



WAM NEWSLETTER

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LETTER FROM THE WAM PRESIDENT



Greetings and happy holidays from the board of directors of WAM. It's been a while since we've sent out a formal newsletter. WAM has been quietly doing a lot trying to make the organization better and stronger in the intervening period. Among other things, here is what WAM has been up to:

- We have undertaken a project to completely revamp our website to make it more user friendly to the public and beneficial to our members, both in terms of professional

exposure and resources, including calendaring.

- We have changed administrators for the organization.
- We have endeavored to review and update our By-Laws.
- We have started to study opportunities to partner with national ADR organizations.
- We have a new subcommittee to explore accreditation of mediators.
- We have started to partner with other local/Wisconsin ADR organizations.
- The Annual Emerging Issues Conference and WAM Annual Meeting is scheduled for **March 13, to be held at the Delafield Hotel**. If you attended last year's Conference and annual meeting, you know that we've revamped the location, depth of speakers and overall quality of the experience for our members. This is now an event we can all be proud of and benefit from.
- At the annual meeting you will have a chance to join the board of directors of WAM and contribute during a fluid period of change in the organization. I've been President of WAM for 2 years now and on the board for 3 years. The changes in the organization have been dramatic to say the least. I would welcome your input, ideas and help to continue to help this organization evolve and remain relevant.

Please feel free to email me directly at ewalny@walnylegal.com. I welcome hearing from you with suggestions and comments.

Sincerely,
Eido Walny, President

The Emerging Issues Committee is pleased to announce that the following presenters have committed to speak at the Spring Emerging Issues Conference at **The Delafield Hotel, Delafield, Wisconsin on Friday, March 13, 2020**.

Our presenters include **Zena Zumeta, Sue Bronson and Kristin Bock**.

Zena and Sue will be doing whole group presentations in the morning on advanced skills building topics including dealing with impasses in mediation and building lasting resolution. Kristin Bock will present on the topic of recognizing communicative implications of body language of parties in mediation. Conference attendees will have the opportunity to choose from small group topics by each of the presenters during the afternoon program.

CLE's will be applied for from the Wisconsin Bar. Credits for psychologists and mental health professionals is also being applied for from an institution approved by the American Psychological Association for continuing education. We hope to see you there!

MARCH 13, 2020
Emerging Issues Conference
REGISTER TODAY
www.wamediators.org

RENEW YOUR MEMBERSHIP
2020 Membership Dues
RENEW TODAY!

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SHOULD WI OFFER VOLUNTARY CERTIFICATION TO MEDIATORS?

by Allen Sells



The State of Florida has, perhaps more than any other state, supported the role of mediation as a means of conflict resolution. Through the Florida Supreme Court, that state provides for and enforces a program for the certification of mediators. Obtaining certification in Florida is not mandatory. Any individual in that state can hold themselves available as a mediator without any regulation whatever. Despite the absence of any requirement to become certified in order to be a mediator, there are as of July of this year 5,621 individuals who have voluntarily taken this action

and who are currently certified in Florida as county, family, circuit, dependency, or appellate mediators under the state program.



There is no way to know in Wisconsin how many people are holding themselves out as mediators available for hire. Membership in professional mediator organizations and attendance at alternative dispute resolution conferences make it seem likely that the number of mediators and acceptance of the process of mediation in our state is far less per capita than what occurs in Florida -- and also less than in any of the other five southeastern states which provide for voluntary mediator certification under state supervision.

The board of the Wisconsin Association of Mediators (WAM) recently created a Standards and Certification Committee. It is charged with exploring whether advocating for involvement by the state in a similar voluntary certification program in Wisconsin would be a means to gain greater public awareness and more widespread use of mediation as a means of resolving both legal and non-legal disputes, while promoting mediator skills and ethical practices. WAM is actively seeking both members and others having an interest in mediation but who are non-members of WAM to serve on this committee.

The main question that this committee will explore is whether enactment of a mediator certification program administered by the state in Wisconsin should be encouraged by WAM as a means of dramatically expanding the opportunities for both those working in the state as mediators and for members of the public who might find the use of mediation to resolve their conflicts a less costly, simpler, and preferable way than other available remedies, including adversarial proceedings in court. Reasons sometimes given in support of such an idea include:

- Alternative dispute resolution using neutrals results in a more efficient and optimal use of court resources.
- Promoting the communication and mediation skills required for participation in this non-judicial process, including continuing education as a requirement for ongoing certification, encourages best practices and works to the benefit of participants.
- Inclusion in the certification process of non-attorney mediators recognizes and adds the value of professional experience in social work, sociology, psychology, counseling, ministry, and similar disciplines to that currently provided primarily by attorneys.
- State oversight of the voluntary certification process provides the authority and means to investigate complaints, suspend or revoke certification, and promulgate rules specific to common occurrences and abuses specific to mediation in a manner providing greater public confidence in the legitimacy of the process and the good moral character of those choosing to certify as mediators.
- Certification allows judges ordering mediation to know that any person involved as a mediator, if certified, meets a high bar of minimum qualifications and training.

Enactment of a program for the certification of mediators by the state is not intended to exclusionary or to limit the number of people available to the public as mediators. It is rather a means of setting standards that will gain public confidence and increase the opportunities for disputants to choose mediation as a way of resolving differences. At the same time, the training requirements and the actual costs of certification should be affordable to the vast majority of those seeking such certification in making this voluntary step a desirable one for any person wanting to hold themselves out as a skilled neutral available for hire by clients.

Any reader of this article with an interest in becoming involved with this WAM committee as it explores the questions associated with whether endorsement and advocacy of mediator certification by the state in Wisconsin is desirable as a means of growing the discipline and its use is asked to contact Allen Sells, chair of the committee, at (414) 243-6590.

ARE THERE BENEFITS TO USING NON-ATTORNEY DIVORCE MEDIATORS

by Brian James

Non-attorney Divorce Mediators: Helping Clients Reach Lifelong Agreements

From the perspective of a non-attorney divorce mediator, divorce mediation tries to achieve the same end result as a traditional divorce: a set of equitable agreements that both parties can live with. Where they sometimes differ is that mediation is also about helping people have a peaceful, equitable, cost-effective divorce that keeps their children's best interests at the forefront of the entire process. Some might call this a win-win situation, but for those of us who have seen the sadness of divorce firsthand, the term "win-win" might be too strong to associate with divorce. Traditional divorce may also share some of these beneficial goals; however, in mediation, they are an inherent part of the process.

Benefits that non-attorney mediators bring to the table include never having taken one side in a divorce and not having an ethical obligation to one person. In speaking with numerous family law attorneys, I have found some who freely admit that they cannot be neutral, nor do they want to, as it's not part of who they are. I think this self-understanding is very important for knowing your limitations and recognizing where your skills can be best utilized.

Changing the Unfair Public Perception of Attorney/Mediators

A majority of divorces are simple to resolve, especially those resolved through mediation. However, divorce can get cloudy when phrases such as: "drawing your line in the sand", "taking your spouse to the cleaners", "fighting in court", "bad parenting", and "abandonment" are used. Mediators do their best to keep these words out of the divorce process, as these only fuel the emotional fire. Unfortunately, people often assume that all family law attorneys want to add fuel to the fire, which gives the overall majority of good family law attorneys a bad name and pushes people away from contacting them for divorce mediations. I have had numerous clients call me with one question: "Are you an attorney?" Once I say no, they are more than happy to talk to me. When asked why this was their first question, clients usually say that all attorneys want to do is fight and charge a lot of money for nothing. As a divorce mediator with a number of family law attorneys I consider friends and colleagues, I find this perception sad and unfair to those attorneys who are settlement-minded.

In my experience, money is the number one reason that people do not want to contact a divorce mediator who is also an attorney. Even if their hourly rate is equal to or less than mine, the client may still feel that the attorney will try to run up charges with unnecessary work. Many people feel going to an attorney/mediator is the same as hiring an attorney to represent them, but non-attorney mediators don't have to deal with this preconceived problem. The only way to correct the negative reputation of attorney/mediators is to change people's views about attorneys and the motives behind what they do.

Non-attorney Divorce Mediators and Family Law Attorneys

In most mediated cases, applying the law and having a complex legal background aren't typically necessary. However, this knowledge is still very important and there are many divorce cases where expert knowledge of the law is invaluable.

For non-attorney mediators, having colleagues who are family law attorneys is a great asset. Attorneys can provide non-attorney mediators with knowledge of changes in the laws that are important for mediation. Being able to refer to a family law attorney when in need of a legal opinion, legal advice, or answer to a legal question makes the job of a non-attorney mediator easier. Non-attorney divorce mediators are neutral and skilled at not taking sides. Looking at the divorce as one party against the other has never been part of our practice, but I enjoy working with family law attorneys and have found that my clients appreciate and benefit from the working relationships that we have.

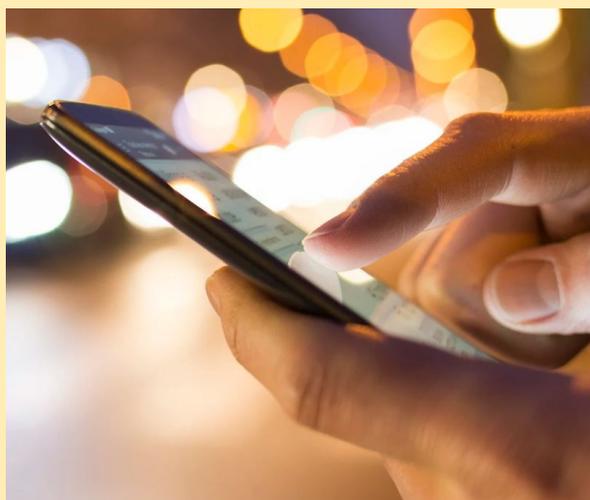
Divorce Mediation will Soon be Mandatory

Divorce laws regarding mediation are in the process of changing. New Supreme Court rules are making mediation mandatory in all but limited circumstances when children are involved in divorce. The new law will apply to both pre-decree and post-decree cases. An increase in mediation will give non-attorney divorce mediators and family law attorneys more opportunities to work together, as well as provide attorney/mediators with more chances to prove wrong any negative public perceptions. Everyone in the alternative dispute resolution community applauds this decision.



WAM MEMBERS INVITED TO SERVE AT AN ABA COMPETITION AT MARQUETTE UNIVERSITY LAW SCHOOL

WAM Members may earn CLE's by volunteering to serve in the role of judge or mediator in a student competition scheduled at the law school on Saturday, February 8, 2020. See information below for registration information. I have been volunteering at this event for years and have greatly enjoyed the experience. Feel free to contact me if you have any questions. The law school appreciates the participation of experienced mediators. There is no requirement to be an attorney. [Click here for more information.](#)



FROM THE WAM SWITCHBOARD

by Richard Brigham

Do you ever wonder who is calling the WAM Switchboard number on our website (414-491-1186)? The answer is very diverse. Heidi Price, our administrator, monitors the call line and assigns the calls to WAM Board Members on rotating basis. When I first started getting such assignments, I was anxious that I would not be able to meet the caller's needs. Instead, I have found the calls an interesting lens on the curiosity about mediation that exists in the state of Wisconsin as well as the general public's search for available mediators throughout the state. One benefit of belonging to WAM is that members can list their areas of practice. Our website is currently under construction for this feature, so the general public has been calling our switchboard instead. Are you providing divorce mediation in Driftless? We had someone who was potentially searching for services from you.

In addition to calls to our switchboard, as a board member, calls are occasionally received because of our affiliations or bios. In one instance, I was contacted by a student seeking mediation services for a dispute with an educational institution. Fortunately, there are now appropriate dispute resolution services at that educational institution to which the caller was referred. This suggests to me, that institutions should consider joining WAM, if they have not already done so, in order to promote their services to their stakeholders.

