

AAM-A-GRAM

Association of Attorney-Mediators Newsletter



“..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.”



Happy New Year!

Thank you for your continued membership and support of AAM in 2023! We look forward to seeing you back in person this year at our [Annual Meeting in St. Louis, Missouri!](#)

NEWSLETTER HIGHLIGHTS

President's Letter

2022-2023 Board of Directors

**2022 Michael J. Leech
President's Award Recipient**

Membership Renewal

Annual Meeting 2023

On-Demand Training Videos

PRESIDENT'S LETTER

A note from AAM President, Danielle L. Hargrove...



As we enter a new year, I wanted to take this opportunity to wish each and every one of you a Happy New Year! I look forward to AAM continuing to do big things in ways that validate your decision to be a member.

We continue to increase our reach across the country striving to reflect the national organization we are. Please consider passing on the word about AAM and our world-class continuing legal education to other mediators, particularly those in Georgia, Idaho, Michigan, Oregon, South Carolina, Utah, Wyoming and New England/the Northeast. We'd love to have them!

I am also pleased that in 2022 we had a wonderful year full of opportunities for us to develop our skills to benefit us professionally and personally and in ways that benefit the parties we serve.

Our Fall meeting and webinar were both well attended and received and our Spring meeting in St. Louis promises to be exceptional as well. It will be nice to get back together in-person. The camaraderie our members experience is what makes AAM special.

As I enter my 60th year of life and my 32nd year of the practice of law, I look at my practice much more holistically now and I don't take my role as a mediator lightly. Dare I say we have an obligation as mediators, particularly in this day and age of division and polarization, to rise to the occasion to use our skills to foster understanding and enlightenment whenever possible? I encourage you to consider the role you play and the role you could play. The world could certainly use the gifts of those committed to conflict resolution.

Danielle L. Hargrove
AAM National President
dlh@hargrovedr.com

AAM Board of Directors Introductions

The following new Board Members and newly appointed Officers were confirmed at the Annual Meeting 2022. The newly elected Board Members will serve a three-year term.

The complete list of the 2022-2023 Board of Directors may be accessed on the website by [clicking here](#).

New Board Members confirmed at the 2022 Annual Meeting:

- **Danielle Comeaux** practices in Houston, TX and has been an AAM Member since 2013
- **Heather McFarlane** practices in Houston, TX and has been an AAM Member since 2019
- **James Reiman** practices in Chicago, IL and has been an AAM Member since 2014

For more information about these Board Members, please see their bios [here](#).

Newly Appointed Officers:

- **Lisbeth Bulmash**, Secretary, practices in Dallas, TX and has been an AAM Member since 2013
- **Misti H. Carter**, President-Elect, practices in Bryan, TX and has been an AAM Member since 2018

*A very special **thank you** to **Robert W. Berliner, Jr., Jimmy Lawson, and Jean M. Lawler** for their service to this organization! Their terms have expired as of the Annual Meeting 2022. We appreciate their commiment to making AAM an outstanding organization.*



The 2022 Michael J. Leech President's Award

The 2022 Michael J. Leech President's Award was presented to **John Trimble (Indianapolis, IN)** during the Annual Meeting on April 22nd. Thank you, John, for your continued commitment to AAM. John served as AAM National President from 2019-2020. Connect with John on [Twitter @IndyTrims](#)



Welcome, New Members!

AAM has enjoyed adding to its roster the following new members since the printing of the last newsletter:

Bill Adams, Atlantic Beach, FL
Mary Bell, Oak Park, IL
Paul Boyd, Tyler, TX
Johanna Bracy, Los Angeles, CA
Debbie Cotton, Helotes, TX
Louis D'Angelo, Evanston, IL
Peter French, Indianapolis, IN
Michael Golden, Santa Fe, NM
Barbara Hachenburg, Houston, TX
Katherlene Levels, Tomball, TX
Todd Litton, Houston, TX
Michael MacDonald, Fairbanks, AK

Stephen Mace, Wildwood, MO
Wendy Macy, San Francisco, CA
Katherine Plominski-Gloede, Chicago, IL
Brian Robison, Frisco, TX
Alan Saler, Valley Village, CA
Ingrid Scholze, NY, NY
Richard Sparr, San Antonio, TX
John Jeffrey Springer, Denton, TX
Jeff Trueman, Baltimore, MD
Kathleen Vossler, Houston, TX
Peter Wiese, Avon, CT
Renee Williams, Hot Springs, AR
Myrlintha Wilson, Houston, TX

We welcome you to this organization and hope you will contact a Board Member, your chapter president, or the AAM National Office if you need anything or want to become involved.

AAM FALL CLE SEMINAR

Learning from the Past, Focusing on the Future

It was great to "see" so many AAM Members at the Fall CLE Seminar held virtually by Zoom in November 2022. Thank you for your attendance, participation and feedback!

We hope that you found the sessions to be thought-provoking, inspiring, and useful in your mediation practices. We are proud to offer virtual programming as a CLE offering, and appreciate your support as we continue to evolve and improve our virtual offerings.

We want to give special thanks to our tremendous presenters who together helped make the program a success -- **Priscilla Chan, Phyllis Cheng, Sharon Corsentino, Gary Fowler, Robert L. Friedenberg, Eric Galton, Afsana Gibson-Chowdhury, Leonard S. Levy, Cecilia H. Morgan, Andrea Morrison, Stuart Suskin and Michael A. Zuckerman.** We greatly appreciate each of you taking valuable time to participate in the program!

Special kudos to Misti Hill Carter, AAM President-Elect, for her efforts in planning a tremendous 2023 Fall CLE Seminar!



2023 Annual Membership Renewal



All memberships renewed on January 1st. Renewal invoices were sent in mid December. New and returning members dues will be \$275 annually. If you have renewal questions or need assistance, please contact the AAM Office at aam@attorney-mediators.org

Step One:

Submit your response to the AAM Membership Qualifications 2023 by completing the online form at <https://attorney-mediators.org/renewal-2023>. This form MUST be submitted for your 2023 renewal to be complete. After completing this form you will receive an email from the AAM Office confirming your Membership Renewal for 2023.

Step Two:

Pay your annual dues via the invoice in your Member Profile.

We also encourage you to take this opportunity to update your profile information to ensure it is current. It's important for us to have this updated information as we develop various member benefits and programming. Specifically, there are 3 areas that you should review and update:

- 1.number of mediations;
- 2.demographic information; and
- 3.contact information (address/phone number)



MEET US IN ST. LOUIS!

We are pleased to announce that the **2023 Annual Meeting and Spring CLE Seminar** will be held in person in **St. Louis, Missouri on April 28-29, 2023**. Please make plans to join us! Registration is open and program agenda will be shared soon.

REGISTER NOW >



The meeting venue will be the fabulous Chase Park Plaza Royal Sonesta hotel located in the Central West End. Plan to stay for the weekend to enjoy all that St. Louis has to offer!



The group room rate is offered at \$229 per night, inclusive of WiFi and on-site parking. Rate is available April 27-30, 2023 for those who wish to arrive early or depart at the end of the weekend.

Book your hotel room online by clicking here or call 1-800-766-3782 and provide the group name or unique group ID (04212022AAMC).



CREATIVITY IN MEDIATION

*by Phyllis W. Cheng**

“Creativity is just connecting things,” according to Steve Jobs. This maxim about creativity is applicable to the mediation forum, where opposing parties come together to resolve disputes before neutrals like ourselves.

While most disputes involve money damages, compensation is a proxy for solutions missed in the past and the harms that followed. As mediators, we are trained to negotiate between the parties’ offers and counter offers. We know the techniques for bracketing, reading the signposts in the midpoints, conveying mediator’s proposals, and other ways of reaching resolution. However, as former French Prime Minister George Bidault observed, “a good diplomatic agreement [is] one with which all parties [are] equally dissatisfied.” Nonetheless, in the private world of mediation in which the parties’ true motivations can be revealed, neutrals can creatively bridge that satisfaction gap.

Here are a few examples from my own settlements negotiations that employed creativity.

■ **Naming First Amendment Regulation after Plaintiff**

When I was director of my state’s civil rights department, my agency investigated a housing retaliation complaint against a homeowner, who posted yard signs protesting a group home, possibly violating statutory prohibitions on harassment against persons with disabilities. The homeowner sued my department alleging a First Amendment Freedom of Expression violation. The Circuit Court in our jurisdiction had ruled in favor of a homeowner on a similar First Amendment case in which a federal agency conducted an identical type of

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investigation. Thus, my department should not have investigated the complaint under that precedent. As a client, I participated in a judicial settlement hearing in federal court. In addition to damages, I understood that the homeowner needed acknowledgement that she felt her First Amendment rights had been violated. When we could not bridge a monetary gap, I introduced the idea that my department could hold hearings, promulgate a First Amendment housing regulation, and name the regulation after the plaintiff. That creative approach settled a case that could have undergone protracted litigation. The case settled with the plaintiff publicizing that my department did the right thing. That First Amendment regulation is still in force today.

■ **Gift Card Purchased from Defendant for Plaintiff**

In a sex discrimination, harassment, retaliation, and wrongful termination case I mediated, the former employee was a long-time fan of the entertainment company that terminated her. She made a significant monetary demand, but gave the employer the option of converting that demand into the form of lifetime access and discounts to the company's venues, which would have meant huge settlement savings for the employer. The employer refused to set such a precedent for its terminated employees. I understood that the employee needed acknowledgment that, aside from her job loss, she felt devastated for losing her connection to the company. When negotiations drew to an impasse, to close the gap, I bought a gift certificate out of my own pocket from the employer's Web site and presented it to the employee. Both parties benefitted equally. The employee appreciated that I understood her lifelong devotion to the company. The employer appreciated the creative solution. The case settled amicably.

■ **Professor's Book in University Library**

A professor alleged his former employer, a university, retaliated against him following an administrative settlement of his complaint for age, race and disability discrimination. The professor claimed that the university failed to honor the terms of the settlement agreement, impeded his research and teaching opportunities, and barred him from attending professional conferences. The trial court granted summary judgment for the university, which was overturned and remanded by the appellate court. At mediation, to close the monetary gap, I proposed that the university consider adding the professor's new academic book to its library collection, and that it dedicate a space in the

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library to showcase the book for a time. The professor appreciated the respect paid to his scholarly work. The university embraced the creative solution that benefitted its student body. The case was successfully resolved.

■ **Once upon a Mattress Class Action**

A couple of consumers challenged on appeal the trial court's denial of class certification in an action against a mattress store. They alleged unfair competition and unfair advertising on the size of the mattress they purchased. The couple had become unhappy when they replaced high-end fitted sheets purchased at the mattress store with less expensive sheets bought at a box store, such that the new sheets no longer stayed on the bed. The mattress store alleged that the consumers lacked standing, their claim had no merit, they had kept and enjoyed the mattress, and they had declined a full refund. Nonetheless, mattress store had spent \$150,000 defending the potential class action. After conferring with the parties at mediation, I ascertained that it was the sheets rather than the mattress that was the source of the problem. In addition to a reasonable monetary settlement, I proposed that the mattress store consider providing the consumers with three sets of its high-end sheets that fitted the mattress. The mattress company agreed to do so. The consumers felt acknowledged that they could not get a good night's sleep. The class action settled globally at both the trial and appellate courts.

■ **Queen for a Day**

An octogenarian in a wheelchair had been a long-time bus rider. In the incident at issue, the liftgate of the bus allegedly crushed her foot. The bus rider's son, a music industry executive, hired private counsel to sue the municipal bus company for disability discrimination and other torts. Although the injury was from a single discreet incident, the octogenarian aired over 30 years of alleged abuse by the bus company for passing her by, not providing operable liftgates, failing to accommodate her, and other acts she perceived to discriminate against persons with disabilities. The statute had run on most of these other incidents. To bridge the monetary gap at the mediation, I asked whether the bus rider would consider giving feedback to the bus company on how to better accommodate persons with disabilities. She was pleased that her years of feeling disrespected was acknowledged, and was eager to provide feedback. As part of the settlement, the bus company agreed to chauffeured the

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octogenarian as a V.I.P. to and from a high-level meeting with the heads of ADA, civil rights, and bus dispatch to hear her constructive feedback. The case ended with satisfaction on all sides.

■ **Returning Inmate's Personal Effects**

An inmate died of a drug overdose while incarcerated. His mother and family sued alleging that a county and its law enforcement officers deprived decedent of his 42 U.S.C. § 1983 rights, were negligent, failed to summon medical care, and committed other violations for which municipal liability was imputed. At mediation, mother was distressed that her late son's personal effects had been lost between different jails. In addition to the monetary settlement, I proposed that the county use its best efforts to locate and return decedent's personal effects to his mother. Even though it was a small accommodation, this additional term appeared to comfort the grieving mother. The county was willing to do all it could to comply. The case settled, avoiding further litigation.

In all these examples, damages constituted the primary remedy, but the creative solutions made settlement possible. As mediators, we can decipher the essence of the dispute, and carve out solutions that even courts cannot order. Accordingly, in addition to damages, non-monetary but creative solutions are worthy of our consideration in resolving disputes.



PHYLLIS W. CHENG, ESQ.

ADR Services, Inc.
Your Partner in Resolution

pcheng@adrservices.com

*** Phyllis W. Cheng is a full-time mediator on the neutral panels of ADR Services, Inc., California Court of Appeal, Second Appellate District, and U.S. District Court, Central District of California, where she leads its Mediation Practice Group. Profiled in the Los Angeles and San Francisco Daily Journal, Ms. Cheng has resolved disputes on employment, civil rights, class actions, appeals, and other matters. Appointed by Governor Arnold Schwarzenegger, she was Director of the California Department of Fair Employment and Housing (DFEH), the largest state civil rights agency in the nation, where she founded its dispute resolution division. Ms. Cheng was also an employment partner at DLA Piper. A glass hobbyist, this article's cover art displays one of her glass creations.**

AAM MEMBER PROFILE PRIVACY REMINDER

Members set their own privacy settings within their member profile of the AAM website. Each member is able to select what information and data on their searchable profile is public (i.e. email address, website, etc.). All public items are accessible by anyone - both the public you want to find you and some of those searching for contacts to serve their own purpose. The choice is yours. Please look over your selected privacy settings and update based on your preferences.

If you need assistance, please reach out to Allison at aam@attorney-mediators.org.

Member Profile privacy settings may be changed by following these steps:

- Log into your AAM member profile at www.attorney-mediators.org
- Click on the person/profile icon in the top right-hand corner and then select "View Profile"
- Click on the "privacy" tab
- Click the "Edit profile" button to edit privacy settings
- Make selections as appropriate to allow Anybody (Public), Members or No Access to each profile detail. See example selection chart below.

	Anybody	Members	No access
Send message form	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Membership level	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
ID Number	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Suffix	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
First Name	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Initial	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Last Name	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Nickname	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Organization	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Phone	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>