

**2008 2nd annual  
Law Conference for Tennessee Practitioners**  
Features an All-Star Lineup of Judges and Attorneys

**NASHVILLE (THURSDAY & FRIDAY,  
SEPTEMBER 18 & 19)**



Featuring Supreme Court Justice William C. Koch, Jr., along with a stellar cast of Nashville judges and attorneys. Justice Koch was appointed to the state's highest court in June 2007, after serving on the Court of Appeals for over 20 years.

**Judges**

Chancellor Ellen Hobbs Lyle, *Nashville Chancery*  
Judge Thomas W. Brothers, *Nashville Circuit*

**Attorneys**

Brandon E. Bass, *Day & Blair PC*  
Coburn Dewees Berry, IV, *Bass, Berry & Sims PLC*  
Rebecca Blair, *Day & Blair PC*  
Gail Smith Bradford, *Harris, Martin, Jones, Shrum, Bradford & Wommack, P.A.*  
Donald Capparella, *Dodson, Parker, Behm & Capparella PC*  
Harlan Dodson, III, *Dodson, Parker, Behm & Capparella PC*  
E. Todd Presnell, *Miller & Martin PLLC*  
Anne L. Russell, *Adams and Reese LLP*

**MEMPHIS (THURSDAY & FRIDAY,  
OCTOBER 2 & 3)**



Featuring U.S. Bankruptcy Judge David S. Kennedy, along with a stellar cast of Memphis judges and attorneys. Judge Kennedy was appointed to the bankruptcy court in 1980 and serves as chief judge for the Western District.

**Judges**

Judge Robert L. Childers, *Memphis Circuit*  
Judge Karen Webster, *Memphis Probate*  
Judge Phyllis Gardner, *Memphis General Sessions*

**Attorneys**

Porter Feild, *Burch, Porter & Johnson PLLC*  
Shery Fernandez, *The Hardison Law Firm*  
Charles M. Key, *Wyatt, Tarrant & Combs LLP*  
Richard Spore, III, *Bass, Berry & Sims PLC*  
James B. Summers, *Allen, Summers, Simpson, Lillie & Gresham PLLC*

**KNOXVILLE (THURSDAY & FRIDAY,  
NOVEMBER 6 & 7)**



Featuring Court of Appeals Judge Sharon Lee, along with a stellar cast of East Tennessee judges and attorneys. Judge Lee was appointed to the Court of Appeals for the Eastern Section in 2004, after practicing law in Madisonville for over 20 years.

**Judges**

Judge Bill Swann, *Knoxville Circuit*  
Judge Thomas J. Seeley, Jr., *Johnson City Circuit*  
Chancellor Thomas R. Frierson, II, *Morristown Chancery*  
Judge Charles A. Cerny, Jr., *Knoxville General Sessions*

**Attorneys**

Jason Ensley, *Baker, Donelson, Bearman, Caldwell & Berkowitz PC (Johnson City)*  
James R. Moore, *Moore & Brooks (Knoxville)*  
Carol A. Mutter, *Professor, UT College of Law*  
Joel D. Roettger, *Gentry, Tipton & McLemore PC (Knoxville)*  
Stacy E. Roettger, *The Trust Company of Knoxville*  
Mark C. Travis, *Wimberly Lawson Seale Wright & Daves, PLLC (Cookeville)*

**Robert Vance and Tripp Hunt Bring New Insights to All 3 Locations**

**Robert Vance**, C.P.A., of Lattimore Black Morgan & Cain, P.C. will explain the calculation of economic damages for personal injury and wrongful death cases. Vance has been admitted as a court-qualified expert in U.S. District Court for the Western District of Tennessee and Circuit and Chancery Courts in Tennessee, Mississippi and Florida and has testified over 35 times in bench trials and jury trials.

**Tripp Hunt**, disciplinary counsel for the Board of Professional Responsibility, will answer all your questions during his interactive sessions.

**Learn about the new developments in 2008**

- ◆ Tennessee Condominium Act of 2008
- ◆ New requirements for medical malpractice suits
- ◆ Vicarious liability of hospitals for independent contractors



With your bonus CD, prepared by the editors of *Tennessee Attorneys Memo*, you won't miss out on any other important development in Tennessee law from the past year. The searchable CD contains summaries and links to all significant decisions handed down by the state's appellate courts during the past year and all 2008 public chapters of interest to attorneys. The CD includes both subject matter and alphabetical indices. With this handy reference tool, you can easily locate significant decisions from the past year.

**Here's what your colleagues had to say about last year's seminars...**

*"I enjoyed this seminar better than the 2-day seminar that I attended last year. Hope you offer it next year."*

*"Good event - nice variety; all speakers extremely qualified and knowledgeable."*

*"Nice seminar for general practitioners - impressive speakers."*

*"All speakers were interesting and informative - great seminar! Thanks."*

**REGISTRATION FORM. FOR ASSISTANCE, CALL 800-274-6774.**

Take advantage of this entire program and get ALL your CLE (15 hours) for 2008! Or choose what best fits your schedule with this flexible, information-packed program.

- STEP 1**  **Nashville** (September 18 & 19, 2008 at the Nashville School of Law)  
 **Memphis** (October 2 & 3, 2008 at the Hilton Memphis)  
 **Knoxville** (November 6 & 7, 2008 at the Knoxville Marriott Downtown)
- STEP 2**  **Full program \$497** (Both days for total of 15 hours GENERAL CLE credit, including 3 hours of DUAL CLE credit)  
 **Partial program \$447** (Both days for total of 12 hours GENERAL CLE credit, no DUAL CLE credit)  
 **Day one \$297 - Thursday only** (7.5 hours of GENERAL CLE credit, no DUAL CLE credit)  
 **Day two \$297 - Friday only** (4.5 hours of GENERAL CLE credit and 3 hours of DUAL CLE credit)  
 **Ethics/professionalism session \$147 Friday a.m. only** (3 hours of DUAL CLE credit)  
 **Materials only \$247** (includes bonus CD along w/seminar materials)

**STEP 3**  Check payable to M. Lee Smith Publishers enclosed.

- Bill me.

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**100% Guarantee**

If this is not the most informative and cost-effective seminar that you have attended in the last year, we will refund 100% of your registration fee - no questions asked.

**Cancellation Policy**

- ◆ A \$50 processing fee applies to ALL conference cancellations.
- ◆ Registrants are responsible for the entire program fee for a cancellation made after 5:00 p.m. three weeks prior to the event (whether or not you attend the program or fail to cancel).
- ◆ An alternate may attend in place of the original registrant.

**CLE Information:**

This program has been approved for 15 hours of CLE credit, including 3 hours of DUAL CLE credit.

**Five Easy Ways To Register:**

- Mail: Return registration form
- Phone: Toll-free 800-274-6774
- Fax: 800-785-9212
- E-mail: [custserv@mleesmith.com](mailto:custserv@mleesmith.com)
- Web: [www.mleesmith.com/TAM\\_events](http://www.mleesmith.com/TAM_events)

Tennessee Attorneys Memo presents



**2008 2nd annual  
Law Conference for Tennessee Practitioners**

Featuring an all-star cast of prominent Nashville, Memphis, and Knoxville judges and attorneys and 15 hours of CLE credit, including 3 hours of dual credit.

BONUS CD!  
SUMMARIES OF RECENT CASES & NEW LAWS

**NASHVILLE**

Nashville School of Law  
September 18-19

- ◆ New Condo Law
- ◆ New Requirements for Filing Medical Malpractice Actions
- ◆ Latest on the Revised LLC Act
- ◆ Covenants Not to Compete
- ◆ TROs and Temporary Injunctions
- ◆ Tennessee Constitution
- ◆ Motion Practice and Sanctions

**NASHVILLE FACULTY:**

- Justice William C. Koch, Jr., *Tennessee Supreme Court*
- Chancellor Ellen Hobbs Lyle, *Nashville Chancery*
- Judge Thomas W. Brothers, *Nashville Circuit*
- Brandon E. Bass, *Day & Blair PC*
- Coburn Dewees Berry, IV, *Bass, Berry & Sims PLC*
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- Anne L. Russell, *Adams and Reese LLP*
- Robert Vance, C.P.A., *Lattimore Black Morgan & Cain, P.C.*
- William W. (Tripp) Hunt, III, *Board of Professional Responsibility*

**MEMPHIS**

Hilton Memphis at I-240  
October 2-3

- ◆ Tips from Probate and General Sessions Judges
- ◆ Advance Medical Directives
- ◆ Latest Changes in Real Estate Law
- ◆ Medical Malpractice Update
- ◆ Federal E-Discovery
- ◆ How Bankruptcy Law Affects Other Areas of Your Practice

**MEMPHIS FACULTY:**

- Judge Robert L. Childers, *Memphis Circuit*
- Judge Karen Webster, *Memphis Probate*
- Judge Phyllis Gardner, *Memphis General Sessions*
- Judge David S. Kennedy, *U.S. Bankruptcy Court*
- Porter Feild, *Burch, Porter & Johnson PLLC*
- Shery Fernandez, *The Hardison Law Firm*
- Charles M. Key, *Wyatt, Tarrant & Combs LLP*
- Richard Spore, III, *Bass, Berry & Sims PLC*
- James B. Summers, *Allen, Summers, Simpson, Lillie & Gresham PLLC*
- Robert Vance, C.P.A., *Lattimore Black Morgan & Cain, P.C.*
- William W. (Tripp) Hunt, III, *Board of Professional Responsibility*

**KNOXVILLE**

Knoxville Marriott Downtown  
November 6-7

- ◆ The "Gotcha" Rules of Civil Procedure and Evidence
- ◆ When Is Mediation Appropriate?
- ◆ Supreme Court Review
- ◆ Using Indirect Contempt to Help Your Clients
- ◆ Drafting Wills and Using Living Trusts in Estate Planning

**KNOXVILLE FACULTY:**

- Judge Sharon Lee, *Tennessee Court of Appeals*
- Judge Bill Swann, *Knoxville Circuit*
- Judge Thomas J. Seeley, Jr., *Johnson City Circuit*
- Chancellor Thomas R. Frierson, II, *Morristown Chancery*
- Judge Charles A. Cerny, Jr., *Knoxville General Sessions*
- Jason Ensley, *Baker, Donelson, Bearman, Caldwell & Berkowitz PC*
- James R. Moore, *Moore & Brooks*
- Carol A. Mutter, *Professor, UT College of Law*
- Joel D. Roettger, *Gentry, Tipton & McLemore PC*
- Stacy E. Roettger, *The Trust Company of Knoxville*
- Mark C. Travis, *Wimberly Lawson Seale Wright & Daves, PLLC*
- Robert Vance, C.P.A., *Lattimore Black Morgan & Cain, P.C.*
- William W. (Tripp) Hunt, III, *Board of Professional Responsibility*



**2008 2nd annual  
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Featuring an all-star cast of prominent Nashville, Memphis and Knoxville judges and attorneys.

**Tennessee Attorneys Memo**

*Tennessee Attorneys Memo*, our state's number one source for keeping you on point with legal issues for over 30 years, now presents a fresh and engaging opportunity to earn ALL of your required 2008 CLE credit hours in just two days.

This event is different from other 2-day CLE programs because:

- ◆ You take back valuable information you can put to use immediately in your day-to-day practice.
- ◆ You get the opportunity to network with and have your questions answered by judges you know and attorneys who are the best in their fields of practice.
- ◆ You choose how much of the program you want to attend. (But attend the entire program and earn ALL your CLE for 2008!)

PLUS ... With our BONUS CD, you stay up-to-date on all significant appellate court decisions and public chapters from the past year!

**NASHVILLE**

**WHERE:** Nashville School of Law, 4013 Armory Oaks Drive, Nashville, Tennessee 37204  
**WHEN:** September 18 & 19  
**WHAT:** "Hot" topics include:  
 ◆ New Condo Law  
 ◆ Covenants Not to Compete  
 ◆ TROs and Temporary Injunctions  
 ◆ Tennessee Constitution

**MEMPHIS**

**WHERE:** Hilton Memphis at I-240, 939 Ridge Lake Boulevard, Memphis, Tennessee, 38120  
**WHEN:** October 2 & 3  
**WHAT:** "Hot" topics include:  
 ◆ Tips from Probate and General Sessions Judges  
 ◆ Latest Changes in Real Estate Law  
 ◆ Medical Malpractice Update  
 ◆ Federal E-Discovery

**KNOXVILLE**

**WHERE:** Knoxville Marriott Downtown  
 500 Hill Avenue SE, Knoxville, Tennessee 37915  
**WHEN:** November 6 & 7  
**WHAT:** "Hot" topics include:  
 ◆ The "Gotcha" Rules of Civil Procedure and Evidence  
 ◆ When Is Mediation Appropriate?  
 ◆ Supreme Court Review  
 ◆ Using Indirect Contempt to Help Your Clients

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## NASHVILLE DAY ONE (THURSDAY, 9/18)

**8:00 a.m. - 9:00 a.m.**  
“Extraordinary Relief in Chancery Court”

Chancellor Ellen Hobbs Lyle

- Use of temporary restraining orders
- Temporary and permanent injunctions
- What are leading writs of attachment?
- Other extraordinary relief

**9:00 a.m. - 9:15 a.m. Break**

**9:15 a.m. - 10:15 a.m.**  
“Probate Practice: What Every Lawyer Needs to Know”

Anne Russell

- Probating wills, lost wills, and will contests
- Dos and don'ts for filing claims against an estate
- How to avoid common mistakes
- Forms and resources

**10:15 a.m. - 11:30 a.m.**  
“Tort Law: Recent Changes Affecting Your Practice”

Donald Capparella

- Supreme Court review
- Significant Court of Appeals rulings
- Cases pending before Supreme Court

**11:30 a.m. - 12:45 p.m. Lunch**

**12:45 p.m. - 1:45 p.m.**  
“Motion Practice: A Judge's Perspective”

Judge Tom Brothers

- Overview of motion practice
- Types of sanctions: Dismissal, exclusion of evidence, exclusion of witness, etc.
- Sanctions for failing to make or cooperate in discovery – TRCP 37
- Common mistakes leading to sanctions

**1:45 p.m.- 2:45 p.m.**  
“The Revised LLC Act Three Years Later”

Harlan Dodson

- Traps for the unwary attorney
- Tips for drafting operating agreements
- Series provisions and family LLCs

**2:45 p.m. - 3:00 p.m. Break**

**3:00 p.m. - 4:15 p.m.**  
“Tennessee Advance Directives: Don't Leave Your Loved Ones in the Dark”

Gail Bradford

- Distinctions between living wills, durable powers of attorney for health care, and “do not resuscitate” (DNR) orders
- Misconceptions about advance directives and how advance directives can be improved
- Use of psychiatric advance directives
- Forms and resources

**4:15 p.m. - 5:15 p.m.**  
“The Tennessee Constitution”

Justice Bill Koch

- Historical perspective
- Its relevance today
- When to use

## DAY TWO (FRIDAY, 9/19)

**8:00 a.m. to 9:30 a.m.**  
“Ethical Concerns Facing Attorneys Today (Part 1)”

Tripp Hunt

Mr. Hunt, disciplinary counsel with the Board of Professional Responsibility, discusses ethical issues facing today's attorneys.

- Contingency fees
- Retainers and trust accounts
- Conflicts of interest

**9:30 a.m. - 9:45 a.m. Break**

**9:45 a.m. to 11:15 a.m.**  
“Ethical Concerns Facing Attorneys Today (Part 2)”

Mr. Hunt reviews disciplinary actions taken against Tennessee attorneys during the past year. He explains lessons to be learned from these scenarios and what they mean for today's attorney.

Attendees are invited to ask questions during both presentations.

**11:15 a.m.- 12:30 p.m. Lunch**

**12:30 p.m.-1:45 a.m.**  
“Real Estate Law Update: Recent Cases and New Statutes”

Deweese Berry

- Condominium Law of 2008
- Mechanics' and materialmen's liens
- Real estate contracts
- Foreclosure issues

**1:45 p.m. - 2:45 p.m.**  
“Calculation of Economic Damages in Personal Injury & Wrongful Death Cases”

Robert Vance

- Calculating “Replacement Value of Life”
- Steps for calculation: Lost wages, fringe benefits, household services, discounting to single present value
- Special considerations: Vocational and occupational experts, young child, loss of pension

**2:45 p.m. - 3:00 p.m. Break**

**3:00 p.m. - 4:00 p.m.**  
“Covenants Not to Compete and Trade Secrets”

Todd Presnell

- Recent developments in the law
- Tips for litigating
- Drafting restrictive covenant agreements

**4:00 p.m. - 5:15 p.m.**  
“Hot Topics in Medical Malpractice”

Brandon Bass and Rebecca Blair

- “Certificate of Good Faith”
- Locality rule
- Vicarious liability of hospitals
- Recent case law developments



## MEMPHIS DAY ONE (THURSDAY, 10/2)

**8:00 a.m. - 9:00 a.m.**  
“Issues in Drafting LLC Operating Agreements”

Richard Spore

- Drafting for new governance regimes and duties under the revised act
- Buy-sell provisions under the revised act
- Drafting member withdrawal and termination provisions under the revised act
- Details on member-managed, manager-managed, and the director-managed LLCs and the “family LLC” and “series LLC”

**9:00 a.m. - 9:15 a.m. Break**

**9:15 a.m. - 10:00 a.m.**  
“Tennessee Lawyers Assistance Program”

Judge Robert L. Childers

- How to combat “lawyer burnout”
- Stress faced by attorneys today
- How TLAP program works

**10:00 a.m. to 10:45 a.m.**  
“Jury Selection: Batson Challenges”

Judge Robert L. Childers

- Establishing racial or gender bias in jury selection
- What constitutes prima facie case of discriminatory use of peremptory challenges
- Establishing race- or gender-neutral reasons to rebut prima facie case

**10:45 a.m. - 11:45 a.m.**  
“Probate Matters!”

Judge Karen Webster

- Most common mistakes and misconceptions in probate practice
- Dos and don'ts for probate practice
- Tips for practicing in probate court
- Case law update

**11:45 a.m. - 1:00 p.m. Lunch**

**1:00 p.m. - 2:30 p.m.**  
“Bankruptcy Law: How It Affects Other Areas of Your Practice”

Judge David Kennedy

- Automatic stay: Extent of its reach
- Dischargeability of debts
- Setting aside real estate transfers
- Practice tips and common mistakes

**2:30 p.m. - 2:45 p.m. Break**

**2:45 p.m. - 4:00 p.m.**  
“Advance Medical Directives: What Attorneys Need to Know”

Charles Key

- How to advise a client on options available for making future health care decisions
- Proper procedures for health care declaration and health care power of attorney
- Advising physicians, hospitals, nursing home administrators, patient advocates, senior citizen organizations, or clients with elderly parents about health care directives
- Forms and resources

**4:00 p.m. - 5:15 p.m.**  
“Federal E-Discovery and Document Retention”

James B. Summers

- What information is subject to e-discovery?
- What about emails?
- Attorney-client privilege and work product doctrine
- Create plan for collection, production, and protection of data

## DAY TWO (FRIDAY, 10/3)

**8:00 a.m. - 9:30 a.m.**  
“Ethical Concerns Facing Attorneys Today (Part 1)”

Tripp Hunt

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**9:30 a.m. - 9:45 a.m. Break**

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**11:15 a.m. - 12:30 p.m. Lunch**

**12:30 p.m. - 1:30 p.m.**  
“Calculation of Economic Damages in Personal Injury & Wrongful Death Cases”

Robert Vance

- Calculating “Replacement Value of Life”
- Steps for calculation: Lost wages, fringe benefits, household services, discounting to single present value
- Special considerations: Vocational and occupational experts, young child, loss of pension

**1:30 p.m. - 2:45 p.m.**  
“Real Estate Law Update”

Porter Feild

- Condominium Law of 2008
- Construction lien law amendments
- Other key legislative changes
- Significant case law developments

**2:45 p.m. - 3:00 p.m. Break**

**3:00 p.m. - 4:15 p.m.**  
“Tips from a General Sessions Judge”

Judge Phyllis Gardner

- Key local rules of practice
- Appealing general sessions ruling to circuit court
- Appropriate forms of communication
- Practice tips and common mistakes

**4:15 p.m. - 5:15 p.m.**  
“Hot Topics in Medical Malpractice”

Sherry Fernandez

- “Certificate of Good Faith”
- Locality rule
- Vicarious liability of hospitals
- Recent case law developments



## KNOXVILLE DAY ONE (THURSDAY, 11/6)

**8:00 a.m. - 9:15 a.m.**  
“Ethics of Corporate Representation”

Jim Moore

- Problems faced by attorneys representing either large public, or small closely-held, corporations
- When is there a fiduciary duty to third parties or minority shareholders?
- Exposure to liability for actions and representations of corporate clients

**9:15 a.m. - 9:30 a.m. Break**

**9:30 a.m. - 10:30 a.m.**  
“Using Indirect Contempt to Help Your Clients”

Judge Bill Swann

- What judges want to hear in indirect contempt proceedings
- Nine scenarios of indirect contempt in Tennessee
- Closing arguments in your contempt proceeding

**10:30 a.m. - 11:45 a.m.**  
“Tennessee Supreme Court Case Law Review”

Judge Sharon Lee

- Recent Supreme Court holdings
- Impact of court's holdings on your practice
- Emerging trends

**11:45 a.m. - 1:00 p.m. Lunch**

**1:00 p.m. - 2:00 p.m.**  
“Gotcha Rules in Civil Procedure and Evidence”

Judge Tom Seeley

- Don't get caught by the “Gotcha Rules”
- TRCP 3: Commencement of Action
- TRE 803(25): Hearsay statements of children in domestic cases

**2:00 p.m. - 3:00 p.m.**  
“Anatomy of a Lawsuit: Hollywood Style”

Jason Ensley

Highlights the progress of a lawsuit by showing examples that have appeared in movies/TV (e.g., *The Rainmaker*, *My Cousin Vinny*, *A Civil Action*, *To Kill a Mockingbird*, *The Simpsons*, etc.). With each vignette, a rule of civil procedure, professional responsibility, or evidence is highlighted for the audience to discuss.

**3:00 p.m. - 3:15 p.m. Break**

**3:15 p.m. - 4:15 p.m.**  
“Drafting Effective Wills”

Joel Roettger

- The Statutory ABCs: What is required?
- Checklist for gathering client information
- Disinheritance and “No Contest” clauses - will they stand?
- Methods of designating fiduciaries
- Practical pointers and sample forms

**4:15 p.m. - 5:15 p.m.**  
“Using Living Trusts and Powers of Attorney as Estate Planning Tools”

Stacy Roettger

- Advantages and disadvantages of revocable living trusts
- Durable powers of attorney
- Tax considerations of drafting living or testamentary trusts
- Generation-skipping transfer taxes

## DAY TWO (FRIDAY, 11/7)

**8:00 a.m. - 9:00 a.m.**  
“Common Ethical Problems from a Judge's Perspective”

Chancellor Thomas Frierson

- When is it appropriate to withdraw from representation?
- Conflicts of interest
- Attorney-client relationship

**9:00 a.m. - 9:15 a.m. Break**

**9:15 a.m. - 11:15 a.m.**  
“Ethical Concerns Facing Attorneys Today”

Tripp Hunt

- Attorney fee issues: contingency fees, retainers, etc.
- Conflicts of interest
- Review of recent disciplinary actions

Attendees are invited to ask questions during this session.

**11:15 a.m. - 12:30 p.m. Lunch**

**12:30 p.m. - 1:45 p.m.**  
“Tips from a General Sessions Judge”

Judge Charles Cerny

- Key local rules of practice
- Appealing general sessions ruling to circuit court
- Appropriate forms of communication
- Practice tips and common mistakes

**1:45 p.m. - 2:45 p.m.**  
“Tort Law/Insurance Law: Recent Changes Affecting Your Practice”

Carol Mutter

- Supreme Court review
- Significant Court of Appeals rulings
- Cases pending before Supreme Court

**2:45 p.m. - 3:00 p.m. Break**

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“Calculation of Economic Damages for Personal Injury & Wrongful Death Cases”

Robert Vance

- Calculating “Replacement Value of Life”
- Steps for calculation: Lost wages, fringe benefits, household services, discounting to single present value
- Special considerations: Vocational and occupational experts, young child, loss of pension

**4:00 p.m. - 5:15 p.m.**  
“To Mediate or Not to Mediate – That Is the Question”

Mark Travis

- Benefits and limitations of mediation
- Favorable and unfavorable indicators for mediation
- Mediation suitability screen: Three-factor analysis

*Fulfill Your Annual CLE Requirement At One Event.*