English. She received a B.A. degree magna cum laude from Loyola University of Chicago in 1973; a J.D. from Northwestern University School of Law in 1976 and a Doctorate in Humanities, honoris causa, from the University of St. Thomas in 2009.



**Judge Josefina Rendón**, a mediator since 1993, has mediated over 1,400 disputes in many areas of law including commercial, employment, personal injury & family law. For almost 4 years, she taught negotiation & mediated for the U.S. Air Force, Army & Navy. She has been a Municipal Court Judge for 31 of the last 35 years. She is also a visiting Justice of the Peace and a former Civil District Judge. Rendón is a published author of over 150 articles & book reviews & a frequent speaker (locally & internationally) in the areas of dispute resolution, negotiation, cultural diversity & law. She was editor of *The Texas Mediator* & an editorial board member of both the *Texas Bar Journal* & *The Houston Lawyer Magazine*. Judge Rendón is past president of the Association for Conflict Resolution–Houston (ACRH) & the Texas Association of Mediators (TAM). She served on the boards of the Harris County Dispute Resolution

Center, Texas Center for The Judiciary & the Alternative Dispute Resolution sections of both the State Bar of Texas & the Houston Bar Association. In 2011 she was recognized with both the Justice Frank Evans Award at the State Bar of Texas convention & the Susanne Adams Award at the Texas Association of Mediators Conference. She has also been recognized as a Pioneer in Houston Law by *Houston Lawyer Magazine* (2018) & a Houston Top Lawyer in Arbitration/Mediation by *Houstonia Magazine* (2017).