

# M3 THE NEXT GENERATION 2009



# SCMA

Southern California Mediation Association

21st Annual Conference

Friday November 6th and Saturday November 7th, 2009

Pepperdine University

Straus Institute for Dispute Resolution

24255 Pacific Coast Highway

Malibu, California 90263

**"With your arms around the future and your back up against the past. . ."**

**"The Voice" (Justin Haywood)**

**Long Distance Voyager by The Moody Blues (1981)**

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A very warm welcome to **M3: The Next Generation** in which we will spend a day exploring the future of mediation.

On behalf of SCMA, I invite you to spend the day with our guest presenters from Ireland and the United States discussing how much mediation has grown over the past decades and where they envision it in the future. While mediation (aka conciliation) is many centuries old in China, its modern origins in the United States stem from Professor Sander's novel proposition of the "multi-door courthouse" during the Roscoe Pound Conference in 1976. Thirty-three years later, alternative dispute resolution is thriving and is almost the "norm" while litigation is becoming the "novel" concept. Where will the future of mediation take us?

Join us on Friday night, November 6, 2009 for dinner and Saturday, November 7, 2009 for the conference to find out and wrap "your arms around the future. . ."

Most Sincerely,  
Phyllis G. Pollack  
Chair and President-Elect SCMA



**SCMA**

Southern California Mediation Association

For further information or to **SAVE YOUR SPACE** contact:

SCMA Office Phone: 1-877-963-3428

Email: [scmaoffice@yahoo.com](mailto:scmaoffice@yahoo.com)

Visit us at [www.scmmediation.org](http://www.scmmediation.org)

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**American Institute of Mediation  
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Southern California Mediation Association invites you to  
**21st Annual Fall Conference at Pepperdine University, November 7, 2009**  
at the Straus Institute at Pepperdine School of Law ([www.pepperdine.edu/straus](http://www.pepperdine.edu/straus))  
8:00 a.m. - 5:00 p.m. Program includes Continental Breakfast and Full Lunch  
**Celebration Dinner at The Luxe Hotel, November 6, 2009**  
11461 Sunset Blvd., Los Angeles, CA 90049 ([www.luxehotelsunsetblvd.com](http://www.luxehotelsunsetblvd.com))  
6:00 p.m. - 7:00 p.m. Reception / 7:00 p.m. Dinner & Program  
An Evening Discussion Hosted by Mr. Lee Jay Berman  
"M3: How Do Mediators Spread The Word and Better Educate Users?"

**SCMA's 21st ANNUAL MEDIATION CONFERENCE - SATURDAY NOVEMBER 7, 2009**

**M3 The Next Generation - held at the Straus Institute at Pepperdine University ([www.pepperdine.edu/straus](http://www.pepperdine.edu/straus))**

**8:00 a.m. Registration & Continental Breakfast**

**8:30 a.m. - 10:30 a.m. MORNING SESSION**

**8:30 a.m. Introduction & Opening Remarks**

◆ *Phyllis Pollack*

*SCMA President Elect & Annual Conference Chairperson*

**8:40 a.m. Welcome & Election Results**

◆ *Myer J. Sankary*

*SCMA President*

**8:50 a.m. Presentation of Cloke - Millen Award, Cloke - Millen Award Recipients:**

◆ *Honorable Helen Bendix*

◆ *Honorable Jane L. Johnson*

**9:00 a.m. KEYNOTE ADDRESS and Randolph Lowry Lecturer Award Recipient**

*"Intuition or Counter-intuition?: The Science Behind the Art of Negotiation and Mediation"*

Negotiation imposes are helpful in getting agreements that last. Expressions of anger can move negotiations forward. Small differences in power between negotiating parties extend imposes more than large differences or equality. Electronic mediators are more effective in getting agreements than live mediators. These and other counter-intuitive insights from inter-disciplinary research on negotiation/mediation will be discussed.

◆ *Dr. Daniel Druckman*

**10:30 a.m. MORNING BREAK**

**AM BREAKOUT SESSIONS: 10:45 a.m. - 12:15 p.m.**

**"PRACTICE POINTS"**

**Session 1: "We Are All Online Mediators"**

James C. Melamed, J.D., CEO Mediate.com

Viewing mediation as either face-to-face or online is generally, a false dichotomy. Nearly all mediators routinely compliment their face-to-face communications with email and attachments. We have web sites, and use eFax and Skype. So, one important question is, "how can the mediator best integrate the internet into his or her practice." Also intriguing are issues of access and cost on the internet. The digital divide has been stood on its head. Mediation will flourish on the internet if we remember to ask the question: "compared to what?"

**Session 2: "Ethical Foundations and Applications for Mediators"**

Peter Robinson, J.D., Managing Director Straus Institute for Dispute Resolution and Associate Professor of Law  
Ethical standards for mediators tend to be broadly worded, impose conflicting duties, and fall short of providing much guidance for many quandaries facing commercial mediators. This workshop will suggest two guiding, but conflicting, foundational values for mediators. Participants will then discuss the ethical reaction to specific scenarios. Finally we will jointly analyze statements of mediator ethics. Warning, the presenter is biased towards hoping mediators will take responsibility for quality control for the agreements created in mediation, but he tries to be accepting of those who disagree.

**Session 3: "Mediating the Non-Litigated Dispute"**

Douglas E. Noll, Esq.

Mediation has evolved into separate distinct strands, including labor mediation, mediation of litigated disputes, divorce mediation, and community mediation. However, these strands miss the vast majority of conflicts and disputes that could be mediated profitably. This session looks at the nature of substantial, non-litigated disputes. How do these disputes differ from litigated disputes? What are the additional skill sets required of the mediator? How does one work directly with primary and secondary parties? What are some of the process differences? How does one develop and market this work? And, most importantly, how does a mediator charge for this work? All of these questions and more will be discussed and answered.

#### **Session 4: "Marketing Plan Workshop"**

Natalie J. Armstrong, President and Founder of Golden Media

You know you need a marketing plan for your ADR practice, but how do you get started? In this interactive workshop you'll create your unique marketing plan outline with the help of an ADR Marketing specialist and you'll leave with a plan you can implement on Monday.

12:15 p.m. – 1:15 p.m. LUNCH

PM BREAKOUT SESSIONS: 1:15 – 2:45 p.m.

#### **"OUTSIDE OUR COMFORT ZONE"**

##### **Session 1: "Mediation in Europe or International Certification"**

Steven A. Wawra, Esq.

John Garman, Esq.

Ken Reed, Esq.

Many countries now require, or will require in the near future, that mediators are certified in order to be allowed to practice. In addition, the International Mediation Institute in The Hague and the Chartered Institute of Arbitrators have a certification program. Which way should California go?

##### **Session 2: "The Next Generation of Cross Cultural Skills: The New Invisible Cross Cultural Conflict"**

Lee Jay Berman, The Mediation Alliance, Inc.

In the 1970's-80's, American cross cultural version 1.0 was "Kiss, Bow or Shake Hands", in the 90's version 2.0 was "How Does Their Culture Negotiate?" Now, for M3, it's "The New Invisible Cross Cultural Conflict." Join us to examine applying cross cultural skills with people who look just like you.

##### **Session 3: "Conflict Revolution – Mediating Evil, War, Injustice and Terrorism"**

Kenneth Cloke, J.D., LL.M., Ph.D., Director, Center of Dispute Resolution

What is our responsibility as mediators for environmental, social, economic, and political conflicts occurring around us? How can we contribute to building conflict resolution capacity globally? Can we use conflict resolution skills to prevent and ameliorate evil, war, injustice and terrorism? Is it possible to make a living doing so?

##### **Session 4: "The Map is not the Territory: How the Theory of Gestalt Psychotherapy can Inform Mediation Practice"**

Delma Sweeny, M. Soc. Sci., DASS, CQSW, MIAHIP, MICP, MII Practitioner Mediator, Director of Mediation and Conflict Intervention at the National University of Ireland Maynooth; also Director of Conflict Resolution & Mediation Consultants, a training and practice consultancy.

Gestalt theory has the potential to enhance the knowledge base of mediation and inform practice. This workshop, comprising presentation, film and experiential learning is offered in the belief that mediators will find Gestalt concepts illuminating, in particular that of energetic contact. Participants will have an opportunity of trying out some of the skills that come from this theoretical foundation.

2:45 p.m. AFTERNOON BREAK

PM BREAKOUT SESSIONS: 3:00 p.m. – 4:30 p.m.

#### **"PRACTICAL TIPS FOR IMMEDIATE USE"**

##### **Session 1: "The View from the Street: What is New and Exciting in Community Mediation"**

Jim Lingl, Ventura Center for Dispute Settlement

Dana Lofton, Community Action Partnership Riverside County Dispute Resolution Center

Carolina Garza, Asian Pacific American Dispute Resolution Center

As mediation has become mainstream throughout our society, community mediation centers have grown to provide a whole range of new and exciting opportunities – not only for our clients, but also for our mediators. This program will explore both the new programs and the new business models that are on the forefront of community mediation programs across the United States. Is it becoming possible to serve in a community program and get paid for it?

##### **Session 2: "Deal or No Deal: Using Graphical Models and Ever Improving Information to Overcome Psychological Barriers to Effective Deals"**

Donald R. Philbin, Jr., Esq.

Decision errors are expensive – especially in litigation. Drawing on law, economics, and psychology, we will explore ways to recognize and reduce such errors while improving communication. Animated outcome scenarios and decision trees focus parties on forward paths. That future focus helps crystallize decisions that may transform impasse to efficient outcome.

**Session 3: "Negotiating in the Female Voice: What Can We Learn From Our Women Colleagues (not for Women ONLY)"**

Jan Frankel Schau, Esq.

Joan Kessler, Esq.

Amy Fisch Solomon, Esq.

Stacy Phillips, Esq.

M. Laurie Murphy, Esq.

This workshop will examine the now historic Literature on Gender and Communication and Question whether it still has applicability in Negotiation and Mediation in 2009. Panel members will speak frankly about biases and assumptions, empathy and competition and how to use and misuse the gender of your clients, your adversaries and your mediator or arbitrator and judge to succeed in negotiation and mediation of disputes.

**Session 4: "Foot In The Door"**

Dr. Joan Goldsmith

With the corporate sector in crisis and disarray there is a great need for those with skills in mediation, facilitation, coaching and training in conflict resolution. This workshop will present strategies for introducing these skills in corporations, government agencies, and not-for-profit organizations. We will also discuss marketing and building a viable practice as in-house staff and external consultants.

**CONCLUDING PLENARY SESSION 4:30 p.m. – 5:00 p.m.**

Special Awards, Announcements and Raffle.



## REGISTRATION:

Name: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

### SESSION CHOICE(s): Circle One for Each Session

10:45 a.m. Session Choice: ( 1 ) ( 2 ) ( 3 ) ( 4 )

1:15 p.m. Session Choice: ( 1 ) ( 2 ) ( 3 ) ( 4 )

3:00 p.m. Session Choice: ( 1 ) ( 2 ) ( 3 ) ( 4 )

### 11/7 Conference at Pepperdine University ([www.pepperdine.edu/straus](http://www.pepperdine.edu/straus))

#### Registration Fees:

Early Bird Price - *On or Before 10/1/09*

Higher registration price after 10/1/09

**Bring your friend or colleague for \$20 less for each additional ticket purchased at the same time!**

		<u>Early Bird</u>
Non-SCMA Members	___\$350	___\$300
SCMA Associates	___\$275	___\$225
SCMA Professional	___\$200	___\$150
SCMA Platinum	___\$0	___\$0
Government Employees	___\$150	___\$100
Student	___\$135	___\$ 85

### 11/6 Dinner & Program at The Luxe Hotel ([www.luxehotelsunsetblvd.com](http://www.luxehotelsunsetblvd.com))

An Evening Discussion Hosted by Mr. Lee Jay Berman:

**"M3: How Do Mediators Spread The Word and Better Educate Users?"**

#### Registration Fee:

(All Attendees) \_\_\_\$125 \_\_\_\$ 95

Payment Method: \_\_\_ Check \_\_\_ Credit Card

Mail Check Payable to SCMA to:

1430 South Grand Ave., Suite 256, Glendora, CA 91740

Credit Card: \_\_\_ Visa \_\_\_ MasterCard

Card Number: \_\_\_\_\_

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Signature: \_\_\_\_\_

- Program written materials will be available on CD, included in registration fee
- Printout of CD Program available for additional charge of \$35
- 5.75 hours of MCLE credit offered