

APPELLATE MEDIATION PROGRAM CHECKLIST

- Full court support for appellate mediation, and administrative assistance available.
- Review existing appellate mediation programs in various jurisdictions for ideas.
- Party-paid mediators are most cost effective for the court.
- Draft goals for appellate mediation. Review costs.
- Write and adopt a rule of appellate procedure that allows for appellate mediation (for example, Rule 55, Alabama Rules of Appellate Procedure).
- Decide the types of appellate cases that will be mediated, and set the threshold.
- Decide who will be responsible for administering the program, tracking and evaluating progress, suggesting revisions, and keeping statistics.
- Determine confidentiality and firewall procedures. The mediation program is completely separate from court and clerk's office: separate docketing system, separate filing system, separate office. Attorneys and mediators must have confidence that nothing that occurs during screening and/or mediation will get to the court and affect their case.
- Determine initial case review and screening procedures. Are there staff attorneys, familiar with the appellate process, who will do this work?
- Develop a timeline and flow chart of how a case would come into and exit the appellate mediation program as part of the total appellate process.
- Write and adopt appellate mediation program rules (for example, Alabama Rules of Appellate Procedure) that pertain to:

APPELLATE MEDIATION PROGRAM

CHECKLIST (continued)

- Determine what type of statistics and evaluations are necessary and how they will be kept.
- Develop all program forms, including evaluations and brochures:
- Develop program information to be provided to parties.
- Determine what happens if the rules are not followed: sanctions. While the court must not be aware of anything that occurs during mediation, there must still be a way for the court to impose sanctions should a party refuse to participate as ordered.
- Determine who will mediate, their qualifications and training. Will they apply to be listed on an appellate mediation roster?
- Design appellate mediation training to include:
- Hold mediation training.
- Advertise the program through articles, public service announcements, etc.
- Other items not mentioned here that are important or specific to your court.
- Begin appellate mediation program.

Alabama Appellate Mediation Program



*An alternative method for case
resolution at the Supreme Court of
Alabama and Alabama Court of Civil
Appeals.*

Benefits

- Produces mutually satisfactory solutions
 - Faster, cheaper – more creative
 - Assesses – and may eliminate risks of appeal
 - May preserve/heal relationships
 - Creates workable solutions
 - May resolve related litigation
 - Provides neutral forum
-

FUNDAMENTALS OF A SUCCESSFUL MEDIATION PROGRAM

- The Court must be 100% behind the Mediation Program
 - Back up with sanctions if necessary
 - Allow separate mediation office
- Confidentiality
- Firewall between Mediation Office and Court
 - Separate office from clerk's office
 - Separate docketing system
 - No intermingling of mediation documents with court file

ORIGINAL APPELLATE JURISDICTION

Alabama Court of Civil Appeals

- > \$50,000.00
- Administrative Agency Appeals
- Worker's Comp. Appeals
- Domestic Relations Appeals

Supreme Court of Alabama

- ≤ \$50,000.00
- Public Service Comm'n Appeals
- Bar Disciplinary Proceeding
- All Equity appeals not within the jurisdiction of Court of Civil Appeals

Supreme Court of Alabama can DEFLECT cases within its jurisdiction to Court of Civil Appeals with certain exceptions.

Appellate Mediation Flow Chart

Notice of Appeal



Appeal Screened by Court Administrator.
Appeal stayed until further notice from the Court.



Appeal Referred to Mediation



63 Days to mediate

Parties choose mediator. If unable to agree on mediator, Court Administrator will select a mediator.



Mediator Appointed



42 Days to mediate

Partial or No Agreement.
Case is put back on appellate track. Time requirements resume.

Agreement.
Case dismissed on joint stipulation of parties.

DOCKETING STATEMENT Appeal to the Court of Civil Appeals

CONSTITUTIONAL ISSUES:

1. Are the provisions of Rule 44, A.R.App.P., applicable to this appeal?
2. If so, have the provisions been complied with?

☐ Yes ☒ No
☐ Yes ☐ No

NATURE OF CASE ON APPEAL: In the left column of boxes preceeding the categories listed below, check the box (check only one) that best describes or categorizes the basis or theory of the primary issue on appeal. In the right column of boxes, check any secondary theories that are applicable to the suit. These topics need be checked only if the issues on appeal vary from the information supplied in the same columns on the civil case "cover sheet" filed in the trial court.

TORTS - Personal Injury

- A ☐ Bad Faith
B ☐ Fraud
C ☐ Legal Malpractice
D ☐ Med. Malpractice
E ☐ Other Malpractice
F ☐ Products/AEMLD
G ☐ Gen. Negligence
H ☐ Vehicular Negligence
I ☐ Other _____

TORTS - Property Damage

- J ☐ Personalty
K ☐ Realty
CONTRACTS
L ☐ Commercial
M ☐ Personal
N ☐ Pension
O ☐ Insurance
P ☐ Employment
Q ☐ Other _____

R ☐ REAL PROPERTY

- S ☐ CIV RTS: Prisoner
T ☐ CIV RTS: Other
U ☐ Other _____

EQUITY/Non-Damages Action

- V ☐ Domestic Relations
W ☐ Declar. Judgment
X ☐ Injunc. Commercial
Y ☐ Injunc. Employment

Z ☐ Injunc. Other

- 1 ☐ Extrord. Writ
2 ☐ Other _____

STATUTES/RULES

- 3 ☐ Admin. Agency
4 ☐ Term. Parental Rts.
5 ☒ Workmen's Comp.
6 ☐ Wrongful Death
7 ☐ Other: _____

IF THE CASE WENT TO TRIAL, HOW MANY DAYS DID THE TRIAL TAKE? 1

BRIEFLY SUMMARIZE THE ISSUE(S) ON APPEAL. THIS INFORMATION IS FOR CASE PROCESSING AND STATISTICAL PURPOSES ONLY.

- I. Whether the trial court improperly found that plaintiff suffered a compensable injury under the Alabama Workers' Compensation Act.

WITHOUT ARGUMENT, BRIEFLY SUMMARIZE THE FACTS TO INFORM THE COURT OF THE NATURE OF THE CASE. THIS INFORMATION IS FOR CASE PROCESSING AND STATISTICAL PURPOSES ONLY.

Plaintiff claimed a work-related injury to her shoulder on February 8, 2004. On January 6, 2004, plaintiff had sustained the exact same injury in a fall at home. Defendant denied that plaintiff's condition was medically causally related to any work accident. The trial court found plaintiff's claim to be compensable, and awarded benefits.

SETTLEMENT CONFERENCE: The Court may require that this appeal be subject to a moderated settlement conference. Do you think the case on appeal would be appropriate for such a conference? ☐ Yes ☐ No

Explain: _____

FILING DATE OF NOTICE OF APPEAL: _____

Date

11/17/05

Sgt.

Filing t.

**STATE OF ALABAMA
COURT OF CIVIL APPEALS**

John H. Wilkerson, Jr.
Clerk

Ruby Crowe
Assistant Clerk



300 Dexter Avenue
Montgomery, AL 36104-3741

Phone (334) 242-4093
Fax (334) 242-4017

November 29, 2005

NOTICE TO STAY PROCEEDINGS ON APPEAL

This is to notify you that this appeal may be selected for appellate mediation. The Appellate Mediation Office has sent a Mediation Case-Screening Form and Confidential Statement to the parties. Preparation of the record and/or transcript is stayed pending further order of this Court. The court reporter shall, however, notify the appellant of the estimated cost of preparing the transcript within 14 days from this date.

This order does not stay the filing of a cross-appeal or the filing of any related appeal.

I, John H. Wilkerson, Jr., Clerk of the Court of Civil Appeals of Alabama, do hereby certify that the foregoing is a full, true, and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court. Witness my hand this 29th day of November, 2005.


John H. Wilkerson, Jr.

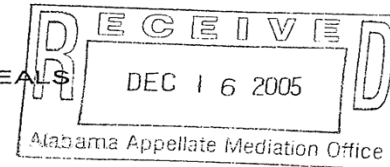
To: Hon. Jody Wise Campbell
cc: Paula Smith

Case Screening Packet Sent to Attorneys

- Mediation Case Screening Form
 - Corrections to attorneys names, if any
 - Lead counsel if not already named
 - Any additional issues not in Docketing Statement
 - Was case mediated at trial level?
 - Attachments to screening form – documents filed with trial court (complaint, judgment, etc.)
- Confidential Statement
 - State whether mediation appropriate or inappropriate.
 - Give reasons for response.
- Letter From Administrator to Attorneys
 - Explains mediation program

Responses From Screening Packet

IN THE ALABAMA COURT OF CIVIL APPEALS



NOT TO BE SERVED ON OPPOSING PARTY

CONFIDENTIAL STATEMENT TO ENTER
APPELLATE MEDIATION

I believe appellate mediation is (select one):

(X) appropriate

() inappropriate

for my appeal for the following reasons (please explain in detail):

Issues are amenable to mediation.

Date

12/4/05

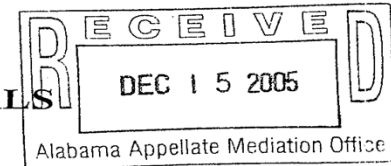
Lead Counsel for: Appellant - _____

NOTE: This form is to be filed with the Appellate Mediation Office, 300 Dexter Avenue, Montgomery, Alabama 36104, within 14 days from the date of the Mediation Case-Screening Form, but it is not to be served on opposing counsel. Although requests to enter mediation are not automatically granted, the appellate mediation administrator will review this information to determine whether this appeal should be mediated.

Form 3

ALABAMA COURT OF CIVIL APPEALS

November 30th 2005



NOT TO BE SERVED ON OPPOSING PARTY

CONFIDENTIAL STATEMENT TO ENTER
APPELLATE MEDIATION

I believe appellate mediation is (select one):

() appropriate

(X) inappropriate

for my appeal for the following reasons (please explain in detail):

The Defendant is appealing the trial court finding that the Plaintiff sustained a compensable injury under the Alabama Worker's Compensation Act. The trial court ordered the Defendant to provide reasonable and necessary medical care to the Plaintiff and pay temporary total disability benefits. This case will not be in a reasonable posture for mediation until after the Plaintiff has shoulder surgery and the extent of her disability can be determined.

Date

12/9/05

Signature

Print Name

Counsel for: Appellee

NOTE: This form is to be filed with the Appellate Mediation Office, 300 Dexter Avenue, Montgomery, Alabama 36104, within 14 days from the date of this form, but it is not to be served on opposing counsel. Although requests to enter mediation are not automatically granted, the appellate mediation administrator will review this information to determine whether this appeal should be mediated.

Order of Referral Packet Sent to Attorneys

- Order of Referral from Mediation Office
- Copy of Form 6 - Report on Status of Selection of Mediator
- Roster of Appellate Mediators
- Appellate Mediation Brochure

ALABAMA COURT OF CIVIL APPEALS

December 19th 2005

ORDER OF REFERRAL TO MEDIATION

The foregoing case, having been reviewed by the appellate mediation administrator, is hereby referred to appellate mediation.

ORDERED:

1. The above-styled case is referred to mediation. Within 14 days from the date of this order, **the appellant** shall advise the mediation office of the mediator chosen, using the enclosed Report on Status of Selection of Mediator form. The parties may agree on a mediator from the enclosed list of court-approved mediators to mediate this case, or they may agree on a mediator not on the list so long as that individual meets the qualifications set out in Rule 4 (a) (2) of the Alabama Appellate Mediation Rules. Please note that before a person can be accepted as an appellate mediator, he or she must submit a Mediator Application (Form 1) to the Appellate Mediation Office. It is the **appellant's** responsibility to obtain and submit a completed Mediator Application on all non-roster mediators to the Appellate Mediation Office. The Application and other forms can be found online at www.judicial.state.al.us/mediation. The parties are required to contact the mediator before returning the Report on Status of Selection of Mediator form to determine if the mediator they have agreed upon can serve. Upon receipt of the Report on Status of Selection of Mediator form, the appellate mediation administrator will enter an order appointing that mediator for this case. If the parties are not able to agree on a mediator, the appellate mediation administrator will appoint a mediator for this case from the appellate court mediator roster. If a party believes that the payment of mediator fees will cause an undue financial hardship on that party, the party may file a motion for waiver of mediator's fees with the appellate mediation administrator.
2. When a mediator is contacted regarding mediation, the parties should begin scheduling for mediation time(s) that are within the 63 days of the date of this order as provided in Rule 3(d), Alabama Rules of Appellate Mediation.
3. The parties shall submit Mediation Statements if the mediator so requests. Parties with full settlement authority and counsel are required to attend mediation sessions. If a party refuses to attend a mediation session or sessions, unreasonably delays the scheduling of mediation, or otherwise unreasonably impedes the conduct of the appellate mediation program, and the case is returned to the appellate docket as a result of those actions, the court may impose sanctions including, but not limited to, assessing reasonable expenses caused by the failure, including an award of mediator and/or attorney fees; assessing all or a portion of the appellate costs; dismissal of the appeal; or such other appropriate action as the circumstances may warrant.

4. Each party shall appear at the mediation session or sessions. A party is deemed to appear at a mediation session if the following persons are physically present:
 - A. The party or its representative having full authority to settle without further consultation;
 - B. The party's counsel of record, if any; and
 - C. A representative of the insurance carrier for any insured party who is not such carrier's outside counsel and who has full authority to settle up to the amount of the plaintiff's last demand or policy limits, whichever is less, without further consultation.
5. Public entities shall be deemed to appear by the physical presence of a representative with full authority to negotiate and to recommend settlement to the public entity.
6. All appellate mediation sessions shall be confidential as provided in Rule 8 of the Alabama Appellate Mediation Rules, and the mediation will be conducted in accordance with the Alabama Appellate Mediation Rules, the Alabama Code of Ethics for Mediators, and Rule 55, Alabama Rules of Appellate Procedure.
7. The appellate process, including the times for preparing and transmitting the record and filing briefs in this case are stayed pending further order of this Court. THE TIME FOR FILING ANY CROSS APPEAL OR RELATED APPEAL IS NOT STAYED.
8. THE MEDIATION SHALL BE COMPLETED WITHIN 63 DAYS FROM THE DATE OF THIS ORDER.


Appellate Mediation Administrator

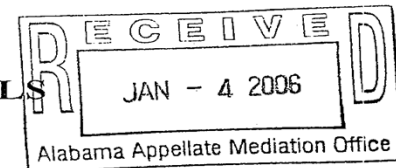
12-19-2005
Date

cc: Counsel
Mediator

Enclosures: Appellate Mediator Roster
Report on Status of Selection of Mediator

ALABAMA COURT OF CIVIL APPEALS

December 19th 2005



REPORT ON STATUS OF SELECTION OF MEDIATOR

As attorney of record for the appellant, I have consulted with the attorney(s) for the appellee(s) and I hereby advise the appellate court that: (please check one and complete)

☒ 1. The parties have jointly selected Bond Miller, Esq. (name),
P.O. Box 2906, Mobile, AL 36652 (address),
(251) 415-7307 (telephone) to mediate this dispute.

☐ 2. The parties are unable to stipulate to the appointment of a mediator.

DATED this 28th day of December, 2005.

Counselor appellant

cc: Mediator (if no. 1 above is checked)
Counsel

NOTE: This form is to be filed with the Appellate Mediation Office, 300 Dexter Avenue, Montgomery, Alabama, 36104, within 14 days from the date of issuance of the Order of Referral to Mediation.

Packet Sent to Mediator

- Order Appointing Mediator Pursuant to Stipulation of Parties (Form 7) (or, if parties cannot agree, Order Appointing Mediator Absent Stipulation of Parties (Form 8))
- If pro bono case, Order Appointing Pro Bono Mediator
- Copy of Order of Referral
- Copy of Form 11, Joint Motion for Dismissal of Appeal After Mediation.
- Copy of Form 13, Mediator's Report
- Letter to counsel re: Sanctions
- Copy of Forms 14, 15 and 16, Evaluations



ALABAMA APPELLATE MEDIATION OFFICE

300 Dexter Avenue
Montgomery, Alabama 36104-3741
Lynn DeVaughn, (334) 353-9797 tel, (334) 353-7220 fax

Celeste Wallner Sabel, Esq.
Appellate Mediation Administrator
Supreme Court of Alabama
(334) 242-4866

Rebecca Oates, Esq.
Appellate Mediation Administrator
Alabama Court of Civil Appeals
(334) 242-4087

January 4, 2006

Re:

Dear Counsel:

An order appointing a mediator in this case has been issued. This letter is to remind you that the mediation is court ordered and is mandatory. Thus, it is suggested that you review the rules governing appellate mediation, specifically Rule 5(f), Alabama Rules of Appellate Mediation, which allows sanctions for the failure to attend the mediation session. Subdivision (f) provides, in pertinent part:

"The failure of a party and/or the party's counsel, to attend the mediation session may be grounds for sanctions against the party, the party's counsel, or both, to be imposed by the appellate court in which the case is pending."

Rule 5(f) also provides:

"... A party is deemed to appear at a mediation session if the following persons are physically present or, if the mediator so authorized, are reasonably available to authorize settlement during the mediation session:

"(1) The party or its representative having full authority to settle without further consultation.

" ***

"(3) A representative of the insurance carrier for any insured party who is not such carrier's outside counsel and who has full authority to settle up to the amount of the plaintiff's last demand or policy limits, whichever is less, without further consultation."

Rule 5(i) sets out conduct that is subject to sanctions and lists possible sanctions:

"If ... a party refuses to attend a mediation session or sessions, unreasonably delays the scheduling of mediation, or otherwise unreasonably impedes the conduct of the program, the court may reinstate the case to the appellate docket and the court may impose sanctions. Sanctions may include, but are not limited to, assessing reasonable expenses caused by the failure of the mediation, including an award of mediator and/or attorney fees; assessing all or a portion of the appellate costs; dismissal of the appeal; or taking such other appropriate action as the circumstances may warrant."

As the Appellate Mediation Administrator for the Court of Civil Appeals, I have no authority to impose sanctions; however, I consider it my duty to inform the Court if I learn that a party has violated the rules, and to ask for sanctions.

Page 3

If you wish to read the Alabama Appellate Mediation Rules, they can be accessed on our website at www.judicial.state.al.us/mediation. If you have any questions, please do not hesitate to call me.

Sincerely,

Rebecca C. Qates

Appellate Mediation Administrator

cc: [mediator]

Appellate Mediator Qualifications

Requirements for Inclusion on Appellate Mediation Roster

- Submit an application (Form 1) to Appellate Mediation Office
- Be an attorney in good standing with the Alabama State Bar
- Be registered on the Alabama State Court Mediation Roster
- Have successfully completed a six-hour appellate mediation course approved by the Appellate Mediation Office
- Agree to mediate two pro bono appellate mediations per year
- Agree to adhere to the Alabama Code of Ethics for Mediators
- Agree to be bound by the Appellate Mediation Rules
- Agree to waive any and all claims against the appellate court in connection with her/his mediation of any court-referred dispute

Non-Roster Appellate Mediator Qualifications

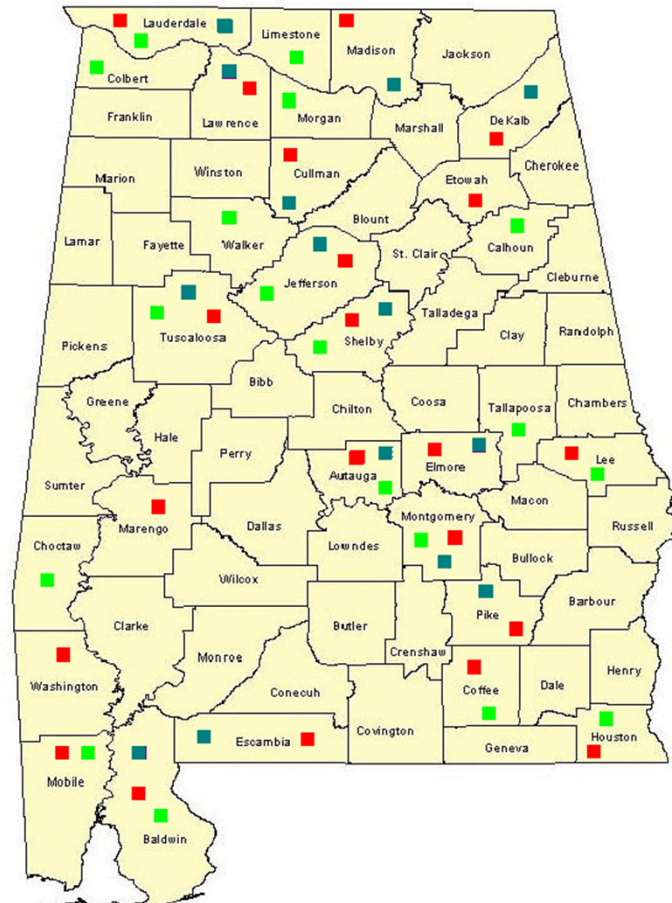
- Good standing with the licensing board for the profession in which the person practices or, if the profession is not licensed, has three written recommendations;
- Agree to adhere to the Alabama Code of Ethics for Mediators;
- Agree to be bound by Appellate Mediation Rules; and
- Agree to waive any and all claims against the appellate court in connection with his or her mediation of any court-referred dispute.

Domestic Relations

111 Roster Mediators

64 Non Roster Media

Alabama Counties



ALABAMA COURT OF CIVIL APPEALS

Mediator

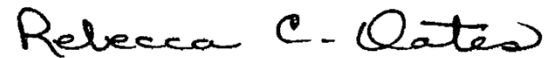
Boyd Miller
Cabaniss & Johnston
P.O. Box 2906
Mobile AL 36652
251 415-7307

ORDER APPOINTING MEDIATOR PURSUANT TO STIPULATION OF THE PARTIES

The above-named mediator is hereby appointed as appellate mediator in this matter. Mediation shall be conducted in conformity with the Alabama Appellate Mediation Rules; Rule 55, Alabama Rules of Appellate Procedure; and the Alabama Code of Ethics for Mediators. Mediation shall be completed within 63 days from 19th day of December, 2005, the date of the issuance of the Order of Referral to Mediation.

The mediator shall be compensated at a rate to be agreed upon between the parties and the mediator, which compensation shall be shared equally between the parties unless otherwise determined by final mediation agreement. An advance deposit covering the estimated cost of mediation may be required by the mediator, but in any event arrangements for payment of the cost of mediation must be coordinated directly with the mediator.

ORDERED this 4th day of January, 2006



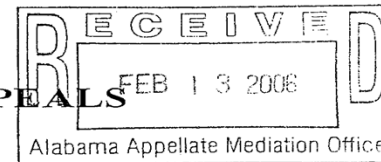
Appellate Mediation Administrator

cc: Counsel,
Mediator, with Enclosures

NOTE: Mediation is to conclude within 63 days from the date of issuance of the Order of Referral to Mediation. The mediator shall file with the Appellate Mediation Office, 300 Dexter Avenue, Montgomery, Alabama 36104, a mediator's report along with completed evaluations within seven days after the completion of mediation.

Mediator's Report

ALABAMA COURT OF CIVIL APPEALS

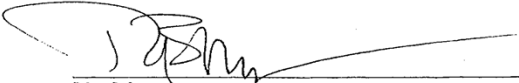


MEDIATOR'S REPORT

In accordance with the Court's mediation order, mediation occurred on the following date(s) February 1, 2006, with follow-up telephonic efforts by mediator. _____

The results of that mediation are indicated below:

1. x The parties reached an agreement that disposes of all issues and all claims. A motion to dismiss will be filed with the clerk of the court.
2. A partial agreement was reached. The appeal will continue as to the remaining claims.
3. An impasse as to all issues.
4. x Other. Because this is a workers' compensation case, the parties intend to submit the proposed settlement to the Circuit Court of Baldwin County, Alabama, for approval.


Mediator

cc:

Trial Court Reinvested with Jurisdiction

**STATE OF ALABAMA
COURT OF CIVIL APPEALS**

John H. Wilkerson, Jr.
Clerk

Ruby Crowe
Assistant Clerk



300 Dexter Avenue
Montgomery, AL 36104-3741

Phone (334) 242-4093
Fax (334) 242-4017

February 7, 2006

You are hereby notified that the following action was taken in the above cause

Trial court is reinvested with jurisdiction for 28 days from this date within which to consider and approve the settlement agreement.


John H. Wilkerson, Jr.
Clerk, Court of Civil Appeals

Dismissal

IN THE ALABAMA COURT OF CIVIL APPEALS

[REDACTED]

APPELLANT,

VS.

[REDACTED]

APPELLEE.

)
)
)
)
)
)
)
)
)
)

CASE NO. [REDACTED]

FEB 23 2006

MOTION TO DISMISS APPEAL

COMES NOW Appellant [REDACTED], and moves this Court to dismiss the above-styled appeal which is currently pending. As grounds for said motion, Appellant states as follows:

1. This appeal was referred to appellate mediation, which mediation took place on February 1, 2006.
2. The parties were able to successfully mediate this case, and the settlement was approved by the trial court following this Court's reinvestment of jurisdiction for that purpose.
3. The settlement proceeds have been paid, and the Plaintiff has executed an Acknowledgment of Satisfaction.
4. Therefore, the issues raised on appeal have become moot.

WHEREFORE, these premises considered, Appellant moves
this Court to dismiss the appeal.

[REDACTED]

OF COUNSEL:

[REDACTED]

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of
the foregoing pleading upon all counsel of record in this
cause via U.S. Mail on this the 22 day of February, 2006.

[REDACTED]

[REDACTED]

**STATE OF ALABAMA
COURT OF CIVIL APPEALS**

John H. Wilkerson, Jr.
Clerk

Ruby Crowe
Assistant Clerk



300 Dexter Avenue
Montgomery, AL 36104-3741

Phone (334) 242-4093
Fax (334) 242-4017

February 23, 2006

IT IS ORDERED that the appeal in the above styled cause be, and the same is hereby dismissed on motion of appellant.

IT IS FURTHER ORDERED that the appellant and sureties for the costs of appeal, pay the costs of appeal in the court below.

I, John H. Wilkerson, Jr., Clerk of the Court of Civil Appeals of Alabama, do hereby certify that the foregoing is a full, true, and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court. Witness my hand this 23rd day of February, 2006.


John H. Wilkerson, Jr.

EVALUATIONS

- Form 14: Mediator Evaluation (completed by mediator)
- Form 15: Attorney Evaluation (completed by attorney)
- Form 16: Party Evaluation (completed by parties)

Comments from Evaluations:

- Mediator:** “There was a companion case for worker’s compensation pending in Circuit Court. This companion case was also settled during the appellate mediation.”
- Mediator:** “Appeal of a non-jury judgment. Although we did not settle I believe the parties may settle before briefs are due. Mediation put them in a position to do that.”
- Mediator:** “Tough case to mediate, but it was enjoyable.”
- Attorney:** “This was my first appellate mediation – very favorable experience.”
- Attorney:** “Very surprised at the resolution. The client was pleased.”

Comments from Evaluations (Continued)

Attorney: “The process was instructive and useful because it provided insight as to the motivation of both parties and what led us to this state of legal proceedings.”

Attorney: “Very pleased! Gives the parties an opportunity to resolve the case when otherwise that opportunity may not have existed.”

Party: “This was a very good process. It got us to the point that this case will be resolved in the near future.”

Party: “Fantastic.”

Party: “Very satisfied with the process and the mediator.”

Comments from Evaluations (continued)

Party: “It was successful – I think better than pre-trial mediation.”

Party: “I appreciate [mediator’s] effort to make a very sensitive and difficult process work as well as she did. If all mediators are like her, I can see how so many cases are settled.”

Party: The Mediator “was very professional and made everything easy for me and my wife to understand as far as how things go.”

Confidentiality

- All information disclosed to the mediation office and in the course of mediation, including oral, documentary, or electronic information, shall be deemed confidential and shall not be divulged except as permitted under Rule 55, by statute or by the Alabama Rules of Appellate Procedure.
-

Rule 5.


■ **Sanctions**

- Neither the appellate mediation office nor the appellate mediation administrator has the authority to impose sanctions. If, however, a party refuses to attend a mediation session or sessions, unreasonably delays the scheduling of mediation, or otherwise unreasonably impedes the conduct of the program. The court may reinstate the case to the appellate docket and the court may impose sanctions. Sanctions may include, but are not limited to the following: Assessing reasonable expenses caused by the failure of the mediation, including an award of mediator and/or attorney's fees; assessing all or a portion of the appellate costs; dismissal of the appeal; or taking such other appropriate action as the circumstances may warrant.

Statistics

M E M O R A N D U M

To: Chief Justice Nabers and Justices See, Lyons,
Harwood, Woodall, Stuart, Smith, Bolin, and
Parker.

From: Celeste W. Sabel 
Lynn DeV Vaughn

Date: April 3, 2006

Re: Appellate Mediation Statistics

For your information, attached is the most recent statistical report for the Appellate Mediation Program as of April 3, 2006. If you have any questions or comments, please contact me at 334.242.4866 or Lynn at 334.353.9797. Thank you.

Enclosure

cc: Robert Esdale
John Wilkerson
Rebecca Oates

MEDIATION REPORT TO DATE

Alabama Supreme Court

for the Period of January 7, 2004 through April 3, 2006

Total # of Eligible Appeals Screened for Mediation	851
Pre-Screening*	27
Reinstated (No Referral)	388
In Process (Appeals referred to Mediation)	46
Taken Out of Process (TOP)**	18
Settled	185
Partial	2
Impasse	185

CASE OUTCOME OF CASES REFERRED TO MEDIATION

Settled	185	(49.73%)
Partial	2	(0.54%)
Impasse	185	(49.73%)
Total Referred Mediations	372	(100.00%)

*Pre-Screening- These are eligible appeals that have been mailed a Case Screening Form and Confidential Statement, but have yet to be referred to mediation.

**Taken Out of Process (TOP)- These are appeals that have been removed from the mediation docket due to extraneous circumstances, i.e. withdrawal of counsel, bankruptcy, etc.

MEDIATION REPORT TO DATE
Alabama Court of Civil Appeals

for the Period of January 7, 2004 through April 3, 2006

Total # of Eligible Appeals Screened for Mediation	716
Pre-Screening*	16
Reinstated (No Referral)	289
In Process (Appeals referred to Mediation)	43
Taken Out of Process (TOP)**	24
Settled	187
Partial	2
Impasse	155

CASE OUTCOME OF CASES REFERRED TO MEDIATION

Settled	187	(54.36%)
Partial	2	(0.58%)
Impasse	155	(45.06%)
Total Referred Mediations	344	(100.00%)

*Pre-Screening- These are eligible appeals that have been mailed a Case Screening Form and Confidential Statement, but have yet to be referred to mediation.

**Taken Out of Process (TOP)- These are appeals that have been removed from the mediation docket due to extraneous circumstances, i.e. withdrawal of counsel, bankruptcy, etc.

Appellate Mediation Report
for the Period of January 7, 2004 through April 3, 2006

Alabama Court of Civil Appeals	Domestic Relations Modification/Child Custody	Domestic Relations Original Divorce	Workers' Compensation
Total # of Eligible Appeals Referred to Program	149	213	148
Pre-Screening*	3	8	3
Not Assigned (Reinstated)	76	95	35
Assigned Appeals to Mediation	8	9	15
Settled	31	48	54
Partial	0	1	0
Impasse	24	46	40
Taken Out of Process (TOP)**	7	6	1

Alabama Court of Civil Appeals	Domestic Relations Modification/Child Custody	Domestic Relations Original Divorce	Workers' Compensation
Settled	31 (56.36%)	48 (50.53%)	54 (57.45%)
Partial	0 (0.00%)	1 (1.05%)	0 (0.00%)
Impasse	24 (43.64%)	46 (48.42%)	40 (42.55%)
Total terminated	55 (100.00%)	95 (100.00%)	94 (100.00%)

*Pre-Screening- These are eligible appeals that have been mailed a Case Screening Form and Confidential Statement, but have yet to be referred to mediation.

**Taken Out of Process (TOP)- These are appeals that have been removed from the mediation docket due to extraneous circumstances, i.e. withdrawal of counsel, bankruptcy, etc.

Pitfalls

1. Too much paperwork
2. Attorneys/parties not taking court-ordered mediation seriously
3. When motion or request by mediation office for sanctions presented to court so as to maintain confidentiality

Corrections

- Reduced paperwork where possible.
- Prepared letter from administrator to counsel reminding them that they will be subject to sanctions if fail to comply with Court order - goes out when mediator appointed.
- Amended Appellate Mediation Rules to provide that motion or request presented to court after decision on merits made

Questions?

Contact Information

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