



Dealing with the *Pro Se* Party in Mediation and Arbitration

February 18, 2014 – 2:00 p.m. – 3:30 p.m. ET

PROGRAM SUMMARY

Speakers: John R. Phillips, Esq., Richard H. Ralston, Esq., John A. Vering, Esq.

Using the American Arbitration Association® Commercial Rules as the governing procedures, the speakers will provide practical solutions to issues that commonly arise when parties are unrepresented in arbitration and mediation.

AGENDA

2:00 p.m.	Welcome and Introduction of Speakers	(5 minutes)
2:10 p.m.	Discussion: <ul style="list-style-type: none">• Extent of pro se parties in mediation and arbitrations• AAA ethical rules and guidelines in AAA mediations• AAA ethical rules and guidelines in AAA arbitrations• Problems unique to pro se cases – being fair and impartial• Common pro se issues in mediations• Common pro se issues in arbitrations• Comparison of methods of handling of pro se parties in mediation, arbitration, and litigation• Impact of trend against consumer/employment class actions on volume of pro se cases• Tips for practitioners	(70 minutes)
3:20 p.m.	Conclusions and Questions	(10 minutes)
3:30 p.m.	Evaluation	(5 minutes)
3:35 p.m.	Adjourn	

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John R. Phillips, Esq.

Current Employer-Title Husch Blackwell, LLP - Senior Partner

Profession Attorney - Alternative Dispute Resolution, Labor and Employment, Antitrust, Health Care

Work History Senior Partner/Managing Partner/Partner/Associate, Husch Blackwell Sanders, LLP (and predecessor firms), 1971-present.

Experience Over 40 years' experience as attorney with same firm specializing in labor/employment law and commercial litigation. Member of the Civil Justice Advisory Committee for the U.S. District Court, Western District of Missouri. Member of the Missouri Supreme Court's Automation Committee and ADR Committee. Awarded "Best of the Bar" honors by the Kansas City Business Journal in 2003 and 2004. Fellow in the American College of Trial Lawyers.

Alternative Dispute Resolution Experience Member of the AAA Large Complex Case, Commercial, and Employment panels as an arbitrator and mediator. Has mediated over 100 litigation matters and arbitrated over 20 disputes including complex multiple-plaintiff cases involving discrimination and sexual harassment with over a dozen including claims in excess of \$1 million. Has also been on arbitration tribunals involving significant employment contract disputes with claims in excess of \$5 million. Arbitrations include multiple party plaintiffs and class actions seeking tens of millions of dollars in actual and compensatory damages. Faculty, ABA Arbitration Institute, 2006-2008.

Alternative Dispute Resolution Training CPR Annual Meeting, 2012; College of Commercial Arbitrators Annual Meeting, 2011; AAA Payor Provider Rules Orientation, 2011; Faculty, ABA Dispute Resolution Section, Advanced Arbitration Training Institute, 2011; AAA/Husch Blackwell Sanders LLP/Associates in Dispute Resolution LLC, Changing Practices and Processes in Arbitration, 2008; HNII Fall Institute, 2007; NAA Beyond the Protocol: The Future of Due Process in Workplace Dispute Resolution, 2007; IAM/Harvard, Harvard Negotiation Initiative Institute Summer Learning Program: Beyond Yes 2, 2006; AAA Neutrals Conference, 2006, 2003; AAA Arbitration Awards: Safeguarding, Deciding & Writing Awards (ACE001), 2005; AAA Arbitrator Ethics & Disclosure (ACE003), 2005, 2003; AAA Pro Se: Managing Cases Involving Self-Represented Parties (ACE002), 2004; CPR ADR Drafting Ethics, 2004; AAA Arbitrator Update 2003, 2001; American

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Bar Association Advanced Mediation and Advocacy Skills Training, 2002; National Arbitration Forum Arbitrator Training, 2002; AAA Employment Arbitrator II: Advanced Case Management Issues, 2002; American Bar Association ADR Section Training and Conference/New Vistas in Dispute Resolution, 2002; AAA Labor and Employment Advanced Arbitration Workshop, 2001; U.S. District Court, Western District of Missouri Advanced Mediation Training, 2000; American Bar Association, ADR Section Training and Conference, New Standards for Arbitrators, 2000; attended AAA Mediator Retreat, 2000; attended AAA LCCP Retreat and Panel Chair Workshop, 1999; American Bar Association, ADR Section Mediation Training, 1999; AAA Commercial Arbitrator Training, 1999; AAA Labor and Employment Arbitration Training, 1997; various other ADR training.

Professional Licenses Admitted to the Bar: Missouri, 1971; U.S. District Court, Western District of Missouri, 1971; U.S. Court of Appeals: Eighth (1975) and Tenth (1978) Circuits; U.S. Supreme Court, 1976.

Professional Associations American College of Trial Lawyers (Fellow); College of Labor and Employment Lawyers; International Academy of Mediators; American Bar Association (Labor and Employment Section; Antitrust Section; Alternative Dispute Resolution Section; Litigation Practice Committee, Council Member; Webcase Seminar, Chair; Dispute Resolution Committee, Chair); American Bar Association Foundation; Missouri Bar Association (Alternative Dispute Resolution Committee, Past Chair); Kansas City Metropolitan Bar Association (Managing Partners Committee, Chair); Lawyers Association of Kansas City; Society for Human Resource Management (State Council Legislative Affairs Director); U.S. District Court, Western District of Missouri (Civil Justice Advisory Committee); Missouri Supreme Court (Automation Committee; ADR Committee).

Education University of Missouri at Columbia (BS, Business Administration, cum laude-1968; JD, cum laude, order of the coif, Honorary Barrister-1971); Oxford/University of Missouri at Kansas City Law Summer Program (Certificate-1988); Beijing/University of Missouri at Kansas City Law Summer Program (Certificate-2000).

Publications and Speaking Engagements "15 Practical Arbitration Tips," ABA JUST RESOLUTIONS, April 2005; "Mediation Practice Tips," ABA JUST RESOLUTIONS, April 2005; "Selecting a Mediator," ABA JUST RESOLUTIONS, January 2004; "Mediation from the Perspective of Defense Counsel," JOURNAL OF THE KANSAS TRIAL LAWYERS ASSOCIATION, 2003; "Litigation: One Country Lawyer's Experience," JOURNAL OF DISPUTE RESOLUTION, 2002; legal editor, HEALTH CARE LABOR-MANAGEMENT RELATIONS, 1995; editor-in-chief, MISSOURI LAW REVIEW, 1971. Faculty, Arbitration Training Conference, ABA, February 18-21, 2009.

Compensation

\$435.00 Per Hour

\$495 hourly rate for class action/multiple party disputes. Hourly rate charged for study, hearing, and writing time. Four-hour minimum in Metropolitan Kansas City area. Willing to serve without travel time or expenses in St. Louis; Springfield, Missouri; and Omaha, Nebraska with eight-hour minimum. Fifty percent charge for less than seven days' cancellation or postponement.

Citizenship United States of America

Locale Kansas City, MO

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RICHARD H. RALSTON

Profession. Attorney, Arbitrator, and Mediator with The Ralston Law Group, LLC, The Plaza West Building – Suite 810, 4600 Madison Avenue, Kansas City, Missouri, 64112. Telephone No. (816) 285-1230; Fax No. (816) 283-8739; Internet Address – rralston@ralstonlawgroup.com.

Professional History. Arbitrator, Mediator, and Attorney 1993 – present; Attorney, Mediator and Arbitrator, The Ralston Law Group, LLC, 2008 - Present; Of Counsel/Attorney, Armstrong Teasdale, 2003 - 2008; Director/Trial Attorney, Polsinelli Shalton & Welte (and predecessor firm), 1988 – 2003; United States Magistrate Judge, Western District of Missouri, 1976 – 1988; Professor of Law, Creighton University School of Law, 1972 – 1976 (subjects: Evidence, Civil Procedure; Litigation with the Federal Government, Federal Courts, and Environmental Law); Adjunct Professor of Law, University of Missouri-Kansas City, 1978 - 1980 (subjects: Civil Procedure and Evidence); Law Clerk to United States District Judge Elmo B. Hunter, 1969 – 1972.

Educational Background. B.A. in Journalism, University of Kansas, 1965; J.D., University of Missouri – Kansas City, 1969 (With Distinction) ; Editor-in-Chief, University of Missouri – Kansas City Law Review, 1968-69.

Professional Organizations and Committees. Former Chairman, Federal Courts Committee of the Missouri Bar; Former Member of the Board of Directors of the Kansas City Metropolitan Bar Association; Panelist of the CPR Institute for Dispute Resolution; Panelist of the American Arbitration Association; Member of the American College of Civil Trial Mediators; Member of the American College of Commercial Arbitrators; Member of the National Academy of Distinguished Neutrals; Member of the Kansas City Metropolitan Bar Association; Member of the American Bar Association; Former Master of the Ross Roberts Inn of Court; Former faculty member of the National Institute for Trial Advocacy (Boulder, Colorado; Lawrence, Kansas; Omaha, Nebraska); Member, The Association for Women Lawyers; Former Member of the Committee on Federal Model Jury Instructions; Member of the Ad Hoc Committee of the Missouri Supreme Court on Mediation Practice; Member of the Kansas City Metropolitan Bar Association Committee on Professionalism and Civility; Member of the Missouri Bar Association; Former Speedy Trial Reporter to the United States District Court for the District of Nebraska; *Super Lawyers - Alternative Dispute Resolution*; *Best Lawyers in America – Alternative Dispute Resolution* ; *Ingram’s Best of the Bar – Alternative Dispute Resolution*; *LawDragon Select 500 Best Judges in America* (2006); *Kansas City Business Journal – “Best of the Best” – Alternative Dispute Resolution*; “AV” Rating, Martindale Hubbell. Frequent lecturer to bar associations, professional organizations, law schools, and insurance organizations.

Experience. Has been involved in dispute resolution – settlement conferences, mediations, arbitrations, or trials (jury and non-jury) – since graduation from law school in 1969. First legal position was as a law clerk for a United States District Judge who was also an extremely capable mediator (settlement judge). As a member of the federal bench, continued

mediation tradition in the Western District of Missouri by initiating a settlement conference program in federal court. In 1993, decided to devote practice exclusively to alternative dispute resolution. As a law professor, courses were primarily directed to litigation and federal practice. Taught evidence, civil procedure, federal jurisdiction, environmental law, and government litigation. Voted the Outstanding Law Professor of Creighton University in 1974.

As a federal judicial officer, docket consisted mainly of civil cases for trial and pretrial processing. Presided over the whole spectrum of jury and non-jury trials throughout the Western District of Missouri, including civil rights cases, employment discrimination cases (jury and non-jury, minimum wage and overtime cases, antitrust and securities cases, products liability cases, commercial cases, and various personal injury cases. Presided over the first employment discrimination case (an action under 42 U.S.C. § 1981) tried to a jury in the Western District of Missouri in 1980.

As a trial lawyer, represented both major corporations and individuals in all types of cases, usually of a complex and substantial nature. Has frequently been engaged as an expert witness in cases involving legal or ethical standards. Has been involved as a consultant involving insurance coverage issues in major litigation, including the Courtney pharmacy litigation. Currently represents attorneys in litigation and disciplinary actions.

Representative Cases Handled as Mediator. Has mediated all types of cases, large and small, ranging from complex commercial, environmental, and construction cases to medical malpractice, employment discrimination, products liability and personal injury cases. Has mediated many major class actions, as recently as 2011, actions involving mortgage loan fees, financing systems, telecommunications disputes, products liability, and Fair Labor Standards Act cases, among others. The environmental cases have included issues of water and ground pollution at oil refineries or manufacturing sites owned and operated by major national corporations. Most of those cases have been brought on behalf of multiple plaintiffs or as individual actions against multiple defendants. Many of the construction cases arose from major construction projects, including entertainment theaters in Branson, Missouri, and from major construction projects in the Kansas City metropolitan area. The commercial cases have involved multi-tiered marketing systems or individual and class actions. Has mediated numerous employment discrimination cases involving all issues ranging from the Family Medical Leave Act to all aspects of Title VII and the Civil Rights Act. The employment discrimination cases have involved race, ethnic origin, religion, gender, age, family medical leave and disability claims brought under Title VII, the Civil Rights Act, the Age Discrimination in Employment Act, the Americans with Disabilities Act, or corresponding state laws. Has also mediated cases with the Department of Justice and other federal and state agencies involving Federal Tort Claims Act, the EEOC, the EPA, the Tucker Act, the Missouri Omnibus Nursing Home Act, and regulations of the Nuclear Regulatory Commission. Has mediated disputes between law firms, physicians' groups, and other professional organizations. Has mediated numerous insurance bad faith cases involving primary insurance carriers, excess carriers, reinsurers and insureds. Mediated a dispute arising from the destruction of the Kansas City electrical power plant, a \$400,000,000 dispute involving multiple plaintiffs and defendants, primary claims and subrogation claims. Also successfully mediated a complicated warehouse fire case among insureds, primary carriers and excess carriers. One products-liability case involved carbon monoxide poisoning resulting in eight deaths and three brain-damaged victims. Has mediated

cases in most of the major cities of the United States, from Boston, Massachusetts to Baton Rouge, Louisiana; from and San Francisco, California to Providence, Rhode Island. Has been involved as a settlement judge or mediator in more than 4,000 civil cases.

Representative Cases Handled as Arbitrator and Court-Appointed Special Master.

Has handled many personal injury, construction, employment discrimination and commercial cases as an arbitrator, both in Kansas City and elsewhere. Representative cases include disputes involving a fiber optic communications system, a telecommunications industry dispute, bulk utilities sales systems, employment discrimination, national dispute concerning local telephone service and logistical software for mass merchandisers. Has arbitrated numerous personal-injury and wrongful-death cases involving either products or vehicular accidents. In the calendar of 2004, arbitrated twelve separate cases involving a complex telecommunications dispute arising under the Telecommunications Act of 1996, several complicated business cases, and several employment discrimination matters. Presided as the chairman on all of the three-arbitrator panels. Arbitrated 50 major cases between 2007 and 2013, ranging in subjects from construction and transportation disputes to employment discrimination complaints. Recently sat as a single arbitrator in highly publicized disputes involving a NCAA Division I basketball coach, and a politically-charged construction case in Kansas City. Currently is involved in more than 20 arbitration proceedings in various stages of litigation. Has served, or is currently serving, as a court-appointed Special Master in many complex class actions or multi-party commercial cases.

Multi-party Dispute Resolution Experience. A sizable percentage of mediations handled have been multi-party cases. Examples would include a warehouse-fire case, which involved \$26,000,000 in claims and fifteen parties – all with claims, counterclaims, and cross-claims; several major environmental cases with numerous parties in a class-action context; a commercial case involving a \$150,000,000 claim brought by approximately 50 grocery retailers who brought suit against their wholesaler; a case involving the death of a well-known professional wrestler; and a highly publicized death of a young boy who was dragged down the street by a school bus. Acted as both a mediator and a special master by requested of the parties in a recent \$36,000,000 class action settlement, and mediated cases involving several highly-publicized truck accidents. Once mediated a case against eight defendants brought by six plaintiffs over a helicopter accident that resulted in multiple deaths.

Expert Witness Engagements. Has served as witness, expert and otherwise, on more than 32 occasions. Expert witness engagements have involved the professional standard of care for lawyers, reasonableness of settlements and consent judgments, reasonableness or attorney fees and settlements in class actions, evaluation of various types of tort and products liability actions, and other litigation related matters.

Professional Licenses. Admitted to the Bar, Missouri, 1969; United States District Court for the Western District of Missouri; United States District Court for the Eastern District of Missouri; United States Court of Appeals for the Eighth Circuit.

John A. Vering III

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Currently a partner at Armstrong Teasdale LLP.

Experience: Over 35 years' experience as a civil trial attorney including experience representing parties in arbitrations and mediations. Practice in labor and employment area including extensive experience advising clients regarding and litigating cases involving claims of sexual harassment and age, race, disability, sex, and national origin discrimination, as well as ERISA cases. Remainder of practice is in other civil litigation including, but not limited to, breach of contract, breach of non-compete and non-solicit covenants, violation of Uniform Trade Secrets Act, tortious interference with contract, fraud, termination of distributors, products liability, construction, negligence, personal injury, and wrongful death claims. Selected as a 2013 Top Rated Lawyer in Commercial Litigation by *Martindale-Hubbell* and *American Lawyer Media (ALM)*. Selected: *The Best Lawyers in America*, Labor and Employment Law (2007 to Present), *Missouri/Kansas Super Lawyers* 2005-Present; *Chambers USA: America's Leading Lawyers for Business* for Labor & Employment Law (2005 to Present) and selected for *Who's Who in American Law*. Past Chairman of Labor & Employment Comm. and Federal Courts Comm. of Greater Kansas City Metro Bar Association.

Alternative Dispute Resolution Experience: Mediated and arbitrated numerous civil lawsuits and disputes including employment discrimination, sexual harassment, wrongful discharge, non-compete agreements, wage and hour, breach of contract claims, ERISA, and personal injury.

Alternative Dispute Resolution Training: AAA Webinar, Employment & Labor Case Law Update What Arbitrators and Practitioners Need to Know, 2013; AAA Managing the Arbitration Process for Efficiency & Economy Following the Preliminary Hearing, 2012; AAA Fundamentals of Effective Mediation Advocacy, 2011; AAA Webinar, Electronic Discovery in Arbitration: What You Need to Know, 2010; AAA Webinar, Will Traditional Litigation Strategies Work in Employment Arbitration? Ask the Experts, 2009; AAA/Husch Blackwell Sanders LLP/Associates in Dispute Resolution LLC, Changing Practices and Processes in Arbitration, 2008; AAA Dealing With Delay Tactics in Arbitration (ACE004), 2008; AAA Pro Se: Managing Cases Involving Self-Represented Parties (ACE002), 2007; KCMBA, Mediating Disputes under ADR Programs in Local Courts, 2006; AAA Chairing an Arbitration Panel: Managing Procedures, Process & Dynamics (ACE005), 2006; Baker University, Preventing Impasse, 2006; AAA Arbitrator Ethics & Disclosure (ACE003), 2005; AAA Ethics in ADR Seminar, 2004; AAA Arbitration Awards: Safeguarding, Deciding & Writing Awards (ACE001), 2004; AAA Arbitrator Update 2001; AAA Commercial Arbitrator II Training: Advanced Case Management Issues, 2001; AAA Commercial Arbitrator Training, 1999; AAA Employment Arbitrator Training, 1997; Practical Aspects of Mediation, 1995; Kansas Bar Association, Civil Practice Mediation and Arbitration Training, 1995; Lex Mundi, Mediation Training, 1992; University

of Missouri, Kansas City/Kansas City Metropolitan Bar Association, Early Assessment and Arbitration Training.

Professional Licenses Admitted to the Bar: Missouri, 1976; Kansas, 1990; U.S. District Court: Western District of Missouri, 1976; District of Kansas, 1990; U.S. Court of Appeals: Fourth (1987), Eighth (1976), and Tenth (1980) Circuits.

Professional Associations: American Bar Association (Litigation Section; Labor and Employment Law Section; Alternative Dispute Resolution Section); Missouri Bar Association (Litigation Committee; Labor and Employment Law Committee; Alternative Dispute Resolution Section); Kansas Bar Association (Litigation Section; Labor and Employment Law Section; Alternative Dispute Resolution Section); Kansas City Chapter of SHRM.

Education: Harvard University (BA-1973) (summa cum laude); University of Virginia (JD-1976) (U. of Virginia Law Review).

Publications and Speaking Engagements: Co-editor, MISSOURI AND FEDERAL EMPLOYMENT LAW MANUAL; KANSAS AND FEDERAL EMPLOYMENT LAW MANUAL; various articles on employment law issues for local publications including KANSAS CITY STAR and KANSAS CITY SMALL BUSINESS MONTHLY; co-author CLE Deskbook on Missouri Employment Discrimination, chapter on gender discrimination; Editor Missouri Employment Law Letter.

Citizenship: United States of America



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