

# RE:solutions

Iowa Association of Mediators

Volume 16, Spring 2010

**IAM**  
Founded 1994

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George Elliott  
IAM President

## Good Mediators Come from Many Disciplines

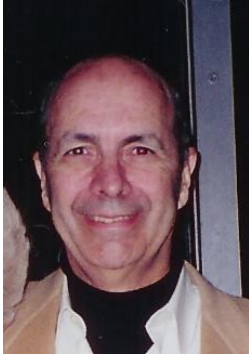
My last message was about mediation not being anti-attorney. Part of that inquiry should also contain a discussion of mediators coming from a variety of professions, not just the legal community. The Academy of Family Mediators ( now merged with ACR ) showed that in its

membership 40% have a law background, 30% are involved as therapists or social workers, 80% hold J.D.'s, Ph.D's or M.S.'s, 70% were between 40 and 59, and 60% were female. IAM's membership spans a wide variety of occupations and professions. IAM certainly includes attorneys (a third of our group), but also clergy, human relations specialists, social workers, educators, and therapists. Others that are often called on to be mediators include construction experts, architects, and engineers when technical matters are at hand.

Such conflicts as intra-church/synagogue difficulties, workplace problems, or many child welfare situations a non-attorney with mediation expertise would be as able as an attorney mediator. Certainly attorney-mediators would do well in these

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Steve Schodde  
Past President

## The Caucus in Mediation

Caucuses, a useful mediator tool, are separate, confidential, meetings conducted by the mediator, with each party.

Perhaps the principal advantage of the caucus lies in the opportunity it gives the mediator to explore with the party their "real needs" and to ask the tough "what if...and strengths and weaknesses questions without giving up his/her neutrality since the caucus is private and confidential.

A weakness would surely be the risk that the absent party might conclude that the mediator was in league with their adversary.

Further, if the parties are in separate rooms, it seems unlikely they will have much opportunity to practice joint problem solving. In the long run, particularly if continued contact is part of their situation, joint problem solving skills and mutual recognition of legitimate needs and interests are essential.

Thus, we might conclude that a blending of the caucus and joint sessions might allow the best opportunity for productive resolution of the issues.

A few ideas about when to call for a caucus in no particular order:

1. If the parties request it.
2. If a party has an unrealistic expectation of the utility of stonewalling.
3. If language being used inflames rather than calms the parties.
4. To clarify/discover a parties true interests/needs that they might be reluctant to volunteer in open session lest it be taken as weakness.
5. To clarify what a party regards as their best alternative to a negotiated agreement (Their BATNA)
6. To discuss, particularly in situations involving money, what a party hopes to gain or pay and the range between that and what they would settle for rather than going before a judge or jury.∞

### IAM BOARD MINUTES

February 18, 2010

The February 2010 meeting of the IAM Board was opened by President George Elliott. Present in person were Lynn Yoder, A.M. Fink, Barb Musgrove, George Elliott, Steve Schodde, and Steve Sovren. Present by telephone were Bruce Kittell and Terry Diane Parsons.

There were no minutes from the previous meeting.

A.M. Fink, Treasurer, reported a balance of \$3,629.53 in the treasury.

Membership Chairman Lynn Yoder reported we have 48 paid members. Four of those are paid through 2011.  
(Continued on page 3)

Moving to unfinished business, Steve Schodde moved and A.M. Fink seconded Steve Sovern be directed to contact Sue Bronson to be the 2010 Spring Conference key note speaker. The motion passed unanimously. He was further directed to make inquiry into other potential speakers if Ms. Bronson was unavailable. The board entertained discussion of other potential speakers.

By consensus the first choice dates of April 29, 2010 and April 30, 2010 were approved for the Spring Conference with the backup dates of May 6, 2010 and May 7, 2010. The conference will open with a late afternoon social on Thursday and end mid-day on Friday.

Barb Musgrove reported on the difficulty in obtaining content for the newsletter. Steve Schodde moved and A.M. Fink seconded Steve Sovern be responsible for obtaining content for the Spring 2010 Newsletter; George Elliott be responsible for obtaining content for the Summer 2010 Newsletter; and Steve Schodde be responsible for obtaining content for the Fall 2010 Newsletter. The motion passed unanimously.

Steve Sovern gave an informative report on the content and workings of the new IAM Web Site.

Steve Schodde moved and Steve Sovern seconded April 30 be the anniversary date for paying mediator certification and membership fees. The motion was passed unanimously. Steve Sovern moved and Steve Schodde seconded mediator certification fees paid for the January 1, 2010 renewal period paid prior to April 30, 2010 be subject to renewal April 30 2011. The motion unanimously passed.

George Elliott reported Scarlett Lunning Huey has offered her assistance in putting together the Spring 2011 Heartland Regional Conference. He will report back to the board concerning possible location and content. The four representatives of the component groups will be meeting soon to discuss the conference and determining a date, which is anticipated to be in late April 2011.

President Elliott announced appointment of the following persons to the nominating committee to report at the upcoming annual meeting: Tom Carney (Chair), George Elliott, and Lois Crane.

The issue of continued IAM Mediator Certification was raised. President Elliott appointed Steve Schodde, Steve Sovern, and Terry Parsons to continue their discussions of the issue and to report back to the Board concerning whether to continue the designation of "certification" and evaluation and recommendations concerning current and on-going monitoring.

Steve Schodde requested the minutes reflect the dictionary definition of certification pointed out by Steve Sovern in their recent e-mail exchanges: *1. to attest as certain; give reliable information of; confirm: He certified the truth of his claim. 2. to testify to or vouch for in writing: The medical examiner will certify his findings to the court.*

A.M. Fink moved and Steve Schodde seconded the newsletter go to publication two times per year effective 2011: Winter and Summer to take advantage of PR for the conferences. Steve Sovern moved to table; Terry Parsons seconded. The motion to table passed unanimously.

There being no further business, Lynn Yoder moved and A.M. Fink seconded the meeting be adjourned. The motion passed unanimously. ∞



situations with their ability to define and frame issues, yet mediators with other professional backgrounds can be equally adept at assisting party participants to sort the wheat from the chaff and arrive at forward looking decisions.

Much of mediation derives from a courtroom directive. This certainly gives attorneys a head of the line position. But, the non-attorney mediators by being well versed in their area of proficiency can provide highly competent mediation services with the right kind of marketing. At recent gathering of mediators I posed the question in an appropriate breakout session. The facilitators, both attorneys, as well as the participants felt mediators could be from many

walks of life, but since so much mediation flows from court related matters, attorneys have a leg up. The group concluded that non-attorney mediators must be more alert to opportunities, and intensify marketing to overcome the inherent advantage attorneys might have.

In reviewing this message and the previous one, one might conclude, that in matters inter-personal in nature mediators need not have a legal background. Matters where rights are at stake the mediator with the legal background would be preferred. In either case I'm sure we all know non-lawyer and lawyer mediators who function well in any setting because of their dedication and talent. The topic of marketing your mediation endeavors is a large one in and of itself and, is and has been grist for much ongoing discussion.∞

## Frequently Asked Questions About Mediation

### Is mediation voluntary?

Answer: Yes. The parties must agree to try to resolve their dispute through mediation and may suspend or withdraw at any time.

### If we reach an agreement will it be enforceable?

Answer: It depends. If the agreement meets the legal requirements of a contract, then it would be enforceable. The intentions of the parties are important here. Be sure the mediator knows what you hope to achieve as a result of mediation.

### Will I be asked to sign anything prior to the meeting.

Answer: The mediator should ask the parties to sign an agreement to mediate. This document will outline the rules of the mediation and remind the parties that the mediator is not available to either party for testimony or representation against the other. Nor are the mediator's notes or documents available in a court of law.

Before signing an agreement can I have my lawyer look it over?

Answer: Yes. This could be important. The mediator should make appropriate provisions for such requests.

### Is everything said in a mediation session confidential?

Answer: Yes, with only a few exceptions, which the mediator should review. Statements made and/or documents produced are not admissible in court against either party. The mediator should explain any exceptions such as evidence of child abuse or ongoing or future criminal activity.

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**During the mediation might I have some private time with the mediator?**

Yes. Mediators call private sessions caucuses and usually try to spend an equal amount of private time with each party. Anything said to the mediator in a private meeting or caucus is also confidential. The mediator may or may not suggest that you allow some material or documents to be shared with the other party, but the choice will be yours.

**Can I bring my attorney/supportive friend to the mediation**

Answer: Usually yes, but ask the mediator about this so that no one is taken by surprise at the meeting.

# IAM Spring conference

Featuring Keynote Speaker **Sue Bronson,MS**

Lead-author of *Self-Assessment Tool for Mediators* presenting:

## Emotions in Conflict: Finding Wisdom among Distraction

Evening of Thurs April 29 beginning at 7 PM

Friday April 30, 2010 from 9 AM – 4 PM

Hotel Fort Des Moines, Des Moines, IA

NASW has determined that this program meets the criteria of the Iowa Board of Social Work and the Iowa Board of Behavioral Sciences for 6.6 hours of continuing education  
Approved by the Supreme Court Commission on Continuing Legal Education for 5.5 hours of CLE

For more information or to register go to: [www.iamediators.org](http://www.iamediators.org)

Or

Call Steve Sovern at 319-841-5151

Or

There is a registration form accompanying this Newsletter

## A Brief Description of What the Conference Will Offer:

IAM welcomes Sue Bronson, lead author of *Self-Assessment Tool for Mediators*, as the key-note speaker of its Annual Spring conference Meeting April 29<sup>th</sup> and 30<sup>th</sup> at the Fort Des Moines Hotel, Des Moines, Iowa. Ms Bronson is a private practice mediator, trainer, and psychotherapist who mediates family, elder, and workplace disputes and

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## Iowa Association of Mediators (IAM) Committees for 2007-2008

If you would be willing to serve on a committee for IAM, choose from the list below and add the committee(s) to your registration form on page 8 of this newsletter. Remember this is your organization and it will only be as strong as the IAM membership makes it.

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Membership               | <input type="checkbox"/> Agenda                 | <input type="checkbox"/> Resolution                  |
| <input type="checkbox"/> Newsletter               | <input type="checkbox"/> Mock Mediation         | <input type="checkbox"/> Divorce/Community Mediation |
| <input type="checkbox"/> Standards/Best Practices | <input type="checkbox"/> Conference Bookstore   | <input type="checkbox"/> Restorative Justice         |
| <input type="checkbox"/> Legislative Liaison      | <input type="checkbox"/> Grants                 | <input type="checkbox"/> School Mediation            |
| <input type="checkbox"/> Planning                 | <input type="checkbox"/> International Conflict | <input type="checkbox"/> Other                       |

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teaches Family and Divorce Mediation at the University of Wisconsin- Milwaukee and DePaul University in Illinois. Her workshop *Emotion in Mediation: Finding Wisdom Among Distractions* will be conducted at the Thursday evening and Friday sessions and is designed to assist mediators in recognizing when to ignore emotional distractions, when to unmask a hidden emotion, and when to react to an invitation for change.

In addition to the workshop, the conference offers an opportunity for the membership to obtain more information about how to take advantage of the new web site and personal web page opportunities, become involved in planning for the upcoming year's activities and participate in the election of officers and directors. The Hotel Fort Des Moines is offering a discounted room rate to conference attendees and the conference registration includes the Friday luncheon.

Members and non-members are welcome at this annual event that is

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### CONFERENCE AGENDA Iowa Association of Mediators Fort Des Moines Hotel Des Moines, IA April 29, 30 2010

April 29, 2010

6:00 p.m.- 7:00 p.m. Registration and Social Hour

7:00 p.m. – 8:30 p.m. Sue Bronson *Emotions in Conflict: Finding Wisdom Among Distractions* Session I Planning Understanding the Emotional Aspect of Conflict

8:30 p.m. – 9:00 p.m. 2010-2011 Planning Session (open to all members)

April 30, 2010

8:30 a.m. – 9:00 a.m. Registration

9:00 a.m. – 9:45 a.m. Opening Session

10:00 a.m. -noon p.m. Sue Bronson *Emotions in Conflict: Finding Wisdom Among Distractions* Session II Identifying And Differentiating the Emotions in Conflict

Noon – 1:15 p.m. Luncheon and Annual Meeting, Including Election of Officers

1:30 – 3:30 p.m. Sue Bronson *Emotions in Conflict: Finding Wisdom Among Distractions* Session III Structuring Interventions to Effectively Respond to Emotions in Conflict

3:30 – 4:00 p.m. Closing Session

4:00 p.m. Adjourn

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always a great opportunity for area mediators to meet and exchange ideas. This year we are able to offer a special discounted conference price to those who register by mail or on-line by April 15<sup>th</sup>. Additional information and on-line registration is available at: <http://www.iameadiators.org>. We look forward to seeing you in Des Moines in April.



#### Annual Membership Meeting Agenda

Call to Order

Reading and Approval of Minutes

Reports:

Membership Committee – Lin Yoder

Treasurer – A.M. Fink

Legislative Committee – Steve Sovern

Conference Committee – Scarlett

Lunning-Huey

Public Education Committee - Barb

Musgrove and Steve Sovern

Audit Committee – Hank Oswald

Nominating Committee – Lois

Election of Officers

New Business

Adjournment

The newly elected Board of Directors will hold a brief meeting following the Membership Meeting.

## Iowa Association for Dispute Resolution Council, 2005-2006

#### President

George Elliott  
3712 Lindlavista Way  
DSM 50310  
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#### Vice-President

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#### Past President

Steve Schodde  
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#### Auditor

Hank Oswald  
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#### At-Large Council Members

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Tom Carney  
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#### Standing and Ad Hoc Committees

Lin Yoder – Membership  
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Barb Musgrove - Newsletter  
[barbs\\_results\\_unlimited@yahoo.com](mailto:barbs_results_unlimited@yahoo.com)

Steve Sovern - Legislative Liaison  
[sovern@mediate.com](mailto:sovern@mediate.com)

Bruce Kittle- Restorative Justice  
[bruce.kittle@iowa.gov](mailto:bruce.kittle@iowa.gov)

**RE:solutions** is published quarterly by the Iowa Association for Dispute Resolution. Stories and editorials should be submitted to Barb Musgrove at [barbs\\_results\\_unlimited@yahoo.com](mailto:barbs_results_unlimited@yahoo.com). The editor reserves the right to edit all materials submitted for publication.

Any opinion expressed in this publication is that of the individual writer and does not necessarily represent the official position of IADR, unless otherwise noted.

# IADR Membership Form

Please Print

Date \_\_\_\_\_

Name \_\_\_\_\_

Organization \_\_\_\_\_

Street \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_ Zip \_\_\_\_\_

Phone (H) \_\_\_\_\_ (W) \_\_\_\_\_

Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

I am a: Volunteer Professional

Area of Practice (Please circle):

Family/Divorce \* Community \* Schools \* Farmer/Creditor  
Organizational \* Public Policy \* Labor \* Workplace  
\* Small Claims \* Victim-Offender \* Civil Rights \* Human Rights  
\* Commercial \* Other:

Membership Level:

\_\_\_\_ Organizational \* (\$125)  
\_\_\_\_ Benefactor (\$50)  
\_\_\_\_ Regular (\$50)  
\_\_\_\_ Student, K-College (\$30)

\* An organizational membership is considered a sponsorship and carries no voting rights.

Annual membership fees are due each April and are not prorated. Dues support the annual conference, publication of the newsletter and operating expenses. Dues are not used to support any political party or candidate.

If you are interested in serving on an IADR committee, please indicate which one below after viewing the list of standing and ad-hoc committees on page 6.

Committee: \_\_\_\_\_

Please submit this form, along with your dues, to IAM. c/o A.M. Fink, Treasurer < 222 S. Russel, Ames, IA 50010

# RE:solutions

*Iowa Association of Mediators*

**IAM**  
Founded 1994

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