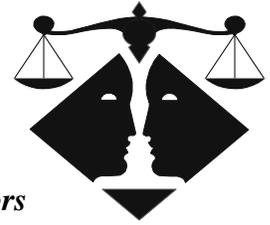


The Intermediary



A Bridge between the Dispute Resolution Commission and N.C.'s Certified Mediators

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From the Chair

J. Anderson "Andy" Little

The Commission received a wonderful early holiday gift this year! On November 21, 2002, the Supreme Court approved the Commission's recommendation for revisions to both the Mediated Settlement Conference and Family Financial Settlement Rules. In the case of the MSC Rules, the revisions are profound. All of you should have received a letter from the Commission by now explaining how you can access the revised Rules using the Commission's new website at www.ncdrc.org. I ask that you download and read them carefully.

The revised Mediated Settlement Conference Rules, which provide for a dispute resolution menu in superior court, are the culmination of almost twenty years of work by dedicated lawyers, judges and court officials. This is North Carolina's version of a multi-door courthouse, implemented with simple procedures and without bureaucratic red tape or cost to the taxpayers! Superior court litigants may select among neutral evaluation, mediated settlement, arbitration, or summary trial in deciding which dispute resolution process is most appropriate for their particular dispute. If they don't make a decision, their case is referred to mediated settlement by default. I expect that mediated settlement will remain by far the most utilized alternative. But, I know that there will be instances where there is good reason to head another direction, and I am pleased that parties will have a choice. Over time as attorneys become experienced with the new menu, I hope they will think more critically about dispute resolution -- to consider the nature of their litigation, the personalities and attitudes of those involved, and their prospects for settlement -- and make an informed selection among the menu alternatives.

Both the MSC and FFS Rules were revised to promote and facilitate dual certification of mediators. Over the past few months a number of you have told the Commission that you believed that the training requirements for dual certification were overly burdensome. You suggested that there was unnecessary overlap between the 40-hour course required for superior court certification and the 40-hour course required for family financial certification. The Commission heard you, reviewed the situation, and moved forward with revisions. Now, while both MSC Rule 8 and FFS Rule 8 require applicants to take a 40-hour course for either their initial superior or district court certification, a 16-hour course will follow for those seeking the second certification. The 16-hour course will be largely program specific rather than focusing on the general theory and practice of mediation. The Commission hopes that this rule change will spur more superior court mediators to think about serving the new and expanding Family Financial Settlement Program.

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The Commission invites its readers to comment on any articles presented in *The Intermediary* or to write articles for inclusion. Send your thoughts to the editor, Leslie Ratliff, at leslie.ratliff@nccourts.org. We look forward to hearing from you!



Things are beginning to move forward at the Commission again, following an adjustment period as new leadership and new members settled in. We have reconfigured our committee structure, made new assignments and are beginning to meet and to move forward with new ideas and projects. There are important matters on our agenda – what to expect as our State government moves forward to address a budget crisis, how to improve data collection for mediated settlement programs, how to better serve mediators through our website. I invite you to stay abreast of the matters we are addressing – read *The Intermediary*, visit the news and comment features on our website, plan to attend one of our meeting – then, help me lead the Commission by sharing your thoughts and insights. I promise to listen and to respond.



New Faces at the Commission

There will be some new faces at the Commission's upcoming March 7 meeting in Raleigh. New members appointed to the Commission include Judge Sanford Steelman, Sherman Lee Criner, and Diann Seigle. The Commission hopes that you will join in welcoming them.

Judge Sanford L. Steelman, Jr.

Judge Steelman, who was appointed to the Commission by Chief Justice Lake, is newly elected to the North Carolina Court of Appeals. He takes Judge Walker's position on the Commission. Judge Steelman has significant experience with dispute resolution having administered the Mediated Settlement Conference Program in Judicial District 20-B (Stanly and Union Counties) during his term there as Senior Resident Superior Court Judge. He has also served as a member of the State Judicial Council's Dispute Resolution Committee. Before beginning his judicial career, Judge Steelman practiced law in Monroe. He is a graduate of Davidson College and the University of North Carolina School of Law. Judge Steelman is very active in the Jaycees and enjoys genealogy.

Sherman Lee Criner

Sherman Lee Criner was appointed by the Chief Justice as a mediator member of the Commission (superior court mediator) and replaces W. Lewis Sauls of Whiteville. Mr. Criner, who practices in Wilmington, specializes in workers' compensation law. He is certified as both a superior court mediator (since 1999) and as a family financial mediator (since 2001). He also serves as a member of the NCBA's Dispute Resolution Section Council. Mr. Criner is a graduate of North Carolina State University and Campbell University. He holds both a law degree and a master's in business administration from Campbell.

Diann Seigle

Diann Seigle is the Executive Director for Carolina Dispute Settlement Services (CDSS), a community mediation program that provides dispute resolution services to residents of eight North Carolina counties. CDSS also partners with North Carolina Central University School of Law in operating the only clinical ADR program in North Carolina, providing law students with

(Continued on page 10)



Upcoming Training

Superior Court Training

Beason & Ellis Conflict Resolution, LLC (formerly primary trainers with the Duke Private Adjudication Center), will offer the 40-hour superior court mediation training course in Wilmington on April 30-May 4, 2003. For more information or to register, contact (919) 419-9979. (Trainer certification for this program is pending.)

Mediation, Inc. will offer the 40-hour superior court mediator training course on April 9-13, 2003, in Raleigh. For more information or to register contact Thorns Craven at (336) 777-1477 or 1(800) 223-5848 (NC Only). You may also contact Thorns at mediation@triad.rr.com. Mediation, Inc. has a web site at <http://www.mediationincnc.com>.

American Arbitration Association will offer the 40-hour superior court mediator training course on April 9-13, 2003, in Charlotte, NC; and September 17-21, 2003, in Raleigh, NC. For more information or to register, contact Kristina Morrison at 1(800) 982-3792.

Mediation, Inc. will offer the 40-hour superior court mediator training course on June 9-13, 2003, in Asheville, NC. This training is designed for ABA Senior Lawyers. For more information or to register contact Thorns Craven at P.O. Box 15458, Winston-Salem, NC 27113, or at (336) 777-1477 or 1(800) 223-5848 (NC Only). Thorns can also be reached at mediation@triad.rr.com. To learn more visit Mediation, Inc.'s web site at <http://www.mediationincnc.com>.

Intercede Mediation/ADR Services and Harness Associates Dispute Resolution Services will offer the 40-hour superior court mediation training course on April 24-28, 2003. (40.75 Hours Total CLE Credit —37.50 General and 3.25 Ethics.) For more information, contact James M. Shannonhouse at (704) 377-4000. On-line registration is available at www.meckbar.org.

Family Financial Training

Atlanta Divorce Mediators, Inc. will offer the 40-hour family mediation training program on: February 13-17, 2003, in Atlanta, GA; February 20-24, 2003, in Montgomery, AL; March 20-25, 2003, in Knoxville, TN; March 27-31, 2003, in Atlanta, GA; and May 15-19, 2003, in Asheville, NC. For more information, contact Dr. Elizabeth Manley at 1-800-862-1425.

Mediation, Inc. will offer the 40-hour family mediation program on July 16-20, 2003, in Raleigh, NC. For more information or to register, contact Thorns Craven at 336-777-1477.

Advanced Mediator Training

American Arbitration Association will offer two training programs for both new and experienced mediators. Program A will be offered on March 7, 2003, in Tampa, FL, from 7:00 a.m. until 5:30 p.m. Course topics for Program A will include: "Mediator Marketing: What Works and What Doesn't"; "What Lawyers Hate About Mediators"; "Mediator Malpractice"; "Recognizing and Responding to Negotiation Tactics"; and "Attorney Mediator Ethics: Should You Leave the Law Firm". Program B will be offered on March 21, 2003, in Orlando, FL, and on April 25, 2003, in Tampa, FL, from 7:30 a.m. until 5:30 p.m. Course topics for Program B will include: "Managing the Culturally Diverse Mediation"; "Power and Leverage: What a Mediator Needs to Understand"; "Good Faith Negotiation: What Does It Really Mean?"; and "Mediator Ethics". Trainers for both programs will be attorneys and mediators Cary R. Singletary and John L. Newman. For more information or to register, please call Dorothy O'Brien at (877) 740-3837 or e-mail her at obriend@adr.org.

Atlanta Divorce Mediators, Inc. will offer an advanced mediator training course, *Domestic Violence Issues in Mediation*, on March 1-2, 2003, in Atlanta, GA. For more information, contact Dr. Elizabeth Manley at 1-800-862-1425.

We've Fixed It!



A mediator contacted this office recently and alerted staff to a problem with the Commission's web site. He lived in a small town on the outskirts of Asheville and his mailing address was the small town. However, almost all his mediation work was done for attorneys and clients in Asheville. When attorneys tried to search the list of certified mediators by city, *i.e.*, by Asheville, for the purpose of identifying the pool of available mediators, his name did not appear. The mediator had begun to receive complaints from attorneys, they could not find his contact information and questioned whether he was "really certified". The mediator suggested there were probably many others in the same situation — mediators who lived on the outskirts of a city and commuted into the city to work. Their names would not appear when attorneys looked for availability or contact information under the city and they stood to lose business as a result.

The Commission contacted its technical assistance support and the problem has now been addressed. Any mediator who lives in one community, but works elsewhere, may contact the Commission's office and ask that he or she be listed on the web not only under city of residence, but also under a "preferred city", *i.e.*, the city where the mediator is most usually employed or does most of his or her mediation work.

If you have not gone to the Commission's website at www.ncdrc.org and checked your posting on the "List of Mediators" option from the left-hand menu, please do so. One you have used the list to locate your posting, double click on your name and more complete contact and availability information will appear. You may search for your information by your name, by your city of residence, or by the court districts that you have indicated a willingness to serve. With a large database such as the Commission administers, it is easy to miss-key a telephone number or a list of court districts. So...please help us with quality control, so that we can help you spread the word of your availability to mediate. We also ask that you let us know if you need to be listed by a "preferred city" in addition to your city of residence.

E-Mail Addresses

Does the Commission have your current e-mail address? The Commission is now posting its newsletter, *The Intermediary*, on the web. Click on "Dispute Resolution Commission" from the left-hand menu, then click on "Commission News", then click on "The Intermediary". In the future, we would like to notify mediators by e-mail when we post new editions. We still do not have e-mail addresses for approximately ten to fifteen percent of mediators. In addition, mediators frequently change e-mail servers and addresses and do not notify this office so that we can update our database and the mediator contact information we post on the web. Please be sure to get your current e-mail address to us so that we can ensure that in the future you will continue to receive *The Intermediary*. For the time being, the combined Commission/Dispute Resolution Section's newsletters will continue to arrive at your offices and homes by U.S. mail.

The more that this office can use e-mail to communicate with mediators, the more we can save on copying and postage expenses. The more this office saves on copying and postage expenses, the less likely the Commission will need to increase certification fees. Please get your e-mail address to us, if we do not have it. You can check the "List of Mediators" on the Commission's web site at www.ncdrc.org to determine what contact information, including an e-mail addresses, we have in our database for you.

New Rules Adopted

By now, everyone should have received a mailing from the Commission advising them that the Supreme Court has adopted revised rules for both the Mediated Settlement Conference and Family Financial Settlement Programs effective November 21, 2002. Both sets of Rules are posted on the Commission's web site at www.ncdrc.org. Click on either the MSC or FFS Program button, then click on "Rules". Revisions to the MSC Rules establish a menu of dispute resolution options in superior court, including: neutral evaluation, mediated settlement, arbitration, and summary trial. Both the MSC and FFS Rules were revised to provide for a new dual certification track. Previously, mediators seeking dual certification were required to complete two separate 40-hour training programs. Under the revised rules, mediators will need to complete a 40-hour course for their first certification, followed by a 16 hour supplemental course for their second certification.



New Web Site Launched

The Commission's web site has a new look and a new address, www.ncdrc.org. The Commission invites all mediators to visit and to explore. The Commission has reorganized the material on its site and has posted additional information. The new and improved site is designed to serve several functions:

- ◆ **As a resource for mediators.** Mediators will find rules, fillable forms, and continuing education materials posted. They will also find news about the Commission and the larger dispute resolution community. Those interested in becoming mediators will find certification information presented in a question and answer format and fillable applications for certification. Mediators who have been invited to address a community or professional organization will find lots of information to share with their listeners.
- ◆ **As a resource for parties and for lawyers.** Those seeking to locate a mediator, will find lists of both superior court and family financial mediators posted on-line. The lists can be searched by name of mediator if contact information is sought for a particular mediator; by city, to locate mediators who reside or work in a particular city; or by court district, to locate mediators

who live or work in a particular district.

In its next wave of enhancements to the site, the Commission plans to post mediator profiles with a key word search index. The Commission receives many calls from attorneys looking for mediators with particular education, experience or skills. Using a key word search index, attorneys and parties will soon be able to search the profile notebooks without the need to leaf through nearly a thousand pages.

Attorneys will also find that there are materials posted on the web that are specifically designed to educate litigants about the mediation process. It is a good place to refer clients both to provide them with new information or to reinforce information that the attorney has already relayed about the mediation process.

- ◆ **As a resource for court officials and staff.** Fillable judicial forms are posted and court staff will have immediate access to lists of certified mediators available for court appointment.
- ◆ **As a resource for mediation trainers.** Trainers will find information posted about applying for training program certification.
- ◆ **As a resource to help educate the public about dispute resolution.** Do you know a child or a college student looking for a term paper topic? The web site can provide insights and information about conflict resolution and the ways that mediation processes and programs benefit our courts and larger society.
- ◆ **As a time and money saver for the Commission.** By having lists of certified mediators and forms available on-line, the Commission

can significantly reduce its printing and mailing costs. In turn, this saves mediators' money. When costs remain low, certification fees do not increase.

Mediators can help the Commission keep its web site current and operating optimally by notifying staff of any changes in contact or availability information. Mediators should periodically monitor information posted for them on-line to ensure that it is current. Most importantly, mediators should make use of this resource. Funded by certification fees, it is intended first and foremost to serve mediators and to benefit them. Mediators with ideas for improving the web site are invited to contact Commission staff.

The Commission thanks the staff of the AOC's Technical Services Division and, most especially, Web Site Designer, Susan Hardaway, for their help in designing and implementing the Commission's new web site.

The Commission Cordially Invites Mediators to Visit its New Web Site
Address :
www.ncdrc.org.



Upcoming Commission Meeting Dates & Locations

The next meeting of the Dispute Resolution Commission is scheduled for March 7 in Raleigh. The meeting, beginning at 10:00 a.m., will be held in the Administrative Office of the Courts' Anderson Drive facility. For directions to Anderson Drive, you may contact the Commission's office.

The Commission's will hold its annual spring retreat May 16 and 17 in Wilmington. This meeting will be held in conjunction with the Dispute Resolution Section's Annual Meeting. The Commission will meet on Friday morning prior to the start of the Annual Meeting and follow-up with a breakfast meeting on Saturday. The Commission specifically scheduled this meeting to coincide with the Section's Annual Meeting in order both to give Commission members an opportunity to participate in an important educational event and to give mediators an opportunity to meet and talk with Commission members.

If you are planning to attend the Section's meeting, plan to stop by the Commission's meeting as well or to greet and talk with Commission members during the Section meeting. The Commission requests only that anyone wishing to attend the Commission meeting contact its office in advance so that seating needs can be accommodated.

Walker Will Remain Active on Commission

The Commission is delighted that its former Chair, Judge Ralph A. Walker, has agreed to remain active on the Commission as an ex-officio member. Judge Walker's second term as a Commission member expired late last year.

Judge Walker was an original member of the Commission and its first Chair. He served in both capacities for more than seven years. Current chair, J. Anderson "Andy" Little, noted that he is gratified that Judge Walker will remain active. "Judge Walker", Little observed, "provided tremendous leadership to the Commission during its formative years. His ongoing involvement will ensure continuity and allow us to benefit from his insights and considerable experience."

In addition to continuing to serve the Commission, Judge Walker will sit as an Emergency Judge and practice as a mediator and arbitrator.

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New Faces

opportunities to both learn about and to practice mediation skills. Ms. Seigle's background is in psychology and special education. She is an Advanced Practitioner member of the Association of Conflict Resolution with over 18 year's experience in working with families in crisis. Ms. Seigle, who resides in Raleigh, was appointed to the Commission by the President Pro Tempore of the Senate, Marc Basnight. She replaces Joseph L. Ray of Tabor City.



Good Luck, Yvette!!!

The Commission's office lost administrative assistant Yvette Hohenberger at the end of January. In the future, Yvette and her husband, William, will be snowbirds — dividing their time between Ohio, William's home, and Florida. Yvette has been a tremendous asset to the Commission, helping to launch certification efforts for the new Family Financial Settlement Program. Yvette, will be greatly missed, but, we hope to still see her from time-to-time as she and William travel between Ohio and Florida.

The Commission plans to move immediately to fill Yvette's vacant position. The Commission also plans to increase the hours for Sharon Corey-Laue, the Commission's remaining administrative assistant from 25 to 35 per week. In explaining the need for the increase, Mr. Little noted that the Commission's work has been growing steadily as interest in dispute resolution has increased around the State. He added that for the last seven years the Commission's office has been staffed on a part-time basis only and is open from 9:00 a.m. to 3:00 p.m. five days per week. "The Commission", he noted, "would like to have its office open more hours each week as a service to mediators, court officials and members of the Bar. Increasing Ms. Laue's hours, will enable the Commission to keep up with its workload and to be more accessible to all those we serve."

Commission Gains New Chair, Reorganizes, and Considers New Issues

Chief Justice I. Beverly Lake, Jr. has named mediator, J. Anderson “Andy” Little as Chair of the Dispute Resolution Commission. Mr. Little has been a member of the Commission since 1998. Upon the departure of Judge Ralph Walker, the Commission’s original Chair, Mr. Little was elected Interim Chair by vote of the Commission and served in that position until his appointment as Chair by the Chief Justice.

Mr. Little has been active in the dispute resolution arena for many years. He was instrumental in the establishment of both the Mediated Settlement Conference and Family Financial Settlement Programs. Mr. Little holds dual certification and actively mediates both superior and district court cases. He is also a trainer and the principal partner in Mediation, Inc. Mr. Little was recently re-appointed to membership on the State Judicial Council’s Dispute Resolution Committee.

Mr. Little resides in Chapel Hill with his wife Katie and their children. He is an avid golfer and the proud owner of a sail boat.

Since assuming leadership of the Commission, Mr. Little has sought to re-structure the Commission’s committees, including reducing their number. The re-structuring is aimed at making the Commission’s operations more efficient, at better utilizing Commission members’ time and at reducing costs. New Committees and their Chairs are:

Executive/Operations Committee
J. Anderson Little, Chair

Program Oversight Committee
Judge Judson D. Deramus,
Jr., Chair

**Mediator Certification and
Training Committee**
Barbara Ann Davis, Chair

**Standards and Discipline
Committee**
George G. Cunningham, Chair

Some of the issues that these new committees will be considering include:

- ◆ Should the Commission adopt a policy providing mediators with guidance on how long they should retain their files?
- ◆ What can the Commission do to address the increasing concerns of judges and judicial staff regarding the failure of mediators to file their Reports of Mediator timely with the court, to schedule mediations timely and to complete them within deadlines for completion set by the court?
- ◆ Should the Commission encourage judicial districts to adopt uniform rules for appointment of mediators?
- ◆ Can more be done to assist mediators with fee collection, *e.g.*, mandating the payment of deposits prior to mediation?
- ◆ Should the Commission seek to address conflicts issues, including whether scheduled mediated settlement conferences should take precedence over district court hearings?
- ◆ Should the newly adopted Uniform Mediation Act or portions of it be implemented in North Carolina?
- ◆ What can be done to minimize cuts to dispute Resolution programs in the face of the budget crisis?

◆ Whether the Commission should revise the Report of Mediator to require attorney signatures or the attachment of dismissals or consent judgments?

Do you have other issues you believe the Commission should consider? Please be sure to relay them to the Commission’s office.

Fee Collection Problems???

The Commission has adopted new forms to aid mediators with fee collection. In developing and adopting these forms, the Commission was responding to the many calls and inquiries it has received from mediators detailing the problems they have encountered in seeking to be paid for their services. AOC-CV-815, Motion for Show Cause Hearing, and AOC-CV-816, Order of Contempt for Non-Payment of Mediator’s Fee should help to expedite both your work in filing and the judge’s work in processing requests for payment of mediator fees. Information about the forms and how to access them have now been distributed to both superior and district court judges.

Both forms are available in fillable format on the Commission’s website at www.ncdrc.org. Click on “Judicial Forms” in the white rectangle at the top of the page, then enter the form number and click the “Search” button at the bottom of the page. The forms may be filled in on-line and then printed.

Additional fillable forms relating to dispute resolution may be accessed by scrolling down to “Mediated Settlement/DRC” on the “Category” option box. Click the “Search” button and the full complement of dispute resolution forms should appear. You may then access individual forms by clicking on them. Anyone with problems accessing the forms, should contact the Commission’s office.

DRC Member Undertakes Coast-to-Coast Bike Ride



In January, Commission member, Barbara Ann Davis, left on a coast-to-coast bicycle ride from St. Augustine, Florida, to San Diego, California. The ride will take over two months and Barbara will pedal 3,168 miles.

Barbara will be accompanied on her journey by four other women. Barbara and her friends are making their ride to raise money for cancer research. All of their lives have, in some way, been touched by cancer and they consider themselves “survivors”. Barbara lost her mother, Lea, to breast cancer and is dedicating her ride to her mother. Already, Barbara and her companions have raised more than \$12,500 from more than 200 contributors.



(Davis is second from the right.)

On their journey, the travelers will cross Florida, Alabama, Mississippi, Louisiana, Texas, New Mexico, Arizona, and California as they head west. They will spend their nights in the homes of friends along the way or in hotels.

Barbara has been training for the ride for a number of months. Her husband, Art Shuster, is a serious biker, who often rode with her as she

practiced on the Blue Ridge Parkway.

When asked about why she was would participate in such a grueling trek, Barbara noted that it was really the result of a confluence of events in her life — she was turning 50 and her only child had left for college. She wanted and was ready for a real challenge. That she could combine that challenge with an opportunity to raise money to combat a disease that had devastated her own family, made it a true win/win situation.

Barbara, who lives in Leicester, North Carolina, practices mediation in Asheville. She has been a member of the Commission since 1999. Anyone who would to follow Barbara along on her big adventure is invited to visit: www.rockmont.com/c2c. To make a contribution to the group’s fund raising effort, contact Barbara Davis c/o Coast to Coast, 14 Clayton Street, Asheville, NC 28801.

The members of the Commission and its staff wish Barbara and her friends a safe journey filled with memorable experiences. Good luck, Barbara!

New Members Added to Dispute Resolution Committee

The Administrative Office of the Courts has announced that new members, including a new chair, have been appointed to the Dispute Resolution Committee of the State Judicial Council. The Committee is charged with advising the State Judicial Council on policy matters pertaining to dispute resolution in the courts. The new members appointed are:

- ◆ The Hon. E. Lynn Johnson, Chair, (Senior Resident Superior Court Judge, District 12);

- ◆ The Hon. Robin Hudson (Court of Appeals);
- ◆ Jacqueline Clare (Raleigh mediator, Chair of the NCBA’s Dispute Resolution Section);
- ◆ Don McKee (Executive Director of the Mediation Network of North Carolina);
- ◆ Michael Haswell (Raleigh mediator); and
- ◆ Susan Cox (Charlotte mediator).

The DRC congratulates them on their appointment and wishes them well with the important work they will be doing.

Commission Loses Members

The terms of two long-time members of the Dispute Resolution Commission, Joseph L. Ray, a Tabor City attorney, and W. Lewis Sauls, a Whiteville mediator, expired late last year. Both Mr. Ray and Mr. Sauls had served two terms each and, as such, were not eligible for re-appointment. Mr. Sauls and Mr. Ray were original appointees to the Commission, having served as members since 1995.

Commission Chair, J. Anderson Little noted that the Commission deeply appreciates the contributions of both Mr. Sauls and Mr. Ray. “They were instrumental in helping to organize a new Commission and to flesh out its mission and role. They brought insight and experience to bear on Commission work. We will miss them.”

The Commission appreciates your reading *The Intermediary*. If you have suggestions for articles, want to contribute a piece, or want to comment on what you have read here, please contact the editor, Leslie Ratliff at (919) 981-5077.