



# ALABAMA CENTER FOR DISPUTE RESOLUTION

NEWS FOR ALABAMA NEUTRALS

APRIL 2020

*A Message from Eileen Harris, Executive Director of the Alabama Center for Dispute Resolution*

As we adapt to the challenges presented by COVID-19 and CDC guidelines I want you to know that there are resources available to help.

The **American Bar Association Dispute Resolution Section** has been and is conducting webinars and sharing Online Practice Tools to help members learn new technologies and techniques as we adjust to CDC guidelines during the COVID-19 pandemic.

I invite you to visit the Center's facebook page at [www.facebook.com/alabamaadr/](http://www.facebook.com/alabamaadr/) to access the programs and materials. It is labeled "**AMERICANBAR.ORG Resources for Mediating Online.**"

Below are just a few of the resources available through the ABA Dispute Resolution Section's Online Practice Tools:

"Getting Started with Online Mediation"

"Online Options for Dispute Resolution with Susan Guthrie" (conducted March 16, 2020)

"Mitchell Hamline: Best Practices for Online Teaching"

"How to Conduct Mediation Simulations Online"

"Online Dispute Resolution"

"How to Use Zoom for ODR"

"Ethical Principles for ODR Initiative"

"How to Prevent Zoombombing: How to Stay Safe and Secure When Hosting Zoom Meetings"

This is a great service the **ABA Dispute Resolution Section** is providing! I hope you will find it helpful in your practice. Many thanks to Linda Seely, ABA Director of Dispute Resolution, and the Dispute Resolution Section committee chairs!

Secondly, out of concern for the safety and well being of our presenters and attendees, we are cancelling the **Conflict Resolved Symposium** set for May 7<sup>th</sup>. The Center, The Neutral Solutions and the Birmingham School of Law are very appreciative of the presenters for their work on the programs and for volunteering their time and energy for this event! The Center will be refunding all registration fees in the near future.

Lastly, if you have not visited the Alabama Center for Dispute Resolution's (the Center) website or Facebook page, please do so as we will be providing updates on learning opportunities that will help you in your practice.

I hope you all stay well! If there is anything that I can do for you please call or email me.

With kindest regards,  
Eileen

## New to Zoom?

Clare Fowler, managing editor with Mediate.com, has written several articles and prepared short videos on using zoom to conduct mediations.

Visit [www.mediate.com](http://www.mediate.com) to learn more and view the following videos (you may need to copy the URL into your web browser).

“Introducing Clients to Zoom Videoconferencing” video (8:37 minutes) published March 31, 2020

<https://www.mediate.com/articles/zoom-clients.cfm>

“Setting up a New Zoom Account for Mediators” video (14:47 minutes) published March 29, 2020

<https://www.mediate.com/articles/zoom-meetings.cfm>

“Mediating With Zoom” article with an “Advanced Tutorial: Mediation with Zoom” video (29:05 minutes) published March 24, 2020 <https://www.mediate.com/articles/online-mediating-zoom.cfm>

Clare received her Master’s of Dispute Resolution from the Straus Institute for Dispute Resolution at the Pepperdine University School of Law and her Doctorate in Organizational Leadership from Pepperdine University School of Education.

## Alabama Supreme Court Changes Rule 4, Qualifications of a Mediator (Effective April 1, 2020).

On January 30, 2020 the Alabama Supreme Court entered an order which amends Rule 4, Qualifications of a Mediator, and adds a new note to the Alabama Civil Court Mediation Rules. You may find a copy of the order at [www.judicial.alabama.gov](http://www.judicial.alabama.gov) under Rule Changes.

The amended Rule 4 reads:

“If a court designates or appoints a mediator, the mediator must be registered with the Alabama Center for Dispute Resolution, unless the court for good cause finds otherwise. No person shall serve as a mediator in any dispute in which that person has any financial or personal interest, except by the written consent of all parties. Before accepting an appointment, the prospective mediator shall disclose to the parties any circumstances likely to create an appearance of bias or likely to prevent the mediation from commencing within a reasonable time. Upon receipt of such disclosure, the parties may name a different person as mediator. If the parties disagree as to whether a prospective mediator should serve, the court shall appoint the mediator.”

Comment to Amendment to Rule 4, effective April 1, 2020, reads:

“It is understood that a court presiding over a particular case is better suited to determine what is best for the particular parties and disputes before it. Therefore, although registered mediators should be the general and preferred rule, the trial court presiding over the matter retains the ultimate authority to determine whether particular circumstances might suggest a different alternative. For example, “good cause” might include the appointment of retired judges, highly experienced attorney-mediators, or free or reduced-cost mediators, including pro bono mediation programs. Perhaps the particular unavailability of a registered mediator with qualifications the court desires might be considered “good cause.” Ultimately, the trial court is accorded considerable discretion in determining what is “good cause” for the appointment of a nonregistered mediator.”

## Appellate Mediation Training – November 2019

The Alabama Appellate Mediation Program was implemented to provide the parties to an appeal with an alternative method for resolving their dispute. Mediation takes place early in the appellate process in order to save the parties the time and expense of an appeal and to give the parties an opportunity to find creative solutions to the dispute.

In order to be listed on the Appellate Mediation Roster, mediators undergo a 6.8 hour course approved by the Alabama Center for Dispute Resolution and the Alabama Appellate Mediation Office. “For the past three years, we’ve had exceptional instructors conduct our appellate training,” commented Eileen Harris, Executive Director of the Alabama Center for Dispute Resolution. “Each year Michelle Ohme and Lynn DeVaughn provide real world practical tips as well as guidance for mediators to assist them with navigating the appellate process.” Ms. Ohme serves as the Executive Director of the Appellate Mediation Program for the Alabama Supreme Court and Ms. DeVaughn is the Administrator for the Alabama Court of Civil Appeals.

Attorney-mediator Jim Rives taught 43 students since 2018. Attendee comments following the November 2019 program stated “Seminar was excellent, informative, practical including best practices and tools. Great job!”



2019 presenters included Chief Justice Tom Parker, Alabama Supreme Court, Hon. Christy Edwards, Ala. Court of Civil Appeals, Rebecca Oates, Clerk of the Ala. Court of Civil Appeals, Louis Colley, Esq., Jim Rives, Esq., Joan-Marie Sullivan, Esq., Boyd Miller, Esq. and Charles Denaburg, Esq.

### Appellate Mediation by the Numbers for January 1 – December 31, 2019.

The **Alabama Supreme Court** referred 111 cases to mediation (this includes mediated and active cases). Forty-nine cases (53.8%) reached full settlement and 42 cases (46.2%) reached impasse. There were 20 active cases remaining as of December 31<sup>st</sup>.

The **Alabama Court of Civil Appeals** referred 118 cases to mediation. Forty-seven cases (45.2%) reached full settlement with one case (1%) reaching partial settlement. Fifty-six cases (53.8%) did not settle. Fourteen cases were still open and remained active as of December 31<sup>st</sup>.

## Pro Bono Family Mediation Continues!

The Parents are Forever Family Mediation assisted 105 families during 2019! This program provided free mediation services to families during their initial divorce proceeding. To participate in the program families had to have minor children and their gross family income could not exceed \$60,000. The parents agreed to work with a registered family/divorce mediator to develop a financial plan and a parenting plan which was subject to judicial review.

Here are a few comments from participating parents when asked “What did you like best about the mediation?”

“I didn’t think we had a chance of settlement when I went in but we were able to with help.”

“She helped us solve an issue we couldn’t because we couldn’t talk.”

“That it allowed me to voice my concerns without the other party being present. Also, we were able to agree to terms regarding our children without dragging them through court.”

The Parents are Forever Family Mediation program continues thanks to funding from the Alabama Supreme Court and the Alabama Civil Justice Foundation. For more information contact the Alabama Center for Dispute Resolution at (334) 356-3802.

### Training During COVID-19

During this period of COVID-19 we encourage you to contact Alabama Mediation Training and Mediation CLE with any questions or concerns you may have regarding potential course changes.

AlabamaMediationTraining.com      Cooper Shattuck

MediationCLE.com                      Troy Smith

The Alabama Center for Dispute Resolution Roster registration standards require that the 20-hour general civil mediation and the 40-hour divorce and family mediation courses be conducted in-person and not online.

### NOTICE TO REGISTERED NEUTRALS OF THE ALABAMA CENTER FOR DISPUTE RESOLUTION

The 2020-2021 Roster Registration period ended January 31, 2020. If you did not renew, your record will be retained for two years and then it will be destroyed. You may ask to be reinstated prior to the end of January 2022. Should you have any questions please contact the Alabama Center for Dispute Resolution.

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The Alabama Center for Dispute Resolution, Inc. (the Center) is a 501(c)(3) and is a registered charitable organization with the Alabama Office of the Attorney General (18-509). The Center develops, implements, administers, assists and manages alternative dispute resolution programs in the courts, neighborhoods, educational facilities and government agencies within the State of Alabama.