

**EMBARGOED:**

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**Make it Real:**

The Tennessee Vision  
for Mediation



## **The Tennessee Vision for Mediation**

**1. Knowledge:** *The public and referral sources understand mediation and appreciate its value as a powerful process for helping people manage and resolve conflict and prevent violence.*

**2. Access:** *All Tennesseans have ready and effective access to affordable mediation and other conflict resolution services regardless of their ability to pay, and regardless of where they live.*

**3. Choice:** *People are able to make informed, voluntary choices among all the processes for dealing with conflict.*

**4. Quality:** *Participants consistently experience ethical and high quality mediation and other conflict resolution services in our state.*

**5. Self-determination:** *Mediation in Tennessee encourages self-determination, in both the process and its outcome, for all participants.*

## **A Call to Action**

**We hereby embrace The Tennessee Vision for Mediation as our own;**

**We declare that we will work to make this Vision a reality; and**

**We call upon citizens, civic leaders, government officials and organizations across the state to endorse this Vision and help MAKE IT REAL through commitment and action.**

**Larry Bridgesmith, J.D.**

**Mary Ellen Bowen, Mid South Mediation Services**

**Doris Brocker, Sumner Mediation Services**

**Community Mediation Center of Knoxville**

**Keith Dale, The Mediation Center of Columbia**

**Greg Davis, MS, CMPE**

**John Drummond, J.D.**

**The Institute for Conflict Management at Lipscomb Univ.**

**Jim Karney, Co-Parenting Solutions, Inc.**

**Jackie Kittrell, J.D.**

**Tamara Losel, Nashville Conflict Resolution Center**

**Jean Munroe, Jean Munroe & Associates**

**Luis E. Oré, ORASI Consulting Group, Inc.**

**Leigh Ann Roberts, Papa & Roberts, PLLC**

**Tennessee Association of Professional Mediators**

*(NOTE: Individual affiliations listed for identification purposes only.)*

## **How The Tennessee Vision for Mediation was Created**

*Economic downturns intensify pre-existing conflicts in families, businesses, organizations and even churches. The current troubles are no exception, and by the summer of 2009 Tennessee mediators were facing a crisis: The demand for their services was growing rapidly, but finances for non-profit and private practice mediation services were declining.*

*Perhaps because mediation is confidential, it is also invisible. Civic, governmental and business leaders seemed unaware of what they stood to lose—services which help thousands of Tennesseans each year to deal with conflict in ways that encourage healing and prevent dangerous escalation while relieving pressure on overcrowded court dockets.*

*The mediation community chose to see this situation as a challenge, an opportunity to reflect and to commit themselves anew. For four months they worked to answer these three questions:*

**WHY:** *Why is it so important to make mediation and conflict management tools available to people in Tennessee?*

**WHAT:** *What is a Vision for Mediation that the whole state could get behind?*

**HOW:** *How could this Vision become a reality? How could the mediators themselves take action to inspire others to follow?*

*This document, “**MAKE IT REAL: A Tennessee Vision for Mediation**” is a report on their progress to date. They have created The Tennessee Vision on Mediation, each word of which was agreed to by consensus. They have identified eight **OBJECTIVES** and twenty-nine needed **ACTION STEPS**, and pledged to carry out many of these steps themselves.*

*A skeptic might ask, “What motivates these people?” I encourage readers to look at the next page, because I asked that question of each participant, and some of their answers are printed there. Also, glance over the words in the background of this page and others. I asked each person to choose a phrase that best expressed why they care about this vision so deeply; these words and phrases make up the background.*

*Tennessee already owes a debt of gratitude to its community of dedicated and skilled mediators. This report is a promise from them to do even more. But it is also an invitation. To you. Will you help them?*

*Roger Conner, Facilitator  
Vanderbilt University Law School  
December 12, 2009*

I believe that “a rising tide lifts all boats”. In order to fix what’s wrong in our state, we will all have to work on it. It goes back to how we work in mediation, which is empowerment of the people in front of us.

*As long as we have belly-buttons, we’ve all got something in common. Mediation helps people relate to each other as human beings, dealing with human situations, regardless of who we are.*

*If you can facilitate two human beings to get along better, it can change society. I’ve lived it, I’ve seen it.*

As a judge, I found that parties rarely have much satisfaction from the court system, which is based on a win or lose proposition. Mediation allows them to choose their own destiny and communicate with each other. They are more satisfied with the process and learn skills that will help them resolve problems in the future

*There are too many cases clogging the courts which, if sent to mediation could reduce that clutter. I firmly believe that the process of mediation goes much farther in legitimating the legal system than does litigation in many cases.*

*Over and over again I watched children losing one of their parents because their parents didn’t have any basic conflict resolution skills. I thought, “There has got to be a better way.”*

### ***Why do we care?***

*The Goals, Objectives and Action Steps in this document grew out of a four-month process including a web-based questionnaire and four meetings in Nashville, Knoxville and Cookeville.*

*At each step participants paused to ask each other this question: WHY do we care? WHY is it important to change the way we deal with conflict in our society, using mediation and the principles on which it is based?*

*Here are some of those stories.*

There are times a trial and a judge’s ruling is necessary, but mediation can allow parties to discuss and review the issues without waiving rights. The input of a neutral third-party, the mediator, can allow examination of alternatives not previously considered.

Everything that everybody does, good or bad, starts a chain reaction, a series of spirals that go on and on—good spirals or bad spirals. *Mediation is one of the few things that can reset the bad spirals.* That’s why I do it.

*People do not have to destroy each other’s lives and drag their kids down in the process.*

In mediation, people unveil to me their lives; it’s such an intimate moment; I enter this space and gently say, “Maybe I have something to offer.”

*I can still remember when I first read about mediation. I was 23 years old and I thought, “These are my people.” True, it’s a career now, but every time I am present in mediation when the magic happens—and it often does—I feel honored.*

I’m a preacher. Six minutes is not long enough for a preacher to tell his story. So, let’s just say “God called me to be here,” and leave it at that.

*As a student my advisor told me, the higher up you get in politics the less you know what you are doing, so don’t be intimidated, don’t be scared. That helped a lot.*

## **HOW: Objectives for Action**

- I. Mediators can readily articulate to stakeholders and parties the scope of their expertise and the type of services offered.**
- II. CMCs receive sufficient local, state and federal funding for program sustainability and quality services in every judicial district.**
- III. Mediation is a respected and economically viable career path.**
- IV. Make the case for mediation to public and key stakeholders.**
- V. Strengthen collaboration & cooperation among mediators and between mediation community and key stakeholder representatives.**
- VI. Expand the scope of mandatory mediation.**
- VII. Strengthen quality and consistency of mediator performance**
- VIII. Expand Educational Programs on Conflict and on Conflict and Dispute Resolution.**

## **The Action Plan**

“Without vision, the people perish,” says the proverb. It is equally true that, “Without Action, the Vision will perish”.

Compared to the daunting list of Action Steps needed, the number of participants in the Visioning process was quite small, so they decided to begin with the one group over which they had control: Themselves.

They focused on Action Steps that cannot be expected to happen without the leadership or direct involvement of the mediation community. And they asked themselves, “What are we prepared to commit? What are we prepared to risk?”

The Action Plan in the succeeding pages is just a start. It is organized in the following parts:

- Eight Objectives or Themes are presented, under which the Action Steps are organized.
- Twenty-nine Action Steps are listed in a table with task forces, committees, individuals and organizations working on each Action Step and a column showing how each Action Step is linked to one or more of the five pillars of The Tennessee Vision for Mediation.

## **ACTION NOW:**

### **Organizations, Task Forces and Leaders are Already at Work**

Achieving the Vision set out in this document will require a sustained effort from many people. This is a voluntary, collaborative, citizen-led initiative. There is no owner, no hierarchy, no new non-profit to support! Fortunately, many of the needed ACTION STEPS are already under way.

The following table lists twenty-nine ACTION STEPS, arranged by OBJECTIVE, and then lists the work being done in two columns: The first column lists work committed by those who signed A Call to Action; the second lists some of the other work now under way.

This is a *partial* listing. (*Any errors and omissions are the responsibility of the facilitator.*) It is also a beginning list. We hope to see it expand dramatically in the months ahead as others embrace the Vision and join us to add MAKE IT REAL.

List of Abbreviations and symbols:

AOC—Administrative office of the Courts, State of Tennessee

CMAT—Coalition for Mediation Awareness in Tennessee

CMC – Community Mediation Center (This is a generic term which includes all of the VORP-funded non-profits).

ICM--The Institute for Conflict Management at Lipscomb University

TAPM—Tennessee Association of Professional Mediators

TF-CMCs Task Forces with CMC staff and volunteers from across the state

TAJC—Tennessee Access to Justice Commission

UTLaw--University of Tennessee at Knoxville School of Law

TAPVULS—The Advocacy Project at Vanderbilt Law School

**THE ACTION PLAN—A PROGRESS REPORT**

<b>Objectives and Action Steps</b>	<b>Signatories</b>	<b>Others</b>	<b>Connects to Vision</b>
<b>I. Mediators can readily articulate to stakeholders and parties the scope of their expertise and the type of services offered.</b>			
<b>1. Develop capacity for the mediation community to acknowledge and/or certify individual mediators who have proven track records and/or or specialized expertise (same as 26).</b>	<b>Tamara Losel, Larry Bridgesmith, Jackie Kittrell, Jim Karney, Doris Brocker</b>		<b>1. Knowledge 2. Access 3. Choice 4. Quality  5. Self-determination</b>
<b>II. CMCs receive sufficient local, state and federal funding for program sustainability and quality services in every judicial district.</b>			
<b>2. Organize to support amendment to "dollar bill" to expand amount.</b>	<b>TF-CMCs<sup>1</sup></b>		<b>2. Access 3. Choice  5 Self-determination</b>
<b>3. Renew plan to create a statewide organization.</b>	<b>TF-CMCs<sup>2</sup></b>		<b>2. Access 4. Quality</b>
<b>4. Develop and share tools for reporting, case management and other administrative functions.</b>	<b>Keith Dale (TF-CMC)</b>		<b>4. Quality</b>
<b>5. Secure new regular funding streams for CMCs</b>	<b>TF-CMCs<sup>3</sup></b>		<b>3. Access 4. Quality</b>
<b>6. Pay for travel expenses for volunteer mediators to travel to underserved communities.</b>			<b>3. Access</b>
<b>7. Develop protocol and standards to allow CMC volunteers to secure appropriate waivers from Rule 31 fees and certification</b>	<b>TF-CMCs</b>		<b>3. Access 4. Quality</b>

<sup>1</sup> Task Force Members as of 12/03/2009: Jackie Kittrell, Tamara Losel, Linda Seely, Doris Brocker, Laurie Jewett, Mary Ellen Bowen.

<sup>2</sup> Task Force Members: Mary Ellen Bowen, Luis Oré, Jackie Kittrell, Linda Seely, Tamara Losel, Doris Brocker.

<sup>3</sup> Task Force Members as of 12/3/2009: Jackie Kittrell, Tamara Losel, Mary Ellen Bowen, Linda Seely, Doris Brocker

**THE ACTION PLAN—A PROGRESS REPORT**

<b>Objectives and Action Steps</b>	<b>Signatories</b>	<b>Others</b>	<b>Connects to Vision</b>
requirements.			
<b>III. Mediation is a respected and economically viable career path.</b>			
<b>8. Develop an improved means for potential clients to find an appropriate mediator</b>	<b>ICM</b>	<b>AOC</b>	<b>1. Knowledge 2. Access 3. Choice</b>
<b>9. Expand opportunities for specialized and advanced training</b>		<b>AOC ICM UTLaw CMCs</b>	<b>4. Quality 5. Self-determination</b>
<b>10. Expand opportunities for experienced mediators, including those from CMC community, to share expertise and provide advanced training for new private practice mediators.</b>		<b>CMCs TAPM</b>	<b>4. Quality 5. Self-determination</b>
<b>IV. Make the case for mediation.</b>			
<b>11. Develop and implement a marketing plan to promote mediation</b>	<b>TAPM</b>		<b>1. Knowledge 3. Choice</b>
<b>12. Publicize "success stories"</b>		<b>CMAT</b>	<b>1. Knowledge</b>
<b>13. Create "facts," data through studies</b>		<b>AOC</b>	<b>1. Knowledge</b>
<b>14. Generate a periodic report on all mediation activities showing different types and sources of activity in one document.</b>	<b>TF-CMCs<sup>4</sup> TAPVU</b>	<b>AOC</b>	<b>1. Knowledge</b>
<b>V. Strengthen collaboration &amp; cooperation among key groups and institutional stakeholders.</b>			
<b>15. Revive plan for a state non-profit to connect and serve CMCs</b>	<b>TF-CMCs<sup>5</sup></b>		<b>4. Quality 5. Self-determination</b>

<sup>4</sup> Membership as of 12/3/2009: Keith Dale, Linda Seely, Luis Oré.

<sup>5</sup> Membership as of 12/3/2009: Mary Ellen Bowen, Luis Oré, Jackie Kittrell, Linda Seely, Tamara Losel, Doris Brocker.

**THE ACTION PLAN—A PROGRESS REPORT**

<b>Objectives and Action Steps</b>	<b>Signatories</b>	<b>Others</b>	<b>Connects to Vision</b>
<b>16. Improve communication and collaboration between CMCs and AOC.</b>	TF-CMCs <sup>6</sup>		<b>2. Access 4. Quality</b>
<b>17. Create or strengthen mechanisms for communication, collaboration and conflict management between CMCs and private practice mediator community.</b>	TF-CMCs <sup>7</sup> Jim Karney TAPM ICM	TAPVULS	<b>2. Access 3. Choice 4. Quality</b>
<b>18. Strengthen capacity for communication and collaboration between the mediation community and the Bar, Courts and other institutional players.</b>	ICM, Jackie Kittrell, Doris Brocker	CMAT TAPVULS	<b>1. Knowledge 2. Access</b>
<b>19. Restore/create the practice of an annual meeting/gathering of entire mediation community.</b>	ICM, TAPM, ADRC, Jackie Kittrell		<b>1. Knowledge 4. Quality</b>
<b>VI. Expand the scope of mandatory mediation legislation.</b>			
<b>20. Encourage discussion of issue in Access to Justice Committee.</b>	Larry Bridgesmith, Tamara Losel, Leigh Ann Roberts, Doris Brocker		<b>1. Knowledge 2. Access</b>
<b>21. Individual, group or task force to develop new legislative proposal and supporting report.</b>	TF-CMCs <sup>8</sup>		<b>1. Knowledge 2. Access</b>
<b>22. Individual or task force to campaign for adoption of legislation.</b>			<b>1. Knowledge 2. Access</b>
<b>23. Local task force to create a model program.</b>			<b>1. Knowledge</b>

<sup>6</sup> Membership as of 12/3/2009: Tamara Losel, Jackie Kittrell, Laurie Jewett, Mary Ellen Bowen, Linda Seely, Doris Brocker

<sup>7</sup> Membership as of 12/3/2009: Luis Oré, Tamara Losel, Jackie Kittrell, Doris Brocker, Linda Seely.

<sup>8</sup> Membership as of 12/3/2009: Jackie Kittrell

**THE ACTION PLAN—A PROGRESS REPORT**

<b>Objectives and Action Steps</b>	<b>Signatories</b>	<b>Others</b>	<b>Connects to Vision</b>
<b>VII. Strengthen quality and consistency of mediator performance.</b>			
<b>24. Expand opportunities for specialized and advanced training</b>	<b>Larry Bridgesmith, Jean Munroe</b>	<b>ICM CMCs, TAPM</b>	<b>2. Access 3. Choice 4. Quality</b>
<b>25. Expand opportunities for experienced mediators, including those from CMC community, to share expertise and provide advanced training for new private practice mediators.</b>	<b>Doris Brocker</b>	<b>CMCs, TAPM</b>	<b>3. Choice 4. Quality 5. Self-determination</b>
<b>26. Develop capacity for the mediation community to certify individual mediators who have proven track records and/or or specialized expertise (same as 1).</b>	<b>Tamara Losel, Larry Bridgesmith, Jackie Kittrell, Doris Brocker</b>		<b>1. Choice 2. Access 3. Self-determination</b>
<b>VIII. Expand Educational Programs on Conflict and Dispute Resolution for all ages.</b>			
<b>27. Expand educational programs in K-12 schools.</b>	<b>ICM, Jackie Kittrell</b>	<b>CMCs</b>	<b>1. Knowledge 5. Self-determination</b>
<b>28. Expand educational programs at university level</b>	<b>ICM, Jackie Kittrell</b>	<b>UTLaw</b>	<b>1. Knowledge 2. Access 4. Quality</b>
<b>29. Develop training/education programs for schools, government agencies and large organizations, public and private.</b>	<b>ICM, Jackie Kittrell</b>	<b>CMCs TAPM</b>	<b>1. Knowledge 2. Access 3. Choice 5. Self-determination</b>

## ***Acknowledgments:***

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*To find out how you can get  
involved in the campaign to  
MAKE IT REAL, contact:*

*Or go to the web site of The  
Tennessee Vision on Mediation,  
[www.makeitrealtn.org](http://www.makeitrealtn.org)*