

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA

Application for Mediators

Please complete the entire application, using additional paper if necessary. You may also attach a resume.

Name: Gary E. Clary

Firm or Office Name: Circuit Judge, Retired

Office Address: 111 Hammock Court Unit #2 Central, SC 29630

Office Phone: 864-415-0886 Office Fax: \_\_\_\_\_

email address: gclary@bellsouth.net

ADMISSIONS AND AFFILIATIONS

Date admitted to the Bar of the District of South Carolina: 11/7/1975 I.D. No.: 157

Date admitted to the South Carolina Bar: 5/13/1975 Bar No.: 1264

Other courts or jurisdictions to which admitted (with dates of admission and bar nos.):  
United States Court of Appeals, Fourth Circuit (8/5/1976) United States Supreme Court (8/18/1978)

Membership and positions held in bar, ADR and professional associations: South Carolina Bar Association;  
Master, Upstate Inn of Court; South Carolina Circuit Judges Association; Approved Resolver American Health Lawyers Association

Are you a member in good standing in each jurisdiction where admitted to practice law?  yes  no

Are you currently the subject of any pending disciplinary proceeding in any jurisdiction?  yes  no

Have you, within the last 5 years, been denied admission to a bar for character or ethical reasons or disciplined for professional misconduct?  yes  no

EDUCATION

Year law degree received 1974 Law School University of South Carolina

Other professional degrees received (including year and school)

LEGAL EXPERIENCE (A minimum of 5 years of law practice required)

Summarize legal experience (including teaching) since admission to the bar, particularly in the past five years:

From 1975-1992, my practice consisted of civil trial work involving personal injury primarily representing plaintiffs, but I also represented several corporate clients which involved defense trial work. For a number of years, I represented several hospitals, medical practices and medical product manufacturers in hospital, health care and products related issues. I also have experience as attorney in public utility law.

In 1992, I was elected by the South Carolina General Assembly as a circuit judge and served over ten (10) years as a trial judge. Upon my retirement from the bench in 2002, I became the Assistant of Extended Stay America, Inc. and was responsible for managing major litigation for the Fortune 500 company with 675 hotels in 42 states. In this capacity, I participated in over 75 mediations in various state and federal jurisdictions throughout the country.

From 2005-2008, I served as Assistant Professor of Paralegal Studies at Greenville Technical College. Since 2008, I have conducted mediations and arbitrations and engaged in limited practice in federal court.

Percentage of practice in last 5 years representing plaintiff 100 % or defense \_\_\_\_\_ %

Percentage of Federal or State court practice in last 5 years: Federal 100 % State \_\_\_\_\_ %

Number of years engaged in active litigation: 36

### EXPERTISE

Indicate all substantive areas in which you have expertise. Place a "1" by your strongest area(s) and a "2" by all other areas in which you have expertise. (Do not rank beyond "1" and "2.") After any category you have marked, please identify any sub-areas of expertise you have (e.g. "medical malpractice" after Personal Injury).

<u>      </u> Admiralty	<u>      </u> Security or Shareholders suits
<u>      </u> Antitrust	<u>      </u> Labor
<u>  /  </u> <u>  x  </u> Contracts	<u>      </u> ERISA
<u>  2  </u> <u>  x  </u> Environment	<u>  /  </u> <u>  x  </u> Wrongful Termination
<u>      </u> Fraud or Civil RICO	<u>  2  </u> <u>  x  </u> Civil Rights in Employment
<u>  /  </u> <u>  x  </u> Insurance	<u>  /  </u> <u>  x  </u> Other Civil Rights
<u>      </u> Miller Act	<u>      </u> Copyrights
<u>  /  </u> <u>  x  </u> Personal Injury	<u>      </u> Patent
<u>  /  </u> <u>  x  </u> Product Liability	<u>      </u> Trademark
<u>  /  </u> <u>  x  </u> Other (specify) <u>Construction</u>	

### Publications:

Clary, Gary E. & Bailey, Walter M., 2009. The South Carolina Capital Trial, 2nd Ed., Columbia, South Carolina: SC Bar CLE Division  
Clary, Gary E. & Floyd, Henry F., 2002. Criminal Trial Bench Book, Columbia, South Carolina: SC Court Administration  
Clary, Gary E., 1999. The Capital Trial Bench Book for Circuit Judges, Columbia, South Carolina: SC Court Administration

### MEDIATION EXPERIENCE

Mediation experience (particularly in the subject matter categories above): \_\_\_\_\_

I have mediated personal injury, medical malpractice, contractual disputes, property issues, employment, construction, 1983 actions and hospital and healthcare related cases.

Other courts or organizations for whom you serve as a mediator (please note any certifications): \_\_\_\_\_

American Health Lawyers Association Approved Resolver  
South Carolina Board of Arbitrator and Mediator Certification - Certified Mediator and Arbitrator

Number of mediations conducted: 55 Number of other ADR sessions conducted: 10

### MEDIATION AND OTHER ADR TRAINING

<u>Course</u> <u>Provider</u>	<u>Course</u> <u>Content</u>	<u>Date</u>	<u>Place</u>	<u>No. of</u> <u>Hours</u>
South Carolina Bar CLE Division	Circuit Court Mediation Certification	8/19-23/2004	Columbia, SC	40.00

**OTHER INFORMATION**

Are you familiar with the statutes, rules and practice governing alternative dispute resolution in the District of South Carolina?  yes  no

Other relevant experience or skills or other information you would like considered in connection with this application:  
My experience as a trial lawyer, circuit judge and corporate counsel has prepared me to mediate or arbitrate a wide range of issues. For the past three (3) years, I have gained broad experience as a mediator and arbitrator.

During the summer of 2010, I was appointed by the Chief Justice of the South Carolina Supreme Court to serve as Interim Master in Equity in Spartanburg County. In this capacity, I gained beneficial experience in a wide range of non-jury property/equity matters.

Cities in which you are available to conduct mediation:

Columbia       Charleston       Greenville       Florence

Other \_\_\_\_\_

Fees charged:

Hourly Rate: \$ 300.00      Minimum charge each mediation: \$ Three (3) hour minimum

How do you bill for travel? (explain): \_\_\_\_\_  
\$150.00 per hour one way.

I agree to: (1) Be subject to the Rules of Professional Conduct, Rule 407, South Carolina Appellate Court Rules; the Rules for Lawyer Disciplinary Enforcement, Rule 413, South Carolina Appellate Court Rules; and the Local Rules of the District Court; (2) Provide mediation to indigents without pay if ordered by the Court; (3) Notify the Alternative Dispute Resolution Program Director of any change in the above facts or otherwise in my ability to perform duties as a mediator; (4) Disclosure of information contained in this application to litigants and other members of the public.

I certify that the foregoing is true and correct.

Signature: *Andy E. O'Byrne*      Date: 5/26/11  
Applicant

Return completed application to:  
**Danny H. Mullis, Director**  
**Alternative Dispute Resolution Program**  
**United States District Court**  
**Post Office Box 835**  
**Charleston, SC 29402-0835**

Reviewed: *Danny H. Mullis*      Date: 6/1/11  
ADR Program      *(originally reviewed 5/12/08)*

Approved: initially approved by Chief Judge Norton on 5/12/08  
U.S. District Judge

Date: \_\_\_\_\_