

# **Workshop for Circuit Mediators and Appellate Conference Attorneys**



**Atlanta, Georgia  
February 5-7, 2001**

**The Federal Judicial Center**  
**Presents a**  
**Workshop for Circuit Mediators and**  
**Appellate Conference Attorneys**

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**Honorable Fern M. Smith**  
Director, Federal Judicial Center  
Washington, DC

**John S. Cooke**  
Director, Judicial Education Division  
Federal Judicial Center  
Washington, DC

**Mary T. Kelley**  
Senior Judicial Education Attorney  
Judicial Education Division  
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Washington, DC

**Workshop for Circuit Mediators and  
Appellate Conference Attorneys  
Planning Committee**

**Caleb Davies, Esq.**  
Eleventh Circuit Court of Appeals

**Christopher A. Goelz, Esq.**  
Ninth Circuit Court of Appeals

**Stephen O. Kinnard, Esq.**  
Eleventh Circuit Court of Appeals

**Frank C. Laney, Esq.**  
Fourth Circuit Court of Appeals

**David E. Lombardi, Jr., Esq.**  
Ninth Circuit Court of Appeals

**Roderick M. McFaull, Esq.**  
Sixth Circuit Court of Appeals

**Nancy E. Stanley, Esq.**  
DC Circuit Court of Appeals

**Roger Wenthe, Esq.**  
Seventh Circuit Court of Appeals

**Monday, February 5, 2001**  
***The Plaza***

**8:30 Welcome and Introductions**

**9:00 Confidentiality in Mediation:** An Exploration of the Problems and Approaches—A panel discussion and a group discussion of the status of confidentiality in the circuit mediation programs; challenges posed by developments in the law; and limitations under current rules and practices and what can be done about it.

**Presenters**

**Prof. Ellen E. Deason**  
University of Illinois College of Law

**Robert J. Niemic, Esq.**  
Research Division  
Federal Judicial Center

**Facilitators**

**Stephen O. Kinnard, Esq.**  
Chief Circuit Mediator  
Eleventh Circuit Court of Appeals

**Nancy E. Stanley, Esq.**  
Director of Dispute Resolution  
U.S. Courts for the DC Circuit

**10:30 Intermission**

**10:45 Confidentiality (Cont'd)**

**12:15 Luncheon Intermission**

**1:45 The Narrative Structure of Conflict Stories:** Conflict stories concern not only partial truths about facts, events, people, and places, but deeper, metaphoric truths about the storyteller that point to the hidden meaning of the conflict, and reveal openings for resolution and transformation. This session will examine the hidden narrative structure

of conflict stories, and how mediators can read their hidden meanings, turn debate into dialogue, and create the basis for a third story that permits the parties to transcend the issues that produced the conflict. Participants will learn how to analyze the functions and component parts of conflict stories, recognize the differences between external, internal, and core stories, shift conversations from accusation to confession to request, interpret metaphors and meta-messages, masks and poses, and create transformational windows.

Presenter

**Kenneth Cloke, Ph.D.**

Director

Center for Dispute Resolution

3:15 **Intermission**

3:30 **Working with the Hidden Stories in**

**Litigation:** In this facilitated discussion we will attempt to apply what we learned from Ken Cloke's presentation. We will utilize case histories to explore how to work with parties and their stories more effectively and help them move into engagement, negotiation, and resolution.

Facilitators

**David W. Aemmer, Esq.**

Chief Circuit Mediator

Tenth Circuit Court of Appeals

**Christopher A. Goelz, Esq.**

Circuit Mediator

Ninth Circuit Court of Appeals

5:00 **Adjournment**

5:30 **Reception—*The Commerce Club*:** 34 Broad Street, NW, Fifteenth Floor, the "Pub and Library" (cash bar), 3 blocks from the Ritz-Carlton.

**Tuesday, February 6, 2001**  
***Congress Room***

**8:30 Mediating Effectively with Government**

**Entities:** Enforcement mandates, sovereign immunity, budget and political constraints, authority protocols, multiple decisionmaking centers, the role and mind-set of appellate staff attorneys, and the "public good" all make mediating with government entities different from private parties. How do these government concerns and perspectives impact on mediation? These topics and others will be the subject of a panel presentation and group discussion.

**Presenters**

**Deborah Kant**

Director, ADR Project, Civil Division  
U.S. Department of Justice

**Charles L. Reischel**

Deputy Corporation Counsel for Appeals

**Facilitators**

**Stephen O. Kinnard, Esq.**

Chief Circuit Mediator  
Eleventh Circuit Court of Appeals

**Nancy E. Stanley, Esq.**

Director of Dispute Resolution  
U.S. Courts for the DC Circuit

**10:00 Intermission**

**10:15 Mediating Effectively with Government  
Entities (Cont'd)**

**11:45 Luncheon Intermission**

- 1:15 **Problemsolving and Strategies in Mediation:** Using hypotheticals and fact patterns, small groups with designated group leaders will discuss various problems and challenges arising in mediation. A large group discussion and opportunities to share insights will follow.

**Location:** Eleventh Circuit Mediation Office, 56 Forsyth Street, N.W., Room 535 (3 blocks from Ritz-Carlton).

- 2:45 **Intermission**
- 3:00 **Small Group Discussions (Cont'd)**
- 4:00 **Wrap-Up:** Small groups share results with all participants.

**Facilitators**

**Joseph L.S. St. Amant**  
Chief Preargument Attorney  
Fifth Circuit Court of Appeals

**Vikram Chandhok, Esq.**  
Appellate Conference Attorney  
Fifth Circuit Court of Appeals

- 5:00 **Adjournment**

**Wednesday, February 7, 2001**  
***Congress Room***

- 8:30     Initiating the Mediation Session:** In this program segment, we address how the circuits are similar and different in conducting mediation by examining one segment of the process. Mediators from the Sixth, Seventh, and Ninth Circuits will each present a 35-minute role-play focusing on the beginning of the mediation session.

**Presenters**

**The Sixth Circuit Prime Time Players**

**The Seventh Circuit Little Theatre Group**

**The Ninth Circuit Community Actors Project**

**Facilitators**

**Caleb Davies, Esq.**

**Circuit Mediator**

**Eleventh Circuit Court of Appeals**

**Margaret A. Corrigan, Esq.**

**Circuit Mediator**

**Ninth Circuit Court of Appeals**

- 10:15     Intermission**
- 10:30     Initiating the Mediation Session: Group Discussion**
- 11:45     Closing Remarks; Completion of Evaluations**
- 12:00     Adjournment**