



AAM-a-gram

ASSOCIATION OF ATTORNEY-MEDIATORS

President's Message

May 2017

"...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."

2017-2018
AAM

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I hope everyone enjoyed the annual meeting in Santa Fe. I was impressed with the acceptance of so many different ideas and approaches to the profession of mediation. I found it stimulating and an opportunity to look outside the box and inside of myself. I have a friend who refers to mediators as peacemakers. I feel complimented by the analogy while realizing that it's a huge responsibility to shoulder with so many diverse people in the world and so many different needs and perspectives. Ross Hostetter's presentation on green, blue, red and orange people reminded me of a presentation I heard several years ago on the various generations in the workplace. I found it interesting whether relevant or not. When I began to see the various generations in mediations, I was glad I had the knowledge so that I could bridge the gap between the various generations.

I find the longer I mediate it becomes as much of a lifestyle and a statement of who I am as it is a profession or a way to support a lifestyle. When I train new mediators, one question that comes up consistently is "How do you take care of yourself while taking in other peoples issues?" We are in the complaint industry whether we have a full time mediation practice or a mediation practice in conjunction with a law practice. Many years ago, I attended a conference where Leonard Riskin spoke on mindfulness, or being in the here and now. It is quite a hot topic now, but then a new concept in the west and not many people could see its relevance to mediation. I have since begun to relate most of life's experiences to the skills you use in mediation. An example is mountain biking.

One of the many things I love about mountain biking is that it keeps you in the present moment. It's you and your bike navigating through nature, attempting to avoid trees, rocks and roots. Recently I was riding one of my favorite trails. It has a rather large root that I have no problem dropping down from, but I've yet to conquer the uphill jump. After passing this feature I began processing what makes it easy to go down and why I can't seem to get the ascent correct. As I was doing this, I ended up abruptly off my bike at a familiar and easy part of the trail. I had left the present moment.

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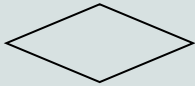
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**Association of
Attorney-Mediators**

P O Box 741955

Dallas, TX 75374-

1955

1-800-280-1368

972-669-8101

972-669-8180 Fax

**www.attorney-
mediators.org**

Email:

**aam@attorney-
mediators.org**

President's Message—Continued

How many other sports utilize this same concept? You "follow the ball" into your glove or bat. In kayaking you "focus on the task at hand" as well as look where you want to go, not what you want to avoid. Dancing, "your nose follows your toes".

Isn't this life? If you stay focused on the past or worry too much about the future, you lose your present path. Only by focusing on the here and now will we successfully navigate our course.

This insight definitely applies to mediation. As a mediator, if we stay fixed on the past or worried about the future we miss the present moment. Only by focusing on the here and now will we have successful and enjoyable outcomes. This is what we offer our clients, our undivided attention and focus as we guide them through their issues. We navigate them through rocks, roots and trees; we keep them focused on the task at hand and we guide their noses and toes to an acceptable resolution.

So, as we go forward into 2017 let's do so focusing on staying in the present moment, remaining open to new concepts and ideas, and practicing the art of improv – saying YES to other people's ideas and cultivating ways to create affirmation.

During my year of President I would like to seize the opportunity to expose our members, and myself, to as many different ways of connecting with people and creating peace as possible. Sid's training project will continue as well as Jeff's marketing webinars. Brenda will be sending out an email highlighting all of the resources you have through AAM's. Cecilia Morgan is compiling "best practices of AAM's members" from the data collected in her presentation in Santa Fe. I would also like to put together a webinar on tips and ideas on managing a small/solo firm, i.e., billing, scheduling, etc., so if you have good ideas and/or practices, please send them my way. Of course, maintaining and strengthening our national presence and recognition is ongoing. Our best way of advertising our organization is through each of us, the members, and the richest learning experiences are through our shared experiences, so I hope you will share your experiences with me as well as each other.

I hope to see you all in Dallas on September 15th.

Debra Leo

AAM National President

debraleoadr@gmail.com

(205) 305-2510

Welcome AAM New Members

We welcome the following new AAM members since the last newsletter printing:

Robert Chadwick	Frisco, Texas
Karen Fastenau Meisel	Austin, Texas
Elizabeth Ray	Houston, Texas
Hannah Temple	Austin, Texas

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 a member of the national board know what AAM can do for you and how you would like to become involved in AAM's activities.

Welcome

AAM Marketing Audio Seminars Continue

**Save the Date – AAM Member Marketing Audio Seminar
July 13, 2017 from 6:00 to 7:00 pm.**

This call will be a marketing audio seminar similar the one in January, 2017, with Steve and Cindy Reddy on the other end of the line – answering your marketing questions.

The January, 2017 audio seminar was recorded and you may listen to it on the members page: <https://www.attorney-mediators.org/members> You will need to log in as a member as these ongoing audio seminars are a benefit to active members of the Association of Attorney-Mediators.



Farewell from Jeff

It has been a pleasure to serve in the last few years as president-elect and as president. I will continue to enjoy my time on the board and to serve AAM in the future. I was taught a very long time ago that a mediator should remember first: "Do no harm".

I firmly believe that AAM and our seminars, conferences, and educational trainings exemplify the best a mediator can be. The programs that AAM continues to present are beyond the usual expectation for a group the size of ours. The programs that are presented, the networking opportunities, the ability to gain knowledge and experience, are the keystone of successful AAM mediators.

Last year I promised that I would help build on that experience by finding ways for us to better market ourselves to our new clients and attorneys. The first CHAT seminar was held January 10 of this year and I believe it was a success. The link to the recorded version may be found in the Members Area on the website at the bottom of the first page. Here is the link if you would like to listen now. Questions were solicited from the audience in advance to help the conversation concentrate on exactly what members wanted to now. Be watching for the email with the questions for the next one – July 13.

Marketing in today's world is a challenge. All of us need as much help as possible to market ourselves. Steven and Cindy Reddy have agreed to hold another "More Ways to Market" talk by audio conference, from 6 p.m. to 7 p.m. on Thursday, July 13, 2017. They will be presenting other ideas and ways to use the internet and online avenues to build marketing techniques and reach as many people as possible.

An email with more information concerning the topics for the telephone conversation will be sent to you as we approach July 13th. I will be part of the conversation on July 13th and we will have a sign up system where you can join into the conversation via phone again.

Thank you, again, to the wonderful job Debra Leo did in presenting the continuing education topics this year and certainly to Brenda for all the hard work she continues to do every day on behalf of AAM. I am hoping that everyone has a restful rewarding and fruitful summer and I hope to see you in the fall and at future meetings. Until July 13 -

Hasta la vista, baby . . .

Jeff Kilgore

AAM Illinois Chapter Hosts Elder Advanced Mediation Training

AAM Illinois Chapter hosted the **Elder Advanced Mediation Training** on May 19 and 20, 2017, in Chicago. The two-day, 15 hour-CLE mediation training, was presented by **Robert J. Rhudy of Senior Mediation and Decision Making, Inc.** This was a robust training which offered 15.5 hours of CLE credit and was offered to all AAM members for a very low attendance price. **Those that attended agreed that it was a great training with lots of valuable material and information!**

Thank you to **Robert Rhudy** and his capable assistants, **Bruce Kravitz, Michael Leech, Kerry Peck, Roselyn Friedman, Elizabeth Simon, and Joan Richman Ente.**

And a special thank you to **Randy Rapp** for his diligence for putting the details in place and making it all work.

Return to Santa Fe

It was nice being back in Santa Fe – back at the La Fonda Hotel. The weather was much more enjoyable – no tornadoes or snow in sight as it was in 2007! Just perfect for daytime tours and evening ghost hunts. Special thanks to AAM member, **Stefanie Beninato, JD, PhD**, for showing us around town on her special tours put together especially for AAM attendees.

Seventy plus attendees gathered to “Advance the Art of Mediation”, a great program put in place by then President-elect, **Debra Leo**. Our presenters included our special guest, **Cassandra Adams** of Birmingham, AL, and other **John Trimble** of Indianapolis, IN, **Michael Kuhn**, Houston, TX, **David Levin**, Santa Fe, NM, **Barbara Kazen**, Santa Fe, NM, **John Dowdy**, Arlington, TX, **Cecilia Morgan**, Dallas, TX, **Ernest “Hank” Jones**, Lexington, KY, **Ross Hostetter**, Dallas, TX/Boulder, CO. We were enlightened on many aspects of mediation and drilled on the proper ethical procedures that mediators should follow.

The evening before the training, we had a full house at the very welcoming Blue Corn Café as 31 attendees and their guests enjoyed a wonderful dinner together with enjoyable conversation to begin the weekend. The evening walk was just the right temperature and it was enjoyed by all.

Friday evening we were treated to a cocktail reception in the La Terraza of the La Fonda. A wonderful dinner area with open doors to the lovely outdoor terrace to view the sunset and the cathedral in the background. Again, the weather was wonderful and the chef did a fabulous job of giving us the pleasure of a delicious Southwest buffet. A hardy group of attendees ventured out into the evening for the “Santa Fe Ghost Tour”.

Saturday morning we met to hear **Jeff Kilgore’s** “state of the organization” which is in a good position. We wished Jeff fare well and welcomed in Debra Leo to carry the torch for the upcoming year. Votes were tallied and the new directors were put into place and introduced to the membership. Thank you to **Jimmy Lawson** of Lakeland, Tennessee and **Mark Myers** of Slidell, Louisiana for agreeing to fill the vacancies for the next three years. **Paul Clote** was introduced as the incoming President-elect and will begin his journey of planning the AAM Fall Advanced Attorney-Mediator Training to be held in Dallas on Friday, September 15, 2017.

The afternoon was topped off with a tour of the city to see the sights, learn the best places to eat, shop and even the best place to enjoy a margarita! There was much to see and do and the Sunday morning Palm Sunday Processional around the square surprised us with a nice worship service before heading for home. We will look forward to our next trip to Santa Fe. The weather, the people, the food, the drink and being together make it a great location to return to.

Until another time . . .



Introducing AAM's New President and President-elect

AAM President 2017 – 2018

Debra B. Leo is the Alternative Dispute Resolution (ADR) supervisor and expert mediator for Alabama and Mississippi. Debra contracts with and provides technical expertise to private mediators. She develops, designs, and delivers training modules on basic and advanced mediation skills for the federal government on a national basis and gives presentations and training on various areas of employment law. She also mediates complex cases involving all issues of employment law. Debra serves on the Alabama Supreme Court Commission on ADR (past Chairman), she is President of Alabama Academy of Attorney Mediators and has served as an adjunct professor at Birmingham School of Law. She is on the FINRA Panel of Neutrals, the Better Business Bureau's Panel of Neutrals, and is on the Alabama Supreme Court's roster of mediators and arbitrators. Ms. Leo has over 30 years of experience with EEOC and has served in the capacities of enforcement supervisor, charge receipt supervisor, enforcement investigator, systemic investigator, and management information specialist. She has received the Chair's Silver Excellence in Leadership Award, and is four-time recipient of the Chair's Organizational Performance Award, as well as numerous recognitions by professional organizations. She was named Arbitrator of the Year by the BBB in 2006. She received a Bachelor of Science Degree in Mechanical Engineering, Tau Beta Pi, from the University of Alabama in Birmingham and a Juris Doctorate Degree from Birmingham School of Law. She was admitted to the Alabama State Bar in 1998.



AAM President-elect 2017-2018

Paul Clote - Trial and appellate experience (38 years). Trial to verdict in variety of state and federal cases including fiduciary duties; partnership termination and windup; letters of credit; trust account funds; ERISA disability benefits; broker commissions; child abuse; business fraud and civil theft; Fair Labor Standards Act; oil and gas operating agreement; election contest. Briefed and argued appellate cases in Fifth Circuit, Texas Supreme Court and Texas Courts of Appeal. Experience mediating complex commercial cases, including oil/gas disputes (oil well blowouts; operator errors; drilling or equipment defects; lease disputes). Concentration on · Complex Business Litigation · Business Torts · Partnership/Shareholder Claims · Insurance Litigation · Commercial Arbitration · Multi-Party Mediations. Admitted: Texas (1977); Colorado (2006); U.S. District Court, Southern District of Texas (1979); U.S. Court of Appeals, Fifth and Eleventh Circuits (1981); U.S. District Court, Eastern District of Texas (1990); U.S. District Court, Western District of Texas (1996); U.S. Supreme Court (2003). Professional Activities & Memberships: Houston and American Bar Associations; American Board of Trial Advocates; Houston and Texas Bar Foundations; Texas Mediator Credentialing Association; Association of Attorney Mediators; Phi Delta Phi; Order of Barristers; Board of Disciplinary Appeals (appointed by Texas Supreme Court, 2002-2008), Chair 2008; Texas Super Lawyer (2007 - 2015), selected for Business Litigation & ADR; Best Lawyers in America (2015 - 2016). Education: Northwestern University, B.A., 1974 University of Texas School of Law, J.D., with honors, 1977. Teaching Experience: Rice University, Adjunct Professor, Mediation and Conflict Resolution, 2002. National Law Academy of Odessa, Ukraine; Visiting Professor, Commercial Arbitration; 2008. University of Debrecen (Hungary) School of Law; Visiting Professor, Commercial Arbitration; 2010.



Global Pound Conference Survey Results

In the March 2017 AAM Newsletter, Jeff Kilgore, then President, wrote about his experience in attending the Global Pound Conference. He said, “As president of AAM, I was invited to the Global Pound Conference in Austin TX where outstanding mediators, arbitrators, in house counsel, attorneys and industry end users gathered to discuss the use of ADR throughout the world. We participated in multiple live survey questions where we had immediate feed-back on how the different groups perceived an issue.” Those results are now available. Pasted below are various pages with the link to the entire survey results.



A SUMMARY OF THE PRELIMINARY GLOBAL POUND CONFERENCE (GPC) DATA IN 2016: TRENDS AND THEMES

By: Jeremy Lack, Global Coordinator of the GPC Series¹

¹ [Jeremy Lack](#) is a lawyer and ADR neutral, who works primarily as a Non-Adjudicative Provider. He is a member of the Independent Standards Commission of the International Mediation Institute (IMI), which is the convener of the GPC Series.

² The 7 locations in 2016 were: Singapore, Mexico City, Lagos, New York, Geneva, Toronto and Madrid.

Approximately 700 people participated in Global Pound Conference (GPC) events in 2016. Another 3,000 are expected in 2017. The aggregated data from the first seven events² that have taken place already show some interesting themes and trends that are summarized in this paper. Although these themes and trends will evolve and may change significantly, as the GPC Series progresses and more results are obtained from additional countries and different dispute resolution cultures – they already provide interesting food for thought and ideas which could shape the future of commercial dispute resolution and improve access to justice in commercial disputes.

1. Demographics:

The results were collected from five stakeholder groups:

- (1) **Parties:** Approximately 90 users (13% of participants) who are involved in disputes and use commercial dispute resolution services (e.g. business managers or in-house counsel involved in litigation, arbitration, mediation or mixed mode processes);
- (2) **Advisors:** Approximately 160 external advisors (24% of participants) who assist Parties in managing their disputes (e.g. external lawyers, experts, forensic accountants);
- (3) **Adjudicative Providers:** Approximately 130 providers (20% of participants) of adjudicative commercial or civil dispute resolution services (e.g. judges or arbitrators) or organizations providing such services;
- (4) **Non-Adjudicative Providers:** Approximately 170 providers (27% of participants) of non-adjudicative commercial or civil dispute resolution services (e.g. conciliators, mediators or ombudsmen) or organizations providing such services ; and
- (5) **Influencers:** Approximately 105 miscellaneous influencers (16% of participants,) e.g. academics, government officials, educators, policy advisors), who do not participate in commercial disputes but are influential in the dispute resolution market.

The GPC data and demographics are still tentative and subject to a final report to be issued in 2018 by the GPC's [Academic Committee](#). The exact numbers of the initial votes to be counted in the final results based on these interim results cannot be determined yet with precision, as there are small gaps between some of the votes registered and the stakeholder categories these votes relate to. (For example, approximately 50 votes have been left out of the aggregated data so far, due to the Central Organizing Group's inability to correlate some voters to their stakeholder groups during the initial registration process.

These votes can be properly allocated only once the “deep data” generated during the GPC

Series can also be analysed and cross-checked). For an example of the “deep data” that the GPC Series is compiling, please see the first GPC report for the opening event that took place in Singapore on 18-19 March 2016 that is available [here](#).³ The results contained in this article are based only on the “live” data generated immediately during each GPC event using the PowerVote electronic voting system used to collect stakeholder votes at all events. The numbers and results summarized in this paper were provided by PowerVote and can all be found [here](#).

2. Methodology:

This paper digests the answers to the 20 “[Core Questions](#)” that were prepared by the GPC's [Central Organizing Group](#) (COG). The questions were voted on at the beginning of each session in a GPC Series event (normally four sessions of 1.5 hours each), during which five Core Questions are presented for vote in the first 10-15 minutes of each session using a PowerVote electronic voting application. The votes thus reflect stakeholders views before any substantive presentations or discussions have occurred.

The Core Questions were established following extensive rounds of consultations with representatives of all stakeholder groups and members of the GPC's Academic Committee. At each GPC event, participants are asked to rank their three top choices from several options presented in the form of a multiple choice question. The first option selected receives 3 points, the second option selected receives 2 points, and the third option selected receives 1 point. The number of points collected for each option is then accumulated and compared to the total number of points that could have been awarded for that option had everyone present given it 3 points (i.e. a “100%” score).

Consequently, all percentages expressed are based on the number of points each option obtained compared to the 100% maximum number of points that option could have received (the number of attendees times 3 points). The resultant percentages indicate a relative popularity ranking rather a percentage of all the points actually allocated to each option from the total number of points available in each case. As a result, the percentages do not add up to 100% in each column.

This way of scoring was selected as it facilitated comparison of the popularities of each option in relation to a 100% score in order to identify which options were most preferred by which stakeholder groups. The results obtained for each question are first expressed as an aggregate bar chart, showing the collective votes across all stakeholder groups, followed by a cross-sorted bar chart that compares the preferences and percentage rankings of each stakeholder group for each option. This enables comparisons regarding the respective popularity of each option within and across stakeholder groups.

3. Results:

The preliminary data from the seven events that took place in 2016 show significant gaps

³ <http://globalpoundconference.org/gpc-series-data/the-singapore-report#.WHIm6vkrKUk>.

⁴ [http://globalpoundconference.org/Documents/Aggregated Data Report GPC_28Dec.pdf](http://globalpoundconference.org/Documents/Aggregated%20Data%20Report%20GPC_28Dec.pdf). PriceWaterhouseCoopers, Herbert Smith Freehills and the GPC's Academic Committee will also be providing additional analyses soon, showing numbers are likely to be more precise. It is not expected, however, that they will be materially different between and among stakeholder groups. The preferences and priorities voted by Parties involved in commercial and civil disputes can be perceived as representing the "demand" side of the market for dispute resolution services), whereas Providers can be perceived as reflecting the "supply" side of the dispute resolution services market. Arguably, Advisors (i.e. external lawyers and experts) belong both on the "demand" side and the "supply" side.

Viewed either way, there are notable gaps not only between the "demand" and "supply" sides of the market, as well as between Advisors and their clients, and between Advisors and Providers. There are also a few, yet notable, differences within the supply side of the market, between Adjudicative Providers (judges and arbitrators) and Non-Adjudicative Providers (mediators and conciliators). Miscellaneous Influencers (academics, government officials and policy makers) also seem to have distinct views of their own.

The differences that emerge thus far among the various patterns of votes suggest that greater emphasis should be placed by all stakeholders on helping Parties to focus on their procedural choices early on in all cases, rather than simply assuming that any given process should be the norm. This presages one means of improving the future of dispute resolution and access to justice for commercial disputes; however it remains to be seen if the final GPC results and report will support this tentative observation.

What follows is a brief analysis of the GPC results in 2016, supporting the above summary. This synopsis does not claim to provide any empirical truths, as the initial data collected by the GPC Series needs to be approached with caution and circumspection for several reasons. Most notably, those are the self-selecting nature of the participants at different GPC events, the limited numbers of representatives from some stakeholder groups in some cities, and different cultural approaches to conflict prevention and resolution across professional and educational divides (e.g. civil law v. common law jurisdictions).

It is only possible to identify and assess general themes and trends that appear to emerge from the data, with the understanding that the data is susceptible to divergent interpretations by stakeholders from different countries and cultures. This summary is also no doubt influenced by the author's own biases when interpreting the data (despite his effort to be objective). It is therefore safe to say that the current data still presents uncertainty, other than the fact that stakeholder groups tend to vote differently from one-another.

Session 1 ACCESS TO JUSTICE & DISPUTE RESOLUTION SYSTEMS: WHAT DO PARTIES WANT, NEED AND EXPECT?

Q 1.1 *What outcomes do Parties most often want before starting a process in commercial or civil disputes?*

- Financial outcomes. All stakeholder groups seem to value financial outcomes (e.g. damages and compensation) over action-focused outcomes (e.g. injunctions or specific performance of obligations) as reflecting what Parties prefer at the outset of a commercial dispute resolution process (with votes ranging from 60-80% in popularity).
- Action-focused outcomes. The only stakeholder group to prefer action-focused outcomes over financial outcomes were Influencers.
- Relationships and psychological outcomes. These outcomes, such as e.g. vindication or a sense of procedural fairness, while not unimportant, are perceived as significantly less so for all stakeholder groups (ranging from 18-39%); Parties themselves rated relationship-focused outcomes at 34% as compared to psychological outcomes at 22%.
- Judicial outcomes. Outcomes involving e.g. setting judicial precedents or rule of law seemed to be of far lower importance (5-11%).

Q 1.2 *When Parties involved in commercial disputes are choosing the type(s) of dispute resolution process(es) to use, what has the most influence?*

- The global results to this question would suggest that there is little difference between the two top priorities that most influence Parties' choices: "efficiency" (at 64% popularity) and "advice" (at 61% popularity), with "predictability" coming in a distant third (at 32% popularity).
- In the cross-sorted results by stakeholder group, however, parties rank "efficiency" at 67% above "advice" (44%) and predictability (32%).
- The gap between the first and second choice for Parties was significantly greater compared to all other stakeholders.
- Advisors ranked their own advice as more important than efficiency (68% compared to 63% popularity).
- This result contrasts with relatively low scores for the options: "relationships" (15% average ranking), "industry practices" (13% ranking), and "confidentiality" (13% ranking).
- While Parties did rank "relationships" more highly than all the other stakeholder groups (at 24% compared to the average of 15%), this was clearly a fourth place consideration after efficiency, advice and predictability.

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The additional questions and responses may be found on the pdf version of the 17 page summary.

Full Version may be found on our website under the Resources/articles.

Introducing New Board Members

The AAM Annual Meeting was held on April 8, 2017 at 8:30 a.m. at the La Fonda Hotel, Santa Fe, NM. The following board members were elected and we welcome them to the board of directors! They will serve a three year term.



Jimmy Lawson



Mark Myers

Please email a board member if you have a question, comment, or suggestion that needs board attention. A full board roster may be viewed and printed at www.attorney-mediators.org/Board.

COMING UP

AAM's Advanced Attorney-Mediator Training

September 15, 2017

Dallas, Texas

Embassy Suite by Hilton at Love Field

Thank You!

A special thank you to the outgoing AAM National Board Members, **Sid McCollum**, Arkansas, and **Francis "Hank" Raucci**, Montana. Thank you for volunteering your time and energy to the AAM Board. Your willingness to serve in this capacity for the last several years is greatly appreciated! **Hank was presented the "Super Man" pin at the 2017 Annual Meeting for flying across country from Montana to attend the AAM conferences.**





Santa Fe 2017



Santa Fe 2017