



AAM-a-gram

August 2015

ASSOCIATION OF ATTORNEY-MEDIATORS

"...to support and promote professional and qualified attorney-mediators who are committed to the proposition that the existing dispute resolution system can fulfill its intended purpose through the use of mediation."

**2015-2016
AAM**

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President's Message

Here goes my first attempt at an article for the AAM Newsletter.

Right off the bat I would like to express my appreciation to the board and to the members through the board for allowing me to serve as President for the Association of Attorney Mediators which I feel is a most important organization for mediators across the country. I am flattered and proud they have asked me to serve but, I am also well aware of the responsibility of leading this organization that is so well known for its continuing mediation education and continuing legal education seminars. I know it is quite a responsibility to basically "Keep up the good work" that the organization has been performing for years now and at the same time try to improve on it or make it better. Fortunately for me our president-elect, Jeff Kilgore, who is responsible for setting up the seminars and getting the best teachers available, has taken on his responsibilities with "Gusto".

Jeff has already done a magnificent job of putting together a program for our San Antonio meeting this September. He has coincidentally, and without consultation or discussion with me, selected a name or theme for the program which I had been considering to be the theme of my term as President. The theme he has chosen is "**Be the Best Mediator You Can Be!**" That is exactly what I would like AAM to assist all of its members with during this term of office at the same time making this organization the best mediator organization it can be.

Prior to being installed as President I obviously had been giving some thought as to how the year should go and what programs I would like to conduct through the year. How do you take a well run top notch organization and make it better? One of the things that came to mind early was the fact that the cost of practically everything was going up and there was a real possibility we may have to increase the fees for membership in order to take care of these rising costs. I also felt that the fees for membership were stout

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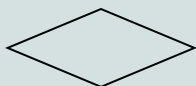
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President's Message—Continued

enough that perhaps we were missing out on some very good mediator members because of those costs. The answer seems to be growing the membership so we can spread those costs over a larger base. Therefore, one of the main goals for this year is to grow the membership substantially. This is where YOU come in.

I would like to make a personal pact or agreement between YOU and ME. I hope you notice that I use the term YOU. Not ya'll, not you guys, not "the members", not everyone, I'm talking about a personal commitment between YOU and ME. I'm making a commitment to make AAM as good a mediator organization as it can be with added benefits, meaning added value to being a member, and added aid or assistance to YOU in being the best mediator you can be. I'm asking that you agree with me that you will expend a certain amount of effort to help the board and I succeed with two or

three new programs that we will tell you about in the near future. I assure you that your part will not be onerous, but will be fun or at least entertaining. By making this a personal agreement between us (YOU & ME) I mean I would like to have personal communication back and forth of any ideas you may have to improve the organization, to make the programs better or to assist or how the organization can assist you. Instead of waiting for meeting times or requiring anyone to prepare any complicated working papers, I would really appreciate it if you would simply contact me personally. To make this as easy for you as possible at the end of this article I will provide my address, telephone number, and email. So you can contact me any way you choose. I TRULY would like to personally hear from you.

We would like to build some more chapters in new states and buoy up the chapters that already exist, and

we would like to also give each member more perks for your membership than just the CLE, CME, and Malpractice Insurance that comes with your membership. As I have said before I have put together two or three programs intended to do just that. The board has graciously approved these as programs we will follow throughout this coming year. I believe that what we have planned will help YOU be the best mediator you can be by giving real life assistance in your mediation practice.

I won't take the time and space to go into the details of these projects now, but in the coming days and weeks I plan to contact each of you with details of the project and materials to help you help us and maybe some new ideas I get from you for other projects.

I look forward to working with you and the board in the weeks and months ahead and of course would not even attempt to try

President's Message—Continued

this without the assistance and already received commitment from the lovely Brenda Rachuig. You all know I would not even attempt such an agenda without her assistance and guidance. So I hope you will all work toward a bigger and better AAM in the future.

Sid

Sidney McCollum
AAM National President

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Online Scheduling Possibility

Several AAM members have contacted us about the possibility of an online scheduling feature that would be available for use with their AAM Member Profile. Our Member Software does not currently have a schedule feature built in, but we have added it to our “wish list” for the programmers. In the meantime, we have looked around at other possibilities that would provide low cost scheduling for mediators to use as an online feature.

We have tested several, and opened dummy accounts to actually use the functionality. We have put in place a “mock-up” online scheduling system with a group called TimelyVisits.com. Please feel free to visit the AAM mock-up at attorney-mediators.timelyvisits.com and play with this scheduling feature. (*Of course, mine is*

strictly a mock up, as I am not a mediator.) There are different payment levels which increase with additional bells and whistles and staff members, (staff is the mediator offering the service – not office staff). The best news is the lowest level is FREE! It allows one staff member (mediator). There are many other online scheduling systems, but we found this one was customizable to some extent and easy to use. Each account is given a web link and this link may be placed in your public profile on the AAM website and on your personal website.

How will this scheduling information show to the public?
We will add a line to the member profile information that says: **To Schedule a Mediation:**

_____. This line may contain a link, a phone number or an email address for scheduling. Or you may simply say, “please call to schedule” or “please email to schedule”. This may also be a place to add the contact information for the scheduler in your office, if there is a particular person to contact.

If the online schedule is something that interests you, we are happy to work on it with you. Please email the request to aam@attorney-mediators.org.

BRUTSCHE' RECIPIENTS 2015

The Brutsche' Award is a very special and prestigious award *“Given to the person(s) personifying the principles of service and commitment to the profession that are the foundation of the ADR movement.”*

William “Bill” Lemons

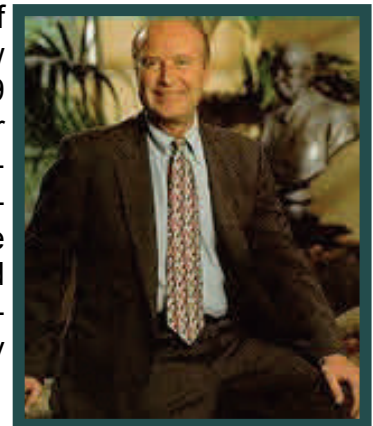


Congratulations, Bill! Bill Lemons has been an AAM member since Sept 1997 and has always kept AAM matters high on his priority list. He tirelessly promotes AAM and alternate dispute resolution. While serving as the volunteer AAM President in 2012-2013, Bill saw the threat to mediation and to AAM members in the progress of a bill in Texas. Bill serves full-time as Arbitrator and Mediator from San Antonio, Texas. He maintains a very active mediation practice, and is a Qualified Neutral for the United States District Courts for the Western and Southern Districts of Texas. He served as Chair of the ADR Section of the State Bar of Texas, and served as national President of the Association of Attorney-Mediators. Bill is also a member of the Texas Mediator Credentialing

Association, Institute for Responsible Dispute Resolution, and is a Life Fellow of the Texas Bar Foundation. Thank you, Bill – keep up the good work!

Edward F. Sherman

Congratulations to Edward F. Sherman! Ed was a principal drafter of the Texas and Louisiana mediation statutes. He joined Tulane Law School as Dean in 1996, serving until 2001. He previously had spent 19 years on the University of Texas School of Law faculty. He is the author of many articles and casebooks on Civil Procedure and Complex Litigation. His casebook, Processes of Dispute Resolution (with Rau & Peppet, Foundation Press 2006), is widely used in ADR courses around the country. He has been an active arbitrator and mediator since 1985 and has been on the board of the Texas and Louisiana State Bar ADR Committees. He a founder and chair of the Texas Center for Public Policy Dispute Resolution. With special thanks, Ed!



New Additions to the Board of Directors

Kim L. Kirn practices in St. Louis, Missouri. For more information about Kim, please see her website at [www.kimkirnlaw.com/Kim Kirn Bio.pdf](http://www.kimkirnlaw.com/Kim%20Kirn%20Bio.pdf)



Debra Black Leo



practices in Birmingham, Alabama. For more information about Debra, please see her bio. [Debra Black Leo Bio.pdf](http://www.kimkirnlaw.com/Debra%20Black%20Leo%20Bio.pdf)

Jay Zeleskey practices in Dallas, Texas. For more information about Jay, please see his website at <http://zeleskeymedia-tions.com>. [Jay Zeleskey Resume.pdf](http://www.kimkirnlaw.com/Jay%20Zeleskey%20Resume.pdf)



New Orleans – First Attempt at Full Day Annual Meeting

The Annual Meeting in New Orleans was AAM's first attempt at putting it all into a one day package – the training, the annual meeting and time together. AAM's history has been to have the Annual Meeting/Advanced Attorney-Mediator Training in the Spring as a two half day event to allow travel on Friday morning, and time to stay and play after the adjournment on Saturday noon – or to return home. Although the Member's Survey

indicated a split vote, we received mixed feedback for the one day Annual Meeting from attendees – some enjoyed this format while others did not. Most of the “did nots” were travel related. We would really like to hear from you on your format choice as we plan for future events. **We will be having a two half day program in Nashville, TN on April 29 and 30, 2016!**

“Best AAM conference for me. Probably my best CLE day ever. All programs very well presented and informative.

Great after lunch speakers to keep the interest at high levels.

Probably only second time in my CLE

experience when I have not missed any time from any speaker.

Thanks very much. “

*Feedback from
the AAM New
Orleans
Conference
April 2015*

What We Learned In New Orleans

Sid McCollum put together a great program in New Orleans, “**What You Learn in New Orleans Doesn’t Stay in New Orleans**”! Our time in New Orleans began with “Dinner with A Group” with twenty-three attendees and board members getting together for dinner the night before the conference. We chose our dinner site at the Hyatt’s own Vitascope Hall for ease with everyone’s staggered arrivals, the food was delicious and the conversation was enjoyed by all. The gumbo was the perfect start to the event!

Our special day of presentations began with special guest, **Edward F. Sherman**, one of the principal drafters of



the Texas Mediation Statutes. Our excellent speakers, **Joe Paulk**, Tulsa, **Chris Nolland**, Dallas, **Paul Lurie** and **Mike Leech**, Chicago, **Tommy Smith**, San Antonio, **Bob Matlock**, Frisco, **Ross Hostetter**, Boulder, made the day a true success – everyone left with a new tidbit for use in their mediations. Our luncheon marketing speaker, **Michele Gibson** of Digital Smart Tools, gave us new information about marketing our mediation.

The end of day networking reception was a hit as conversation and networking took place before groups

started out to local venues for food and fun. The JazzFest was in full swing and many took advantage of the opportunity to hear the outstanding music on their stage, while others visited smaller venues around the French Quarter for an evening with friends, food and music. Each visit back to New Orleans finds something exciting and new! As members continually request New Orleans as “where to go”, we are sure to return for a fourth time in the future!

Association of Attorney-Mediators

presents its

Advanced Attorney-Mediator Training

and CLE Seminar



BE THE BEST MEDIATOR YOU CAN BE

Friday, September 18, 2015
San Antonio, TX

With an awesome line-up of trainers and topics, you will walk away with more than you thought possible! New techniques, communication skills, the use of perception and emotion for your daily mediations, overcoming obstacles in your mediation, input from mediation "users", and many more topics sure to give you that extra something to

BE THE BEST MEDIATOR YOU CAN BE!

Join us on September 18 at the Hilton San Antonio Airport Hotel in San Antonio as we explore ideas and strategies to BE THE BEST MEDIATOR YOU CAN BE.

Agenda and speaker information available now! [CLE15Agenda.pdf](#)

Registration and hotel information: (Room block releases August 26, 2015)

<http://www.attorney-mediators.org/register>

Numbers Runners, Arm Twisters, and All Points in Between

Jimmy Lawson, Hamlin Dispute Resolution, LLC

I attended a conference/seminar put on by the Association of Attorney-Mediators in New Orleans back in April. I'll admit that part of the reason for attending was my love of New Orleans food, but the main reason I went was because I do actually learn something helpful in my mediation practice every time I attend an AAM seminar.

Knowing what your attorney-clients want from their mediator was one segment of the seminar, and the content presented was based on exit surveys that a well-known mediator from Oklahoma had compiled over a year's time. Some of the responses he had received to his survey questions were humorous, some were predictable, but many were surprising and insightful. However, one particular question and the top responses to it caught my attention more than the others.

If I can recall correctly, the question was along the lines of, "What trait do you find most frustrating or disappointing in the mediators you have used in the past?" The responses were unveiled in a *Family Feud* sort of way, with all responses being revealed from lowest number to highest. The second most popular response, in the range of 33%, was, "the mediator who just carries numbers from one room to the other." The most popular response, with approximately 38%, was, "when the mediator drives the parties toward the settlement he thinks is fair." In other words, the two most irritating traits of a mediator, based on several hundred attorneys that were surveyed, are being overly aggressive and being too passive.

I can relate. I've had numerous attorneys tell me that they have participated in mediations in which the mediator added nothing of benefit to the negotiations; he or she simply took offers and conveyed them to the rooms throughout the day. The complaint in that situation, other than the obvious lack of substantive participation, is basically, "Why are we paying this guy when all he is doing is running numbers?" Frankly, I'd have thought that this would have been the number one complaint of the surveyed attorneys. But it wasn't; it was topped by the complaint of the arm-twisting mediator.

My first mediation as an attorney was in the early 1990s. I represented an elderly gentleman whose truck had been rear ended. He had a broken neck but wasn't paralyzed. The defense attorney was the one who suggested mediation, and I agreed. Our mediator was a semi-retired attorney who was very prominent in the Arkansas legal community, having practiced for close to 50 years and having a larger-than-life personality. We spent a day in mediation, and by the end of the day, with a settlement in my pocket, my head was spinning. In essence, I had spent the day listening to the mediator tell me and my client how the case would turn out, how much it was worth in settlement, and how we were going to agree to that settlement once he convinced the defendant to pay it. I'm sure the defense attorney in the other room was getting a similar lecture all day long as well. Make no mistake, we allowed this to happen. The settlement was a fair one, but we both felt that we had been strong-armed into the settlement at the end of the day. Our clients

Numbers Runners, Arm Twisters, and All Points in Between—Continued

were satisfied, but there was something that just didn't feel right about the way the day had unfolded.

I've tried hard during my still-young career as a mediator to find that balance between the two extremes. So far I've yet to be criticized (at least as far as I know) for being too passive or too aggressive. How I decide to approach a specific mediation comes from my own personality, but I also draw on my knowledge of counsel for the parties and how I believe they want me to proceed. I've even had talks with attorneys prior to convening the session who told me that they wanted me to be very forthcoming with my thoughts and opinions because they felt their clients needed to hear them. It's a delicate balance between pushing your own thoughts on others and missing an opportunity to add something meaningful to the discussion. It may be the hardest thing a mediator has to learn, but it is essential that the balance between the extremes be found.

In early June I mediated a case that required the right balance, and we were able to find it and get an emotional, difficult case resolved. From past experience I knew that one attorney would be mostly quiet, would want to know what I could report from the other room, and would then dismiss me while he conferred with his client. He would then call me back in and give me instruction as to what I was to convey to the other party. On the other hand, also from past experience, I knew that opposing counsel would want to fully engage, challenging me on points made by the other party and inviting me to play devil's advocate for much of the day in front of his client. He wanted me to tell him when I felt he was wrong or missing the boat on a salient point. I was able to do that, the time spent in that room was lively (and fun), and I think we both appreciated our respective efforts when it became apparent that the case was going to settle. I relate this war story only to illustrate that sometimes in the same mediation you need to be more aggressive with one party and more passive with the other. Again, it's a delicate balance but if you don't find that balance, you may be missing an opportunity to bring the parties together.

In my introductory comments during the brief opening session that is held, I always say, "I cannot give legal advice. But what I can give, and what I *will* give if asked, are my opinions." I then tell the parties that they are free to give those opinions whatever weight that they see fit, or no weight at all. Sometimes I find myself giving opinions all day long; other times I'm never asked and I don't give them. The dynamics of every mediation are different; you just have to be perceptive enough to recognize what is required.

As the summer heat and humidity set in like a thick blanket over the Mid-South, the time seems right for litigants to "cool off" by coming together and seeing if they can settle their cases. If you have a case that's right for mediation, do yourself and your client a favor. Don't hire a numbers runner to mediate your case. Don't hire a mediator who is going to impose his own will over the free will of your client. Hire someone who will strike the right balance, ethically and effectively, so that you will have no question you are getting what you pay for.

AAM Welcomes New Members

We are pleased to welcome the following new AAM members as of the publishing of this newsletter:

Welcome!

Travis Berry, Arkadelphia, AR
Patrick Border, Honolulu, HI
Carrick Brooke-Davidson, Austin, TX
Teresa Carroll, Jonesboro, LA
Steven Chavez, Denver, CO
Deborah Cole, Chicago, IL
Mary Schaerdel Dietz, Austin, TX
Michael Diliberto, Los Angeles, CA
Andrew Forstenzer, Dallas, TX
Belinda Herrera, Austin, TX
Michael Hiller, Houston, TX
Gregory Jones, Houston, TX
Kim Milstead, Houston, TX
Rick Morris, Temple, TX
Ashley Normand, Austin, TX
Eric Olsen, Round Rock, TX
Roger Rider, Houston, TX
Anthony Silas, Whitney, TX
Douglas Skierski, Dallas, TX
Arturo Villarreal, Austin, TX
Adam Weintraub, Tulsa, OK
Albert Wenzell, Jr., Temecula, CA
Matthew Wildermuth, Woodridge, IL

We welcome you to the Association of Attorney-Mediators and look forward to your active participation within this organization! We hope you will join us in **San Antonio, TX on September 18, 2015** so we will have the opportunity to welcome you! Please let an officer of a local chapter or the national board of AAM know what AAM can do for you and how you would like to become involved in AAM's activities.

Special Thanks!

We want to extend a special thank you to the outgoing AAM Board Members, **Mike Patterson, Gloria Portela, and Elizabeth Woodruff**. Thank you for volunteering your time and energy serving on the AAM Board. You are appreciated!



Chris Nolland holds the attention of everyone in the room as he shares ethics information.



Dinner With A Group in NOLA: Joe Paulk, John Rothman, Bill Lemons, Pam Lemons, Charlie Hanor, Gary Wallace, Anne Shuttee

Smile



AAM Greats: Judge Frank Evans, Mike Amis and Edward F. Sherman in NOLA



Mike Leech presented the 2015 Brutsche' Award to Bill Lemons



YOU'RE INVITED
to the celebration
of the
25th Anniversary of
AAM

Annual Meeting and
***Advanced* Attorney-**
Mediator Training

Nashville, TN

Gaylord Opryland Resort

April 29 and 30, 2016

Save the Date!



Meet the AAM President and President-elect

AAM President 2015-2016



Sidney McCollum has achieved 24 years of a general and varied practice as an attorney and six years of service on the bench as Circuit Judge for the 19th Judicial District of Arkansas. In 1995 Judge McCollum established ADR, Inc., an alternative dispute resolution service providing mediation, arbitration, mini-trials, and all other alternative dispute resolution techniques. Before moving to mediation, his experience included working as: clerk for a federal district judge; trial attorney in a large firm emphasizing defense work; Assistant U.S. Attorney, specializing in complex white collar crime; partner in a small firm representing large national corporations, banks, schools, cities, organizations and individuals. Since shifting focus to ADR, McCollum has mediated more than 2,000 cases in all fields of law. Sid was a member of the Arkansas Alternative Dispute Resolution Commission since it was formed and served as chairman for 12 of those years. Additionally, he has spent hundreds of hours training mediators across Arkansas as well as presenting seminars at the National Judicial College in Nevada. Sid is currently serving as the President of AAM.

AAM President-elect 2015-2016



Jeff Kilgore was a trial lawyer when he decided the disputants could benefit greatly from crafting their own settlement with help of their attorneys. He started focusing on mediation and arbitration in 1998 and has continued to grow his practice and training by participating in seminars and courses on a regular basis. He also has taught mediation courses at the University of Houston AA White Dispute Resolution Center and has chaired and co-chaired mediation trainings in advanced family mediation. He has completed over 1600 mediations in contracts disputes, construction, insurance issues, property law disputes, securities, probate and family law matters. His primary office is in Galveston, Texas and he works out of the Greenway Mediation Center when requested. Jeff is married to Mary Kilgore and has three children Chris, Adam and Kelsey, and grandchildren, Tierney and Aislynn. He enjoys sailing, boating, nature photography, and grilling for friends and family. He has been in law practice 42 years this month. Jeff has been a member of AAM since 1999.