



Hon. Quentin Brown, Debra Leo, Hon. Gerald Topazi, Judy Keegan, Ken Wallis, Hon. Ralph Coleman, Sam Crosby, Scott Mitchell, and Tom Whatley look on as Gov. Riley signs the Mediator Confidentiality bill.

Mediator Confidentiality Now Alabama Law

Confidentiality is one of the most important elements in any settlement negotiation or mediation. In 2008, the Alabama legislature passed the Mediator Confidentiality Act, Alabama Statute §6-6-25, and Governor Riley signed it into law. The act states that except as otherwise permitted by the Alabama Civil Court Mediation Rules, a mediator may not be compelled "to divulge contents of documents received, viewed or drafted during mediation or the fact that such documents exist, nor may the mediator be otherwise compelled to testify in regard to statements made, actions taken or positions stated by a party during the mediation."

The Alabama Civil Court Mediation Rules provide the following exceptions to mediator confidentiality:

- (1) A mediator or a party to a mediation may disclose information otherwise prohibited from disclosure under this section when the mediator and the parties to the mediation all agree to the disclosure.
- (2) Information otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely by reason of its use in mediation.
- (3) The confidentiality provisions of these Rules shall not apply:
 - (i) to a communication made during a mediation that constitutes a threat to cause physical injury or unlawful property damage;
 - (ii) to a party of mediator who uses attempts to use the mediation to plan or to commit a crime; or
 - (iii) to the extent necessary if a party to the mediation files a claim or complaint against a mediator or mediation program alleging professional misconduct by the mediator arising from the mediation.

Rule 11(b) Alabama Civil Court Mediation Rules

Many individuals contributed over the years to make sure this legislation passed, and provides another layer of protection for our mediators. Special thanks to Senator Rodger Smitherman, Senator Roger Bedford, Representative Demetrius Newton, Tom Whatley, Sam Crosby, Dean Hartzog, Judge Gerald Topazi, Judge Ralph Coleman, members of the Alabama Supreme Court Commission on Dispute Resolution, and the Alabama State Bar ADR Committee. ▲▲▲

The Alabama Supreme Court Commission on Dispute Resolution: Fifteen Years of Quiet Service with Results

Every once in a while it is important to acknowledge and thank people who give of their time for a good cause and receive no pay. Such are the members of the Alabama Supreme Court Commission on Dispute Resolution. Back in 1994, the court established the commission to institute the necessary guidelines for the orderly progress of alternative dispute resolution (ADR) programs and procedures in Alabama. Every year since, appointees to the commission have met six times a year to develop standards, draft rules and ethics, award grants, promote legislation, set training requirements, supervise the Alabama Center for Dispute Resolution, develop publications, and provide technical assistance and education. Mediator and arbitrator rosters are published annually for distribution, and are also located, along with ADR court rules, standards, training schedules, brochures, and information, at www.alabamaadr.org. Many commission members have served since its inception. Others, like the **Hon. Bill Pryor, Chief Justice Bo Torbert, Jack Park, Hon. Sharon Yates, Spud Seal, Ernestine Sapp, Hon. Bill Gordon, Rod Max, Hon. John Crawley, Hon. Ralph Coleman, and Ted Hosp**, to name a few, were appointed for a season. Sometimes they return to us, as Judge Gordon is this year.

Meet the current commission (below), and their appointing organizations. Get in touch with them if you have questions, and encourage those you know.

Members are: **Charles Boyd** (chair), Alabama Trial Lawyers; **Anne Isbell** (vice chair), at large; **Judith Keegan** (secretary), Alabama Center for Dispute Resolution; **Thomas Albritton**, speaker of the house; **Hon. Tommy Bryan**, Alabama



The Alabama Supreme Court Commission on Dispute Resolution, 2009

Court of Civil Appeals; **Hon. Robert Bynon**, District Judges; **William Coleman**, Alabama State Bar; **Hon. Aubrey Ford, Jr.**, District Judges; **Noah Funderburg**, at large; **Hon. Bill Gordon**, Alabama State Bar; **Hon. Hub Harrington**, Circuit Judges; **Tony Higgins**, Alabama Defense Lawyers; **Dr. Karl Kirkland**, at large; **Hon. Richard Lane**, Circuit Judges; **Cheryl Leatherwood**, at large; **Debra Leo**, Alabama State Bar; **Justice Glenn Murdock**, Supreme Court of Alabama; **H. Sonny Reagan**, governor's office; **Sandra Speakman**, attorney general's office; **Hon. Gerald Topazi**, Lt. governor's office; **Robert Ward**, Alabama Lawyers. Liaison members are **Callie Dietz**, AOC, and **Keith Norman**, Alabama State Bar. Court attendees are **Celeste Sabel**, Supreme Court of Alabama; **Rebecca Oates**, Alabama Court of Civil Appeals; **Michelle Ohme**, Appellate Mediation Program; and **Lynn DeVaughn**, Alabama Court of Civil Appeals.

To contact Judy Keegan at the center or commission members call (334) 269-0409 or go to www.alabamaADR.org. ▲▲▲