



May 2019 NEWS

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President's Message by John Duval

From the desk of John Duval

I wanted to take a minute and thank everyone for an exceptional TAPM Annual Meeting on April 5, 2019. It was a strong gathering with solid, practical teaching and engaging presentations. Here are a few of my highlights:

- The months of planning by the Board proved to showcase the contributions of each Board member - thank you!
- Joy & Nayeli with TALS, provided us with a seamless transition this year through the many details related to registration, publicity and day of needs. Their professionalism and tireless effort was on display and greatly appreciated.
- The star of the day was our honoree, Jackie Kittrell whose words of acceptance resonated with each of us to continue as peacemakers.
- The honor to have Grayfred Gray with us from PA was an unexpected blessing and his challenge to us bold and lasting.
- Dr. Ebert and all of our contributors provided practical tools for us to use in each of our practices. The reviews for the day reflected superior ratings for all the sessions.
- The addition of new Board members: Cindy Ettingoff, Steve Groom, Marnie Huff, Jackie Kittrell and Regina Newson are going to make a big impact upon the Board and the future of TAPM.



Finally, there are people who you work with that become too valuable to let go, but there is always a time for change due to term limits and the nature of service. Robin, Alan, Frank and Steve have served with distinction and each has truly given visionary leadership during their tenures. Without their guidance, correction, wisdom,

hard work, patience and attention to the mission we would not have survived these past four years...thank you seems too shallow. I know that I can call upon each of you in the days ahead for continued insight - thank you.

In the days ahead we will begin planning for next year and continuing the TAPM mission. But, for now, I say let's exhale and be thankful for where we have been and where we are headed.

A Special Challenge to Mediators by Grayfred Gray

Grayfred Gray wrote this as part of his thoughts on the Grayfred Gray Award being presented to Jackie Kittrell at our Annual Conference. After he shared this with me, I realized that this was a story all by itself. This is a challenge that we (mediators) can rise to. We all need to move beyond our comfort zone. We need to listen with our inner ear. As you read this think about how you can become part of the challenge, and what you can bring to the challenge. - Regina Newson

The special challenge I want to present to you is this. As seen by people who call themselves conservative, liberal and in between, our country is driven by a bitterly worded conflict of views on public issues - whether political, social or moral. This conflict is taking a toll on public confidence in many of our public and private institutions ranging from government to faith communities themselves. It is frightening our people and breaking down families and friendships. It is mobilizing many of us to fight more vigorously and what we then realize is that the conflict is deepening. We are increasingly stuck in a dispute with no easily visible way out.



Some of us, of whom I am one, believe it is important to help those who are dug in to see that people who disagree with them do recognize that it is important to hear them and to come to understand them instead of adding fuel to the fire of fear and mistrust.

A small group of us in Kennett Square, Pennsylvania where I live has begun to meet to engage people through these lines of conflict in that way. We do not seek to persuade them to new views. Instead we seek to hear them, to show them our understanding of their views, and to ask them to correct our understandings or affirm that we've got it. Then we can hear them further. And we can listen to others in different positions in the disputes.

This is not mediation. We're not trying to resolve the disputes. The disputes are, after all, among far larger numbers of people than those we meet with.

The group of which I am a part has no manual for how to do what we're talking about. Indeed, we are starting by practicing on ourselves. After all, among us we have an African-American Baptist minister, a vigorous advocate for LGBTQ rights, a Jew, a conservative and liberals who don't agree on issues.

We have some key ideas, largely from people involved in dispute resolution processes such as mediation. We are learning about others doing things with goals like ours and we will, no doubt, learn from them.

But this is not an academic exercise. This is real life and the need is pressing now as it has been for several years.

My challenge to you as Tennessee mediators and others in peaceful conflict resolution is to use your skills to help people see that they are heard and become more able to think clearly and communicate effectively across the painful divisions in political, social and moral positions.

Beyond such skills we need to find structures that enable people to share their views in safety so they can talk freely and honestly. The structures may be as simple as such people meeting only with us to listen or may be for them to meet with people who disagree with them with us present only to facilitate their hearing one another and showing they have succeeded in doing so. Part of our challenge is to find structures and show they work.

The biggest challenge right now is to get to work letting people know that listeners are available to hear them talk about the things they believe others do not want to hear them talk about.

We need to proceed with confidence that doing this work can help our country's bitter divide cool. We need to have confidence that the public can become more effective in its thoughts and communications about the needs and hopes that are really what the disputes are about. We need to have confidence that Americans of all kinds can still find ways to come together despite our differences. I would like to hear from any of you who are already doing this or who are drawn to get into it.

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The Grayfred Gray Public Service Award Presented to Jackie Kittrell

Grayfred Gray (the man whom this award was named after) had the honor of presenting this prestigious award to one of my dear friends...Jackie Kittrell. This is the speech that he presented when she received this award at TAPM Annual Conference in April 2019 -Regina B. Newson, Editor



The award that I have the honor of presenting to Jacqueline "Jackie" Kitrell is the TAPM Public Service in Mediation Award. I believe that whether you are a pro bono mediator or a paid mediator, a lawyer or non-lawyer mediator, mediating in the most private setting or a government setting such as court or a special context such as a dispute within a faith community, you are engaging in public service because at its best, which is pretty common despite its roots in difficult conflicts, the public is served by peaceful and future-building resolution of disputes. Mediation is a community building activity, a public service.

The TAPM Public Service in Mediation Award is for persons who make innovative and lasting public service contributions through alternative dispute resolution in Tennessee.

Here's a little of what makes me think that TAPM is truly right in awarding this to Jackie in 2019. Jackie has been the Executive Director of the Knoxville's Community Mediation Center since 2005. The CMC mediates all kinds of cases from General Sessions civil cases through divorce and child custody, Juvenile Court cases, cases referred by courts in

counties around Knox County, all kinds of cases that are outside the courts and even disputes among groups in the community itself.

Here are some of the innovations she's been responsible for:

Volunteers: The CMC's unique opportunity for participants in its mediation training to observe mediation cases live, volunteer to mediate themselves and receive mentoring and refresher training after training.

Mediation training with an emphasis on skillful and ethical handling of cases in which one or both parties have no attorney.

The CMC's 6 step-co-mediation model which emphasizes joint session process and skills.

Co-training mediators with Bob Swan, Judicial Clerk of Knox County General Sessions Court, who has administered its Mediation Program since it began in 1993.

Co-training mediators with UT Law College Mediation Clinic Director Professor Becky Jacobs with community volunteer and law student mediators participating in training and co-mediation in civil and family programs.

Creating a Neighborhood Mediation and Facilitated Dialogue Program.

Creating an Elder Mediation Program.

Recruiting and training attorneys to take referrals to do limited scope work in CMC divorce cases thereby fulfilling an aspiration of the Knoxville Bar Association's Mediation Service that began in 1992 and was later transferred to the CMC.

This year developing Conflict Coaching and Elder Mediation Training Partnering all along with other CMCs across Tennessee to help each other with mediation protocols, forms, training, fund raising and other matters that help keep CMC's and their staff going.

Partnering with various other organizations such as the Family Justice Center in Knoxville and the Office on Aging.

Creating and conducting the Knoxville CMC's signature annual fundraising and mediation awareness building event since 2010: Peace in the Valley.

That's just some of the fruits of her innovation. Here are some of the signs of the magnitude of lasting public service contributions she has made as Executive Director of CMC:

In the 2017-18 year the CMC reported to Knox County Government:

641 state and county court cases in mediation (595 from Knox County courts; 46 from nearby counties)

138 cases in mediation from outside the courts

779 total cases

1662 completed intake interviews

696 mediations scheduled

634 resolutions in mediation

81% resolution rate by my calculation

Trained 30 Rule 31 mediators up to standards with opportunities to observe actual mediations and become volunteer mediators plus 86 other mediators in trainings approved by the ADRC for CME credit.

Handled 3,607 telephone calls in connection with the CMC's services and even wrong numbers, all with caring responses regardless of the nature of the call.

I am not very good at math, but estimating conservatively by extrapolating from 2017-18 figures, if I assume an average of 700 cases a year mediated over the 14 years since Jackie became Executive Director, CMC volunteer mediator teams co-mediated:

9,800 disputes with an 81% resolution rate, which would mean 7,938 disputes were resolved.

I estimate that members of 15,876 households were involved by mediated resolutions.

With 182,314 households in Knox County in 2013-17 according to the US Census, just under 9% of the county's households had the benefits of mediation. For me that is a lasting public service contribution and one that augurs well for the future of mediation in the Knox County area. To the extent that other CMC's in the state can perform along those lines they will have an enormous impact on the people of Tennessee.

Jackie's impact directly on the profession of mediation is reflected in these facts:

She is a Rule 31 mediator listed in civil and family mediation, in domestic violence screening for mediation. She was first trained as a divorce mediator in the Knoxville Bar Association Mediation Service in the early 1990's. She is approved as a Rule 31 mediation trainer. She is a member of the Board and a past President of the Tennessee Association for Professional Mediators.

She co-trains University of Tennessee College of Law Mediation Clinic students with Professor Rebecca Jacobs annually which prepares many of the next generation of lawyer mediators.

With that record, could there be any doubt that TAPM is rightly presenting its 2019 Grayfred Gray Public Service in Mediation Award to my friend and colleague Jackie Kittrell? Congratulations, Jackie.

From the Editor's Desk
by Regina B Newson, Editor

TAPM held its Annual Conference on April 5, 2019. It was a tremendous success. Dr. John S. Ebert, asked a very important question. "What is your why? If you do not know the answer to that question, then you will be knocked out everyday by life." Each of us has a different "why." Motivational interviewing is intentional. It forces us to examine who we are, and why we do things the way we do. Once we begin to understand our why we are better able to help others understand their why, and help them focus on change. As mediators we must learn to manage our own stress. Every mediation that we conduct will generate a certain amount of stress. Understanding your why will help reduce that stress.

Thank you, Frank Cantrell, for discussing Ethics Advisory Opinions and Revised Rule 31. Stephen Shields and Kimberly Best did an outstanding job of presenting difficult dilemmas for mediators. As mediators we have to know when we have crossed the lines, from being a neutral to taking sides. We must always keep in mind that a person's perception is their reality. Linda Seely, a forerunner in online dispute resolution, continues to be the drum major for online dispute resolution solutions. This is the future of mediation. The panel discussion of best practices in family and civil mediation is always insightful and a learning experience.



The **17th Annual Advanced Mediation Techniques Workshop** will be held on **October 11, 2019** at Lipscomb University. Please take a moment to review your e-mail settings and ensure the ADRRegistration@tncourts.gov is a trusted account so you receive important updates.

Important News: TAPM has a new number.
615-775-9686

TAPM DUES

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.

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

This has been reprinted with permission of the Administrative Office of the Courts (ADR) from their ADR FALL 2017 Newsletter.

IMPORTANT DAYS

June 4, 2019 - Rule 31 Mediator Applications Deadline for ADR Commission review on July 23, 2019

July 23, 2019 - ADR Commission Meeting, AOC- Nashville

August 13, 2019 - Rule 31 Mediator Applications Deadline for ADR Commission review on October 10, 2019

October 10, 2019 - ADR Commission Meeting, AOC- Nashville

October 11, 2019 - ADR Annual Workshop, Lipscomb University - Nashville and online live stream

For a list of approved Continuing Mediation Education courses, please go to:

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

IMPORTANT NEWS

Rule 31 has been amended effective November 1, 2018. The amended rule was published on November 1, 2018 here:

[//tncourts.gov/rules/supreme-court/31](http://tncourts.gov/rules/supreme-court/31)

To file online mediation reports, go to: <https://www.tncourts.gov/programs/mediation/resources-mediators>

2019 RENEWALS

The deadline for submission of your 2019 Renewal Form was December 31, 2018. ADRC Policies 19 and 20, which set out the renewal fee structure, can be found on the AOC website.

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

If you were initially listed in an EVEN year, please be mindful that your Continuing Mediation Education hours completed during the 2017-2018 period were due by December 31, 2018 in order to renew for the 2019 calendar year.

If you are unsure of your initial listing year, please visit:

<http://www.tncourts.gov/programs/mediation/find-mediator> to search for your listing and view your initial listing year.

You may visit <http://www.tncourts.gov/programs/mediation/resources-mediators/continuing-mediation-education> to view courses that have been submitted by providers and approved for CME credit. Please be sure to look in the Credit Approval column to see what type of CME credit the course will qualify for.

Please refer to Rule 31, Section 18:

(a) To remain listed by the ADRC, Rule 31 Mediators shall comply with the following continuing mediation education requirements:

(1) Courses approved for continuing education under this Rule include but are not limited to, courses approved by the Commission on Continuing Legal Education & Specialization, programs approved by professional licensing agencies, programs provided by not-for-profit community mediation centers and not-for-profit mediation associations.

(2) Rule 31 Mediators must complete six hours of continuing mediation education every two years.

(A) General Civil Mediators - The six hours shall consist of: (i) Three hours in mediation continuing education, of which at least one hour shall be related to ethics, and (ii) Three hours general continuing education.

(B) Family Mediators - The six hours shall consist of: (i) Three hours in mediation continuing education, of which at least one hour shall be related to ethics, and (ii) Three hours continuing education in family law.

(C) For dually listed Rule 31 Mediators who were initially listed in the same year, meeting the Rule 31 Family Mediator Listing continuing education requirements will also meet the Rule 31 General Civil Mediator listing requirements.

(3) Rule 31 Mediators who are attorneys are not exempt from the continuing mediation education requirements of Rule 31 Section 18(a) as a result of the age exemption for continuing legal education pursuant to Supreme Court Rule 21, Section 2.04(c).

On the renewal forms it is important to remember to provide proof of continuing education hours. ADR asks that providers provide a list of attendees to their classes; however, it is the responsibility of the mediator to provide this proof. It is suggested that all mediators request two (2) copies of hours of attendance - one for their records and one for the provider.

If you have forgotten your username and password needed to submit an online mediation report, please contact Stephanie Brake, Programs Assistant, at (615) 741-2687 or by email at education.ADRRegistration@tncourts.gov. Stephanie is the new Programs Assistant who started at the AOC at the end of October 2018.

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

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