

ASSOCIATION OF ATTORNEY-MEDIATORS

Newsletter

March 2003

“...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.”

2002-2003 AAM BOARD OF DIRECTORS

Lawrence R. Maxwell, Jr., President

Jeffrey S. Abrams, President-Elect

Walter A. Wright, Past-President

George Allen Butler, Treasurer

John V. Dowdy, Jr., Secretary

Thomas J. Smith

Suzanne Mann Duvall

Raymond E. Tompkins

Henry J. Blum

CHAPTER PRESIDENTS

Central Texas Chapter
Karl Bayer

Houston Chapter
Trey Bergman

North Texas Chapter
Robert Prather, Sr.

Oklahoma Chapter
Peter Bradford

St. Louis Chapter
Dick Sher

San Antonio Chapter
William Lemons, III

AAM ADMINISTRATIVE ASSISTANT

Brenda Rachuig

ASSOCIATION OF ATTORNEY-MEDIATORS

P. O. BOX 741955 • DALLAS, TEXAS 75374-1955 • PHONE: 800-280-1368 • 972-669-8101 • FAX: 972-669-8180
Website: www.attorney-mediators.org • Email: aam@airmail.net

Dear Colleagues:

Our profession is one of healers and peacemakers. As we view the world scene, we have feelings of sadness and uncertainty. We pray for the souls of the seven astronauts and for peace/shalom for their families and loved ones. With the prospect of war looming on the near horizon, we pray that the leaders of our nation, and all nations, will be lead to wise decisions in these troubling times. We hope and pray that God will pick us up and carry us through, and that there will be peace on earth as it was meant to be.

In our part of the world, mediation continues to flourish as the ADR tool of choice in the peacemaking process. Since its founding in 1990, AAM has been at the forefront of the mediation movement. With members in eleven states and six local chapters, AAM continues to provide leadership in achieving the prompt, fair and cost-effective resolution of disputes through voluntary and court-annexed mediation. AAM set the bar high initially, and thanks to all of you, AAM continues to maintain the highest standards among professional mediators.

We welcome new members Bradley Allred (Edmond, Oklahoma); Teresa Del Valle (Houston); Reed Levertton (El Paso); Judge Gary Hall, Lawrence Love, and Catherine Weber (Dallas); Jane Noble (Austin); and Danielle Hargrove and Wade Shelton (San Antonio).

AAM members will come together for our annual meeting on April 11 and 12 in Houston, at the Doubletree Post Oak Hotel, which is just across the street from the Galleria. Spouses and significant others are welcome to join us. A Registration form is in this Newsletter. The Houston judiciary and court coordinators have been invited as guests of AAM. President-Elect, Jeff Abrams and Program Chair, Trey Bergman have planned an outstanding program. Useful topics will be presented by nationally recognized speakers, we'll get a status report on the UMA, and our always popular interactive session will be lead by members who are experienced mediators and trainers.

continued on page 2

Letter from the President *continued from page 1*

Following the Friday afternoon session, the Houston Bar Association ADR Section will join AAM in hosting a cocktail reception. Traditionally, members, their spouses and friends have enjoyed dinner together on Friday evening. At the Saturday noon luncheon, our guest speaker will be Texas Supreme Court Justice Mike Schneider. The luncheon will conclude with the presentation of awards and our annual business meeting.

Many thanks to our three retiring directors, Past-President Walter Wright, Tommy Smith and Suzanne Duvall for their loyal service to AAM. Your nominating committee has nominated Sherrie Abney (Dallas), Gail Cipriano (Austin) and Skip Hulett (San Antonio) for election to the Board of Directors. Biographical sketches of the nominees are in this Newsletter. Additional nominations are welcome. You may vote at the meeting, or proxies will be emailed or faxed to you thirty days prior to the meeting.

We encourage all AAM members to review the article in this Newsletter relating to use of the Association's service mark and logo. Several members are now using the AAM logo and find it useful in promoting their mediation practice. A License and Service Mark Agreement is included in this Newsletter. Contact our Administrative Assistant, Brenda Rachuig for further information.

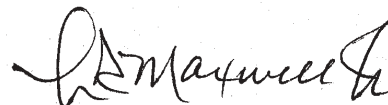
You will notice that with this issue, AAM's Newsletter has been expanded to include articles which will be of interest to our members and the mediation community. You will find the article by Henry Blum and Michael Wilk to be useful in dealing with attorneys in your mediation practice. The essay by 17th century English philosopher and statesman Francis Bacon, enlightens us to the fact that the mediation process is not something that was recently created.

Special thanks to Newsletter Committee Chair, John Feather, Past-President Walter Wright, our loyal and helpful Administrative Assistant, Brenda Rachuig, and Director Allen Butler and the staff of his law firm, Hunton & Williams, in Dallas and Richmond, Virginia for contributing their time and talent to produce this Newsletter.

In this Newsletter, we are including contact information for your officers, directors, committee chairs and chapter presidents. Your Association welcomes and encourages your participation in your local chapter and at the national level. If you do not have a local chapter in your area, contact our office in Dallas for information on how to organize a chapter. Our loyal members are the engine that propels our unique Association of Attorney-Mediators.

For a first hand look at your Association in action, we hope you will join us for our annual meeting. It is always so rewarding to gather with AAM members, and share our experience, knowledge and enthusiasm for mediation. I look forward to seeing you in Houston in April.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Maxwell", written in a cursive style.

President

Ancient Wisdom

The following essay, entitled, "Of Negotiating," by Francis Bacon, the 16th and 17th Century English philosopher and statesman should be of interest and may be useful to mediators:

It is generally better to deal by speech than by letter; and by the mediation of a third than by a man's self. Letters are good, when a man would draw an answer by letter back again; or when it may serve for a man's justification afterwards to produce his own letter; or where it may be danger to be interrupted, or heard by pieces. To deal in person is good when a man's face breedeth regard, as commonly with inferiors; or in tender cases, where a man's eye, upon the countenance of him with whom he speaketh, may give him a direction how far to go; and generally, where a man will reserve to himself liberty, either to disavow or to expound. In choice of instruments, it is better to choose men of a plainer sort, that are like to do that, that is committed to them, and to report back again faithfully the success, than those that are cunning, to contrive, out of other men's business, somewhat to grace themselves, and will help the matter in report for satisfaction's sake. Use also such persons as affect the business, wherein they are employed; for that quickeneth much; and such, as are fit for the matter; as bold men for expostulation, fair-spoken men for persuasion, crafty men for inquiry

and observation, froward, and absurd men, for business that doth now well bear out itself. Use also such as have been lucky, and prevailed before, in things wherein you have employed them; for that breeds confidence, and they will strive to maintain their prescription. It is better to sound a person, with whom one deals afar off, than to fall upon the point at first; except you mean to surprise him by some short question. It is better dealing with men in appetite, than with those that are where they would be. If a man deal with another upon conditions, the start or first performance is all; which a man cannot reasonably demand, except either the nature of the thing be such, which must go before; or else a man can persuade the other party, that he shall still need him in some other thing; or else that he be counted the honestest man. All practice is to discover, or to work. Men discover themselves in trust, in passion, at unawares, and of necessity, when they would have somewhat done, and cannot find an apt pretext. If you would work any man, you must either know his nature and fashions, and so lead him; or his ends, and so persuade him; or his weakness and disadvantages, and so awe him; or those that have interest in him, and so govern him. In dealing with cunning persons, we must ever consider their ends, to interpret their speeches; and it is good to say little to them, and that which they least look for. In all negotiations of difficulty a man may not look to sow and reap at once; but must prepare business, and so ripen it by degrees.

Advanced Certified Mediators

AAM congratulates the following members who have achieved or renewed their Advanced Certified Mediator status for the 2003 year:

William Bonham
Nancy Huston

To receive an application for Certified Mediator or Advanced Certified Mediator, please contact the National Office at 1-800-280-1368/972-669-8101 or email a request to aam@airmail.net.

Reception to be Hosted by Houston Bar Association—ADR Section

Please join us! A cocktail reception will be given on Friday, April 11, 2003, immediately following the Friday portion of the CLE seminar in the Doubletree Post Oak "Brittany Bar," off the hotel lobby, for attendees of the seminar and their guests. We hope you will come and enjoy some food, drinks and fellowship! Thank you, Houston Bar Association ADR Section, for sponsoring this reception!

Nominees for Board of Directors

You will be receiving your proxy 30 days prior to the annual meeting. Further nominations are welcome. Below are short biographical sketches of the nominees selected by your Nominating Committee:

SHERRIE ABNEY

Sherrie is licensed in Oklahoma (1988) and Texas (1990). She attended Oklahoma City University School of Law, J.D. (1988); American College, Bryn Mawr, PA, C.L.U. (1984); University of Texas at El Paso, MEd, (1978); University of OK, M.F.A. (1972); Central Oklahoma University, B.A. (1970); Attorney Mediator Institute, Basic Training (1996); Attorney Mediator Institute, Advanced Training (1996); Texas Woman's University, Family Law Training (1996); Pepperdine University Workshop/Seminar, Church Oriented Dispute Resolution (1997); Masters Forum Pepperdine University 2000, 2002. Ms. Abney is the Immediate Past-Chair of the ADR Section of the Dallas Bar Association. Her hobbies include: Keeping up with nine grandchildren and three great-grandchildren and sending photos to friends from her travels on all seven continents — the most recent being Antarctica.

GAYLE CIPRIANO

Gayle has practiced civil litigation since 1976. She also has an extensive bankruptcy background. Gayle's diverse mediation experience includes disputes involving discrimination, employment issues, deceptive trade practices, products liability, partnership and shareholder disputes, business torts, personal injury and death, real estate, environmental law, contract disputes, family law and debtor-creditor issues. She served as President of Central Texas Chapter, AAM, in 2000. Her accomplishments include: Fellow, Texas Bar Foundation; Member and panel chair on District 9 Grievance Committee, State Bar of Texas; Member, State Bar College; "AV" rating, Martindale-Hubbell. Gayle resides in Austin, Texas with her husband.

JIMMY "SKIP" HULETT

Skip is a former District Judge for the 317th State District Court. He has over 18 years of broad-based experience in

litigation. Skip was Board Certified in Personal Injury Trial Law by the Board of Legal Specialization (1992-2000). He is a Sustaining Member of the College of the State Bar and past recipient of the Outstanding Young Lawyer Award for Jefferson County. He has also served as President of the Jefferson County Young Lawyers Association (Chaired original settlement week) and is a Life Fellow of the Texas Bar Foundation. He is of counsel with the law firm of Ball and Weed in San Antonio. Skip resides in Boerne, Texas with his wife and three children.

Thanks to Hunton & Williams

AAM's newsletter is now being compiled and mailed by the law firm of Hunton & Williams. Many thanks to the firm and to AAM director Allen Butler, who is supervising all the firm's good work.

AAM Lends Support to ABA Section of Dispute Resolution's Annual Spring Conference in San Antonio

AAM's board of directors has voted to co-sponsor "Insight for Inspired Practice," the Fifth Annual Spring Conference of the American Bar Association's Section of Dispute Resolution. The conference will take place at the Henry B. Gonzalez Convention Center in San Antonio, Texas on March 20-22, 2003. The conference will include the Fourteenth Annual Frank E. A. Sander Lecture, numerous subject-matter tracks, and a Latin American track. Eleven AAM members will participate as judges of the Representation in Mediation Competition, and Jeff Abrams, AAM's President-Elect, will be one of the judges for the final round of the competition. Be sure to stop by AAM's booth at the conference! You will find more information about the conference at <http://www.abanet.org/dispute/conference/5adr.html>.

Helping Attorneys See Beyond the Case: Return to Objectivity

By Michael S. Wilk and Henry J. Blum

Introduction

“Why do I need a mediator to help me settle my cases?” This was a question that mediators used to hear a lot. As mediation has become a standard part of litigation, this question is less frequently articulated. However, it still remains, even if it is not expressed. Although there are many ways to answer this question, from the trial lawyer’s perspective, the most process-oriented response is that mediation allows counsel to make the shift between “litigation advocate” to “settlement advocate,” while still preserving the relationship with their client.

A client hires a lawyer with the expectation that the lawyer will win the case. Typically, in the life of a lawsuit, the time comes when it is appropriate to make some compromise to settle the dispute. To settle the dispute the lawyer must shift from representing the client as a zealous advocate to representing the client as a diplomatic problem-solver. It may be difficult, however, for the client to appreciate the necessity for this shift in focus.

By using a mediator, the litigator remains the advocate for the client and the client’s case, and the mediator can be the advocate for settlement.

When a client brings a new case (either plaintiff or defense) to his lawyer, typically, the first thing the lawyer does before accepting representation is conduct a detailed analysis of the strengths and weaknesses of the case. The evaluation usually includes an analysis of the law and facts, the availability and reliability of witnesses, costs and time likely to be expended on the case, and the impact of litigation on both the lawyer’s practice and on the client’s life and business.

After the case is signed up, lawyers often forget their initial evaluation and jump headfirst into the battle, going from fire

to fire, litigating the case as zealous advocates of their client’s position. By mediation day, both sides are firmly ensconced in their respective positions and, oftentimes, although they may wish to settle, don’t know how to remove themselves from the case they have so painstakingly constructed. In order for a dispute to settle, a negotiated settlement must meet the legitimate interests of the client. That is not enough. In order for the client to settle, her lawyer, who has taken up her banner in the battles of litigation, must now become an advocate for settlement. Part of the job of the mediator is to help the lawyers and the parties see beyond the case they have built so that they can more readily reach an agreement that resolves their disputes.

Three Stages of Litigation

Initial Stage—Preliminary Case Evaluation

Today is your lucky day. You are interviewing a prospective new client that feels he has been wronged or that someone has unjustly accused him of doing something wrong. In either event, he is ready and anxious to get justice. You, as an experienced and competent trial lawyer, view the situation with objective skepticism. Your analysis includes many issues, including the following:

Determination of whether the client will be a positive or negative for the case. How will the client hold up to the stress of litigation? Will your client appeal to the jury? What will the judge think of your client? Where is your client from? How is your client employed? Is your client married? Does your client have children? Is your client credible—is his story believable?

Review of the facts of the dispute. What is your client’s story? What is the other side’s version of the story? Who, what, where, when, and why?

Helping Attorneys See Beyond the Case: Return to Objectivity—continued

Identification of the witnesses. What is their relationship with the claimant? Are the witnesses objective, believable, and available?

Gathering of other evidence. Is the evidence persuasive? Is it admissible?

Calculation of the economic costs of litigation? How much time and expense will be incurred in preparing and presenting the case? What written discovery will be involved? How many depositions will be taken and defended? What motions are anticipated? What experts will be necessary? Will the experts survive challenge? What travel costs will be incurred? How much opposition is likely? How many lawyers and staff members will be required? Will the fee be hourly, flat fee, or contingent?

Calculation of the time required. How long will the case take to prepare and present? What will the time and costs be if your client or the opposition appeals?

Review of the legal issues. How strong is the case legally? Will the case be decided on the law?

At the meeting with the prospective client, you, of course, comply with your ethical duty of exploring the alternatives to litigation and possibly raise the subject of seeking a settlement of the controversy. You have learned over the years that this subject has to be handled carefully because the potential client has sought your assistance in advocating his interest and position and wants justice. He believes that he needs a fighter and not someone who wants to settle. You do not want to give the potential client the impression that you are not willing and anxious to redress the wrong that has been visited upon your client or address the wrong that is at the center of the accusation. Assuming that you accept the case, you move forward and prepare the case.

Second Stage—In the Trenches - Battle

You file the necessary pleadings and the process begins. You prepare your written discovery and respond to the other side's written discovery. Next, motions to compel, motions for more time, and hearings are set and reset. You schedule and reschedule and continue, but finally have hearings on the motions. Depositions are set and reset. Some depositions are completed and others are postponed. Motions for summary judgment are filed and probably denied. The case drags on, the client begins to ask questions about the time involved, and grows weary and impatient. You have a trial date and begin final preparation for trial.

Third Stage—Fight or Flight

You have come to realize that the facts are a little different than you originally thought, and that your client's story has a few holes. The fees and expenses are growing and are more than you originally estimated. Your client presses you for the percentage of success and has forgotten that you have advised him that litigation is risky. In fact, your client is "shocked" and "surprised" that he could lose. You revert to your initial objective skepticism. Your client's weaknesses are apparent to you, as well as your opposition's strengths. Trial is closing. You would like to discuss settlement with the opposition but you (and your client) do not want to show any weakness or indication that you are worried about the case. Mediation is the process that will bring all of these issues together. Your client will have the opportunity to evaluate the case first hand. The mediator will help your client focus on the realities of his case, and the risks and uncertainties of a trial. You will have the time to objectively review the whole case and prepare for trial if the case does not settle.

Helping Attorneys See Beyond the Case: Return to Objectivity—continued

The Three Stages of Mediation

Either the parties or the Court has decided that the time is right for mediation. The mediation has been scheduled and the parties, armed with their months or perhaps years of battle weary “second stage” posturing, arrive for the mediation. It is time to resolve the lawsuit, but there are obstacles.

In order to settle the dispute, the parties must return to the “First Stage” of litigation and re-engage in an objective analysis of the case, this time armed with everything that has been learned from the battlefields of litigation. This is not so easy! A lot of time has gone by. The lawyers have fought hard for their clients and their clients expect them to continue to be zealous advocates of their position. Clients expect their lawyer to be able to go to trial and to win! So, even if the lawyers want to settle the case, the lawyers, for fear of appearing weak, may not be able to say to their clients, “let’s settle.”

In addition, the lawyers may be so firmly entrenched in the case they have constructed that they are simply unable to re-engage in an analysis that would objectively dictate that the case be resolved. It is the job of the mediator to create an environment and opportunity for the lawyers to see beyond the case they have built so that they can heroically help their clients make a business decision to resolve their disputes.

Each stage of the mediation loosely corresponds, in reverse order, to the stages of litigation discussed above, and each stage provides a unique opportunity for the mediator to help the lawyers and clients work together to develop a good business resolution to the conflict.

Opening Session—Bringing the Neutral on Board!

In the opening session, the mediator establishes himself as the advocate for resolution, sets the expectations of the day, and changes the tone from “battle” to mutual problem solving. The opening session provides the mediator with the opportunity to create a safe environment for open communication so that both sides can hear the other side’s position directly without any sugar-coating or faltering. It also allows the mediator to let the parties know that the discussions during the day will explore the risks and costs of continued litigation. This puts the parties on the path of re-engaging in objective analysis.

By establishing himself as the advocate for resolution, the mediator allows counsel to maintain themselves in front of their client as the ready trial advocate. This allows counsel to continue the role that they were hired to play and retain the confidence their client has in their ability to win at the courthouse. Because of the conciliatory mood that the mediator has set, however, counsel is now able to begin the transition from trial advocate to advocate for strategic resolution.

Initial Private Caucuses: The Day in Court

The lawsuit has been evolving towards a trial. Though not a trial, mediation must provide an outlet for the respective sides to have their “trial” experience. Your client has a story to tell. He has been looking forward to proving to a jury that he is right and the other side is wrong. He has been anticipating how persuasive your arguments will be to the jury. He is convinced that when the jury hears his testimony and your presentation of the case, he will win. The case cannot be resolved until he has had his say and has heard your presentation. The initial caucuses provide that opportunity.

Helping Attorneys See Beyond the Case: Return to Objectivity—continued

Mediation does not provide the opportunity for any given side to “win.” So, it is important to provide the opportunity for your client to talk about his case. He needs to know that he has been heard and understood. By creating an opening for your client to freely discuss his view of the case and the impact it has had on his life, the mediator enables your client to have his day on the witness stand.

It is also important for your client to see that his lawyer is prepared and ready to win at the courthouse. By focusing on the strengths of your case during this first caucus, you are able to show your client that you are ready to try his case and your client is able to feel that he is bargaining from a position of strength.

The mediator can, at that point, introduce the possibility of risk by letting your client know that when he returns from visiting from the other side, he will discuss the other side’s strengths, which will be your client’s weaknesses.

Middle Caucuses (Objective Skepticism)

The middle caucuses provide the opportunity for the mediator to fully explore the risks of going to trial with the parties. In so doing, these caucuses also allow the mediator to facilitate the lawyer’s transformation from “trial advocate” to “resolution advocate.”

During these caucuses, the mediator will be discussing the factual and legal risks that both sides have. Because it is an objective third party raising the problems, the lawyer can realistically discuss with his client the issues that the mediator raises and adopt the role of problem solver. The client, therefore, sees his lawyer strategically working to resolve the problem in the best interest of his client. In addition, the client gets to work dynamically with his attorney to resolve the problem together.

Final Sessions (Third Stage—Fight or Flight—Don’t Make It Any Worse)

You have made your presentation and your client has seen that you are prepared to go to trial. Your client has been able to talk about his case. He has had his “day in court.” The risks have been explored and you and your client have brainstormed together on ways to best resolve the dispute. It is time to make a business decision.

At the beginning of the day, it would not have been possible to do this. Even if you had already concluded that it would be in your client’s best interest to resolve the dispute, your client wasn’t ready to settle. The mediation process has enabled your client to see the benefits of settling the lawsuit and has enabled him to work with you to resolve it in his best interests.

Conclusion

As mediators, our job includes assisting lawyers to serve their clients. We do this by providing a safe environment and by leading the lawyer and the client through the mediation process, enabling them to focus objectively on their case. Because of the nature of litigation, lawyers tend to lose objectivity as the case progresses. Most trial lawyers have confidence in their cases. In order to do so (i.e., to win), a lawyer must believe that he can win. This confidence is real and is ingrained in the lawyer and is conveyed to the client by the lawyer’s words and actions. When a lawyer and a client come to mediation, they almost always have a biased opinion of their case and the likely outcome. The art of mediation is to help the lawyers and their clients see beyond the position they have created and objectively weigh the risks of their case. This enables the lawyers to help their clients seize the unique opportunity that mediation provides. . .to powerfully resolve their dispute themselves.



Association of Attorney-Mediators

Annual Meeting & CLE Program



**Co-Sponsored by the Houston Bar Association
Alternative Dispute Resolution Section
April 11-12, 2003**

“Gathering Near the Galleria”

**Doubletree Hotel at Post Oak
2001 Post Oak Boulevard
Houston, Texas 77056
713-961-9300**

Friday, April 11, 2003

- 12:30 - 1:00 P.M. **Registration and greeting colleagues**
- 1:00 - 1:15 P.M. **Welcome and Announcements**
Lawrence R. Maxwell, Jr., National AAM President
Trey Bergman, Chair of CLE Committee
Henry Blum, Houston Bar Association ADR Section President
- 1:15 - 2:45 P.M. **Practice Development for the Experienced and Soon-to-be Experienced Mediator**
Natalie J. Armstrong, President of Golden Media, Los Angeles, is a trained mediator who specializes in promoting conflict resolution providers. Ms. Armstrong will discuss how to create a lucrative practice based on nearly a decade of hands-on experience with providers worldwide. She has developed techniques that have been specifically designed for conflict resolution professionals and proven successful by hundreds of satisfied clients. This session is appropriate for new, hungry mediators and seasoned veterans.
- 2:45 - 3:00 P.M. **Update on the Uniform Mediation Act**
Ray Tompkins, Attorney-Mediator, Oklahoma City
- 3:00 - 3:15 P.M. **Update from Local AAM Chapters**
Find out what’s going on in the local AAM chapters. Get ideas for your local chapter.
- 3:15 - 3:30 P.M. **Break**
- 3:30 - 5:15 P.M. **Advanced Mediator Interactive Sessions: Ethical Issues and Dilemmas**
Ross Stoddard, Attorney-Mediator, Dallas
Courtenay Bass, Attorney-Mediator, Dallas
Trey Bergman, Attorney-Mediator, Houston
Mike Amis, Attorney-Mediator, Dallas
These sessions, a favorite among AAM members for years, will concentrate on ethical issues and dilemmas faced by mediators in their day-to-day practices and will be lead by our most experienced facilitators. Come share ideas with some of the most experienced mediators in the world.

5:30 - 6:30 P.M.

Reception hosted by the Houston Bar Association Alternative Dispute Resolution Section at the Doubletree Hotel at Post Oak

AAM members, HBA/ADR Section members and their spouses and guests are invited. Local state and federal judges and their court coordinators have also been invited.

Evening

Gather with colleagues for dinner at one of the many fine restaurants in Houston. Seats will be reserved at two popular restaurants in the Galleria area. The Grotto is an excellent Italian restaurant owned by Tony Valone. The prices are moderate to expensive. Americas is a festive South American steak and seafood house with moderate to expensive prices.

For dinner reservations, call Jeff Abrams at 713-522-4733 no later than April 4, 2003.

Saturday, April 12, 2003

8:00 - 8:30 A.M.

Continental Breakfast

8:30 - 10:00 A.M.

Effective Communication for Mediators, The Sequel

We are fortunate to have back Richard H. Lucas, Ph.D., to expand on and continue his well-received workshop on effective communication for mediators, which he began at the Oklahoma City Fall CLE.

Dr. Lucas, is a practicing clinical psychologist, a member of The American Society of Trial Consultants and author of *The Winning Edge: Effective Communication and Persuasion Techniques for Lawyers*. Dr. Lucas has been a speaker and consultant at numerous national, state and local bar association-sponsored training seminars and institutes.

Communication is the heart of what mediators do. Effective communication is what successful mediators do. During this workshop, you will see, discuss and practice the most effective communication principles, methods and techniques available. Dr. Lucas has geared these specifically for experienced mediators.

This is a WORKshop. As we practice the techniques you find that you will be able to incorporate them into your mediations the very next day. This workshop is still eye opening, practical and fun.

10:00 - 10:15 A.M.

Break

10:15 - 11:45 A.M.

Workshop Continues: Effective Communication for Mediators**Richard H. Lucas, Ph.D.**

11:45 - 1:00 P.M.

Luncheon**Keynote Speaker, Hon. Michael H. Schneider, Justice of the Supreme Court of Texas**

Justice Schneider is a respected jurist who began his judicial career as Judge of the 157th Judicial District Court of Harris County, Texas. He also distinguished himself as Chief Justice of the 1st Supreme Judicial District Court of Civil Appeals before becoming a Justice on the Texas Supreme Court. Justice Schneider has been a proponent and supporter of the mediation process from its inception and will give us his perspective on mediation.

1:00 - 1:30 P.M. **Annual Meeting: Awards, President's Closing Report and Election of New Board Members**

1:30 P.M.

Adjourn

(Texas and Oklahoma MCLE Credit pending: 7.0 participatory hours; 1.00 ethics hours. To request MCLE credit in other states contact Jeff Abrams at 713-522-4733 ASAP)

Shuttle Service to the Galleria: For spouses and guests of members attending the Annual Meeting CLE, the Doubletree Hotel at Post Oak provides shuttle service to the Galleria and surrounding areas, upon request. Contact the Concierge for more details.

CHAPTER NEWS

CENTRAL TEXAS CHAPTER

The Central Texas Chapter is pleased to announce its officers for 2003-2004: Karl Bayer, President; Steve Nelson, President-Elect and Webmaster; Joe Hart, Treasurer; Will Coates, Membership Chair; and Gayle Cipriano, National Liaison. The chapter will continue to host its monthly CLE programs, all organized by Gayle Cipriano.

NORTH TEXAS CHAPTER

NEW OFFICERS

President	Robert C. Prather, Sr.
Vice-President	Cecilia H. Morgan
Secretary	Priscilla Kim Park
Treasurer	Jerry N. Jordan

MEETINGS [PLANNED BY CECILIA MORGAN]

Our first meeting of 2003 will be at 8:00 a.m. on **February 20**, at the Community Room AB (upstairs) in the Café on the Run, Central Market, 5750 E. Lover's Lane. Central Market does not open until 8:00 a.m. and we will be finished by 9:00 (unless you want to stay and visit since we have the room until 10:00 a.m.). Breakfast breads, coffee and juice will be served gratis. The topic is "Mediation Comes of Age: Mediator Credentialing in Texas, from Conception to Reality" presented by Suzanne Duvall. RSVP by return e-mail, if possible, so I can advise the caterers. 1 hour CLE credit pending. We look forward to seeing you at our first meeting.

Mark your calendars now for our **May 22** meeting. If you have a suggested topic and/or speaker, please contact me. The May 22 meeting will also be at Central Market at 8:00 a.m. on **March 26**, we, along with the ADR Section of the Dallas Bar Association, are tentatively co-sponsoring a noon meeting at the Belo. The topic will be "Update on Texas 78th Legislative Session by AAM's Legislative Liaison." Tentative Speaker: George Christian. On **April 23**, we, along with the ADR Section of the Dallas Bar Association, are co-hosting an all-day seminar on "Negotiations" by Prof. Charles Craver of George Washington University Law School.

On **July 23**, we will have our annual Joint ADR/AAM dinner meeting program. Time and place to be announced.

ABA ADR Section Conference: **San Antonio March 19-22**.

OKLAHOMA CHAPTER

The Oklahoma Chapter has elected Peter B. Bradford as President, Ray Tompkins as Vice-President and Treasurer. Both practice with Conner & Winters law firm at 211 N. Robinson, St. 1700, Oklahoma City, Oklahoma 73102. Telephone number is 405-272-5711.

A special thank you to all the members who attended the AAM Fall event on October 25, 2002, in Oklahoma City. We appreciate your support!

SAN ANTONIO CHAPTER

The Dispute Resolution Section of the American Bar Association (ABA) will have its next annual meeting in San Antonio, Texas on March 20-22, 2003. AAM's board of directors has decided to lend AAM's institutional support to the meeting and provide judges for the mediation advocacy competition. We encourage everyone to come to San Antonio and participate in this noteworthy event.

ST. LOUIS CHAPTER

At its annual meeting on January 15, 2003, the St. Louis Chapter elected its officers for 2003. They are:

President: Dick Sher
 Vice-President: Mark Mittleman
 Secretary-Treasurer: Annette Heller

The Chapter has scheduled an advanced mediation training seminar for March 15, 2003. The Chapter is also in communication with the ADR Committee of the Missouri Bar so it can make known its views on the possible adoption of the Uniform Mediation Act in Missouri.

To Do List:

- Renew AAM Membership for the 2003 calendar year.
- Register early for the AAM Annual Meeting and make hotel reservations. Reservation deadline for the hotel's reduced rate is March 21, 2003.
- Update the national office with any changes to your address, phone, fax or email.
- Texas members — send in your legislative fund contribution. There's still time!
- TELL ONE COLLEAGUE OR FRIEND ABOUT AAM.** Brochures are available for your circulation, upon request to the national office.

Visit The AAM Website

Your website has been updated and contains new features and current articles of interest and documents that can be easily downloaded. Click on to www.attorney-mediators.org.

AAM Welcomes New Members

We are pleased to welcome the following new members:

Bradley Allred, Edmond, Oklahoma

Teresa Del Valle, Houston, Texas

Judge Gary Hall, Dallas, Texas

Danielle Hargrove, San Antonio, Texas

Reed Leverton, El Paso, Texas

Lawrence Love, Dallas, Texas

Jane Noble, Austin, Texas

Wade Shelton, San Antonio, Texas

Catherine Weber, Dallas, Texas



ASSOCIATION OF ATTORNEY-MEDIATORS

P. O. Box 741955 • DALLAS, TEXAS 75374-1955

HELLO FROM HOUSTON

The Houston Chapter has continued to stay busy this year with our new alliance, the ADR Section of the Houston Bar Association. Under the joint direction of Trey Bergman as President of the Houston Chapter of AAM and Henry Blum as Chairman of the ADR Section, both organizations have banded together to host monthly CLE breakfast meetings. These meetings are open to all members of both organizations and the Houston Bar at large and feature prominent speakers starting at 7:30 a.m. the second Tuesday of each month. Besides building the Bar's awareness of our membership, and maintaining a monthly forum for mediators, we also enjoy one hour of CLE including .25 hours of Ethics credit every month.

The Houston Chapter has also been busy as the Host Committee planning the Spring Meeting to be held in Houston this year on April 11th and 12th. We have chosen a great location in the heart of the Galleria area within walking distance to some of Houston's finest shops and restaurants. In keeping with our new alliance, the ADR Section of the Houston Bar Association will host a cocktail reception Friday evening. This will be an opportunity for us to meet other mediators outside of AAM. We are looking forward to seeing all of you in Houston this April.

ASSOCIATION OF ATTORNEY-MEDIATORS

AAM OFFICERS AND DIRECTORS—2002-2003

Lawrence R. Maxwell, Jr.

President
8226 Douglas Avenue, Suite 550
Dallas, TX 75225-5945
(Term exp. 2004)
Tel: 214-265-9668
Fax: 214-265-8343
Email: lmaxwell@flash.net

Jeffrey S. Abrams

President-Elect
815 Hawthorne
Houston, TX 77006
(Term exp. 2005)
Tel: 713-528-4446 (direct)
713-522-4733
Fax: 713-529-0592
Email: mediator7@aol.com

Walter A. Wright

Past-President
Southwest Texas State University
601 University Drive
San Marcos, Texas 78666
(Term exp. 2003)
Tel: 512-245-2138
Fax: 512-245-7815
Email: ww05@swt.edu

George Allen Butler

Treasurer
Hunton & Williams
1601 Bryan Street, 30th Floor
Dallas, TX 75201
(Term exp. 2005)
Tel: 214-979-3004
Fax: 214-880-0011
Email: abutler@hunton.com

John V. Dowdy, Jr.

Secretary
2400 Garden Park Court
Arlington, TX 76013-1339
(Term exp. 2005)
Tel: 817-265-9000
Fax: 817-460-8366
Email: jdowdy1@mindspring.com

Thomas J. Smith

700 N. St. Mary's St., Suite 1000
San Antonio, TX 78205
(Term exp. 2003)
Tel: 210-227-7565
Fax: 210-227-8645
Email: TJSmithLaw@sbcglobal.net

Suzanne Mann Duvall

4080 Stanford Ave.
Dallas, TX 75225
(Term exp. 2003)
Tel: 214-361-0802
Fax: 214-368-7258

Raymond E. Tompkins

Conner & Winters, P.C.
One Leadership Square
211 N. Robinson, Suite 1700
Oklahoma City, OK 73102
(Term exp. 2004)
Tel: 405-272-5711
Fax: 405-232-2695
Email: rtompkins@cwlaw.com

Henry J. Blum

2211 Norfolk, Suite 620
Houston, TX 77098
(Term exp. 2005)
Tel: 713-522-3395
Fax: 713-522-3396
Email: hblum@netropolis.net

ADMINISTRATIVE ASSISTANT

Brenda Rachuig

Association of Attorney-Mediators
P.O. Box 741955
Dallas, TX 75374-1955
Tel: 800-280-1368; 972-669-8101
Fax: 972-669-8180
Email: aam@airmail.net

CHAPTER PRESIDENTS

CENTRAL TEXAS CHAPTER

Karl Bayer

Dispute Resolution Specialists
8911 North Capital of Texas Hwy., Ste. 2120
Austin, TX 78759
Tel: 512-345-8537
Fax: 512-345-9469
Email: karl@karlbayer.com

OKLAHOMA CHAPTER

Peter Bradford

Conner & Winters
211 N. Robinson, Suite 1700
Oklahoma City, OK 73102
Tel: 405-272-5711
Fax: 405-232-2695
Email: pbradford@cwlaw.com

SAN ANTONIO CHAPTER

William H. Lemons, III

Travis Park Plaza
711 Navarro, Suite 210
San Antonio, TX 78205-1739
Tel: 210-472-0500
Fax: 210-472-0515
Email: whlemons@satexlaw.com

NORTH TEXAS CHAPTER

Robert Prather, Sr.

Jordan, Dunlap, Prather & Harris, LLP
8111 Preston Rd., #400
Dallas, TX 75225
Tel: 214-696-6060
Fax: 214-696-6724
Email: prather@jdplegal.com

HOUSTON CHAPTER

Trey Bergman

The Bergman Law Firm
5990 Riverview, Suite 100
Houston, TX 77057
Tel: 713-977-1717
Fax: 713-977-4889
Email: treybergman@ghg.net

ST. LOUIS CHAPTER

Richard P. Sher

Devereux Murphy, Striler & Brickey
10 S. Brentwood Blvd., Suite 215
St. Louis, MO 63105
Tel: 314-721-1516
Fax: 314-721-4434
Email: rsher@devereuxmurphy.com

COMMITTEE CHAIRS

CONTINUING EDUCATION COMMITTEE

Trey Bergman

5990 Riverview, Suite 100
Houston, TX 77057
Tel: 713-977-1717
Fax: 713-977-4889
Email: treybergman@ghg.net

ETHICS COMMITTEE

Michele O'Brien

P.O. Box 27448
6363 Woodway, Suite 902
Houston, TX 77227-7448
Tel: 713-960-8543
Fax: 713-260-3987
Email: mob@neosoft.com

LEADERSHIP COMMITTEE

William Towns

7402 Round Mountain
San Antonio, TX 78255
Tel: 210-695-1635
Fax: 210-695-1635
Email: wrtowns@satx.it.com

LEGISLATIVE COMMITTEE

Dean Kilgore

1301 West 25th Street, Suite 540
Austin, TX 78705
Tel: 512-478-6120
Fax: 512-478-6213
Email: kilgorelaw@msn.com

LONG-RANGE PLANNING COMMITTEE

John W. Hughes

6000 Western Place, Suite 100
Fort Worth, TX 76107
Tel: 817-377-4800
Fax: 817-377-4821
Email: jwhughes@mediatortexas.com

MEMBERSHIP COMMITTEE

Jo Anne Christian

400 W. 15th Street, Suite 420
Austin, TX 78701
Tel: 512-476-2113
Fax: 512-476-2115

NEWSLETTER COMMITTEE

John Feather

5102 Austin Street
Houston, TX 77004
Tel: 713-807-9292

Fax: 713-807-9915
Email: jfeather@wt.net

OUTREACH/SCHOLARSHIP/ DIVERSITY COMMITTEE

Dan Naranjo

P.O. Box 781828
San Antonio, TX 78278
Tel: 210-344-9823
Fax: 210-764-1831
Email: dnaranjo@texas.net

PRESIDENT'S COMMITTEE

Lawrence R. Maxwell, Jr.

President
8226 Douglas Avenue, Suite 550
Dallas, TX 75225-5945
Tel: 214-265-9668
Fax: 214-265-8343
Email: lmaxwell@flash.net

WEBSITE COMMITTEE

Mike Amis

15150 Preston Road, Suite 300
Dallas, TX 75248
Tel: 972-960-0667
Fax: 972-960-9152
Email: amismediat@aol.com

ASSOCIATION OF ATTORNEY-MEDIATORS



License of Service Mark and Logo



Association of Attorney-Mediators (“AAM”) hereby grants to the undersigned, _____, a member in good standing of AAM (“Licensee”) and Licensee hereby accepts for the term of this License, subject to the exclusions, provisions and conditions hereinafter set forth, a non-exclusive, non-transferable license to utilize the service mark and logo of AAM, solely and only in connection with mediation services performed consistently with the standards of AAM, as they exist from time to time.

Licensee agrees that the service mark and logo shall be displayed only in such form and manner as shall be specifically approved by AAM prior to use thereof. Any other designs for the service mark and logo desired to be used by Licensee must be first submitted to AAM for its written approval and such approval will be granted in the sole discretion of AAM. Licensee agrees to submit to AAM samples of any and all materials bearing the service mark and logo in order that AAM may be assured that the provisions of this License are being fulfilled.

Licensee acknowledges that it shall not acquire any rights of any nature in the service mark and logo as a result of Licensee’s use thereof. All rights in the service mark and logo other than those specifically granted herein are reserved to AAM for its benefit. All use of the service mark and logo by Licensee shall inure to the benefit of AAM and shall not give Licensee any right, title or interest in the service mark and logo.

Licensee shall at no time use, authorize the use of, or seek to register any trademarks, trade names, or other

designations identical with or confusingly or colorably similar to the service mark and logo of AAM.

Licensee recognizes the great value of the publicity and goodwill associated with the service mark and logo and acknowledges that such goodwill associated with the service mark and logo belongs exclusively to AAM and that service mark and logo have acquired a secondary meaning in the mind of the purchasing public.

Licensee shall not at any time, directly or indirectly attack the title to or any rights of AAM in and to the service mark and logo or attack the validity of this License.

Licensee may not assign or transfer to a third party, or otherwise dispose of its rights and obligations under this License, in whole or in part, without the prior written consent of AAM, in its sole discretion.

Licensee shall distribute and sell mediation services in an ethical manner, in compliance with the standards set by AAM from time to time, and in accordance with the provisions and the intent of this License, and shall not engage in unfair or anti-competitive practices.

Licensee shall perform services in accordance with all applicable international, national, federal, state and local laws, treaties, and government orders and regulations. The services rendered by Licensee shall be of a high standard and shall in no manner reflect adversely upon AAM or the service mark and logo.

Either AAM or Licensee may terminate this Agreement by either giving notice to the other if there occurs on the part of the other any failure to perform any obligation

under this License in any material respect, and such default is not cured within a reasonable period of time, not to exceed thirty (30) days.

The initial term of this License is one (1) year or as long as Licensee is a member in good standing of AAM. As long as Licensee remains a member in good standing of AAM, then after the expiration of the initial term, this License shall be automatically renewed for additional one (1) year terms for so long as Licensee is not in default or breach of any of its obligations pursuant to this License.

Licensee shall, upon the termination of this License, cease to use the service mark and logo, including ceasing to sell or distribute any services using the service mark or logo, or both.

This License does not constitute and shall not be construed to constitute an agency, a partnership or a joint venture and neither party shall have the right to obligate

or to bind the other in any manner whatsoever, and nothing contained in this License shall give or is intended to give any rights or any nature to any third party.

This License constitutes the entire agreement of the parties and supersedes all previous negotiations, agreements, understandings or commitments and shall not be changed or modified except by instruments in writing signed by duly authorized officers or representatives of the parties.

All notices to be given hereunder shall be in writing and send by: Certified Mail, Postage Prepaid, Return Receipt Requested, Forwarding Requested; facsimile or DHL Courier to the addresses specified below or at such other addresses as may be given by prior written notice.

The formation, validity, construction and performance of this License shall be governed by the laws of the State of Texas, and the laws of the United States.

Executed on the dates set out below:

**Association of
Attorney Mediators**

BY:

Printed Name:

Title:
Address:
Date:

Licensee

BY:

Printed Name:

Title:
Address:
Date:

ASSOCIATION OF ATTORNEY-MEDIATORS

2003 Annual Meeting & CLE Program

Friday and Saturday, April 11 and 12, 2003



“Gathering Near the Galleria”
Doubletree Hotel Houston Post Oak
2001 Post Oak Boulevard, Houston, Texas 77056

REGISTRATION FORM

Please fill out the form below. Mail the form and your check (if not paying by credit card) to Brenda Rachuig, Association of Attorney-Mediators, P.O. Box 741955, Dallas, Texas 75374-1955, **FOR RECEIPT NO LATER THAN FRIDAY, APRIL 4, 2003**. The registration fee for those who register by the April 4, 2003 deadline is \$125 for AAM members and Houston ADR Section members, and \$200 for non-members. The registration fee for spouses and guests of AAM members is \$50. The late registration fee is an additional \$25 for AAM members and Houston ADR Section Members.

NAME _____

GUEST _____

ADDRESS _____

PHONE _____ FAX _____

Meal Attendance Information:

Number of People Attending:

Saturday Continental Breakfast (beginning 8:00 am)	_____
Saturday Luncheon	_____

To secure my place at the meeting, I am enclosing my check in the amount of \$_____, made payable to the Association of Attorney-Mediators OR please charge the registration fee of \$_____ to my credit card:

_____ Visa _____ MasterCard _____ Discover. Account # _____

Expiration Date _____ Signature _____

**CREDIT CARD REGISTRATIONS FOR THE ANNUAL MEETING MAY BE FAXED TO 972-669-8180.
NO REFUND FOR CANCELLATIONS AFTER APRIL 4, 2003.**

HOTEL RESERVATION INFORMATION:

Attendees may reserve a guest room at the **Doubletree Hotel Houston Post Oak** at the discounted nightly rate of **\$99** plus tax by calling the Doubletree Post Oak directly for reservations at 1-800-245-7299 or 713-961-9300, **on or before March 21, 2003**. Ask for the special rate for the Association of Attorney-Mediators (code AAM).