



July 2020 News

TAPM Dues Are Now Due

Dues are \$100.00

Have you renewed your TAPM DUES? Your dues expire on the one year anniversary date of your last payment. We hope you will continue to support TAPM and renew today. Go to:

<https://tapm.wildapricot.org/about-tapm>.

TAPM appreciates you being a member and you, as a member, receive benefits in return !

President's Message

By Marnie Huff

Dear TAPM members:

I hope you are safe and well.

Many of us have been thinking about equity in American society. Mediation and other forms of facilitated conversations can contribute to respectful dialog about equal justice, healthcare disparities, and family disagreements. As noted in a recent New York Times article, "debate is a process of persuading someone that you are right, whereas dialog is a learning process." If the goal is "a more nuanced understanding of what's important to the other person," then be "an engaged listener to open up the conversation." "[Talking With Relatives Across the Political Divide](#)" (June 13, 2020).



EQUAL JUSTICE

Hope and Reconciliation; Equal Justice Statements. On June 5, 2020, **TAPM** sent a [message of hope and reconciliation](#) to Tennessee mediators. And on June 25, the **Tennessee Supreme Court** issued a [statement on equal justice](#), citing the Court's implicit bias training for judges and its commitment to eliminate barriers to fairness

and justice.

I encourage you to listen to "[Self-Represented Litigants](#)," a Tennessee Court Talk podcast (Episode 12; 52 minutes). Speakers include Justice Connie Clark, the Grayfred Gray Public Service in Mediation awardee this year. Clark notes that mediation is a way for people, who have not retained an attorney, to handle a dispute. Topics addressed in the podcast include:

- The **Medical Bill Disputes Pilot Program** in Chattanooga. As announced in January, and of even more relevance now, the Tennessee Administrative Office of the Courts "seeks to battle the medical debt problem with online solution[s] by exploring the use of Online Dispute Resolution ('ODR') tools to help parties communicate 24/7 and provide a more accessible way to resolve debt conflicts." Data show why this is an important project. "The Sycamore Institute reports that 24 percent of Tennesseans with a credit report had medical debt on their credit history in 2016 – the 10th highest rate in the country. Further, 93 of 95 counties in Tennessee have medical debt above the national average."
- **ABA Resolution 115** which encourages regulatory innovations that can potentially "improve the accessibility, affordability, and quality of civil legal services." For more information, see [Resolution 115 and its accompanying Report](#).
- The **ABA Free Legal Answers** program which includes a [Legal Wellness Checkup](#).
- Judicial ethics related to handling cases where a party is self-represented.

MEMBER BENEFITS

Take advantage of TAPM's member benefits! We have some terrific **online CME/CLE programs** (free for members). **Participate in a TAPM committee** - a great way to network with colleagues and enhance the profession of mediation.

Warm regards,
Marnie Huff, TAPM President
Marnie@MargaretHuffMediation.com

Pro Bono Recognition Program for Rule 31 Mediators

The Tennessee Supreme Court and the ADR Commission will recognize Rule 31 Mediators who do 50 or more hours of pro bono mediation in a calendar year through its [Pro Bono Recognition Program for Rule 31 Mediators](#).

Free CME for TAPM Members

Free continuing education benefits for TAPM members. Each online session is one hour.

July 16, 23, and 30, 2020 - Thursdays at 11 am Central / noon Eastern - [Online Video Mediation](#) (CME/CLE credit approved)

The cost is \$30/hour for non-TAPM members.

SAVE THE DATES

August 6, 13, and 20, 2020 - Thursdays at 11 am Central / noon Eastern – **Elder Mediation** (CME/CLE credit pending). One of the speakers is TAPM

Board member Kim Best, author of "How to Live Forever: A Guide to Writing the Final Chapter of Your Life Story," which was [reviewed in the ABA publication, Bifocal](#).

The cost is \$30/hour for non-TAPM members.

Committee Opportunities for Members

If interested, email Marnie Huff (Marnie@MargaretHuffMediation.com) and indicate what you would enjoy doing for TAPM. Here's a list of committees:

- **Finance:** The Finance Committee, chaired by the Treasurer, is responsible for preparation of the budget, the generation of revenues and the publication of all financial information to the Board and to the membership, as directed by the Board.
- **Membership:** The Membership Committee is responsible for membership recruitment; Board development and training; development of a membership benefits program; and for development of internal and external resource banks.
- **Governance:** The Governance Committee is responsible for reviewing the Bylaws and submitting to the Board recommendations for amendments thereto and for developing and recommending to the Board the policies and procedures necessary to the orderly and effective functioning of the organization.
- **Professionalism:** The Professionalism Committee is responsible for ethics, standards, training, certification and conferences.
- **Public Relations:** The Public Relations Committee is responsible for the TAPM on-line presence; all social media; the TAPM newsletter; and approved public service projects.

TAPM'S NEW LOGO

TAPM's Board adopted a new logo that enhances TAPM's communications. After consulting with graphic designer Christa Schoenbrodt at Studio Haus, we chose a seal-like composition that places the TAPM acronym front and center. The color gradation and tumbling blocks symbolize information coming into the mediation process as we guide clients toward agreement. The logo also represents members' contribution to TAPM's diverse knowledge base through educational programs and informal networking. We hope you like the new logo!



Archived TAPM News

Past TAPM blog posts are on our website's [News](#) page.

Past TAPM Newsletters are on the [Newsletters](#) page.

ADR NOTABLE

TAPM has a new sponsor, ADR Notable. Check out its [website!](#)

A Conversation with AOC Programs Manager John Jefferson

John Jefferson is a Programs Manager with the Tennessee Administrative Office of the Courts (AOC). There John staffs the Alternative Dispute Resolution Commission, which processes applications, renewals, trainings, grievances, and Continuing Mediation Education accreditation for over 1,300 Tennessee Supreme Court Rule 31 Listed Mediators. John also administers the funds for the Federal Access and Visitation (A&V) and VORP Grants.



Prior to joining the AOC, John worked for an Arlington, Virginia-based software startup and for General Dynamics C4 Systems. John clerked for the Tennessee Office of the Attorney General and the Honorable Charles M. Walker, United States Bankruptcy Court, Middle District of Tennessee. He is an alum of the Belmont University College of Law.

Why did you decide to join the Administrative Office of the Courts' staff?

My vocational mission is to make an impact for good by leveraging technology, promoting collaboration, and resolving conflict.

While studying for the Bar Exam, a trusted colleague told me about an opportunity with the Tennessee Courts. I keep her email as motivation and reminder: The AOC is looking for a new lawyer to assist with administrative policy changes, innovation, and alternative dispute resolution matters.

One chat with AOC Director Deborah Taylor Tate and Anne-Louise Wirthlin, Director of Access to Justice and Strategic Collaboration, convinced me she and her team were focused on delivering effective and efficient services to the Judiciary and the public. I have not been disappointed.

What are the key challenges and goals of the ADR Commission – short term and long term? What metrics will the Commission use to measure success and areas for improvement?

As a threshold matter, I cannot speak for the Alternative Dispute Resolution Commission. Instead, I serve as the Programs Manager tasked by Section 16 of Rule 31, responsible for the day-to-day work of the Commission.

Speaking only for the ADR staff, we seek to:

- Increase transparency for a Listed Mediator's current status for CME hours and the annual renewal process. See our new one-stop shop at <https://adrrenewal.tncourts.gov>.
- Connect community mediation centers across the state. We wish to support them as they elevate and prioritize ideas into action and share best practices.
- Support and provide counsel to the ADR Commission. Here, we work to facilitate an increased number of Rule 31 Mediation Reports, efficient Committee work, and a timely Mediator Complaint resolution process.
- Provide relevant engaging programming at the annual Advanced Mediation Workshop. **Save the date! October 16th!**
- Share resources, technology, and tools that all Mediators can use to keep their skills sharp or learn something new.

What do you see in mediation's future in Tennessee?

A diverse body of mediation practitioners who wish to serve and provide value to their clients and the community.

1. We learned many things over the last several months in our forced work at home situation. One takeaway is that legal and relational problems don't quarantine. Despite our best efforts, courts are less available for the routine administration of justice. This is a time for Mediators to increase their availability and value to our communities. Whether remotely, in person, or some mixture of both, Mediators will become more essential to the needs of businesses, families, and individuals. The ADRC commits to be of service as these opportunities flourish.

2. Online Dispute Resolution: Whether it is traditional mediation conducted over a real time video/audio platform or parties using chat bots and asynchronous chat from their mobile devices, ODR **must** be part of a Mediator's toolkit.

3. Pro Bono Mediation: The Rule asks all Listed Mediators to aspire to 50 hours per year of pro bono mediation. In 2020, the Tennessee Supreme Court launched the Pro Bono Recognition Program. Mediators who conduct 50 or more hours of pro bono mediation in a calendar year will be recognized by the Tennessee Supreme Court and the ADRC. (http://www.tncourts.gov/sites/default/files/docs/2020_pro-bono-mediation-flyer.pdf)

Some folks may not know that a court may, upon a showing by one or more parties of an inability to pay, direct that a Listed Mediator conduct up to three pro bono mediations per year, not to exceed 20 total hours for all mediation. Regardless of how it occurs, we know there is a need for conflict resolution among those who can least afford it. If we can help a mediator connect to this program, please reach out.

If you were a superhero what would be your name and slogan?

Christian Bale's Batman. 1. "Why do we fall Bruce? So, we can learn to pick ourselves up." <https://youtu.be/HicGuFnI7ZU?t=28> 2. My kids laugh when I do the gravelly voice.

Are you married/do you have kids/pets etc?

We are blessed with two little ones and one guppy. We will see how the guppy works out before upgrading to a four-legged friend.

Personal or professional accomplishments you are particularly proud of:

- I continue to serve in the U.S. Army Reserve. I am presently an Inspector General (IG) in Birmingham, Alabama. IGs act as the commander's eyes and ears for policy issues or changes needed and complaints of fraud, waste, and abuse.
- We purchased a 1960's Ethan Allen hutch for \$100. It was covered in coats of paint. Nine months later it is refinished with a beautiful colonial stain and shellac after many weekends and evenings in the shop. (cool!)
- Being part of the 2019 Belmont Law class with a nationally ranked first time bar passage rate. My thoughts are with those taking it this year.

Please complete one or more of these sentences:

I have a burning desire to... **be patient when someone responds 'well, that is how we have always done it.'**

People tell me I look like... **Jason Bateman when I was younger and Jon Bernthal (Netflix's The Punisher) more recently.**

If I could have a 30-minute conversation with anyone (alive or otherwise, famous or not), I would want to speak with... **Congressman and Civil Rights Leader John Lewis.**

Knowing what you now know about life etc., would you choose the same career

path?

Thankfully, yes. I completed "pre-law" coursework in undergrad including an ADR class where we read Fisher and Ury's Getting to Yes. Then life took a different path. I was given an opportunity for a "reboot" in 2015.

Is there anything else that you want to tell TAPM members about yourself?

Thanks for reading! I am so grateful for ADR leaders across the state who have welcomed me into the community.

The best part of this role is I get to meet skilled and talented individuals who care about helping parties resolve conflict. Please reach out to say hello and we can meet by Zoom until coffee networking returns.

What is your contact information? Name, address, phone number, email address and website:

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Featured Mediator

**By Honorable George H. Brown, retd
Mediator/Arbitrator Resolute Systems, LLC**

During the latter part of my 22 years as a trial judge I began to conduct settlement conferences and further explore creative ways of dispute resolution. That was a precursor to becoming a mediator.

As a retired judge, I bring a unique perspective to the mediation process. While there is a tendency for some retired judges to continue "judging" as a mediator, that is not me. I strive to be more of a facilitator. However, my judicial experience gives me the unique ability to assess risks and possible outcomes in the traditional litigation path, and this experience becomes part of my mediator tool kit.

I bring optimism, patience and empathy to the mediation process. As a jazz aficionado, creativity and improvisation are also part of my approach to conducting mediations. These are important attributes to bring to the table, and certainly increase the chances for a successful mediation conference, meaning the parties come to a mutually acceptable resolution to their dispute.

I prepare for the mediation by calling the attorneys days in advance. Mediation briefs are essential however; the person-to-person contact is extremely valuable.

Thinking outside of the box is often necessary in order to successfully resolve the most difficult and intractable cases. During my career as a mediator, I have settled and continue to help resolve complex, dynamic disputes that the lawyers thought had little chance of resolution coming into mediation. Staying with the process and not giving up is essential. I try to keep the lawyers and their clients focused on incremental progress toward resolution. This pays off when resolution is reached instead of abandoning the process too early.



The novel Coronavirus-19 has turned our world upside down. How we conduct mediations has changed. Online mediation is here to stay. Virtual mediation is similar to in-person mediation. Before the mediation begins, you will be placed in a virtual meeting room. Once connected, there is nothing more to do except talk to the mediator and each other just as we do in an in person mediation. Private breakout rooms are present so that I can speak with attorneys and their clients privately, as well as for the attorneys to converse privately with their clients or each other.

I quickly adapted to the change, and I am I very comfortable conducting online mediations on different platforms. It is cost effective, and its time has come. I use the Resolute Systems e-Mediate platform or the Zoom platform.

I prepare for my meditations by getting a good night's sleep, reading again the submitted materials in the morning, and having breakfast while listening to some good music. This sets the stage for an effective day of mediation.

Honorable George H. Brown, Jr., ret'd.

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What Zoom Can't do for Mediators

By Charles A. "Chuck" Hill

Aside from the ubiquitous presence of the parties' and mediator's smartphones and computer related devices what is the biggest difference between video conference mediation and face-to-face (f-2-f) mediation? It's the mediator's total lack of control over the physical environment where mediation takes place. Credit the ABA's Susan Guthrie with being among the first to point this out.



When preparing for and/or engaging in f-2-f mediation, we have control over waiting areas, seating arrangements, refreshments, restricting or admitting non-essential observers, parties checking their e-mail, surfing the web, consulting with attorneys, and just about everything else pertaining to how participants comport themselves while in our space – because obviously, it is *our* space!

We have zero control over the environment and what occurs on the other side of a video camera and/or telephone line! It is indeed, *their* space! For that reason, it is critical that we establish stringent restraints for parties that go beyond the mediator's cautions about and commitment to confidentiality. In particular, I believe it essential that all parties understand and commit to both Confidentiality **and** Privacy.

To help establish those restraints in my practice, I have developed a *Privacy Addendum* to accompany the *Mediation Confidentiality Agreement*.

It reads as follows...

Privacy Addendum to the Mediation Confidentiality and Fee Agreement

Confidentiality applies to all mediated agreements whether temporary, partial, or fully resolved, as well as to data and how private information will be handled, managed and disseminated. Privacy applies to who has access to the parties.

All participants agree that the confidentiality of mediation as described in the Mediation Confidentiality and Fee Agreement applies to mediations conducted via online video conferencing, telephone, email, and/or text, as well as face-to-face communications, and that the mediation shall be conducted in conformance with Tennessee Supreme Court "Rule 31" governing mediation.

The parties and any other disclosed participants understand and agree that all mediation is private, and they shall not allow other people to be present in the room or within video or audio distance of the mediation. For any persons to be included, in addition to the parties and their attorneys, they must first be disclosed to all parties in advance of the mediation and shall require the affirmative consent of all parties including the mediator. All such parties must sign the Mediation Confidentiality and Fee Agreement and this Privacy Addendum. All copying and recording of telephonic, email, text, or video conference mediation sessions, including screenshots/screen captures is strictly and unconditionally prohibited.

The parties agree to take all reasonable measures to ensure that they are not interrupted during online mediation sessions. This includes arranging for appropriate childcare if necessary and making scheduling arrangements for other activities as needed to assure privacy.

Except for the phone, tablet or computer on which the online mediation sessions are being conducted, parties agree to turn off or silence any phones, tablets or computers and disable any alert announcements and/or texts for the duration of the online mediation sessions.

During our online sessions, all parties agree to refrain from the use of social media, email and/or internet search engines, other than as may be necessary to conduct the online mediation sessions.

No communications platform can provide a 100% guarantee of the privacy of information discussed or disclosed, and each attorney and participant assumes the risk that the service may experience a security breach. If you need to talk about a particularly sensitive topic, we should consider alternatives for such discussions.

PARTICIPANTS & DATE:

MEDIATOR:

Charles A. Hill

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From the Editor's Desk

by Regina B. Newson, Editor

[The views and opinions expressed in this article are those of the author and do not necessarily reflect the official policy or position of TAPM or its Board]

The murder of George Floyd an African American at the hands of white police officers was a terrible act. However, this is nothing new. After the Civil War, African Americans were killed across this country. Many were lynched by extremist groups such as the Ku Klux Klan, with the support of local law enforcement who turned a blind eye to the murder of its African American citizens. Many of these law enforcement officers were members of these groups. Laws were passed in Congress and at the state level which allowed for harsher treatment of African Americans by the Justice system. Hence, we have African Americans having longer sentences for crimes, while whites committing the same crimes get a lighter sentence.



This is not the first time that we have had peaceful protesters attacked. Remember Martin Luther King, Jr, and the march on Selma. When those men and women locked arms and walked down the center of a street, the POLICE turned water hydrant hoses on them and sicced dogs on them. I remember watching this on a black and white tv with my family. Not only were they attacked they were put in jail. Most of the people in that protest were young African American college students. There were a few young white college students in the march. They too were beaten and arrested. The killings of African Americans have continued, it never really stopped. Lately, there appears to have been a rise in the killings of African Americans by law enforcement. It may simply be that technology allows us to see in live time what is going on when an arrest is being made.

[It should be noted that if you go out west...Arizona, Colorado and those states, Native American, Mexican and Hispanics are treated like African Americans by whites. It is bad for them. They are mostly silent.]

This brings us to today. The protest and outrage that America is feeling from inside itself and the world is long overdue. Silence is not the answer. It does not work. We must all speak out against racism. We must begin by looking at our own families. I have a sister married to a white man, a niece and nephew with bi-racial children (parents are married) and gays in my family. I love each and every one of them. I would fight to defend their right to be with the people who make them happy. I would fight for their children. I ask you to look at your families, who in this country does not have relatives from another race or nationality? Do you love them less because they are in another race or nationality? Do you want people to mistreat them? Do you think it is all right to mistreat people from another race or nationality?

The change that needs to occur in this country will begin with each of us. We can form small groups in our communities, get to know our neighbors, invite them into our homes and talk to them. This is hard work, but necessary, if this country is to begin to heal. We must stop seeing African Americans as the boogeyman. We must become more accepting of each other, lose our fear of someone who does not look like us. I have to see my neighbors as my equal, treat them as such. On jobs the promotion fields must be leveled. There must be room for all to advance. The laws must be changed where the justice system is fair to all and not just a few. There must be a cultural shift. This shift begins with each of us. As mediators we are called to be peacekeepers, we can moderate and facilitate these meetings. We have the skill set to do this. Now, the question for us is do we have courage to do this...to be the facilitators of change?

NEWS From AOC:

The Tennessee Administrative Office of the Courts recently awarded grants from the

Parent Education and Mediation Fund (PEMF) and the Victim Offender Reconciliation Program (VORP) of Tennessee to not-for-profit community organizations across the state.

- [Parent Education & Mediation Fund](#) (PEMF) Grant Recipients (July 2020 - June 2021)
- [Victim Offender Reconciliation Program](#) (VORP) Grantees (July 2020- June 2021).

[Read more](#) on the Tennessee AOC website.

The 2020 Renewal Season is Closed.

- Mediators may use the AOC's Portal to add CME earned, add Mediator Reports, and update their public facing profile on "Find A Mediator" during the year
- <https://www.tncourts.gov/programs/mediation/resources-mediators>

The 2021 Listing Renewal season will be open on October 1, 2020 – December 31, 2020,

To be listed as a Rule 31 Mediator, you must submit a renewal application and renewal fee annually.

A Rule 31 Mediator may complete ALL 6 (six) Biennial Continuing Mediation Education (CME) hours online. This 6-hour requirement is every 2 years.

If all requirements of a Rule 31 Mediator's annual renewal have not been completed by March 31 of the renewal year, then the Rule 31 Mediator's listing lapses. Rule 31, Section 15(b)

A mediator whose credentials have lapsed for failure to comply with CME requirements must re-apply to the ADRC for listing and must have taken all required training per section 14.

If you need more information about mediation please visit

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

The ADR Portal login and help team can be reached at **615-741-2687**, the Administrative Offices of the Courts. They will direct your call to the appropriate person for user account and login information and CME (Continuing Mediation Education) and Renewals.

If you have an article that you want published in the TAPM Newsletter, please contact the Editor, Regina B. Newson at reginanevson@bellsouth.net.

[Visit our website](#)