October 3, 2011

The Honorable Eric H. Holder, Jr.
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Attorney General:

The American Bar Association (ABA) has recognized the third week in October as “ABA Mediation Week” as a means of promoting the greater use of mediation to resolve legal and other disputes. On behalf of the ABA, I request that the Department of Justice officially commemorate October 16-22, 2011 as “Mediation Week” in order to further highlight the value and importance of mediation and encourage its greater use throughout the country.

As you know, the Department of Justice has long supported the greater use of mediation and other forms of alternative dispute resolution (ADR). Since the Presidential Memorandum of May 1, 1998 encouraging Federal Agencies to use alternate means of dispute resolution, the Justice Department and many other agencies have taken active steps to promote greater use of mediation, voluntary arbitration, early neutral evaluation, agency ombuds, and other ADR techniques. These steps have resulted in significant cost savings, increased workforce productivity and more efficient delivery of services by Federal Agencies.

The purpose of Mediation Week is to promote mediation and related forms of collaborative non-adversarial problem solving and to educate parties, lawyers, and the general public about these processes. Mediation and other collaborative dispute resolution processes often provide an effective and workable vehicle for resolving legal, personal, business and other types of controversies—without resorting to more traditional methods of dispute resolution, such as formal litigation culminating in court trials. The ABA is working with cooperating partners in state, local, and international bar groups and law schools and mediation organizations to conduct educational events in cities around the world to promote mediation as a model for peaceful resolution of disputes.

We have urged our cooperating partners to consider focusing their Mediation Week events this year on the topic of civility and civil public discourse. As you may be aware, the ABA House of Delegates recently adopted a resolution proposed by the ABA Section of Dispute Resolution advocating greater civility and more civil public discourse by and among not only lawyers but also our public officials. A copy of that resolution is enclosed.
Over the past few decades, mediation has been increasingly used as the principal model for the resolution of civil and family disputes—in the courts, by public agencies, among commercial disputants, and among private individuals. Mediation affords parties meaningful access to justice in a manner that is almost always less expensive and timelier than traditional court processes. This benefits the parties and it frees up the already overworked and under financed courts to address more complex issues.

For all these reasons, we respectfully request that you commemorate October 16-22, 2011 as Mediation Week. I have enclosed a model from which the commemoration could be based. You should feel free to modify the suggested language as you deem appropriate.

Your support for this commemoration would lend enormous visibility and recognition to this important initiative, and we thank you for your consideration. ABA Section of Dispute Resolution Director David Moora, who can be reached at 202-662-1685, is ready to help your staff if you have any questions or need any further information.

Sincerely,

Wm. T. (Bill) Robinson III

Enclosures
RESOLVED, That the American Bar Association affirms the principle of civility as a foundation for democracy and the rule of law and urges lawyers to set a high standard for civil discourse as an example for others in resolving differences constructively and without disparagement of others.

FURTHER RESOLVED, That the American Bar Association urges all lawyers, ABA member entities and other bar associations to take meaningful steps to enhance the constructive role of lawyers in promoting a more civil and deliberative public discourse.

FURTHER RESOLVED, That the American Bar Association urges all government officials and employees, political parties, the media, advocacy organizations, and candidates for political office and their supporters, to strive toward a more civil public discourse in the conduct of political activities and in the administration of the affairs of government.

FURTHER RESOLVED, That the American Bar Association supports governmental policies, practices, and procedures that promote civility and civil public discourse consistent with federal and state constitutional requirements.
The Department of Justice commemorates October 16-22, 2011 as Mediation Week in recognition of the cost savings, increased workforce productivity and more efficient delivery of services by Federal Agencies as a result of greater use of mediation and other forms of alternative dispute resolution including voluntary arbitration, early neutral evaluation and agency ombuds.

During Mediation Week the Department of Justice encourages all citizens to model the use of civility, non-disparagement, dialogue, problem solving, and other collaborative practices in their interactions and to learn more about alternative dispute resolution, and how it can be utilized to manage conflict effectively.

Mediation and other forms of alternative dispute resolution has become a framework for management of conflict in both the public and private sectors. Statutes and directives require the availability of dispute resolution alternatives in the Federal Agencies and trial courts. Use of those alternatives has met with success and served as a catalyst for expansion.

Alternative dispute resolution is being used in the courtrooms, the boardrooms, the classrooms, our personal lives, and on the streets. Students from an early age use peer mediation to resolve their disputes. Mediation is being used for nursing homes and geriatric care issues. Police officers use mediation skills to resolve conflicts without force. Community leaders use conflict resolution techniques to deal with racial and ethnic tensions.

Mediation and other forms of alternative dispute resolution is conserving resources, preserving relationships, and enabling government agencies to do more with less. Mediation affords parties with meaningful access to justice in a manner that is almost always less expensive and timelier than traditional court processes. This not only benefits the parties, it frees up the already overworked and underfinanced courts to address more complex issues.

During the week of October 16-22, 2011 the Department of Justice calls upon government agencies, industry, education, and community leaders to provide their constituencies with information about how mediation and other voluntary dispute resolution techniques can be used to defuse conflict in a constructive manner and encourages all citizens to use non-adversarial dispute resolution techniques to deal with the conflict.