



September 2018 NEWS

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President's Message by: John Duval

First of all, I trust that you are up to date and engaged as a member of TAPM. If you need to renew your membership go to tapm.wildapricot.org to reengage your vital membership. Secondly, this past month TAPM was featured at the Tennessee Alliance of Legal Services recent Equal Justice University. Three of our Board members taught engaging sessions with Steve Shields and Frank Cantrell teaching Ethics for Advocates and Mediators to rave reviews and I had the opportunity to teach Remaining Neutral in the Age of Social Media and Search Engines to a full room. Over the next 3 TAPM Newsletters I will include my three main points of the CLE/CME which I taught at Equal Justice University.



Remaining Neutral in the Age of Social Media and Search Engines - Part 1

John Duval, Tennessee Association of Professional Mediators

Can our role as a neutral be compromised by public information and brand image?

In the Time Magazine poll that asked, "What Makes Americans Happy" the following questions were presented:

"Do you believe that on their social media profiles, other people make themselves look happier, more attractive and more successful than they really are?"

Response: 76 % Yes, 17% No, 7% Don't know/Refused

"Do you believe your social media profile reflects what you are really like?"

Response: 78% Yes, 17% No, 7% Don't know/Refused

People are spending more and more time online. According to the latest Internet Advertising Bureau, working with PricewaterhouseCoopers, audiences spend an average of 43 hours a month online or 1 of every 7 minutes.

Online technology now encompasses everyone's lives, your digital footprint describes the trail you leave throughout the

internet and on any form of communication that is digital. It is now widely accepted that in this era of e-mail, texting, blogging, and social networking, trying to hide one's digital footprint is practically futile.

We all have a permanent record - it might not be recorded in the court files, but a scarier record - a digital footprint. Every week we examine the digital footprint of clients that we are either defending or mediating their case. This revealing information is now key to many of the cases we mediate.

I want us to see how we can stay as neutral and clear in the Age of Social Media and Search Engines.

#1 How Social Media sites that can best benefit us?

Today, people are no longer turning to the yellow pages to find our services, but instead they are doing a quick search online. Making sure you have a positive presence in the top social media sites is important.

When posting on any social media site - here is the key: RELEVANT CONTENT. Relevant content is going to win every time. If you just post accolades about yourself it will not gain traction. People are self focused, thus they are looking for what can best serve them.

I'm going to give you a bottom line now: We are all busy. My advice is to FOCUS on 2 - 3 networks. If you are new or have just dabbled in social media begin with 1 and see if you can be consistent and relevant. Also, when choosing a network ask yourself, "Has this network reached a critical mass?" Consider the value.

Also, realize that when posting content it does not have to be a lengthy, original article. You can link your audience to others, example a good 'WSJ' article that is relevant. Here is a question I receive all the time from a wide range of people: What about all these change of service email or notices I receive?

Facebook and all the social media networking sites use the "Term of Use or Service" to their advantage. You don't own your pages. You are a user of a free service on a very public site. You are posting your information and services on their site. Service agreements will change on a regular basis every couple of months or so. Always plan that you are at risk or exposure because you are on a social network.

John Duval
TAPM Board President 2018-2019
Tennessee Council of Conflict Mediation
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Interview with Patricia Mills **by: Regina B. Newson, TAPM Editor**

Your title is that of Program Manager, what exactly does that mean? What do you do in this role? Who helps you do all you must do?

As Programs Manager, I work in the Court Services Division at the Administrative Office of the Courts. The Court Services Division includes mediation, court interpreter, court reporter, access to justice, education, and other programs for the Tennessee court system. I also work with our Technology and Finance Divisions on our online features and processing payments.



I primarily assist the Alternative Dispute Resolution Commission in processing Rule 31 Mediator Applications, Rule 31 Mediator Annual Renewals, Rule 31 Trainer documents, and Continuing Mediation Education courses.

I also support the work of the ADRC's Committees which are: Communications, Credentials, Ethics Advisory, Pro Bono Mediation Advisory, Rule & Policy, and Training/Education.

The Programs Manager role also serves as grants administrator for the following:

- Parent Education and Mediation Fund (including Reduced Fee Rule 38 Mediator and Education Provider Claims)
- Access & Visitation Grant

-Victim Offender Reconciliation Grant

Please visit <https://www.tncourts.gov/programs/mediation/resources-public> and click on the links under State Funded Mediation Grants to learn more about each grant as well as current recipients.

What happens at the quarterly meetings of the ADRC? Do all the Commissioners meet together or do they meet by phone? Do they ever hold meetings outside of Nashville? In your job how do you prepare for the quarterly meetings?

At the quarterly ADRC meetings, many Commissioners gather in person at the AOC in Nashville and others join by video/teleconference.

We prepare by holding Committee meetings, typically quarterly in advance of the Commission meeting. At the Commission meeting, each Committee provides a report, and the ADRC votes on any action items based on the recommendations of the Committees.

The ADRC also handles any requests that have been submitted to the Chair and placed on the agenda for review. The focus of recent Commission meetings has been on the Rule 31 amendment project, and we are expecting the Court to issue a decision later this year.

How many mediators now listed in Tennessee? Civil, Family, Attorney, Non-Attorney, Age Data, Gender Data, Racial Data?

The following summary statistics are from calendar year 2017:

- There were approximately 1,300 listed Rule 31 Mediators, including approximately 50% with a General Civil listing, 30% with a Family listing, and 20% with a General Civil/Family listing.
- Nearly 32% did not report having a Tennessee Board of Professional Responsibility license. Rule 31 Mediators report a variety of work experience including: attorney, business owner, CPA, church official, consultant, human resources administrator, professor, and social worker.

For more statistical information, please visit <http://www.tncourts.gov/node/4422138> to review the quarterly reports. You can also find some statistics in the quarterly ADR News that is sent out to Rule 31 Listed Mediators following each ADRC meeting.

Do you get more calls and questions from the non-attorney prospective mediators than the prospective attorney mediators? When Mediators call for help, what are the most common questions (and answers)?

The AOC receives calls from all types of prospective mediators. Typically, the calls are regarding the requirements to apply to become a Rule 31 Listed Mediator. A helpful reference website is <https://www.tncourts.gov/programs/mediation/become-rule-31-mediator>.

What do most people complain about when they calling wanting to file a complaint against a mediator?

Each situation is unique. The Complaint Form is available at http://www.tncourts.gov/sites/default/files/docs/complaint_against_mediator_form.pdf. It asks that the complainant State exactly what the mediator has done, or failed to do, which the complainant believes violates Rule 31.

The ADRC's grievance procedures are laid out in Section 11 of Rule 31 which is available at <http://www.tncourts.gov/rules/supreme-court/31>. Please visit <http://www.tncourts.gov/programs/mediation/resources-mediators/opinions> for published opinions and decisions.

How can Rule 31 Mediators in private practice help those who need pro bono mediation?

All Rule 31 Mediators can work to spread educational information about mediation. There are several community mediation and non-profit centers across the Tennessee that utilize pro bono mediators to provide services for those who cannot afford private mediator fees. Please visit <https://www.tncourts.gov/programs/mediation/resources-public> to find information that you can share with the public, including programs that provide free or sliding scale mediation services to those in need.

How important is it for mediators to do pro bono work?

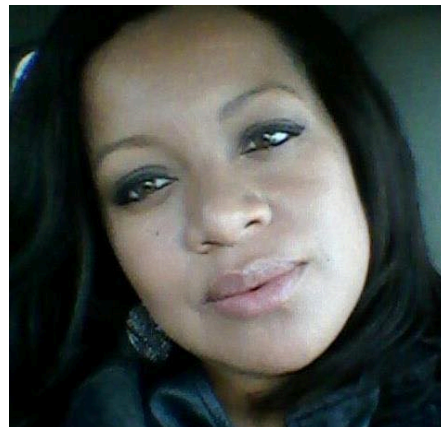
We encourage Rule 31 Mediators to strive for the aspirational goal laid out in Section 18(d) of Rule 31: (d) Pro Bono Service. As a condition of continued listing, each Rule 31 Mediator must be available to conduct three pro bono mediations per year, not to exceed 20 total hours. At the initiation of a mediation, the court may, upon a showing by one or more parties of an inability to pay, direct that the Rule 31 Mediator serve without pay. No Rule 31 Mediator will be required to conduct more than three pro bono proceedings or serve pro bono for more than 20 hours in any continuous 12-month period.

What happens to the reporting data when mediators send in their pro bono cases?

All data is compiled and reviewed by the ADRC at its quarterly meetings. The Pro Bono Mediation Advisory Committee is looking into how to utilize the data reported to shape future pro bono efforts

Featured Mediator Anovia Slaughter

Anovia Slaughter Braden was born and raised in Virginia. She is a graduate of the University of Tennessee at Knoxville and the University of Tennessee at Chattanooga. She will complete her doctorate in Criminal Justice with a specialization in Law and Public Policy, from Walden University in a matter of days. The methodology for her study is a general qualitative study. The topic of the study is on African American noncustodial fathers in Tennessee. She used both phenomenological and historical techniques. She has been a Rule 31 listed Mediator in both family and civil law with a specialization in domestic violence for over eight years. She has worked for a non-profit full-time for eleven years.



Anovia lives near Chattanooga, Tennessee. She has a fifteen-year-old son who keeps her busy with his sports and school activities. Anovia mentors teen girls and is a member of Delta Sigma Theta Sorority, Inc.

In finding your niche what area do you practice in? How did you get started in this?

Family mediations is where I feel more comfortable. I am hoping to do more family and civil mediations in the upcoming year. My niche is serving people who cannot afford mediations or cannot afford time off work, so I am available to meet after work hours or on the weekends for their convenience. I started when I met Dr. Carol Berz. She was talking about mediations and I was intrigued. I signed up to be trained in both family and civil law by her in Chattanooga, Tennessee and the rest is history. I enjoy providing the environment for changes to be possible.

What is in your mediator tool kit? What is your favorite or most used tool?

Reality testing, worse case scenarios, best case scenarios, and helping people to see the WIN-WIN! Reality testing. If someone says this is what they want, I ask tell me what they looks like.

Once you have been selected as the mediator, what do you do to prepare the attorneys and their clients for the mediation?

I don't prepare anything until I meet the participants for the first time. I don't want anything before the mediation. I rather start fresh when I meet them for the first time. This way, the table is balanced.

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

That is a tough one! I would a cross between Wonder Woman, Superwoman, Spiderwoman, and Storm. LOL! Maybe Slaughter Woman as I would have all the mind control powers to anticipate the angst in others to calm their minds, so they will speak up for what they want for and agreements to be made.

What is your pet peeve in mediation?

When attorneys or others tell their clients not to engage or to not agree on anything. The process is designed for people to choose their futures. It is a win-win when they decide in mediation verses a court room where someone wins and the other loses.

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

I am not married. I have a fifteen-year-old son. I have a Yorkie Pomeranian named Sasha Fierce.

Why did you become a mediator?

To promote a better system. To give people back their power to make the decisions for themselves and their children. To provide the win-win.

What are you most afraid of in mediation?

I am not necessarily afraid, but I don't know these people. Anyone could show up and not have good intentions.

How do you debrief yourself after a mediation?

I try to listen to soft music or go exercise so I can switch my gears to something else.

Personal or professional accomplishments you are particularly proud of:

I will be Dr. Slaughter soon. I have decided to drop the Braden name and I will be conferred soon with my PhD.

Please complete these sentences:

"I have a burning desire to go to law school and get my LLM."

"People tell me I am a very accomplished person despite my circumstances of being a single mother."

"If I could have a 30-minute conversation with anyone (alive or otherwise, famous or not), I would want to speak with Frederick Douglass, Martin Luther King, Jr. or Malcolm X to learn their blueprints in how they galvanized people on both sides to promote positive social change, so I could follow their playbooks."

What do you see for the future of mediation?

I see it expanding to every area of law and policy. People have to take charge of their own lives. There are no two cases that are exactly the same. Restitution, parenting plans, or child support, these are ways people can face their fears and take hold of their lives. No one should leave their fate in the hands of people who know nothing about them.

Knowing what you now know about life etc., would you choose the same career path? If not, what would you like to do?

The only difference, I would probably have finished school before getting married, having a son, and then divorced. I would probably have completed law school and then the PhD. I want to do so much now to promote and change policies. I want to be in a position to promote healthy social changes and to change the trajectory of lives headed down the wrong path due to hopelessness and despair. So, for my career I would have educated myself sooner to position myself faster. I still want to go to law school. I don't know if that is a possibility or not. I hope so. Maybe I can be Judge Slaughter one day or Congresswoman Slaughter to positively impact lives while I continue to do research.

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

I am very thankful for the opportunity to be featured. I appreciate it so much. I am a hard worker and I want to make a difference in how people view the current system. People should feel positive about their mediation experiences and know that in order for change they must first participate and understand the process.

What is your contact information?

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The Situation Room

by: Charles Hill

On occasion, particularly in distributive bargaining where there are numerous categories of financial and other quantifiable issues to be resolved, it can be useful to physically align conflicting parties in a seating arrangement where all can see and practice "what if" with the various items being considered.

I call such occasions "The Situation Room" because they conjure up images of key decision makers sitting in a conference room with visual aids displayed all around them. In fact, in my imaginary situation room, all parties sit in swivel chairs and the walls are literally covered with pictures, graphs, video and computer screens. Contrast that with the more



traditional image of opposing parties sitting across from and staring at each other in an adversarial posture and you can readily sense the change of demeanor.

When mediators can get parties focused on visuals representing problems to be solved rather than focusing on the other party as the problem, we often see significant progress made in identifying and expressing creative, alternative solutions, i.e.:

"Well, if I didn't have to pay the cable bill listed up there on the right-hand side, I could take care of summer camp for both kids, 'cause summer is when I make my overtime."

"I would like the peace of mind of knowing the car insurance is paid, so how about I cover that - and you pay the cable bill?"

"See, my problem is that the day care bill is every week, whereas school clothes and school supplies only come up in August and maybe a little in December." If we can figure out how to share the day care, I can handle the school clothes and supplies 'cause my Mom really likes helping out with that."

"How about I pay the registration sign-up fee and you buy her cheerleading outfit?"

Using the situation room effectively can help turn distributive bargaining into integrative bargaining wherein the unstated objective changes from dividing up a fixed size pie in a win/lose scenario, to enlarging the pie in a creative win/win, needs and interest-based approach. Another way to look at this is to consider admitting fresh air into a stagnant, stale environment.

Once parties are convened, mediators might do well to experiment with re-purposing the mediation room environment and the parties into "The Situation Room."

Chuck is Rule 31 Listed and a former Vice Chair of the Board of Directors of the Nashville Conflict Resolution Center. He has been appointed an Ombudsman/Mediator by the U.S. Department of Defense's Employer Support for the Guard and Reserve. Over the past six years, Chuck has been a frequent coach and guest evaluator for Lipscomb University's Institute for Conflict Management Rule 31 training.

Save the Date!

The ADRC'S 16th Annual Advanced Mediation Techniques Workshop is set for Friday, October 12, 2018 at Lipscomb University's Ezell Center.

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

**Important News: TAPM has a new number.
It is 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 your being a member and you, as a member, receive benefits in return!



Marketing Tip: Educate yourself. Mediation is a process where you the mediator help people resolve disputes. However, it is much more. It is a great teacher for us (mediators). We learn something about ourselves from each mediation that we conduct. We learn more about us as people and how we react and interact with the universe. What we are learning from these mediations has helped me grow immeasurable as a person and as a professional. I encourage you to educate yourself, be constantly open to learning new things about yourself, read, listen, seek to understand and be understood.

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

IMPORTANT DATES

October 11, 2018 - ADR Commission Meeting, AOC Office, Nashville.

October 12, 2018 - 16th Annual ADRC Advanced Mediation Techniques Workshop.

December 4, 2018 - Rule 31 Mediator Applications Deadline for ADRC review on January 22, 2019.

January 22, 2019 - ADR Commission Meeting, AOC Office, Nashville.

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

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

IMPORTANT NEWS

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 is 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 are 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-mediationalducation> 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 [Caitlin Vasser](mailto:Caitlin.Vasser@tncourts.gov), Programs Assistant, at (615) 741-2687 or by email at ADRRegistration@tncourts.gov.

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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