

"...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."

2013–2014 AAM BOARD OF DIRECTORS

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Association of Attorney-Mediators

AAM-a-gram

Association of Attorney-Mediators

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I now have the best job in the organization. As my term as twenty-second President of AAM ended at the Annual Meeting in Kansas City, I have been elevated to *Immediate Past-President*. Life doesn't get much better than that!

I first need to thank **Suzanne Mann Duvall**, **Raymond Hunter** and **John Rothman**, outgoing Board members, for their years of dedicated service to AAM. Their leadership and experience have been invaluable. I next get to welcome the new kids: **Sid McCollum** (Little Rock), **Ron Wiesenthal** (St. Louis) and **Jim Young** (Dallas). They have put their time and effort where it counts – to serve on the AAM Board. Their talent and contributions will be invaluable.

In May, 2012, a little over a year ago, it was my pleasure to put on the Advanced Attorney-Mediator Training at the Knickerbocker Hotel in Chicago. What a hoot! Incoming President Mike Patterson then headed up the recent training in Kansas City. From the remarks and comments we have received, it was a very successful event! Thank you all for making this event such a very good one. We have heard comments that "this is the friendliest organization I have ever seen!" and "best group of mediators I have ever been around". Brenda and I appreciate you all doing your part to make everyone feel welcome! We gained three new members in the Kansas City region just prior to the conference and have three new applications since the meeting from attendees in Kansas, Mississippi and Colorado!

The AAM Board made John Estes (Dallas) an Emeritus Life Member of AAM in recognition of his devotion to AAM and work on its behalf. John was previously President of AAM (he signed my membership certificate), has had a leadership role for years and had a significant role in the recent efforts to re-shape Texas Supreme Court Rule 169.

As Mike Patterson will tell you in his remarks, the state of the organization is very good. Remember that the only way to predict the future is to invent it! Let's follow up on our strategic plan. Let's continue to be a friendly and inclusive group with the best CLE around. But above all, let's be diligent and ever vigilant in our collective efforts to promote the benefits of mediation and to forever defend against any encroachment on what is truly a gift to all. "expedited actions" that was truly AAM-a-gram

harmful to the trial process, but also would have had a chilling effect on court-annexed mediation. AAM leadership filed strong opposition, and has redoubled its efforts to be ever diligent in monitoring proposed legislation that might, however well-intended, be harmful to the dispute resolution community. We can never be complacent or take for granted the gift that we have.

And, so, we are well into the next leg of our voyage with renewed enthusiasm and respect for what we do and who we are. We are working together with many factions toward attaining the three goals. Yet the future is boundless and we are only limited by the level of effort and enthusiasm we devote to the task.

Bill Lemons, Immediate Past President

GOALS

The upcoming year for AAM should be an exciting and productive one. My predecessor, Bill Lemons, has left our association in great shape. Membership during his tenure has grown to over 400, the highest in the last fifteen years. We have expanded into over 20 states. Instead of being content with this growth, under Bill's leadership the Board of Directors had a strategic planning session in February in Dallas. Led by Elizabeth Derrico from the ABA, we took the responses from your member survey and spent a day discussing our association's future. Bill has not only left left things in great order, but has given us a roadmap for the future.

Three goals were agreed upon at our planning session. You told us in response to the survey Elizabeth sent out that continuing education was one of the most important activities for our association. So, our first goal is to continue to provide the highest quality continuing education that helps our members' practices. Our President-Elect, Michael Leech, is chair of Continuing Education Committee that will select the proposals for our conferences. You should have already received an e-mail seeking proposals for our November 8th conference in Houston.

Our second goal from our planning session is to grow our membership. We challenged ourselves to grow our membership to 600 in three years and continue to expand into more states. Our treasurer, Ron Wiesenthal, is chair of the Membership Committee. If you have any ideas that you believe will help Ron or Michael with these committees, please contact them.

In response to our survey of members, the activity that you rated most important was building broader acceptance of mediation in the legal and business community. This caught many board members by surprise. Our third goal is to create and advance mediation within the profession. The board is still investigating the best way to do this.

I've been involved with other organizations following strategic planning sessions. It's a challenging, exciting and energetic time. If you are interested in working on any of these goals, please let Brenda or me know. It will require some work, but we'll have fun.

Mike Patterson, AAM National President

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A Special Welcome to New AAM Members

We are pleased to announce the following new AAM members (since the last newsletter):



Joseph Backer, John Boyce, Gregg Collins, Joseph Eischens, James Kohl, Joel Kolodny, Courtney Perez, Scotty Shively, Independence, MO San Antonio, TX New Orleans, LA Kansas City, MO Las Vegas, NV Louisville, CO Dallas, TX Little Rock, AR

We welcome you to the Association of Attorney-Mediators and look forward to your active participation within this organization! 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

Kansas City – What a Great Time!

After landing at the airport and heading toward the Intercontinental Hotel in the Country Club Plaza, our host hotel, we had a pleasant surprise!! A very nice welcome for AAM participants! The rotating lighted sign at the airport entrance flashed "Welcome Association of Attorney-Mediators".

The lovely, historic venue, the Intercontinental Hotel, was a treat for all, with our meetings held in the rooftop ballroom, with a beautiful view of the city all around. The sleeping rooms and public areas were luxurious, as well. Even the conference food was perfection.

On Friday evening, our Jack Stack Barbeque private dining venue was a great place to feast on ribs, smoked chicken and brisket, not to mention all the delicious side dishes and desserts, with cocktails and time to mingle with mediators from other regions of the country. The ambience was complete with a jazz ensemble for our listening enjoyment. What could be better than jazz and barbeque in Kansas City?



Our speakers were educational, informative and very entertaining! We welcomed **Ross Stoddard** to start the day with tips for mediators. **John Dewey Watson** enlightened us with important ethical information and entertained us with a song duet assisted, unrehearsed, by **Frank Hamlin**, singing *"Ain't Misbehavin' I'm Just Negotiatin' With You"*. **Michael Leech** reminded us of tools from his mediator toolbox adding a new tool or two along the way. **Irv Levinson** had us on our feet for a special *"improv"* lesson pertaining to mediation.

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Our ethics problem solving panel provided some new speakers as well as our tried and true, **Dean Kilgore. Jerry Palmer, Dudley Smith** and **Bruce Waugh**, from the Kansas City region, provided insights into the ethical dilemmas submitted by the audience. A special treat for the day included a panel of knowledgeable mediators, **Stevann Wilson, Charla Beall**, and **Suzanne Duvall** as they taught us about dealing with bullies. The training day was complete with **Louis Selig** sharing those "must use" analogies for mediation. So much to learn in two short days! A special thank you to all those involved in this great program!

The training day was followed by our much requested marketing segment. This segment gains popularity each year and will be a continued addition to the Advanced Training. Special thanks to **Courtenay Bass, Trey Bergman**, and **Ron Wiesenthal** for sharing their wisdom and keeping the discussion in check. Comments such as "Superb! Based on your suggestions, I'm going to completely re-vamp my marketing plan" help us understand the value of keeping this bonus segment a part of the conference. Although most states do not allow MCLE credit for marketing topics, we will continue to offer it as a "non-CLE" portion of the agenda.

The training day ended with good weather and a chance for all participants to enjoy the city before leaving for home. These AAM Advanced Mediator Trainings are truly a great time to be together, share ideas, make new friends, and keep your mediation skills up to par.

If you have not attended an AAM Advanced Attorney-MediatorTraining, we hope to see you in the future!



John Dewey Watson and Frank Hamlin entertain the group with "Ain't Misbehavin' I'm Just Negotiatin' With You"



Bill Lemons and Suzanne Duvall getting ready for the conference in Kansas City, MO.

Mark your calendar!! The AAM Advanced Attorney-Mediator Training for the fall will be held in **Houston, TX on Friday, November 8, 2013**, at the Doubletree Houston Hobby Airport at 8181 Airport Bldv, Houston, TX. The speakers are being put into place and it is sure to be another OUTSTANDING AAM training! This will be a full one day training. The airport venue makes for easier travel for out-of-towners with free airport shuttle. No cab fare! And for those driving to the training, no parking fee!

Chapter News

San Antonio/Bexar Chapter News

The San Antonio Chapter reworked its advertising campaign to appear where lawyers go to find information on courts and other lawyers. Full page ads listing all San Antonio members appear adjacent to the Frequently Called Telephone Numbers (courts and other officials) and on the first page they hit when flipping from the back of the bar directory. In addition, the Chapter is running a directory ad monthly in the Subpoena, the newsletter of the San Antonio Bar Association. These ads are funded with dues paid by local members and include all members renewed by December 1 of each year, for the upcoming calendar year's dues. We ask that dues be paid early We ask that dues be paid early so we can make advertising commitments for the upcoming year.

For additional information, please contact Don Philbin, Chapter President at Don Philbin don.philbin@adrtoolbox.com.

Houston Chapter News

The AAM Houston Chapter would like to welcome everyone to Houston for AAM's Advanced Attorney-Mediator Training to be held on Friday, November 8, 2013, at the Doubletree Houston Hobby Airport. We are pleased to have the AAM national event in Houston this year and hope you will join us at this outstanding training!

For further information about the AAM Houston Chapter, please contact Larry Hinojosa at jlarryh@gmail.com.



Mississippi Chapter News

The Mississippi Chapter of AAM met on May 24, 2013, to elect a new slate of officers. Raymond Hunter stepped down from his role of President of the Chapter and is turning over the duties to Larry Latham. The new chapter Vice President is Charlie Swayze and Anne Veazey will be the incoming Secretary/Treasurer.

An active committee was formed to assist the Mississippi Bar in the implementation of an appellate mediation program. Anne Veazey and Sid Davis are working on this project.

The Mississippi Chapter plans to do a MASTERS training program for mediators that are in the early stages of training. More details will be provided as planning is finalized and a sponsor is acquired.

Please contact Chapter President, Larry Latham, at <u>wll@williamlarrylatham.com</u> or 601-856-5880 additional information on the Mississippi Chapter.

St. Louis Chapter News

On October 4, 2013, the St. Louis Chapter of AAM, along with the St. Louis University School of Law, is sponsoring an all-day program entitled "Mastering the Art of Mediation Advocacy." The program is directed to the lawyer participants in mediation, rather than just to mediators. The program will take place at the brand new law school building and will prominently feature, as speakers, members of AAM.

For additional information on the St. Louis Chapter, please contact President, Richard Sher at **rsher@scwstl.com**.

Illinois Chapter News

"Impasse is a Fallacy" was the audacious title of a training/workshop sponsored by the Illinois chapter June 21-22, 2013. Featuring mediator/trainer Lee Jay Berman, the program began by identifying the things that cause negotiation in a mediation to reach what we call "impasse." The premise of the audience-interactive workshop was that impasse is a word we use when we have run out of ways to help bring the parties over an obstacle to agreement.

Examining each stage of the mediation process one at a time, we looked at what could be done at each stage to prevent or remedy the many causes of impasse that we identified. The participants each developed a list of new things they will now implement in their practices at each stage--most particularly in convening and introduction. Along the way, Lee Jay shared a wealth of useful ideas, approaches and phrases/questions to help uncover interests and widen the parties' thinking beyond strictly legal questions.

Embedded in the program was over 2 hours of mediation and legal ethics training, led by our President-Elect Mike Leech. This part of the training was based on hypothetical problems and similarly not only dealt with the ethical problem, but explored ways to prevent the dilemma or navigate around it.

The program was generously hosted by the Hinshaw & Culbertson law firm; thanks to the firm and AAM member Kevin Sido, a senior partner there, for arranging that. Participants included eight former judges, a sitting U.S. Magistrate Judge and an EEOC mediator, several of whom will be joining AAM. AAM Illinois chapter members rounded out the 30 mediators who participated for two very long days. Comments from participants included "the best seminar/CLE type event I've attended in my career," "wonderful program -- It was very enlightening and energizing" and (the following day)"I suspect there are still people there this morning talking about mediation."

For information about the Illinois Chapter please contact Michael Leech at <u>mleech@talk-sense.com</u>.

Legislative Affairs

Conspicuously missing from the AAM webpage now is the part about our legislative affairs (lobbying) efforts and the way to contribute online to that effort. With the formation of the Texas Attorney-Mediators Coalition ("TAMC"), the AAM Board voted on April 26, 2013 to get out of the legislative affairs business, and turn that over to TAMC. AAM will have a spot on the TAMC Management Committee, and will actively participate through one of its Board members in the TAMC effort.

TAMC's mission, as is AAM's, is to promote and preserve court-annexed mediation. That will continue. AAM and TAMC have had a chance to tell their story of the benefits and great satisfaction of clients and advocates with the mediation process. We have taken stock: undue delay and cost need to be addressed. If there are indeed inefficiencies, extraordinary expense – whatever the problem may be – we need to be, and want to be, alert and do everything possible to address and correct any problems. But we must be and will be at the table.

We need to promote and protect one of most outstanding legal products our state has produced: Texas court-annexed mediation! All who read this article, and particularly those who assisted AAM in the past in its lobbying efforts, should seriously consider joining and/or very actively supporting the Texas Attorney-Mediators Coalition.

Mike Amis (amismediat@aol.com) is the Co-Chair of TAMC, together with Elaine Block (eb@elaineblock.com). TAMC has created a LinkedIn© group discussion forum under www.linkedin.com. You are encouraged to join the group: "TAMC Members."

Small Claims Court Mediation in Will County, Illinois

Robert Berliner - Chicago

The Association of Attorney-Mediators, Illinois Chapter, began offering volunteer mediation services to litigants in the Small Claims Court in the 12th Judicial Circuit (Will County), Illinois, in March 2010. The program offers mediators an opportunity to make a contribution to the public good and also to obtain valuable mediation experience. It offers the Court the opportunity to give litigants an alternative to the risks and burdens of a trial.

The program began with one mediator this author-mediating cases one day per week. Since that time, membership in the Illinois chapter has grown geometrically and thus the chapter has more members interested in gaining mediation experience in a personally rewarding context. Accordingly, the number of mediators participating in the program has grown to nineteen, and a mediator is present in the courtroom to offer mediation services virtually every day that the Court is sitting. All mediators have completed the 40-hour basic mediation course, are members of the Illinois chapter, Association of Attorney-Mediators and are certified mediators under Rule 17, Rules of Practice of the Circuit Court 12th Judicial Circuit.

The Small Claims Court has two calls from which the Court refers cases for mediation—a 9:30 a.m. appearance/status call and a 1:30 p.m. trial call. Since generally no testimony is presented at the morning call, if a party is represented by an attorney, typically only the attorney, and not the party, will appear. As mediation of a case is nearly impossible if the litigant himself or herself is not participating, nearly all the cases that go to mediation from the 9:30 call have <u>pro se</u> parties on both sides. Occasionally, mediators have been successful with cases where a party represented by counsel is available only by telephone, usually when the absent party is an insurance company.

At the 9:30 call, the presiding judge will determine whether a case is appropriate for mediation when it is called. Normally, he will decide that any case with pro se parties on both sides where the defendant does not admit the truth of the plaintiff's claim should be mediated. If he decides that the case should be mediated, he will strongly suggest to the parties that they agree to mediation with the mediator who is sitting in the courtroom; virtually every litigant agrees. The mediator then will review the court file—usually a brief process—and then meet with the parties outside the courtroom. There is an area on the courtroom floor, apparently used as a lunch area during that part of the day, containing tables and chairs where mediations can be conducted; there is also a room adjacent to the courtroom which mediators can use if not occupied for some other purpose.

Most mediations begin with a joint session in which the parties are encouraged to tell their stories, followed by caucuses in which settlement options are developed, concluding with a brief joint session if agreement is reached to be sure everyone's understanding is the same. Every mediator is free, however, to conduct the mediation as he or she deems best, and some may, for example, conduct more of the mediation in a joint session. Most mediations are completed in one hour or less, but occasionally take somewhat longer. If a settlement is reached, the mediator will normally prepare a draft agreed order, which is entered by the Court. If a settlement is not reached, the judge will normally set the case on the trial call for a date sometime in the future-usually a few weeks later, but perhaps less depending on the

nature of the case. Occasionally, a case will not be resolved at the courthouse but the mediator will follow up afterward to see if settlement can be achieved, even though a trial date may have been set; a decision to do so rests in the judgment of the particular mediator. A mediator can typically conclude one or two cases in a morning session.

The 1:30 p.m. call is a trial call. The date for the case's appearance on the trial call will have been set at a morning appearance call on an earlier day, usually a few weeks before the trial call date. The trial call is usually only a few cases—rarely more than 10—most of which are continued or dismissed. Thus, the number of cases that can be referred to mediation is generally much smaller than at the morning appearance call. At the trial call, the parties and their counsel (if any) are expected to appear and be ready to go to trial at that time with their witnesses and any other evidence, and most cases that are not continued by agreement or dismissed are in fact tried on that day. If a case is not continued or dismissed, however, its appearance on this call offers an opportunity for mediation, often with a party represented by an attorney. As in the morning, the presiding judge determines whether the case is appropriate for mediation, and if he does, will strongly recommend to the parties that they participate. Onlv the rare litigant rejects that recommendation.

Other than the potential involvement of attorneys, the process works much like the process on the 9:30 call cases—joint session followed by caucuses, with a concluding joint session if agreement is reached. Because the case is ready for trial and attorneys are often present, typically resolution of the case takes somewhat more time than resolution of the morning cases. One potential obstacle to successful mediation is the parties' and the attorneys' knowledge that if they do not reach a mediated settlement, the judge is likely to try the case immediately and thus they will not have to come back to the courthouse on another date and miss more time from their job or other pursuits. It appears, however, that the program's mediators have been about as successful mediating cases on the afternoon call as on the morning call, although the sample size is much smaller. If either side is represented by an attorney, typically the mediator will ask that attorney (or one of the two attorneys if both sides are represented) to prepare any agreed order or settlement agreement. If a settlement is not reached, usually the case will proceed directly to trial, although on occasion the number of cases on the trial call has required the parties to return on another day.

The subject matter of the cases referred to mediation covers a wide range. Probably the single residential largest category is landlord/tenant disputes, some involving recovery of possession only, others involving collection of rental arrearages only, and still others involving both possession and rent. Other cases involve such subjects as disputes over loans, fees claimed for services of all kinds, construction defects, defects in goods sold (including vehicles), post-judgment proceedings, and automobile accident property claims. One case even involved alleged violations of the federal Fair Credit Reporting Act!

How successful has this program been? Measured by success in getting cases off the court's docket, this group of mediators has mediated 604 cases through March 31, 2012, of which 506 have resulted in settlement, a settlement rate of over 83%. Of course, results vary from quarter to quarter and mediator to mediator, but overall this is a record of which all

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participating mediators feel very proud. The program has also been highly praised by the judges who have presided in this courtroom during this period (Judge Joseph Polito and Judge Tom Carney, the current presiding judge). We look forward to continuing to make a contribution to the people of Will County and the State of Illinois by assisting them to resolve their disputes in an amicable and inexpensive way and by assisting the courts to make more efficient use of limited judicial resources.

Introducing Your AAM President and President-Elect

Meet Mike Patterson, AAM President 2013-



2014

Mike Patterson is an attorneymediator in Tyler, Texas and has been a member of AAM since 1996. He has been licensed to

practice law in Texas since 1977, after receiving his law degree that year from Southern Methodist University. In 1996, Mike got smart and quit practicing civil trial law to start a full time mediation practice involving state and federal litigation. He has been president of the East Texas Chapter of the American Board of Trial Advocates, the East Texas Trial Lawyers Association, the Smith County Bar Association and the Smith County Bar Foundation. Mike has served on the Council for the Alternative Dispute Resolution Section of the State Bar of Texas. Currently, Chairman of the City of Tyler's Historical Preservation Board, Mike is married to Penny Patterson, and they have five children and ten grandchildren. In addition to spending time with his family, he enjoys backpacking in the mountains, reading a good novel and sipping on an adult beverage. Mike recently helped organize the AAM East Texas Chapter.

Meet Michael Leech, AAM President-elect



Michael Leech has been a member since 2006. He is the cofounder and President of AAM's Illinois Chapter, which has over 60 members. The chapter puts

on regular continuing education programs and chapter members have participated in setting up and staffing mediation programs in several local courts. Mike is no stranger to the Lone Star State. Mike's wife is a "Texas-ex" who grew up in Austin, where her parents still live, and her sisters live in Dallas and Houston. Mike's cousin is an Aggie who now lives in Austin. So he comes to Texas a lot, especially in colder months. Mike is rated "A.V.—Preeminent" by Martindale Hubbell and was selected as one of the "Top 100 Illinois Super Lawyers" in 2011, 2012 and 2013. Mike is a distinguished fellow of the International Academy of Mediators, a member of the American Law Institute and a fellow of the College of Labor & Employment Lawyers. He is an AAA mediation and arbitration panelist. He has conducted over 275 mediations in the 15 years since he conducted his first mediation. Mike's publications include the legal treatise Holloway & Leech, Employment Termination: Rights & Remedies (1985; 2d ed. 1992; Supp. 2002). He is a founding member of the National Employment Lawyers Association and of the ABA Labor & Employment Section's Committee on Employee Rights & Responsibilities. Mike received his B.A. (1973) and J.D. (1976) from the University of Virginia. He was a partner in the 450-lawyer Chicago-based firm of Hinshaw & Culbertson LLP, where he worked for over 33 years. In 2012 he left to become a full-time independent mediator and arbitrator.

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President's Awards Presented to Mike Amis and Don Philbin

Each year the outgoing President of AAM is given the option of a personal privilege to bestow a special President's Award to an individual or individuals who have demonstrated outstanding service to the Association. For the year 2013, the award was presented to **Mike Amis of Dallas** and to **Don Philbin of San Antonio**.

Congratulations!



Mike contributed greatly to AAM and all of us by his tireless efforts in forming the Texas Attorney-Mediators Coalition, and then fighting the good fight in Austin. Nobody ever told **Mike Amis** that what he was doing was not possible. So he screwed on his courage, stretched out his arms, held his breath and trusted his cape. His mission goes on, as we discuss in the article on AAM's legislative affairs efforts.

In addition to a lot of things he does to contribute to the mediation profession in general, **Don Philbin** took over the reins of the San Antonio/Bexar chapter of AAM earlier this year. He is re-charging that chapter's efforts, including addition of on-line scheduling and renewed advertising efforts. That chapter will surely benefit from Don's renewed enthusiasm. Don was also very instrumental in assisting in drafting the "comments" that Bill Lemons, AAM President, submitted on behalf of AAM in response to the proposed Supreme Court Rule 169.



Special Thanks!

We want to extend a special thank you to John Feather, Newsletter Editor, for his continued assistance in getting the AAM-a-gram ready to go!

New Additions to the Board of Directors

The AAM Annual Meeting was held on April 27, 2013 at 8:30 a.m. at the Intercontinental Hotel, Kansas City, Missouri. The following board members were elected and we welcome them to the board of directors.

Below are links to the resumes for the three new board members:



Sid McCollum has been an AAM member since 2006 and resides and practices in Little Rock, Arkansas with the firm of ADR, Inc. To view the complete resume for Sid McCollum, please click the resume link: <u>Sid H McCollum Resume.pdf</u>



Ron Wiesenthal has been an AAM member since 1992 and resides and practices in St. Louis, Missouri with the firm of St. Louis Mediation Center, LLC. To view the complete resume for Ron Wiesenthal, please click the resume link: <u>Ron Wiesenthal Resume.pdf</u>



Jim Young has been an AAM member since 2009 and resides and practices in Dallas, Texas with the firm of Phillips & Reiter, PLLC. To view the complete resume for Jim Young, please click the resume link: Jim Young Resume.pdf

Where Do I Find It On The Website???

Board of Directors and Chapter Presidents Rosters - http://www.attorney-mediators.org/aboutaam

Annual Insurance Coverage Letter: <u>http://www.attorney-mediators.org/Sys/Login?ReturnUrl=%2fmembers</u> You will need to log in to the members area. You will also find mediation forms for members' use, a forum to share your thoughts, and a way to log in to your personal profile to update the information and keep it current.

Annual Statement of Dues and Registration Fee Paid for Events for Tax Purposes : Under View Profile, see the heading Invoices and Payments. You must be logged in to your account to view this information.

Newsletters – Archived and Current: Under the Resources tab see Newsletters. <u>http://www.attorney-mediators.org/newsletters</u>.

Website comments or suggestions are welcome! Email Brenda at <u>aam@attorney-mediators.org</u> or call 972-669-8101; 1-800-280-1368.