

School of Industrial and Labor Relations

November 1, 2004

Doug Starkey, Esq
U.S.Nuclear Regulatory Commission
One White Flint North
11555 Rockville, MD 20852-2738

Shahram Ghasemian
Associate General Counsel
USEC, Inc.
6903 Rockledge Drive
Bethesda, Maryland 20817

Regarding NRC Mediation Program

Case No. 1001-04

Dear Mr Starkey and Mr Ghasemian:

This will confirm your agreement to mediate the dispute between USEC, Inc. and the NRC on Monday, November 22, 2004. The location for the mediation will be at a place mutually acceptable to you.

Enclosed, please find the following:

1. The formal Agreement to Mediate. Both parties are required to sign the form and return it to my office within 48 hours of receipt.
2. The resumes of 3 members of our Roster.
The proposed mediators are:

1. Professor Ernest Dubester of George Mason University;
2. Susan Grody Ruben of Cleveland Ohio. (Note: although Ms Ruben is not from the D.C. area, she is the current lead trainer for Cornell's Mediator training program and a nationally respected mediator);
3. David Thaler, one of the FMCS's finest mediators and a member of our national roster.

You are encouraged to contact each other at the earliest possible time to discuss the qualifications of the proposed neutrals and then advise me of your preferences. We will endeavor to appoint a mediator and confirm the November 22nd date.

As per our earlier discussions, the mediator will be compensated at the rate of \$1,000 per day plus reasonable expenses.

Feel free to contact me via phone or by email.

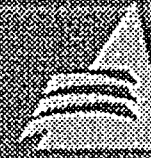
We look forward to hearing from you shortly.

Very truly yours,

A handwritten signature in black ink, appearing to be 'R. Scanza', written in a cursive style.

Rocco M. Scanza
Director, ADR Services
Cornell Institute on Conflict Resolution

**A Nationwide
Network Advancing the
Field of Dispute Resolution**



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Ernest W DuBester, Esq.
Professor; Mediator/Arbitrator
George Mason University School of Law
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Arlington, VA 22201
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Web Address: <http://www.law.gmu.edu>

Work History

Professor and Director of Dispute Resolution Program, George Mason University School of Law, August 2001 to present.

Also actively involved in dispute resolution activities, serving as mediator, arbitrator, and trainer.

Chair (and Member) of the National Mediation Board, 1993-2001.

Presidential appointee, unanimously confirmed by U.S. Senate for three terms. Responsibilities included mediation of many national collective bargaining disputes in railroad and airline industries.

Served in various positions as labor and employment practitioner:

☐ Legislative Counsel, AFL-CIO

☐ Associate in labor and employment firm, Highsaw and Mahoney. Handled many negotiations, arbitrations, and cases in federal appellate and district courts.

ADR Experience

At GMU School of Law, teach a variety of dispute resolution courses, including mediation, and alternative dispute resolution.

Also active mediator and arbitrator with a primary focus on labor and employment

☐ Serve on FMCS and NMB arbitration panels

- ☐ Serve on employment mediation panel of U.S. Office of Compliance (covering federal agencies and employees of legislative branch)
- ☐ Pro Bono Mediator for EEOC.

☐ While Chair (and Member) of the NMB, worked individually and jointly with federal agency members to implement an Alternative Dispute Resolution Program that includes training, facilitation, grievance mediation, and interest-based bargaining.

☐ Taught graduate courses in arbitration and collective bargaining as an adjunct member at the Columbus School of Law, Catholic University of America (1997-2001).

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ADR Training

FMCS, NAA, ACR co-sponsored Arbitration Institute, Advanced Labor Arbitration, 2003.

Northern Virginia Mediation Services, "Facilitating Public Disputes", Advanced Labor Arbitration, September 2002.

Alliance for Education in Dispute Resolution, Advanced Employment Mediation, 2001.

Mediating EEO Disputes, D.C. Bar, 2001.

Extensive training in Mediation, Interest-based negotiation, facilitation, and grievance mediation.

Professional Associations

American Bar Association, Sections of Dispute Resolution and Labor and Employment Law

☐ Plenary keynote speaker at Conference on "Resolving Disputes in the Global Marketplace", Section of Dispute Resolution, 1998.

Association of Conflict Resolution (Workplace Committee)

Northern Virginia Mediation Service, Board of Directors

Virginia Mediation Network

Industrial Relations Research Association

Society of Federal Labor Relations Professionals

Education

Boston College, A.B. 1972.

Columbus School of Law, Catholic University of America, J.D. 1975.

Georgetown University Law Center, LL.M. (Labor Law), 1980.

Admitted to the Bar:

New Jersey and Florida, 1976; District of Columbia, 1980.

Certified Mediator:

Virginia (Supreme Court), 2002.

Professional References

Joseph Santucci, Esq., Morgan, Lewis, Washington, D.C.
Management Employment Bar, (202) 739-5398

Joseph Guerrieri, Esq., Guerrieri, Edmond and Clayman, Washington, D.C.
Plaintiff Employment Bar, (202) 624-7400

Gordon Letter, Littler, Mendelson, Los Angeles, CA
Management Labor Bar, (310) 772-7226

Fee Policy

\$200 per hour mediator compensation, including pre-hearing conferences and review.

\$200 per hour arbitrator compensation, including pre-hearing conferences, doc review, and drafting award.

No charge for travel time.

Eight hours charged for cancellation within 14 calendar days.

Minimum five hours in hearing.

SUSAN GRODY RUBEN, Esq.

Mediator and Arbitrator
30799 Pinetree Road, #226
Cleveland, OH 44124
216/464-4060 (ph)
216/595-5274 (fax)
SGRuben@aol.com

MEDIATION AND ARBITRATION EXPERIENCE

Practicing Attorney from 1982-1998; Full-Time Neutral since 1999. Named by colleagues 1 of 9 Ohio Super Lawyers 2004 in Mediation/Arbitration.

As a Neutral, listed with and handled multiple cases for: American Arbitration Association Mediation and Arbitration Panels; U.S. Department of Labor Mediation Panel; EEOC Mediation Panel; U.S. Postal Service Mediation Panel; Cornell University Industrial & Labor Relations/Alliance for Education in Dispute Resolution Employment Mediation Panel; Mediation Alliance, LLC Mediation Panel; Ohio Department of Education Mediation Panel; Federal Mediation & Conciliation Service Panel; (Ohio) State Employment Relations Board Factfinding and Conciliation Panels; SBC Ameritech/Communication Workers of America Early Neutral Evaluation and Arbitration Panels; City of Columbus/Columbus Municipal Association of Government Employees, Communications Workers of America Local 4502 Arbitration Panel; State of Ohio/Service Employees International Union, District 1199 Mediation and Arbitration Panels; U.S. District Court for the Northern District of Ohio Mediation and Early Neutral Evaluation Panels; Cuyahoga County (Ohio) Common Pleas Court Mediation and Early Neutral Evaluation Panels; U.S. Postal Service/American Postal Workers Union Arbitration Panel.

MEDIATION AND ARBITRATION TRAINING

Harvard Law School Project on Negotiation - Mediation and Interest Negotiation Seminars; EEOC Mediation training; Cornell University Alliance for Education in Dispute Resolution Mediation course; U.S. Postal Service Mediation training; Ohio Department of Education Mediation training; State Employment Relations Board Factfinding and Conciliation seminars; AAA Arbitration seminars; FMCS Arbitration Institute; Stetson University College of Law Center for Dispute Resolution Arbitration seminar; American Bar Association Section of Labor & Employment Law Committee on Alternative Dispute Resolution Arbitration/Mediation seminars.

LEGAL EXPERIENCE

Attorney in 3 AV-rated law firms, 1982-1998 – Taft, Stettinius & Hollister (Cincinnati); McKenna & Cuneo (San Francisco); Schachter, Kristoff, Ross, Sprague & Curiale (San Francisco). Handled over 300 litigation and administrative matters.

Susan Grody Ruben, Esq.

GOVERNMENT APPOINTMENT

Appointed by the California Industrial Welfare Commission to the Wage Board for the Broadcasting Industry, 1992.

LEGAL EDUCATION

J.D., 1982, University of California, Hastings College of the Law, San Francisco. Associate Executive Editor, Hastings Law Journal. 1066 Foundation Fellow. Author, "*NLRB v. Yeshiva University – The Professional-Managerial Overlap*," Hastings Law Journal, 31 HLJ 659.

1982, Judicial extern, Hon. Spencer J. Williams, U.S. District Court for the Northern District of California.

SELECTED RECENT PUBLICATIONS AND PRESENTATIONS

Speaker, "Sitting at the Head of the Table: How to Become a Neutral," American Bar Association Annual Meeting, August 2004.

Mediation Faculty, Cornell University Alliance for Education in Dispute Resolution, April 2004, November 2003.

Speaker on Mediation, Ohio State Bar Association 2003 EEO Update.

Guest lecturer on Conflict Resolution, Case Western Reserve University Weatherhead School of Management, University of Akron College of Business, University of Cincinnati College of Law, Northern Kentucky University Law School, 1996-2003.

SELECTED RECENT PROFESSIONAL AND COMMUNITY ACTIVITIES

Neutral Co-Chair, American Bar Association Annual Meeting Committee, 2004-2005.

Former Chair, Bar Association of San Francisco, Alternative Dispute Resolution Committee.

Volunteer reading tutor, Cleveland Municipal School District.

Member, Ohio (active) and California (inactive) Bars.



FEDERAL MEDIATION AND CONCILIATION SERVICE

2100 K Street, N.W., Washington, D.C. 20427

Phone: (202) 606-3678; Fax: (202) 606-3679

E-mail: dthaler@fmcs.gov

Biographical Sketch

David Thaler

David Thaler is a Commissioner with the Federal Mediation and Conciliation Service in the Office of ADR/International Affairs. Mr. Thaler has mediated disputes in the areas of Employment Discrimination (allegations of racial, religious and age discrimination) under **Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e, *et seq*, amended 1991)**, Wage & Hour Law under the **Fair Labor Standards Act (29 U.S.C. 201, *et seq*)**, and Collective Bargaining contract negotiations under the **Taft Hartley Act of 1947 (29 U.S.C. 1414, *et seq*)**. He has performed conflict resolution systems-design for several federal agencies, including the Department of Defense and the Department of Labor, and has trained officials from several U.S. and foreign government agencies in Alternative Dispute Resolution and Conflict Management. He currently administers several international programs for FMCS, including projects in Thailand, Argentina, Columbia and Mexico.

Commissioner Thaler holds a Master of Public Policy from Harvard University (1998), a Juris Doctorate from New York University (1993) and a BA, *summa cum laude*, in International Relations and Spanish from Tulane University (1990). He is fluent in Spanish and Portuguese and is currently studying French. Prior to joining FMCS, Commissioner Thaler practiced employment and commercial litigation in New York City from 1993-96, during which time he handled cases involving employment-related statutes such as the **Fair Labor Standards Act** and **Title VII**. Mr. Thaler was also an International Affairs Officer at the Labor Department from 1998-99.

For Early ADR
Allegation Number:

Post-Investigation ADR:
EA Number:

1001-04

All Cases:
ADR Number:

U. S. NUCLEAR REGULATORY COMMISSION ADR PROGRAM

Administered by Cornell's Institute on Conflict
Resolution

AGREEMENT TO MEDIATE

We agree to engage in mediation to attempt to resolve our issues.

Mediator's Role. We understand that the mediator will assist us to reach resolution in the mediation, that (s)he has no authority to decide the outcome, and that (s)he will not act as an advocate or representative for any of us.

The mediator will conduct a face-to-face session with all parties. Each side will be expected to present a summary of its views and respond to the mediator's questions. After this session, the mediator may hold private sessions separately with each side to assist in finding a mutually acceptable settlement. The mediator may hold subsequent sessions and discussions in person or on the telephone.

Confidentiality. We understand that mediation is a confidential process, and that the mediator is prohibited by federal law (the Administrative Dispute Resolution Act, 5 U.S.C. 574) from discussing the mediation proceedings, testifying on anyone's behalf concerning the mediation, or submitting any report on the substance. We understand that there are a few rare exceptions to mediator confidentiality, which the mediator will explain further if any participant requests; these exceptions include instances such as where someone expresses an intent to commit violence or where a federal judge orders disclosure to prevent an injustice.

We may consult with advisors, legal counsel, or representatives at any time during the mediation or prior to signing any agreement. Otherwise, we will not discuss the substance of this mediation with anyone who was not present, nor will we share such information voluntarily with non-participants, *except* those who may need certain information to aid us in implementing a settlement.

Withdrawal. We understand that mediation is voluntary and that we may withdraw at any time. However, any participant who withdraws will remain bound by the above confidentiality terms.

Settlement Agreements. If we sign a settlement agreement resolving some or all of our issues, that agreement will bind us.

☐ *For Early ADR Only:* Except that no settlement agreement will be final until three days after it is signed and any party may reject it during that three-day period. We also understand that the NRC will review any settlement that we agree to *solely* to ensure that it will not restrict or discourage an employee from providing information on potential safety violations to the NRC.

☐ *For Post-Investigation ADR Only:* Any settlement agreement between the parties will typically be confirmed by order.

Conducting the Mediation. We expect this mediation to be completed within 90 days after we sign this agreement.

☐ *For Post-Investigation ADR Only:* each party agrees to pay 50 percent of the mediator's total fee and expenses.

No participant will seek to hold the NRC liable for the mediation's conduct or results.

By signing below, we acknowledge that we understand this agreement to mediate and will abide by it.

Party

Representative

Party

Representative

Mediator

Date