



Repeat  
Performance!

**Guardian Obligations and Potential Liability  
&  
Mediation Tips & Tricks**  
*Attend One or Both Sessions*

**Thursday, March 21, 2013**

Rainier Square Conference Center, 1301 Fifth Avenue, 3<sup>rd</sup> Floor Atrium, Seattle

3.00 Gen. CLE Credits for Both Sessions; 1.50 Gen. CLE Credits for One Session

3.00 Certified Professional Guardian Credits Pending for Both Sessions

**SESSION 1**

**1:15-1:30pm**

**Registration & Coffee Service**

**1:30-3:00pm**

**Guardian Obligations and Potential Liability**

- What are best practices for Guardians that keep them out of trouble?
- What are areas of liability/risk for a guardian?
- What happens in litigation against a Guardian and what are the potential damages?

*Commissioner Eric B. Watness, Ret., JAMS*

*Kristin Nealey Meier, Ryan Swanson & Cleveland PLLC*

*Robert B. Nettleton, Harlowe & Falk, LLP*

*Janet H. Somers, Somers Tamblyn King PLLC*

**3:00pm**

**Adjourn & Evaluations**

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**SESSION 2**

**3:00-3:15pm**

**Registration & Coffee Service**

**3:15-4:45pm**

**Mediation Tips & Tricks**

- ▶ Preparing for mediation
- ▶ Selecting the mediator
- ▶ Conduct during the mediation

*Judge Terry Lukens, Ret., JAMS*

*Commissioner Eric B. Watness, Ret., JAMS*

*Lawrence R. Mills, Esq., JAMS*

**4:45pm**

**Adjourn & Evaluations**

Attendee Quotes from December 2012 Program

- “Excellent presentation! Very valuable information.”
- “Excellent seminar! Speakers are obviously very interested in imparting knowledge and disseminating valuable information. Wonderful presentation! And the format worked very well.”
- “Best *guardianship* practical training I have attended this year.”
- “Experience and examples really put things into perspective.”

## **DISTINGUISHED FACULTY**

**Judge Terry Lukens, Ret.** As a full-time ADR practitioner since 2005, Judge Terry Lukens (Ret.) has handled hundreds of matters as a mediator, arbitrator and special master in all practice areas. His extensive experience as a practicing commercial lawyer, trial judge, elected official and businessman, give him many perspectives from which to draw. He is professional, tenacious and creative in his approach to assisting litigants in settling their disputes.

**The Honorable Eric B. Watness, Ret., Commissioner.** Commissioner Watness became a full-time ADR practitioner after retiring from the King County Superior Court. He spent over 16 years as Court Commissioner in the Ex Parte and Probate Department and Juvenile Court Department, and as such, gained extensive experience handling and settling family law and probate matters. Commissioner Watness has been mediating and arbitrating family matters as well as commercial, employment, personal injury and professional liability. Commissioner Watness is known for his calm and straight forward approach. He is respectful, compassionate, and a good listener and analyzes the details of a matter in order to offer creative solutions when looking for a resolution.

**Kristin Nealey Meier** is a member of Ryan Swanson's Litigation, Employment and Healthcare groups and has provided consultation and litigation services for her healthcare and employment clients. Kristin's practice also includes commercial disputes, securities litigation and trust and estate litigation.

**Lawrence R. Mills, Esq.** is an experienced mediator and arbitrator with JAMS. He has over 25 years experience handling hundreds of cases as a neutral in a wide variety of contexts including commercial, construction, employment, environmental, insurance coverage, and professional liability. Larry is a former Chair of the American Bar Association Section of Dispute Resolution and the Washington State Bar Association Alternative Dispute Resolution Section. He is a Fellow of the College of Commercial Arbitrator and a Distinguished Fellow of the International Academy of Mediators.

**Robert Nettleton** is a partner in the law firm of Harlowe & Falk, LLP in Tacoma, Washington. He has been practicing law in the state of Washington since 1987. The emphasis of his practice is probate, guardianship, trusts, and vulnerable adult proceedings. He has been appointed by the King and Pierce County Superior Courts to serve as a TEDRA Arbitrator and Mediator. Mr. Nettleton received undergraduate degrees in history and political science from Gettysburg College, Gettysburg, Pennsylvania in 1984 and a J.D. from the University of Puget Sound/Seattle University School of Law in 1987.

**Janet H. Somers** represents clients in both routine and complex issues regarding Probate, Guardianship, Elder Law including Protection of Vulnerable Adults, Trust and Estate Planning and Trust Administration. Ms. Somers also represents several professional fiduciaries, including banks and agencies.

## WHAT YOU WILL LEARN

### **SESSION 1: GUARDIAN OBLIGATIONS AND POTENTIAL LIABILITY**

#### **“Know When to Hold ‘Em”:**

- Attorney best practices in the management of guardianship disputes
  - Adequate investigation of issues prior to commencing litigation
  - Adhering to proper rules for giving notice and involving the Incapacitated Person in the case
  - Asset recovery and defending claims against the guardian
  - Assuring that your client has clear authority to act, take steps to get it
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- Advising lay and professional guardians on duties and responsibilities
  - Contracting, hiring and supervising employees, staff and service providers
  - Making decisions about an Incapacitated Person's care, medical treatment and social preferences
  - Providing for proper records security, information disclosure and confidentiality
  - Protecting the property of the Incapacitated Person through proper security measures
  - Adhering to standards of practice and ethics obligations

#### **“Know When to Fold ‘Em”:**

- Assisting Guardians in avoidance of conflict and litigation
- Knowing when to decline cases that are too complex
- Implementing good communications and disclosure practices
- Using methods to calm cases down

#### **“Know When to Walk Away”:**

- Tips on handling conflict once it arises
- Using court proceedings to avoid liability
- Addressing the conflict to remove the cause rather than defending

#### **“Know when to Run”:**

- Dealing with litigation and the costs thereof when conflict is not resolved informally

### **SESSION 2: MEDIATION TIPS & TRICKS**

#### **Preparing for Mediation**

- Preparing your client and yourself
- Who should attend
- Maximizing the effectiveness of pre-mediation submissions; what to share with the other side and what to share with the mediator only

#### **Selecting the Mediator**

- Consider the style of the mediator
- Evaluate the prospective mediator's background and experience

#### **Conduct During the Mediation**

- Carefully plan your opening offer
- Evaluate settlement offers realistically
- Develop settlement options
- Impasse-breaking techniques
- Close with a written settlement agreement

#### **What if no settlement at mediation conference?**

- Post mediation roles of lawyers and the mediator

**REGISTRATION FORM**

Mediation Panels

Thursday, March 21, 2013

3.00 Live General CLE Credits for Both Sessions; CPG Credits Pending

Rainier Square Conference Center, 1301 Fifth Ave, 3rd Floor Atrium, Seattle

**5 WAYS TO REGISTER!**

- EMAIL Complete the following information and send to [cle@kcba.org](mailto:cle@kcba.org)
- WEB <https://www.kcba.org/secure/cleRegistration> (secured site)
- CALL CLE Department 206.267.7067
- MAIL KCBA CLE, 1200 Fifth Avenue, Suite 600, Seattle, WA 98101
- FAX CLE Dept. 206.267.7099

**Electronic Course Materials**

- Course materials will be distributed only in electronic format – searchable PDF files that you can save to your computer.
- Before the program you will receive an email with instructions on how to save the materials to your computer.

REGISTRATION FEES Mediation Panels	Attending Session One Only	Attending Session Two Only	Attending Both Sessions
<b>ATTORNEYS</b>			
KCBA Members	_____ \$89	_____ \$89	_____ \$115
KCBA Members Admitted to practice in 2011/2012	_____ \$39	_____ \$39	_____ \$69
Non-KCBA Members	_____ \$109	_____ \$109	_____ \$145
<b>NOT AN ATTORNEY</b>			
Non-Lawyer Employees of KCBA Member	_____ \$79	_____ \$79	_____ \$105
CPGs/General Public/Not an Attorney	_____ \$99	_____ \$99	_____ \$125

\_\_\_\_\_ State Bar No. Mr./Ms. First Name Last Name

\_\_\_\_\_ Address

\_\_\_\_\_ City State Zip Code

\_\_\_\_\_ Telephone Number and Email address (confirmation sent via email)

**Method of Payment for Mediation Panels**

Check # enclosed \_\_\_\_\_ payable to: KCBA

VISA or MasterCard or American Express Exp. Date: \_\_\_\_\_

Card No. \_\_\_\_\_

Name as it appears on card \_\_\_\_\_

Signature \_\_\_\_\_

**Important Notices:** If you must cancel, tuition will be refunded less a \$20 administrative fee, so long as cancellation is received in writing to [CLE@kcba.org](mailto:CLE@kcba.org) by 5:00pm, March 19, 2013; however, substitute attendees are welcome. Please advise KCBA at least two weeks in advance of any condition that may impact your participation at the seminar so we may arrange appropriate and comfortable accommodation in time for the program. Walk-in registrations are welcome as space permits.