



# AAM-a-gram

**ASSOCIATION OF ATTORNEY-MEDIATORS**

## ***President's Message***

***November 2019***

*"...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."*

**2019–2020  
AAM**

### **BOARD OF DIRECTORS**

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Executive Director,  
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### *Message from John Trimble . . .*

As 2019 draws to a close, our Association has enjoyed an eventful year. In April we travelled to the gorgeous and welcoming Charleston, SC, for our Annual Meeting. A big crowd enjoyed outstanding CLE, good weather, and great food, and we said a big THANK YOU to outgoing president, Paul Clote. We also had the pleasure of presenting the 2019 Steve Brutsche' Award to long time AAM member, Cecilia Morgan.

During the summer months, AAM experienced the retirement of our long time Executive Director, Brenda Rachuig. A lot of tears were shed at the announcement. However, in her usual wonderful manner, Brenda participated in a very seamless transition to our sparkling new Executive Director, Allison Ellis, who comes to us with an extensive marketing background. And...now that the news is out, I can tell you that Allison is Brenda's daughter. So, our friend Brenda is not far away for her many friends to send greetings and hugs.

In September, Allison organized and hosted a magnificent "fly-in" meeting in Dallas. President Elect, Jimmy Lawson, brought together a marvelous faculty, and a full ballroom of attendees raved about the program. One person said, "This was one of the better CLEs I have ever been to." They were not kidding. It was fantastic.

At the September meeting we had the chance to say "see you later...not goodbye" to Brenda Rachuig and her husband, Charlie. Due to an outpouring of affection and generous donations from dozens of AAM members, AAM was able to thank Brenda for her 20+ years of service with an Alaskan cruise. The reac-

**CHAPTER  
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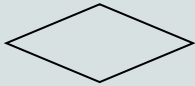
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**President's Message—Continued**

tion of our members to this parting gift was like nothing I have ever seen. It speaks loudly for who Brenda was to all of us at AAM.

As this letter goes to press, Allison and Jimmy are hard at work planning our next Annual Meeting that will be held at Hotel St. Louis on April 3-4, 2020. The organizing committee is scouting out some great dine around restaurants. I, for one, hope to lead a group over to the famous "Hill" in St. Louis where Italian restaurants proliferate.

It is not too late to offer your suggestions for speakers or topics for the meeting. A link to submit ideas is available elsewhere on this page. ([Speakers Proposal Link](#))

Please do not hesitate to contact me at any time with your questions or concerns. The goal of AAM leadership is to offer every asset that you may need to make your mediation practice a success.

I hope to see you in St. Louie! #WillYouBeThere?

John

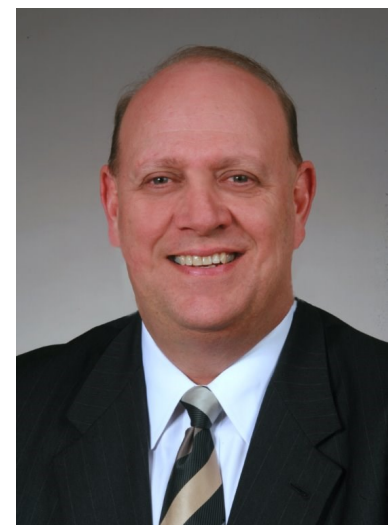
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### Let's get social!

Join us on social media as AAM becomes more active on Twitter, Facebook and LinkedIn. We're looking for content creators from our members! Submit articles and photos to the AAM National Office to be included in our upcoming posts.



## AAM Welcomes New Members

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

Scott Baker, Austin, TX  
Veronica Czuchna, Austin, TX  
Catherine Diggins, Chicago, IL  
Aric Garza, San Antonio, TX  
Sherra Gilbert, Houston, TX

The word "Welcome" is written in a highly decorative, black cursive script with elaborate flourishes and swirls.

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.

## Thanks to all who attended the Fall training in Dallas on September 13, 2019!

Our wonderful speakers included:

Phyllis Speedlin (San Antonio) addressed some of a mediator's most important skills – listening hard and managing the emotions that the parties express. She shared mediation techniques to learn how to harness the constructive power of emotions to help reach closure.



Ross Stoddard (Irving, TX) and Michael Leech (Chicago, IL & Philadelphia, PA) led an interactive session that explored how a mediator's optimism can positively impact the mediation process. The session helped attendees become better equipped to recognize opportunities to emanate optimism at critical junctures in the mediation process.

Ross Stoddard (Irving, TX) graciously performed double duty alongside Dean Kilgore (Austin, TX) as they improved an interactive hour about improv skills for mediators when our original speakers were grounded at the Chicago airport. Two favorites among our organization, they did a wonderful job providing insight into improvisation within mediations.

Over lunch, Sharon Corsentino shared her journey to becoming a full-time mediator. She shared specifics about building her own practice and the best practices learned throughout that process.

Michael Bishop (Indianapolis, IN) led an interactive workshop exploring ethical rules and scenarios. Discussion groups reviewed scenarios and participated in an interactive discussion on best practices for each ethical question. Special thanks to Michael for traveling from Indianapolis to be a guest speaker for us.

Brian Tagtmeier (Houston) offered a look into mental illness and substance abuse and how it relates to the legal profession and ethical implications. He shared eye-opening statistics of lawyers and law students, and gave personal insights from suffering from depression and alcoholism, and their effect on his practice.

Misti Carter (College Station, TX) and Dyann McCully (Fort Worth, TX) enlightened us with an informative presentation on guardianship basics and guardianship mediation basics.

Anne Shuttee (Dallas, TX) and Larry Maxwell (Dallas, TX) closed out the day with a great overview of the collaborative process. Their presentation included the advantages of collaborative law for mediators and the advantages of mediation for collaborative lawyers.

**Thank you to our fabulous speakers!**



## September Conference Details Continued / Dinner With A Group

For about 30 attendees (and some spouses) that were able to arrive early, dinner was enjoyed on Thursday evening at Maple Landing restaurant. Good food like Texas BBQ was enjoyed. But most of all, there was time to meet others before our CLE began on Friday morning. Those in attendance were also able to toast to Brenda Rachuig (and her husband Charlie) as she retired and said her last “goodbyes” to the members of AAM.

What a great cast for the AAM Fall CLE that was held in Dallas in September 2019! The speakers were outstanding, dynamic and incredibly effective. They were appreciated by all. Our room was filled to max overflowing (80+) and we welcome many new faces and non-members as well. We wish to thank all who contributed to this very successful CLE program.

The day ended with cocktails and camaraderie as we said goodbye until the next CLE in St. Louis on April 3 & 4, 2020.

Thank you, Brenda!

Brenda Rachuig, AAM's Executive Director for 20+ years, was honored at the fall conference in Dallas. Brenda's dedication to the organization was remarkable. Below is a photo of Brenda with some of AAM's Past Presidents. Brenda, you will be missed!



Pictured from L to R: Bud Silverberg, Brenda Rachuig, Trey Bergman, Michael Leech, Mike Patterson, Bill Lemons, Sid McCollum, Jeff Abrams and Larry Maxwell.



# Dallas 2019

## 2020 Annual Membership Renewal

All memberships renew on January 1, 2020. Renewal invoices will be sent out in late November so you may choose to pre-pay your 2020 dues before year-end so that your membership will show as active on January 1, 2020.

After 5 years at \$250 annual membership dues, the Board of Directors has approved an increase of \$25 per year. New and returning members dues will be \$275 annually, beginning January 1, 2020.

Part of your membership renewal includes completing an easy-to-fill [online Membership Qualifications form](#) that is required by our Insurance. There will be a link on the bottom of your membership invoice and also located in the Members Only Area on the website, so that you may complete the form online.

Questions? Email or call Allison at [aam@attorney-mediators.org](mailto:aam@attorney-mediators.org) or 972-669-8101 / 1-800-280-1368.



### Roll Call!

Help us as we seek to increase and diversify the AAM Membership. We need YOU! You are the best advertisement for AAM as you know the great benefits of this organization, including comradery with other Attorney-Mediators and a great insurance policy. We are seeking new, younger mediators who are excited to join a prestigious organization like AAM. **Our charge to you is to invite 1 new mediator to join AAM in 2020.**

Thank you for your help in continuing to make AAM a great organization!



***A Message from the President-Elect:***

What if I told you that you could get all of your CLE and CME for the year, hear presentations from some of the best and most experienced mediators from across the nation, network and make acquaintance with colleagues who become friends for life, all while enjoying the sights, sounds and great food of the Gateway to the West, St. Louis? Too good to be true, you think?

My name is Jimmy Lawson and I'm here to tell you that it's *not* too good to be true. On April 3 and 4, 2020, AAM will hold its Annual Conference in St. Louis and everything I just described will be on display. Registration will be open soon, and I hope you won't pass up the opportunity to be a part of it. Attending an AAM conference will make you a better mediator and will help you enhance and grow your mediation practice. I know – it's done both of those things for me!

If I have had the pleasure of meeting you, I hope to see you again at the conference. If I haven't met you, let's plan on it in St. Louis! The conference is open to AAM's members and non-members alike. AAM has a long and successful history of putting on the best CLE/CME presentations in the profession and I know this one will not disappoint. So **SAVE THE DATES** and make plans to be part of an outstanding learning experience and a weekend of fun and fellowship.

April 3 and 4 . . . Meet Me in St. Louis!

**Jimmy Lawson**  
**President-Elect**

**Save the Date!**

April 3 & 4, 2020  
St. Louis, Missouri

*AAM's Advanced Attorney-Mediator  
Training and Annual Meeting*

Additional information will be posted to  
[www.attorney-mediators.org](http://www.attorney-mediators.org) as it becomes available



ST. LOUIS



## Call for Proposals:

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

**April 3-4, 2020, in St. Louis, MO**

Request for speakers proposals for sessions to be included in AAM's *Advanced Attorney-Mediator Training and Annual Meeting* to be held Friday, April 3 and Saturday, April 4, 2020 in St. Louis, Missouri.

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**Wanted: Specific proposals for programs to be included in AAM's Advanced Attorney-Mediator Training and CLE Seminar scheduled for Friday, April 3 and Saturday, April 4, 2020 in St. Louis, Missouri (tentatively titled, "Meet Me In St. Louis – The Cardinal Rules of Mediation").**

- We are looking for creative, imaginative, energetic speakers who will actively engage with the participating attendees.
- As AAM's membership expands throughout the country, there is an increased need to include topics that will appeal to attorney-mediators at all levels of experience and will touch on areas of interest that are often overlooked in other CME presentations.
- We want to be up-to-date without sacrificing the tried and true; we want to broaden our horizons so that our view of mediation is vast, not limited as to any one genre or venue.

**If you would like to be considered to be a part of the faculty for the Spring 2020 CLE program, we would love to see your proposal. Send it to: Jimmy Lawson at [jimmy@hamlindispute.com](mailto:jimmy@hamlindispute.com) or Allison Ellis at [aam@attorney-mediators.org](mailto:aam@attorney-mediators.org) by no later than December 2, 2019.**

**For more details, please see the link below for the Speaker Proposal Information Sheet. [Speaker Proposal Information Sheet April 2020.docx](#)**

If you are recommending someone other than yourself as a presenter, please supply all the information above, as well as their contact information. Presenters will receive notification of acceptance by email or phone call. **Handouts or PowerPoints are due by February 15, 2020.**

AAM is unable to reimburse speakers for their travel or other expenses, nor is it able to pay an honorarium. **Speakers will be offered a discounted registration fee.** We are grateful for your input and your willingness to serve.

## 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.

Please also take a moment to log into your account and refresh your information. It's important that you update the number of mediations performed along with your contact information if it has recently changed.

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

- Log into your AAM member profile at [www.attorney-mediators.org](http://www.attorney-mediators.org)
- Select "View profile" in the bottom left-hand corner
- 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.

Show details			
in member directories, forum and blog posts			
	Anybody	Members	No access
Send message form	<input type="radio"/>	<input type="radio"/>	<input checked="" 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"/>
Office Fax	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Email	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Address (Street-Suite)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
City	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
State	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Zip Code	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Secondary Email Address	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Photo	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Website	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

## **Herding Cats – The Multiple Defendant Mediation by Jimmy Lawson**

I am a fiercely competitive person by nature. Whether in court, in the gym or playing a board game with family during a holiday, I have an insatiable desire to win. Part and parcel of that is enjoying a challenge. All mediations present challenges to the mediator, some more than others. The one that seems to challenge me the most, without question, is the multiple defendant mediation. For ease of typing, I'll call it the "MDM."

To some – particularly plaintiff's attorneys – the MDM seems to be the best of all worlds. All you need it a damaged plaintiff, a better-than-decent argument on liability, and several defendants with deep pockets. Throw out a big number and let the defendants decide among themselves how they will get there. The only problem with this scenario, in reality, is that it rarely works this way. MDMs actually give *defendants* reason to dig in and cling to their respective purse strings, because they provide defendants the opportunity to point fingers in all directions (except, of course, back at themselves). This inevitably leads to lengthy mediations that are marked by disagreements over who should be the lead sled dog, who should contribute, and who should pay more or less than a proportionate share toward a global settlement.

I recently mediated a medical malpractice case in which there were seven (7) defendants, represented by six separate counsel. One attorney represented two of the defendants. All had allegedly contributed in some form or fashion to the situation that led to a tragic outcome for a plaintiff. It was a big case in terms of dollars; an even bigger one in terms of challenges. As with so many of my mediations, I drove home after it ended contemplating how I might have done things differently. Ultimately, I concluded that, given the circumstances, the best outcomes for all parties had been reached. Some claims had been settled during the mediation, some settled in the days that followed by way of an accepted mediator's proposal, and some just didn't settle.

MDMs can go in any direction. They can be unpredictable. Nevertheless, there are some situations that seem to present themselves in the majority of these cases and I've learned how to deal with most of them when they confront me. I'll highlight a few.

**Educate yourself on defendant alliances before the session.** Just because it's every defendant for himself and the gloves come off at mediation, this doesn't mean that some of the defendants haven't talked and come to tacit agreements beforehand. Think of it as something akin to the old "Survivor" reality TV series and the alliances that contestants would make for strategic purposes. Depending on...

## **Herding Cats – The Multiple Defendant Mediation (Continued)**

...the facts of the case, several defendants may believe it's in their best interest to gang up on a lone defendant, or it may end up being more of a Team A vs. Team B situation. If you sense that this has happened (or is happening during the session), be prepared to confront it so that all defendants get back on the same page.

**Be on the alert for shifting alliances.** Those alliances that seemed so set in stone at the beginning of the session can quickly dissolve if there is a momentum shift or information comes to light that puts a defendant in a better or worse position in relation to his co-defendants. At the end of the day, all defendants are watching out for themselves and have self-serving motives as they negotiate. *And that is how it should be.* But the dynamics of a mediation can drastically change if two defendants sharing the same conference room suddenly find themselves at odds. Again, be prepared to deal with this when you perceive a seismic shift in the tactics of certain defendants.

**Coach 'em up!** The refusal of all defendants to consider being the alpha dog, carrying the financial banner of settlement, can often result in the first few hours being frustrating for the mediator. No one wants to step up to the plate. Fingers are pointed at others. Excuses are tossed around like a beach ball. When this happens, the best thing a mediator can do is gather all defense counsel together in one room and remind them, tactfully but firmly, why they are there and what they are trying to accomplish. Stated more bluntly, a "what the heck are you doing?" speech can encourage counsel to steer the train back onto the tracks and work in concert toward an end goal. It doesn't always work, but if the right impression can be made, savvy attorneys will realize that their posturing to that point has been counterproductive.

**When all else fails, settle what you can.** If the mediator manages to get the entire case settled, with every party signing on the dotted line, congratulations are in order and a commemorative plaque should be awarded to him. It's rare. So if the odds are stacked against you and the outlook isn't brilliant (to borrow from both George Gipp and Ernest Thayer), what do you do? *Focus on settling what can be settled!* A mediation without a global settlement...



## **Herding Cats – The Multiple Defendant Mediation (Continued)**

...at the end is not a failed mediation if the case is still streamlined and non-settleable claims are weeded out from settleable ones. The caveat here – and it is a strong one – is that all defendants need to be made aware when the focus shifts. It is incumbent upon the mediator to make sure everyone is aware if a plaintiff suddenly decides to start negotiating with one or more defendants to the exclusion of others. For one thing, it allows those defendants that haven't been "playing ball" to that point to reassess and become more engaged. For another, it gives them the opportunity to go home and turn off the mediator's fee clock as to them. Most importantly, it prevents those defendants from believing that everyone, including the mediator, has ganged up on them. Fairness and neutrality are of paramount importance, and if the mediator "shuts out" a defendant from negotiations without notice, the perception (and the reality) is that he has failed in these duties.

MDMs do something else too. They tend to separate the resourceful and diligent mediators from the rigid and lazy ones. A poorly prepared mediator can easily be overwhelmed by the fluidity and unpredictability of an MDM. A mediator worth his salt will not let go of the wheel when the road toward Settleville gets bumpy.

Who do you want mediating your case fraught with challenges? The choice is yours, but don't discount the guy with experience herding cats.

### **Jimmy Lawson**

