



# Florida Mediation Institute

Volume V

## Ten Things a Mediator Should Not Do During Mediation

By Larry Langer, Esq

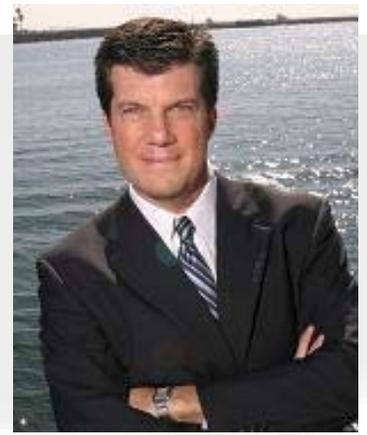
- 1) Humiliate one of the attorneys. If the attorney is mistaken on the law or an undisputed fact, attempt to correct the inaccuracy in a private side conversation so that he/she is not impugned in front of the client.
- 2) Reveal your pessimism too early. The parties may need you to be confident, inspiring, and hopeful. Be a leader. Under the right circumstances, pessimism may be needed to bring the party back to reality.
- 3) Discuss religion or politics in any but the most obtuse way.
- 4) Misidentify the real decision maker in the caucus room. It isn't always obvious.
- 5) Overdo the legalese. It may intimidate the lay people. If the parties you are trying to help are intimidated or think that you are condescending, you will lose rapport.
- 6) Be overly friendly with the attorneys in front of the lay parties. They may misinterpret your friendliness as bias.
- 7) Inject your personal views on credibility issues. You do not know what you do not know. In this same vein, nor should you pretend to know more about the law or the facts than you really do. When the truth comes out, you will look foolish.
- 8) Fail to give the lay parties a chance to fully express themselves during the caucus. Ok, so what they have to say may not be immediately relevant or useful. It's about making them feel important and allowing them to vent. Occasionally, the lay parties are more informative than the attorneys. Be an attentive listener.
- 9) Fail to make people comfortable. You control the process but you may not control the environment. Physical discomfort impedes attention and focus. Ask what you can do to help.
- 10) Leave your sense of humor at home. Humor can help diffuse tension, interrupt incipient anger, or reframe the parties' attitudes. Life isn't about perfection, laughing at our foibles humanizes us all.

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# Impasse is a Fallacy

## Mediation Strategies

By Lee Jay Berman



I often wonder who invented the concept of impasse. Who first said, "We are stuck, we cannot go any further."? And who decided that we should give it a name, acknowledge its existence, and make it the scapegoat for all that goes wrong with a mediation?

My guess is that it was the first mediator who had run out of tools. With imagination exhausted, someone threw their hands into the air and declared the negotiation over and decided it was time to send everyone home, declaring an impasse and deeming the mediation process, not just the session, to have failed.

For negotiators, reaching impasse can make sense, if you think about it. The goal in negotiation, after all, is to win. And the threat of impasse can sometimes be an effective tactic in achieving that goal. Commercial mediators, however, are hired to settle cases. In this world, impasse is a bad word. Moreover, I think it is a fallacy.

Achieving resolution, by definition, means either avoiding or breaking impasse. If an impasse can be broken, then it was not really an impasse. It was something else. But mostly, it was a dare. It was a temptation for the mediator to buy into the bluff that things were stopped dead in their tracks and it was time to give up.

Before examining the notion of impasse more closely, it is important to take a step back and realize that reaching successful resolution in mediation (i.e. avoiding impasse) begins at the very beginning of the mediation process, with convening, and continues until the agreement is signed. Furthermore, if a mediator's success can be defined by a successful outcome (which may oversimplify the entirety of the mediator's role, but ultimately is the primary goal in commercial mediation), then the mediator is responsible for managing every step of the process with an eye toward anticipating and avoiding the potential for an impasse later in the mediation.

### **Convening.**

Impasse often occurs because the right people are not in the room. Effective convening by the mediator - asking a lot of questions and being unafraid to push to better understand all of the dynamics of the negotiation - can avoid this reason for impasse.

Mediations can sometimes end abruptly when one participant has a time constraint. This can sound like, "It's 3:30 and I have to pick up my kids" or "I never thought it would last this long." This can be avoided by the mediator communicating to the parties his or her expectation about time availability. Good mediators ensure themselves an ample window of time, and manage the parties' expectations so that they do the same.

Another line that mediators often hear is, "That is all of the authority that I have." This is something that needs to be discovered during convening. Mediators need not be afraid to ask questions about authority and understand as much as possible about which individuals need to be involved in the ultimate settlement of a case. This is also the point in the mediation where arrangements need to be made (negotiated) for telephone availability of any decision makers who will not be in attendance. The common mistake is to try to arrange this at 5:00 p.m. on the day of the mediation as people are leaving their offices for the night. What is worse, is that 5:00 p.m. on the east coast occurs in the mid-afternoon in the western states. It is the mediator's job to work this out, to the greatest extent possible, during the convening stage.

*Continued, Page 3.*

## Preparation.

Preparation is critical to avoiding impasse, but in addition to the mediator, the lawyers and the parties must all be adequately prepared in order to reach a settlement. Each person needs to know enough about the case so that they can analyze settlement proposals and make informed decisions. Failure prepare, and failure by the mediator to attempt to ensure that the participants do their preparation, leads to an impasse that ends with, "We just don't know enough."

While informational impasse can be avoided by preparing adequately, and having the mediator facilitate the exchange of information prior to the mediation, it is part of the commercial mediator's role to help the parties stay on a settlement track and continue preparing for a return to mediation, rather than leaving with the idea that the mediation process has failed, and returning to the litigation preparation track.

Should this informational objection occur, the mediator has a responsibility to the parties to help them figure out exactly what critical facts they need to discover or what elements they need to research so that they will know enough to make an informed settlement decision. This level of preparedness varies greatly from defining what discovery is necessary to prepare for arbitration or trial. Sometimes this means a little bit of extra, key, written discovery. Other times it means another deposition or two to help figure out what key witnesses or experts will say.

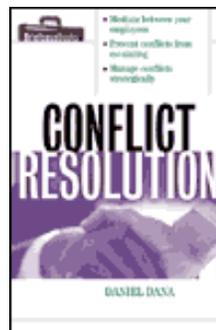
Once these items are agreed upon, then the mediator must turn the discussion to time, and how much time is necessary to complete this specific discovery and process it with decision makers (including insurance claims management, if necessary). The mediator and parties are then ready to agree upon a date to return to mediation to continue their settlement negotiation. The mediator's role never changes, regardless of what stands in the way of agreement. The mediator simply continues to facilitate agreement between the parties with an eye toward eventual settlement.

## Communication.

Impasses that simply cannot be explained often occur due to a failure during the communication stage. Simply stated, the mediator may not have discovered or addressed a party's underlying interests. When parties have underlying interests or emotional barriers to settlement, it is common for them not to know what is keeping them from settling. Impasses that result from emotions or unmet underlying interests sound like, "I just don't know. I just know it's not enough." or "I just don't understand why I need to pay that much."

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## Recommended Books:



### Conflict Resolution.

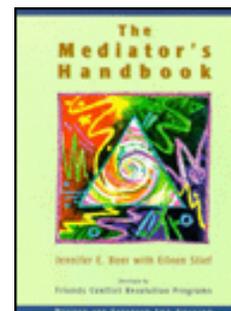
by Daniel Dana  
(McGraw-Hill)

This book covers everything from start to finish and it serves as an excellent introduction to the field as well as being well suited to self-help. Extremely easy to use and refer to.

### The Mediator's Handbook

by Jennifer E. Beer with Eileen Stief

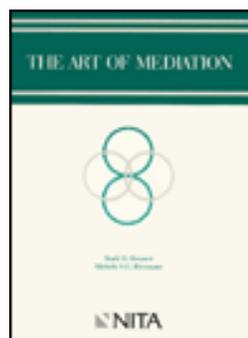
This is the classic source for mediators and dispute resolution professionals. The first half sets out the classic transactional model in its most tested form and the second half is filled with information on skills, tools and material useful to any mediator. The book is extremely useful.



### The Art of Mediation

by Mark D. Bennett and Michele S. G. Hermann  
(NITA)

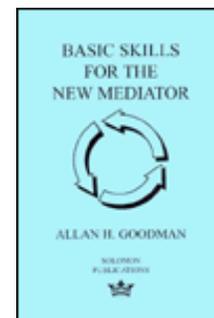
This book is the script for a forty hour mediation class, with some additional material as well. If you wanted to teach a class you could easily use this book.



### Basic Skills for the New Mediator

by Alan H. Goodman  
(Solomon Press)

This covers everything in mediation from start to finish. Each of the books I recommend has its own perspectives and approaches and each has a different style. Goodman rounds out the basic texts that you need in order to have a good foundation as a practitioner.



A good mediator knows that this can be the cue to revisit the underlying interests and the emotional resistance - the feelings that are keeping one person from reconciling themselves with the difficult decision that needs to be made. These feelings may be as straight forward as greed, revenge or ill feelings toward or about the other person, or they can be more subtle and complex, such as unwillingness to let go of a conflict and move on with life, unwillingness to let go of a relationship - such as it is - with the other person, or feeling that they are not being made whole for the pain or suffering they experienced (i.e. no amount of money can make them whole or restore what has been lost). These feelings need to be uncovered and addressed by the mediator early in the mediation and dealt with then, in order to avoid them getting in the way of a settlement in the later, more stressful stages. Most people attach emotions to conflict and need to reconcile themselves with letting go of those emotions before they can resolve the dispute.

Another emotional objection to settlement can be inexperienced participants (and even counsel) who fall in love with their cases. The best analogy is when a person sells their home. They love their home and think it is worth a lot of money because they believe it to be special and unique. However, they have to sell it in a marketplace that is well established, and that values it based on how it compares to other, similar houses. And, it never compares as favorably in an objective marketplace as the owner thinks it should. Enter the Realtor, who is supposed to give the seller a more objective opinion of value, but who has the incentive to stretch the valuation more toward the seller's in order to win the competition to list the house and have a happy seller, and ensure that the seller knows that the Realtor is on his or her side. However, in the end, the actual value of the house is only that which a buyer will actually pay for it in a market where there are other comparable houses available.

Lawyers and clients who fall in love with their cases, and who lose the ability to see them through objective eyes have to be reminded of the context in which they are attempting to place a value on the case. The context is an informed marketplace where most cases can be measured objectively, and where comparable cases can anchor their value to a norm which theoretically reflects a value based upon what a judge or jury would do, and what risks there might be at trial.

Most mediators can talk about the risks at trial, point out the weak points in a case, and discuss costs of litigation. A good mediator must also bring those people back to reality by reminding them of this objective marketplace in which this negotiation is occurring, and what that market will bear.

Finally, underlying interests can be non-emotional. For example, they can relate to finances or other, more tangible issues. Answers to these concerns, once uncovered, can sometimes take the form of payment terms or structured settlements. The mediation process can become very flexible and creative, but only once the parties' real interests are uncovered. However, creativity in mediation should be purposeful and in direct response to a party revealing an underlying interest.

## **Negotiation.**

Most of the rest of the reasons for impasse occur as a result of the negotiation process. The primary reason for impasse here is the mediator buying into the bluff. When one party says, "That is our bottom line", what they often mean is that they have not yet been convinced, or given enough information, to change that final position. That statement is heard by the seasoned mediator as, "Knowing what I know now, about the case and about the other party(ies), I am not willing to move from this position." It might also simply be a negotiation tactic to attempt to scare their opponent.

The first thing that seasoned mediators know is that the negotiation stage of the mediation begins during the convening stage, as we negotiate together who will attend, when and where the mediation will be held, and what authority will be needed in the room to bring about a complete settlement, and the negotiation continues until agreement is signed. Experienced mediators see every demand by a party, even as early as the convening stage, as a negotiation strategy.

What can be learned from this perspective is that a "bottom line" is usually just another strategy in the negotiation process. This is not to say that people are not being truthful when they announce a bottom line. Sometimes they are. This is not to say that mediators should not believe people when they say that a particular number is a bottom line or best and final offer.

# Meet the Board:



Juliet Murphy Roulhac is a Complex Litigation Trial and Appellate Lawyer in the Office of the General Counsel at Florida Power & Light Company. She has over twenty years of litigation experience and has litigated, mediated, arbitrated and tried a great variety of complex matters in many jurisdictions, and has also handled appeals. Ms. Roulhac earned both Bachelor of Arts and Juris Doctor degrees from the University of Florida. She was admitted to the Florida Bar and the U.S. District Court for the Southern District in 1988 and the Middle District in 1998. She is a Certified Arbitrator and previously served as a Lemon Law Arbitrator for the Attorney General. Ms. Roulhac is rated AV by Martindale-Hubbell's survey of her peers. She is very involved in Bar and community activities. In 2007, she was elected to serve on the statewide Florida Bar Board of Governors. She has served on the Executive Committee and has served as chair for Board committees. She is a member of the Dade County Bar Association, the Broward County Bar Association, the Wilkie D. Ferguson Jr. Bar Association, FAWL - Miami-Dade County Chapter, the Gwen S. Cherry Black Women Lawyer's Association, the Wilkie D. Ferguson Jr. Bar Association and the Florida Supreme Court Commission on Professionalism.

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*"Impasse," continued from page 4*

The seasoned mediator knows that this means that this is how they are evaluating the case under the present circumstances as they see them. The key to working through this barrier is to help them see things a different way.

While everyone in the room may be responsible for knowing, understanding and discussing the facets of the case (facts, law, cases, legal climate, and settlement marketplace), there is only one person in the room who is responsible for the big picture. That is the mediator.

The reason that the mediator is in sole charge of this is simple: behaviorists would say that the other participants are in a state of conflict. When people are embroiled in a conflict, their stress level is high and they tend to put blinders on, looking at nothing but the conflict. They can lose their peripheral vision which would otherwise allow them to see how this litigation or conflict fits into their everyday lives, their time, their budget, and their stress level. In days of old, attorneys were removed enough to give their clients this perspective. Today, some still are. But today's legal marketplace can demand that attorneys become just as embroiled in the case as their clients are.

What some lawyers gain in intimate knowledge, passion and advocacy effectiveness, they can lose in their ability to remain detached and able to see the big picture. The mediator is hired to be the one who is not in a state of conflict, and who is charged with remaining clear and mindful of the big picture, and helping the participants remain that way, too. Some mediators call it going to the balcony. I think one needs a larger perspective than that. A good mediator needs the ability to see the big picture of the case, the negotiation, and the big picture of the parties' lives and how this case impacts them, their families and their businesses. Injecting this perspective is one way that a case can be made to look different.

The key to the mediator helping the parties avoid most negotiating impasses is for the mediator to see them coming. This is the other reason it is critical for the mediator to have a perspective of the negotiation that more resembles that of a helicopter at 5,000 feet. If the negotiation steps by each party are not going to lead to a point of intersection or agreement, the mediator has to see this by the third or fourth move and help to choreograph the negotiation to foresee the potential for impasse and avoid it well in advance.

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Mediators can only do this if they understand the science of the math in a negotiation. Each number telegraphs a message. While the mediator should be carrying more than just a number from one caucus room to the other, there is still much more going on in the mediator's mind - namely calculating whether the parties are on track to get to an agreement. The mediator must have his or her eye on the finish line at every moment of the process. That finish line, of course, is an agreement containing all parties' signatures. Remember, the deal is not done when there is agreement on a number. The negotiation must include all of the settlement terms, including payment terms, confidentiality (if applicable), and other terms that are important to the parties.

This requires the mediator to be multi-tasking. The mediator must be compassionate and a good listener, while also rising high above the conflict to see the big picture of the negotiation strategies, and higher yet to question whether the present conversation is going to help everyone get to the finish line. The mediator must be calculating and extrapolating the progress of the negotiation numbers, as well as understanding the impact of the non-economic terms that need to be discussed, when to bring those terms into the discussion, and what impact they will have on the negotiation. The mediator must also be mindful of each parties' big picture - their real life and the rest of their business outside of this case, and when to bring those perspectives into the conversation.

Knowing that this bottom line objection may occur is what occasionally prompts some experienced mediators to keep a key case fact in their back pocket. Holding back a useful piece of information in anticipation of such a moment can help to overcome the, "I need more information" and the, "knowing what I know now," and, "The way the case looks to me right now" objections. It is an old adage that people do not change their minds, but given new information, they are free to make a new decision. This is another way of allowing people to save face and back down from that "final offer" statement by helping them to have a legitimate reason to move a little further.

Another negotiation impasse that can occur is one I call "Looking Sideways." This occurs when participants in the negotiation are paying more attention to what another party is getting, than whether an offer is in their own best interest. This frequently occurs when there are multiple parties on one side of the table - either multiple plaintiffs who will divide a settlement in some fashion, or multiple defendants, such as in construction defect and product liability claims where there can be dozens of defendants contributing to a global settlement. In this instance, one co-defendant will stake out a position that is completely dependent on another co-defendant's offer. For example, one subcontractor will say, "I will pay whatever so-and-so pays, but not a penny more." Or one co-plaintiff will object to a global settlement offer from the defendant(s) because it provides more money for another co-plaintiff than for them.

Looking sideways can also describe when a defendant becomes more concerned with the windfall to a plaintiff, rather than whether the settlement makes sense for them. This can sometimes be remedied by paying part of a settlement to a third party, such as a non-profit organization.

When parties are looking sideways, instead of at their own best interest, the mediator has to use an "above the fray" perspective to help that party keep their eye on the ball and decide whether their individual share results in a fair settlement to them, without regard for what others are doing. For example, if a single family construction defect case is settling for a global settlement of \$300,000, and one subcontractor with mid-sized exposure is contributing \$30,000 to the settlement, they can become more focused on whether another mid-sized subcontractor is contributing \$25,000 or \$35,000. The mediator's question to them, keeping the big picture in mind, is whether they are satisfied with a contribution of ten cents on the dollar of the global settlement. Chances are that setting the contribution in this context may make it seem fair and make sense to them, allowing them to explain it to others, if necessary.

## **The Agreement.**

Threat of impasse can also come about when the parties are writing the terms of the settlement agreement. One reason to be sure to write a settlement agreement at the end of the mediation, even over the parties' predictable resistance after hours of difficult negotiation, is because the exercise of writing the agreement forces the attorneys, in particular, to focus on the details of the agreement.

If a mediator has not inquired in advance about potential deal points such as confidentiality, payment terms, release language and who will be released, then this exercise can be like a ticking time bomb. Too often, deals blow up at the end where all parties think that they have reached agreement, only to find out that when they are tired and wrung out, frustrated and anxious to be done, there is a problem with a deal term.

Problems at this stage of the mediation are generally met with rock-solid positions, ultimatums, and emotional parties ready to walk away from the pending agreement unless they get their way, or "win," on this newly raised term. Experienced mediators have seen parties ready to walk away from a hard fought, yet fragile settlement over disagreement of a week or two in the time the settlement payment will be made. Emotions run high at this stage in the process, and the mediator owes it to the parties to anticipate this and gently raise and negotiate these deal points along the way, when the parties are still in the middle stage of their negotiation, and there is still a willingness to give-and-take.

In short, if a mediator can anticipate common causes for impasse, such as these, the mediator can help the parties to avoid the potential for impasse all together, and find their way directly to a successful resolution.

Finally, if it sounds like the author has all of the answers to avoiding impasse and settling cases, the fact is that even this mediator only settled 92% of the cases he mediated last year. And all of this learning comes from mediating over 1,000 cases over 12 years, and making every one of these mistakes. Learning, of course, comes from making mistakes and looking back to see, with the benefit of hindsight, what caused it and how to avoid it the next time. Mediators learn by experience - by time in the chair at the head of the table. And hopefully by reading articles that help them avoid such problems by knowing in advance where to look for these bumps in the road. Hopefully, readers will remember the next time they are staring at a situation that looks like a potential impasse, that they are simply not finished yet, and there is more to do. This just means that it is time to dig down deeper into their toolbox and find the right

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# Homo Mobilis: How Wireless Communication Connects and Changes Us

By Gerald Le Van, Esq.

In the April 12, 2008 *Economist*, Andreas Kluth surveys the effects of wireless communication on how we work, live, love, relate to places and to each other. These are some snippets from his survey.

We “urban nomads” (*homo mobilis*) are no longer defined by the clumsy gear we once carried, but by what we now leave behind. We are free from land lines, fax machines, even laptops. We communicate wirelessly. We carry very little paper. The old technological hassles about wirelessness have been mostly conquered. The new questions are sociological. Wirelessness is changing human interactions.

Travel is not a prerequisite for nomadism. Remaining permanently connected is the critical thing. Our basic tool is a mobile phone. Half the world’s population, 3.3 billion people, subscribe to mobile phone service.

Nomadism keeps us closer to those already close to us, but at the expense of attentiveness to strangers. Half of one’s text messages go to the same three or four people. Sociologists argue that we need not only “strong ties” with family and intimates, but also “weak ties” with casual acquaintances. “Weak ties” are the conduits for new ideas that travel between densely knit clumps of close friends and relatives. Social systems lacking “weak ties” will become fragmented and incoherent. The fatal epidemic raging in bee colonies resulting in reduced plant pollination comes to mind.

Wirelessness encourages adolescents to become socially autonomous earlier than their parents, building their own communities through text messaging and photo sharing among their cliques. With the advent of Facebook and MySpace the Web has become an intensely personal and social medium.

One survey at a Vermont college found that undergraduates communicate with their parents on average ten times per week. Getting drunk and lost after a party is somehow different now, when one push of a button speed dials parents for emergency assistance.

Wirelessness has changed the ways we shop, bank, listen to music, follow the news and socialize. Five of the ten best selling novels in Japan last year were written on mobile phones.

Wirelessness questions our need for conventional offices, even for Dilbert cubicles, though the casual serendipity of the water cooler may be missed. Knowledge nomads spend less than a third of their work time in offices, a third at home, and a third in “third places” such as parks, libraries, Starbucks or equivalent public spaces. Nomads don’t want to be isolated in obsolescent “home offices”. They want to mingle with others. Nomadism combines the autonomy of telecommuting with mobility that allows gregariousness and flexible work styles.

With fewer flesh meetings, staffs are more “purpose driven”, less obsessed with relationships at work. Some employees have no dedicated desk but “hotdesk” from any available. Many don’t come to an office at all. Older supervisors fear they can’t manage people whom they cannot see, though most get over it. Nomading necessitates management by objectives rather than by face time.

Nomadism can create considerable stress. We who work for ourselves have a tyrant for a boss. The danger is that the anytime, anyplace wireless office will lure us into a tiger cage: the everytime, everyplace office. In simpler times, most everyone worked at home. The village blacksmith didn’t separate the physical space devoted to work, family or play. Those once separated spheres of life may be merging again. Work and family have become all one big blur. Has the BlackBerry nestled in the bedroom?

Nomads constantly juggle the social rights of colleagues, relatives and friends, as well as their own needs for down time. How much should we bother each other after hours? The boundaries of etiquette are changing. Much wireless toil is done in public places not designed for work.

It’s routine nowadays to answer phone calls in movies, restaurants and public toilets – even at weddings and funerals. Rudy Giuliani famously interrupted a presidential campaign speech to take a personal phone call from home. Witnesses report that interruption turned his National Rifle Association audience into stone.

In the old days there were clear limits on personal productivity, whereas now there are none. Today people seem to judge what they *should* achieve by what they *could* achieve. More people feel inadequate, intimidated by the unlimited productive opportunities offered by wirelessness.

Nomads are driven by the illusion that more information always leads to better decisions. Wirelessness encourages addictive behaviors such as winnowing chaffs of email at all hours in hopes of finding an occasional grain. We seem obsessed to project an image of busyness. See my comments on “BlackBerry ADD”. Bluetooth ear pieces make our phones hands free, though we may appear delusional as we converse in public with an unseen someone.

In rich countries our “smart phones” are connected to the internet. Low-cost users, especially in poorer countries, rely on text messaging that doesn’t require an internet connection. In the third world, text messaging has become the standard for monitoring elections, the primary tool for mobilizing enormous crowds on short notice, for locating health care resources, and for environmental monitoring of carbon monoxide, ozone, pollen, sun intensity and temperature. By adding cheap sensors for the global positioning system (GPS) and for radiation, a network of mobile phones could discover nuclear leaks or track the transport of “dirty bombs.”

Some detect a new shift in language, thought and feeling resulting from wirelessness. Accepted grammar, syntax, spelling and punctuation are giving way to a linguistic whateverism. People write more than ever before, though the more we write wirelessly the worse writers we become. With quills, pens, even manual typewriters, people took time and care to clarify their thoughts. Nomads seem convinced that they don’t have time to care – they concentrate on speed alone. Students who can Google a snippet from Hamlet need no longer consult Cliff Notes.

Teachers complain that their students are *thinking* in snippets *i.e.* incoherently, having internalized the new whateverism. Young nomads write without thinking, leave home without planning, enter relationships without tying themselves down. Large parts of human interaction are relegated to the virtual. More and more adolescents dump their lovers by text message, or worse, by changing the status of their Facebook profile from “in relationship” to “single”. Such cyber-dumping may be efficient and instantaneous but it’s potentially traumatic.

# Some Thoughts:

“History has repeatedly been changed by people who had the desire and the ability to transfer their convictions and their emotions to their listener.”

Dale Carnegie

“Remember not only to say the right thing in the right place, but far more difficult still, to leave unsaid the wrong thing at the tempting moment.”

Benjamin Franklin

“The most basic of all human needs is the need to understand and be understood. The best way to understand people is to listen to them.”

Ralph Nichols

“Three reasons problems are inevitable; first, we live in a world of growing complexity and diversity; second, we interact with people; and third, we cannot control all the situations we face.”

John C. Maxwell

“Fundamental preparation is always effective. Work on those parts of your game that are fundamentally weak.”

Kareem Abdul-Jabbar

# Web Resources

The Mediation Institute has a website

<http://mediationinstitute.webs.com>

To find a mediator in Florida

[www.floridamediators.org/](http://www.floridamediators.org/)

For an overview of ADR, with definitions and advice, see **Kravis, Jeffrey. *Desktop Guide to Alternative Dispute***

**Resolution. Available at:**

<http://www.firstmediation.com/desktopguide/index.htm>.

A summary of Edward A. Dauer's, Manual of Dispute Resolution: ADR Law and Practice. This is a resource tool and guidance.

**"Manual of Dispute Resolution: ADR Law and Practice - Book Summary."**

**University of Colorado: Conflict Research Consortium.**

**Available at:**

<http://www.beyondintractability.org/books/summary/10157/>.

A view into the strengths of arbitration as a dispute resolution tool. **Grant, Leslie.**

**"What is Arbitration?." Available at:**

<http://www.mediate.com/articles/grant.cfm>.

Learn more about the annual conference at

<http://www.fwciweb.org/Conference.html>

"Homo Mobilis," continued from page 9

A generation ago, we worried that television was creating a generation of unimaginative couch potatoes, if not intellectual vegetables. Today's young nomads who read Shakespeare in snippets, may be creating an artistic culture more vibrant and arguably more imaginative than any preceding it. Creative types do more than stitch together snippets in a mash-together culture. They are forging new combinations almost as neurons and synapses create new thoughts.

Every new technology has created an excess of silliness. In time, each silliness has produced its own backlash and subsequent adjustment. Having invented the "on" button, *homo mobilis* nomads will likely discover an appropriate "off" button as well.

In the interest of full disclosure, some of these snippets from Kluth's survey were stitched together in a coffee house from a paper copy of the *Economist*.

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*Gerald Le Van is a trust and estates Lawyer, former law professor and corporate counsel. He has successfully resolved family disputes about wealth and business since 1986. A prolific writer, he is often quoted in the business press, speaks frequently to business and professional groups and is a dedicated coach and mentor to others in the field. [glevan@uww-adr.com](mailto:glevan@uww-adr.com); 800-863-1462.*

References:

<sup>1</sup> [http://www.levanco.com/newspaper/blackberry\\_ADD\\_1.php](http://www.levanco.com/newspaper/blackberry_ADD_1.php) and [http://www.levanco.com/newspaper/blackberry\\_ADD\\_2.php](http://www.levanco.com/newspaper/blackberry_ADD_2.php)

## Save the Date:

### August 24, 2011

### Many hours of CME

### Many hours of CLE included in the program registration on

### August 22-23

# Florida Mediation Institute

## August 24, 2011 Mediation Program:

**8:00 - 8:50 REGISTRATION AND CONTINENTAL BREAKFAST**

**8:50 - 9:00 WELCOME AND INTRODUCTIONS**

**9:00 - 10:40 GENERAL SESSION**

### **KEYNOTE PROGRAM, DESIGNING THE MEDIATION**

Rod Max, *Attorney and Mediator*  
*Miami, Florida*

If you don't know where you are going, how do you know when you get there? Planning is an essential element of every successful endeavor in the professional world, why should a mediation be any different? It is critical to make a careful plan, identify the route you will take and understand the obstructions that may impede your progress. Rod Max and a panel of veteran attorneys will help you with the preparation techniques that will make your mediations successful for you and your clients. This session is two credit hours of "general."

### **10:45 - 11:35 BREAKOUT SESSION ONE, SELECT FROM THE FOLLOWING:**

#### **"ETHICAL ISSUES IN CLOSING THE DEAL."**

Michele Riley, *Attorney and Mediator*  
*New York, New York*

Every mediation presents ethical considerations. The perspectives and conflicts of multiple parties and their representatives make each mediation a unique challenge. Michele is familiar with the challenge from years of experience as a mediator and as an instructor at the International Center for Cooperation and Conflict Resolution, Columbia University. Michele brings an understanding of recognizing and avoiding ethical conflicts while guiding the parties to resolutions. This session is one credit hour of "ethics."

#### **"APPLYING DALE CARNEGIE TO MEDIATION."**

**DR. BEVERLY PENNACHINI**, *Dale Carnegie of Central Florida*  
*Orlando, Florida*

The Dale Carnegie method is a time proven communication and presentation process. The process focuses on applying foundational principles to reduce stress, measurably improve confidence, communications, and interpersonal skills of individuals and teams. The successful mediator must effectively communicate and works in an environment that requires effective formation of relationships and consensus. This session is one credit hour of "general."

## “CONFLICT RESOLUTION”

Dr. Deri Joy Ronis, *Mediator*  
Sarasota, Florida

This program will provide practical approaches to working with situations involving anger and violence issues. Attendees will understand methodologies for identifying the presence of these issues, and effectively interacting with the individuals who are affected by them, with a focus on navigating these critical obstacles and accomplishing resolution despite them. A successful mediator recognizes impediments to the process and perseveres. This program reinforces the skills to do so effectively. This breakout is one credit hour of “general.”

## “MEDIATOR ETHICS.”

Ross W. Stoddard, III, *Attorney-Mediator (civil & probate)*  
Irving (Las Colinas), Texas

Mediators often experience ethical dilemmas and difficult situations during mediations, putting them between the proverbial “rock and a hard place.” This *highly interactive* session will cover some of the challenging issues which confront mediators during mediations – from the beginning of the day to the final caucus. The objective is to provide each participant with some useful and usable tips which will be available to them in their next mediations. This session is one credit hour of “ethics.”

## 11:35 - 12:35 GENERAL SESSION: LUNCHEON PROGRAM, DEVELOPING RAPPORT WHEN THE MEDIATOR IS CROSS- CULTURALLY CHALLENGED

Robert Dietz, *Attorney and Circuit Civil Mediator,*  
Orlando, Florida

How does a mediator develop rapport with ethnic parties and attorneys when the mediator is too male, too pale, and too stale? Gender and cultural issues arise in more and more mediations, and some mediators are ill-prepared to maximize the chance for success by developing rapport. Robert Dietz will share anecdotes from his own and other mediators' and attorneys' experiences, and from some popular movies, to illustrate the necessity of cultural fluency in today's mediations. There's nothing trivial about building rapport with disputants and their representatives from other cultures. This session is one credit hour of “diversity.”

## 12:40 – 2:20 BREAKOUT SESSION TWO, SELECT FROM THE FOLLOWING:

### “DIFFICULT CONVERSATIONS.”

Kim Kim, *Attorney and Mediator,*  
St. Louis, Missouri

The practice of mediation is filled with difficult conversations—things the parties do not want to hear and certainly do not want to credit with any merit. The best-seller “Difficult Conversations,” initially published in 2000, has just released a second edition with even more practical suggestions for understanding why those conversations are so tough and how to prepare for them. While there is some soul-searching to be done to determine why a conversation is causing you anxiety, the remainder of the presentation will focus on new ways to analyze the parties and their behavior, thus enabling you to move them towards settlement. The book has great ideas for making difficult conversations a bit less difficult. The presentation will apply the principles detailed in the book to real life mediation situations and give mediators advice for meeting the challenges of those very difficult conversations. This session is one-hour of “general” credit.

## **“AVOIDING PESSIMISM IN MEDIATION.”**

John Trimble, *Attorney and Mediator,*  
*Indianapolis, Indiana*

All of us who attend mediation on a regular basis soon come to realize that pessimism is one aspect of mediation that occurs in *every* mediation session. We learn that if we let pessimism cause us to quit, we would never settle anything. However, pessimism on the part of the parties and their counsel (coupled with impatience) can prevent success. Parties frequently come to mediation with a pessimistic view of the potential for success. Even optimistic or neutral parties can become pessimistic after the first demand and offer or as the negotiation proceeds toward apparent impasse. John will provide guides, principles and tools for addressing pessimism and getting past it. This session is one-hour of “general” credit.

## **THE ABUSIVE USE OF TECHNOLOGY WITHIN DOMESTIC VIOLENCE**

Haley Cutler, *Manager of Professional and Community Education,*  
*Women In Distress of Broward County, Inc., Ft. Lauderdale, Florida*

The presence or history of domestic violence may compromise the integrity of the mediation process. This workshop will identify the effects of modern technology on domestic violence. Recognizing the impact when these otherwise benign tools are used in inappropriate, threatening, and intimidating ways is an important tool for any mediator in the Twenty-First Century. Mediators will leave this training greater understanding of the tools themselves, and the spectrum of potential misuses and abuses that can effect mediation participants and diminish probabilities of success. This session is one-hour of “domestic violence” credit.

## **“MEDIATOR ETHICS PANEL.”**

Moderator: Ross W. Stoddard, III, *Attorney-Mediator (civil & probate)*  
*Irving (Las Colinas), Texas*

Panel: Donna Doyle, *Attorney and Circuit Civil Mediator, Orlando, Florida*  
Clem Hyland, *Attorney and Circuit Civil Mediator, Orlando, Florida*  
Juliet Roulhac, *Attorney and Circuit Arbitrator, Miami, Florida*

Mediator ethics may be the last topic any of us want to study, but the unique and “neutral” role of the modern mediator is rife with challenges that are waiting to ambush even the most conscious and ethical mediator. This panel brings to the subject almost 100 years of legal practice, and perspectives of the litigator, the corporate counsel, and the mediator. Panels of this breadth and depth are rare and exceptional. Come discuss those thorny issues and your perspectives with an incomparable panel of experts. This session is one-hour of “ethics” credit.

## **2:25 – 3:15 BREAKOUT SESSION THREE, SELECT FROM THE FOLLOWING:**

### **“ETHICAL ISSUES IN CLOSING THE DEAL.”**

Michele Riley, *Attorney and Mediator*  
*New York, New York*

Repeat of 10:45 a.m. session, see above.

### **“APPLYING DALE CARNEGIE TO MEDIATION.”**

Dr. Beverly Pennachini, *Dale Carnegie of Central Florida*  
*Orlando, Florida*

Repeat of 10:45 a.m. session, see above.

### **“CONFLICT RESOLUTION”**

Dr. Deri Joy Ronis, *Mediator*  
*Sarasota, Florida*

Repeat of 10:45 a.m. session, see above.

### **“MEDIATOR ETHICS.”**

Ross W. Stoddard, III, *Attorney-Mediator (civil & probate)*  
*Irving (Las Colinas), Texas*

Repeat of 10:45 a.m. session, see above.

## **3:20 – 5:00 BREAKOUT SESSION FOUR, SELECT FROM THE FOLLOWING:**

### **“DIFFICULT CONVERSATIONS.”**

Kim Kirm, *Attorney and Mediator,*  
*St. Louis, Missouri*

Repeat of 12:40 p.m. session, see above.

### **“AVOIDING PESSIMISM IN MEDIATION.”**

John Trimble, *Attorney and Mediator,*  
*Indianapolis, Indiana*

Repeat of 12:40 p.m. session, see above.

### **THE ABUSIVE USE OF TECHNOLOGY WITHIN DOMESTIC VIOLENCE**

Haley Cutler, *Manager of Professional and Community Education,*  
*Women In Distress of Broward County, Inc., Ft. Lauderdale, Florida*

Repeat of 12:40 p.m. session, see above.

### **“MEDIATOR ETHICS PANEL.”**

Moderator: Ross W. Stoddard, III, *Attorney-Mediator (civil & probate)*  
*Irving (Las Colinas), Texas*

Panel: Donna Doyle, *Attorney and Circuit Civil Mediator, Orlando, Florida*  
Clem Hyland, *Attorney and Circuit Civil Mediator, Orlando, Florida*  
Juliet Roulhac, *Attorney and Circuit Arbitrator, Miami, Florida*

Repeat of 12:40 p.m. session, see above.

# To Attend the Florida Mediation Institute Program, You Must Complete this Form, and only this Registration Form. Attendance at the entire FWCI program is included in your Florida Mediation Institute Registration.

If you have already registered for the FWCI program, for administrative purposes, you must still complete the top portion of this form, and return to FWCI with this box checked.

Name First Name for Badge

Business Mailing Address

City State ZIP

Telephone Number Fax Number Email Address

#### Hotel Accommodations:

For your convenience a block of sleeping rooms has been reserved at the Orlando World Center Marriott for this event. Please complete the following information and a reservation will be processed for you. The sleeping room rate is \$164. Cut-off August 1, 2011.

Number of Rooms \_\_\_\_\_ Smoking Non-smoking

Arrival Date 08/\_\_\_\_/2011      Departure Date 08/\_\_\_\_/2011

Check here if you have special needs that require attention.

Registration Fee: \$225.00

Method of Payment:  Check  Mastercard  VISA  American Express  Discover

Credit Card Account Number      Expiration Date      CVV      Signature

Make Checks Payable To: Florida Workers' Compensation Institute;      FEIN # 26-4598530

Online Registration Is Available on June 15, 2011 at [www.fwciweb.org](http://www.fwciweb.org) (Click on "conference").

Registration: To register, mail the completed registration form, along with credit card information (VISA/MC/AmX/Discover) or a check made payable to: Florida Workers' Compensation Institute, P.O. Box 200, Tallahassee, Florida 32302-0200; fax form to (850)521-0222; or register online at [www.fwciweb.org](http://www.fwciweb.org). Registration for the Mediation Program will include conference handout materials, access to the exhibit area, Monday night reception, and participation in all educational opportunities of the Annual Workers' Compensation Educational Conference. For more information, contact the Florida Workers' Compensation Institute at (850) 425-8156 or 425-8155.

## **Mediation Institute 2011 Faculty:**

### **Haley Cutler**

Haley Cutler is the Manager of Professional and Community Education at Women In Distress of Broward County, Inc. (WID). Before joining the WID team in March of 2009, Haley worked as the Prevention and Social Change Initiatives Coordinator at the Florida Coalition Against Domestic Violence. She earned a bachelors degree from Florida State University (FSU) in Sociology and Women's Studies. On campus and in the community, Haley has been involved in many organizations and activities aimed at bringing marginalized voices to the center, building collaboration and creating change. At WID, she is responsible for providing domestic violence awareness and prevention education to community members and professionals serving this community. Haley is passionate about social change and she is committed to creating a violence-free future.

### **Robert Dietz**

Robert Dietz is the President of the Florida Mediation Institute. He has defended workers' compensation cases for over twenty-five years throughout the state of Florida. He was board certified by The Florida Bar in 1992 in workers' compensation law and became a Florida Supreme Court Certified Circuit Civil Mediator in 1995. He has mediated over 1,300 workers' compensation cases throughout Florida. In addition to defending insurance companies, self-insured companies and third party administrators, Robert has handled premium disputes and rate classification challenges. He has partnered with companies in litigation management and oversight, as well as in risk management evaluations. He has assisted in establishing mediation programs and is a frequent lecturer and writer on workers' compensation and mediation.



Robert has been recognized by his peers in his selection to numerous national and state positions including National Chair of the ABA TIPS Workers' Compensation & Employer Liability Committee and President of the Florida Defense Lawyers' Association (the only workers' compensation practitioner ever elected). His induction as a Fellow of the College of Workers' Compensation Lawyers in 2008 was only the second Floridian ever selected. He was also invited to join the International Association of Defense Counsel in

2005, and was the first Floridian elected to the national board of directors of the Association of Attorney-Mediators. He is currently serving as the DRI State Representative and is a member of the Florida Academy of Professional Mediators. Robert received his B.A. with Honors from Eckerd College in St. Petersburg, Florida and his J.D. from Vanderbilt University in Nashville, Tennessee.

### **Donna Doyle**

Donna Canina Doyle is a shareholder with Mediate First. She has been a Florida Supreme Court Certified Circuit Civil Mediator since 1995. Ms. Doyle has over 10,000 hours of mediation experience. Ms. Doyle mediates the following types of cases: personal injury, wrongful death, automobile liability, premises liability, medical and professional negligence, nursing home/assisted living facility liability, products liability, governmental liability, civil rights, police liability, labor and employment law, sexual harassment and discrimination, first and third party insurance matters, property damage, hurricane claims, sink hole and mold claims, PIP litigation, appellate matters, commercial litigation, construction litigation, eminent domain, admiralty and global / multiparty competing claims. Ms. Doyle also mediates cases pending in the U.S. District Court for the Middle District of Florida and the Fifth District Court of Appeal. Ms. Doyle practiced civil trial litigation for over 20 years before leaving the law practice to mediate full time. While in private practice, Ms. Doyle tried cases in both Federal and State Courts. She argued cases on Appeal at the State and Federal levels. She litigated many of the same types of cases she mediates. Ms. Doyle was one of the founding members of the law firm of Meier, Lengauer, Bonner, Muzynski & Doyle, P.A. She also served as a partner/participating member with the law firms of Hurley & Rogner, P.A. and Eubanks, Hilyard, Rumbley, Meier & Lengauer, P.A. Ms. Doyle has lectured for professional organizations sponsored by both plaintiff and defense organizations on the topic of effective mediation techniques, for which CLE credit was provided.



Ms. Doyle has been a longstanding member of The Florida Bar and the Orange County Bar Association. She is also a member of the Florida Association of Professional Mediators and the Association for Conflict

Resolution. Ms. Doyle was a member of the original class of mediators trained to mediate appellate disputes in the Fifth District Court of Appeal mediation program. Stetson University College of Law, Juris Doctor with honors 1983 (Associate Editor of Stetson Law Review, Dana Law Scholar and two time winner of Elizabeth Lehman Award given to best student article in Law Review).

## **Kim Kirn**

Kim L. Kirn is an attorney devoting her practice exclusively to alternative dispute resolution. She has spent thousands of hours mediating cases in the areas of labor, employment, personal injury, contractual and other civil disputes and boasts a very high success rate. Kim mediates with US Arbitration & Mediation-Midwest (US A&M) the Equal Employment Opportunity Commission (EEOC) the Greater Gateway Association of Realtors; the Realtor Association of Southwestern Illinois and is an eligible mediator for the Illinois Educational Labor Relations Board (IELRB) and the Missouri Department of Elementary and Secondary Education (DESE). She arbitrates cases for Madison County courts, the American Arbitration Association (AAA), the Financial Industries Regulatory Authority (FINRA) and the National Futures Association (NFA.) Additionally, she frequently acts as a Fact-Finder for the State Universities Civil Service System. Her web site is [www.kirnmediation.com](http://www.kirnmediation.com).



Prior to joining US A&M, Kim practiced law with Lord, Bissell and Brook where she focused on securities litigation, insurance coverage and legal malpractice disputes. Additionally Kim served as legal counsel for Southern Illinois University Edwardsville (SIUE) and the Illinois State Comptroller concentrating on real estate, medical malpractice, tort and employment litigation. She has also taught senior level Business Law and Ethics courses.

She has written numerous legal articles on tort litigation, sexual harassment, privacy in the workplace, mediation and arbitration published in the St. Louis Lawyer, Illinois Bar Journal and American Jurisprudence Proof of Fact. Kim is an honors graduate of University of Missouri-Columbia and University of Notre Dame Law School. She served as a publicly elected Glen Carbon Library Trustee and coach of her son's 1<sup>st</sup> grade soccer team.

## **Clement Hyland**



Clement L. Hyland is a Florida Supreme Court certified circuit court mediator, a certified mediator for the U.S. District Court for the Middle District of Florida, a Fifth District Court of Appeal Approved Mediator, a Florida Supreme Court qualified arbitrator and the owner of Hyland Mediation, LLC, ([www.hylandmediation.com](http://www.hylandmediation.com)) in Orlando. Prior to becoming a full time mediator and arbitrator in July 2007, he represented individuals (Morgan & Morgan) and corporations and insurance companies (Zimmerman, Kiser and Sutcliffe) in cases involving personal injury, commercial and labor and employment matters in state, federal and appellate courts for more than 33 years. Mr. Hyland earned his B.A. degree from St. Lawrence University, J.D. degree from DePaul University and LL.M. degree from George Washington University.

## **Rodney Max**

Rodney Max has been selected and appointed for hundreds of mediations involving opt-outs in the Prudential national class action filed in the U.S. District Court of New Jersey (Judge Alfred M. Wolin). He has been selected as the Compliance Officer in the implementation of the Aetna / HMO national class action in the U.S. District Court of Florida (Judge Moreno). He has been selected and appointed to successfully mediate the largest class action in US history (Fresco v. USDC, SD FL - Judge Martinez) Rodney has also served as mediator / arbitrator in a number of major cellular phone industry cases (e.g. Judge Graham, U.S. Southern District Court).

Mr. Max has authored numerous articles on mediation for professional journals and seminars, and is a noted speaker on mediation throughout the country. Among the honors that Mr. Max has received on both a professional and personal level are: Distinguished Fellow of American College of Civil Trial Mediators, Law and Politics' Super Lawyers of both Florida and Alabama for mediation and ADR, and the 1998 NCCJ Brotherhood Award for Outstanding Community Service.



## **Dr. Beverly Pennachini**

Dr. Beverly Pennacchini is a Master Trainer with strong operational business experience. Dr. Pennacchini became a partner of the Central Florida Franchisee on January 1, 1986. An Entrepreneur, She started a retail business that grew to over \$7,000,000.00 in gross revenue annually. That business is currently operating in Michigan today. She also owned and operated Body Images Day Spa in Longwood, Florida for 8 years; and currently is the Broker/Owner of Xclusive Realty International.



As President of Dale Carnegie Training of Central Florida, she works directly with clients needs, supports Sales, recruits Trainers, and develops the Sales and Trainer Team. Dr. Pennacchini's experience ranges from sales and delivery to executive training and coaching. She has worked with client organizations in addressing critical training and coaching needs, including High Impact Presentations and Leadership. Over the years, she has worked with companies in Manufacturing, Engineering, Technology, Government, Medical and Aeronautics. Among her many clients have been: Boeing, Oracle, General Motors, Chrysler, Florida Hospital, Bank of America, HDR Engineering, AT&T, Hospice, Schools, Daytona International Speedway and the Big Brother/Big Sister Organization of America. She has

trained all branches of the United States Military (USAF, USMC, Navy, U.S. Army, U.S. Coastguard and several Government Organizations, including the Marion County Sheriff's Department.

## **Michele S. Riley**

Michele S. Riley is a mediator and arbitrator, handling disputes in the areas of commercial transactions, mergers & acquisitions, employment law, corporate governance and general corporate law. As a member of its National Roster of Neutrals, she mediates a wide range of business disputes for the American Arbitration Association. As a court-approved mediator, she mediates litigated cases in the court-annexed Alternative Dispute Resolution (ADR) Programs of the New York State Supreme Court, Commercial Division, and the Federal district courts in New York. She also arbitrates securities and employment disputes for the Financial Industry Regulatory Authority (FINRA).

Ms. Riley complements her ADR practice by teaching courses in conflict resolution theory and practice at the International Center for Cooperation and Conflict Resolution, Columbia University. She currently serves on the Advisory Board of the Commercial Section of the Association for Conflict Resolution and is a recent past co-chair of that section. She is also a member of the ADR Committee of the New York City Bar and the Dispute Resolution Section of the American Bar Association. Before starting her ADR career, Riley practiced law for more than 20 years. She has extensive international experience in cross-border commercial transactions, representing clients while working for law firms in both New York and Tokyo, Japan. She is a former General Counsel of a U.S.-based subsidiary of Toyota Motor Corporation. Riley holds an M.A. in East Asian Studies from Yale University and a J.D. from Georgetown University Law Center. Her academic credentials also include a professional certificate in Conflict and Dispute Resolution from the Center for Finance, Law and Taxation at New York University.



## **Dr. Deri Ronis**



Dr. Ronis is a professor at Lynn University, The Union Institute, and the College of the Bahamas, Nassau. She is a Doctor of International Peace Studies and Conflict Management, and holds a number of certifications in addiction, counseling, hypnosis and education. She has been providing innovative seminars, talks and workshops for over two decades. Her pioneering work in Conflict Resolution and Peace Psychology has been presented to individuals from all walks of life. They are found in educational organizations, psychological associations, corporations ranging from the service industry to hospitality, spiritual and religious organizations, and the entire field of conflict resolution/alternative dispute resolution. She is a Florida Supreme Court Certified Family and County Mediator, providing mediation in many settings including schools, families and business. As a licensed counselor, she provides individual and group counseling on a variety of issues ranging from her specialization in anger management to behavioral enlightenment. She has served as a Rotary International Scholar

Professor and Goodwill Ambassador at Galen University in San Ignacio, Belize.

## **Juliet Roulhac**

Juliet Murphy Roulhac is a Complex Litigation Trial and Appellate Lawyer in the Office of the General Counsel at Florida Power & Light Company, a Fortune 200 company and one of the largest utilities in the country. Ms. Roulhac has over twenty years of litigation experience and has litigated, mediated, arbitrated and tried a great variety of complex matters in many jurisdictions, and has also handled appeals on her cases. She is also on her company's Corporate Compliance team, and deals with various compliance issues regarding records management. Ms. Roulhac accomplished both Bachelor of Arts and Juris Doctor degrees from the University of Florida. She was admitted to the Florida Bar and the U.S. District Court for the Southern District in 1988 and the Middle District in 1998. Ms. Roulhac is a Certified Arbitrator and previously served as a Lemon Law Arbitrator for the Attorney General. She has achieved Martindale-Hubbell's highest AV rating as determined by her peers. Ms. Roulhac is very involved in Bar and community activities. In 2007, she was elected to serve on the statewide Florida Bar Board of Governors. She has served on the Executive Committee and has served as chair for Board committees. She previously served on the Florida Bar Board of Governors as the President of the Young Lawyers Division. In that position she also served on the Executive Committee of the Florida Bar Board of Governors. Ms. Roulhac's Florida Bar activities include Board liaison/memberships in the Florida Bar's Judicial Evaluation and Administration Committee and the Equal Opportunity in Law Section (Executive Board member). She has previously served on the Judicial Administration Selection and Tenure Committee (Vice Chair), the Federal Practice Committee, the CLE Committee, the Pro Bono Committee, and the Florida Bar's Citizen's Forum. She is a member of the Dade County Bar Association, ( former Affiliate Board Member), the Broward County Bar Association (former Board Member), the Wilkie D. Ferguson Jr. Bar Association, FAWL – Miami-Dade County Chapter, the Gwen S. Cherry Black Women Lawyer's Association, the Wilkie D. Ferguson Jr. Bar Association and the Florida Supreme Court Commission on Professionalism.



## **Ross Stoddard**

Ross W. Stoddard, III is an attorney-mediator who was born in 1950 and raised in Denison, Texas. In 1972, he received his Bachelor of Business Administration, with honors, from Southern Methodist University ("SMU") in Dallas, Texas. In 1975, he received his Doctor of Jurisprudence from the University of Texas School of Law. Ross served for four years (1976-1980) in the United States Air Force, as law clerk to the federal Administrative Judges of the Armed Services



Board of Contract Appeals in Washington, D.C., and as staff attorney to the U.S. Contracting Center in San Antonio, Texas. Since becoming licensed in 1975, Ross has practiced law in the Dallas, Texas, area as a sole practitioner and with associate lawyers in his firm. His experience as a lawyer is in both litigation and transactions, in a broad range of areas of civil law, including business, contracts, partnerships, corporations, joint ventures, investments, commercial, real estate, personal injury and consumer protection. He has an A-V rating from Martindale-Hubbell. Since 1989, Ross has developed a full-time mediation practice, having conducted nearly 4,000 mediations involving over \$25 billion in aggregate claims in a wide variety of matters. His practice primarily involves serving as mediator of cases in civil litigation, both at the request of various state and federal courts, as well as at the request of parties and counsel. He also serves as mediator in pre-litigation disputes and business negotiations. Ross conducts 170 - 200 mediations per year. He has served on the faculty of the Basic and Advanced Mediation Training Programs sponsored by the American Bar Assoc. ("ABA"), American Academy of

Attorney-Mediators, Inc. ("The Academy"), Assoc. of Attorney-Mediators ("AAM"), Indiana and Arkansas Bar Associations, and Attorney-Mediator Institute ("AMI"). He is a co-founder, director and faculty member of The Academy. Ross has participated in the training of over 1,500 attorneys, mediators and judges throughout the U.S. and Canada, and over 500 hours of courses in mediation and negotiation. He authored the chapter on the use of ADR in tort disputes in *The Litigator's Handbook*, published by the ABA Section of Litigation. Ross also teaches the *Effective Negotiations - Strategies, Tactics and Ethics* and *Global Business & Int'l Trips* courses in the SMU Executive MBA Program and the *Negotiations* course in the Independent Petroleum Assoc. of America's *Executive Leadership Program*. He is licensed to practice law before the U.S. Supreme Court, U.S. Court of Federal Claims, U.S. Court of Customs and Patent Appeals (formerly), U.S. Court of International Trade, U.S. Tax Court, U.S. Courts of Appeal of the 5<sup>th</sup>, 11<sup>th</sup>, Federal and D.C. Circuits, U.S. Court of Appeals for the Armed Forces, U.S. District Courts of the Northern, Southern, and Western Districts of Texas, Texas Supreme Court and all state courts of Texas.

## Gary Toole



Gary Toole serves as national, regional and local counsel for domestic and foreign product manufacturers and excess insurance carriers in catastrophic injury cases throughout the United States. He has served as lead trial counsel in trials involving catastrophic injury cases in California, New Mexico, Louisiana, Alabama, Mississippi, South Carolina, Texas, and Florida. He also assists domestic manufacturers in coordinating discovery throughout the United States and with its foreign subsidiaries. He is admitted to all of the Florida Courts, each of the three Florida Federal Districts, and the Eleventh Circuit. Gary has been honored by Best Lawyers in America and Orlando's Top Legal Eagles. He is a graduate of the University of Alabama and University of Alabama Law School. Gary is a member of the Orange County Bar Association, American Bar Association, Tort and Insurance Practice Section (TIPS), Florida Defense Lawyers Association, Society of Automotive Engineers, Defense Research Institute, Product Liability Committee, and International Association of Defense Counsel (IADC). In 2009, he served as a Faculty Member at the IADC Trial Academy, Stanford University.

## John Trimble

John maintains a practice that is dominated by catastrophic, complex, and class action litigation in the State and Federal Courts. He focuses much of his time on insurance coverage disputes, bad faith defense, lawyer and insurance agent malpractice, business litigation, and catastrophic damages caused by all types of casualty risks, including transportation, construction, product liability, fires, and governmental liability, to name a few. He has also argued numerous appeals in the State and Federal appellate courts as counsel and as amicus counsel for lawyer and trade associations. Through the years, he has been admitted pro hac vice in more than 20 jurisdictions, and is frequently hired by out-of-state firms to serve as local counsel in Indiana. In the last 20 years, John has earned a reputation as one of Indiana's most sought after mediators. Because of the complexity of his litigation practice, John keeps the mediation to a manageable level, but he is frequently appointed by judges and hired by lawyers to mediate some of Indiana's largest and highest profile cases. He is also frequently named as an arbitrator in bodily injury, business dissolution, employment, and commercial disputes. For many years, John has distinguished himself as a bar leader. He has been president of the state defense bar, and was named Defense Lawyer of the Year in 1991. He has also served on the Board of Directors of DRI, the largest national association of defense lawyers. In 2000, DRI named John its outstanding defense bar leader of the year. More recently, John has chaired DRI's national Judicial Task Force to explore and offer recommendations on how DRI can assist in maintaining a fair and impartial judiciary.



# Save the Date:

## August 24, 2011

### Many hours of CME

Many more hours of CLE credit included in your  
registration fee on August 22-23