



So, You Want To Be a Mediator?

By: WAMS Staff

Every year since 1981, WAMS has received inquiries from “want to be mediators”, attorneys (and non-attorneys) interested in joining the WAMS panel of neutrals. It’s one thing to have the paper resume for becoming a professional mediator, but it’s quite another to be professionally successful in the very competitive market for mediation services. Before venturing into a new career in ADR, WAMS advises a period of serious self-reflection and networking to help determine if mediation will be a good fit for you.

First comes the self-assessment part: do you have the reputation and personality to attract mediation clients and allow them to feel comfortable with you and willing to share personal details and insights? Is your law practice one that has left a trail of bitter adversaries behind or are you known for your professionalism and collegiality in advocacy? Are you in a practice niche that can attract mediation clients through networking with colleagues and former adversaries? The most obvious way to garner a good reputation as a mediator is to first be known as a reasonable, experienced trial attorney with integrity, tenacity and dedication to the legal profession. “Prospective mediators should have some degree of subject-matter expertise, litigation experience and familiarity with both sides of advocacy,” says Diane McGaha, Attorney Director of Washington Arbitration

INSIDE THIS ISSUE

Article 1: So, You Want To Be a Mediator?	1
Focus: Bill Joyce	2
WAMS Buzzz...	3
Article continued from page 1	3

and Mediation Service (WAMS). “Ideally, a mediator will be someone who has been a plaintiff’s attorney *and* a defense attorney at some point in his or her career. A mediator should genuinely appreciate what it means to be a litigator in the trenches and have a scheduled trial bumped from the court calendar after a three year wait.”

If, after conferring with colleagues and current mediators, you decide to pursue mediation training, WAMS recommends that you attend the right training for you. It’s easy to assume that becoming a professional mediator is just a matter of attending any convenient 40-hour training program, but McGaha says one crucial step is often skipped at the outset. “Too often, lawyers pay big bucks to attend mediation training, and then ask for advice from others in the profession”. What’s often discovered, belatedly, is that the training attended by the prospective mediator was inappropriate for his/her future area of practice. Before signing up for mediation training, investigate the trainers and training content. If your interest is in commercial mediation, don’t attend a divorce-oriented training conducted by mediators with degrees in social work. While their training format and content may be appropriate for non-attorney mediators interested in child custody disputes, a very different training is

...Continued on Page 3



Mediator Focus: Bill Joyce

By: Penny Gans, WAMS Staff

Full of energy after his regular morning workout, Bill Joyce arrives at WAMS ready to bring his nationally recognized problem-solving skills to bear on another complex multi-party case. A leading environmental attorney and mediator in the Northwest since 1985, Bill has helped his clients, including state and federal regulatory agencies, find solutions to many complicated site cleanup, professional negligence, construction defect, and natural resource damage disputes, as well as insurance coverage claims of all types. In recent years, the settlement value of the cases he's mediated has ranged from \$50,000 to more than \$200,000,000.

Bill was born in Philadelphia, but his father's career took the family to Africa, Canada, and Europe while Bill was growing up. His two years of boarding school in Colorado were his "jumping-off point to the West". He earned his BA from the University of Oregon in 1981, majoring in history with a heavy emphasis in geology. Choosing the UW for its strong program in environmental law, he received his JD in 1985. (Where do his college football loyalties lie? "Always a Duck", he says.)

Bill was with the Seattle firm of Ogden Murphy Wallace for almost 20 years before becoming a founding partner of Salter Joyce Ziker, PLLC in 2003. WAMS founder Michael Gillie and mediator Alan Alhadeff were Bill's mentors when he joined the WAMS mediator panel in 1989, just four years out of law school. Bill loved mediation from the beginning and considers it to have been a privilege for such a young attorney to learn the "art form" of mediation from veteran mediators on the WAMS panel.

Bill's "road map" to a successful mediation takes the form of a short story (NOT a novel, he quickly says):

In the beginning: Preparation by mediator and counsel, focused on developing realistic expectations, understanding the strengths and weaknesses of the case and communication between counsel and the client about what to expect from mediation.

The plot unfolds: Mediator and parties do their best to reach an "uneasy truce" about what's important. All parties reexamine positions in good faith, with flexibility and patience as key elements in the plot.

The end: Resolution. Mediator finds "the place where the deal lies waiting to be had". The goal is "equilibrium of dissatisfaction" based on a willingness by all parties to accept a settlement that may fall short of euphoria but addresses their core needs.

Bill believes that his continuity of process and ability to listen to the parties and (when necessary) deviate from his original game plan is what often leads to a successful resolution. He feels a sense of humor is essential, as environmental cases are science-driven, usually involve lots of money and parties, and take patience to resolve. A comment from a client sums up Bill's skill at helping parties reach a settlement (the "happy ending"): "Everyone...commented on your quick study of the materials, your efficient use of time, and your ability to choose an effective mediation strategy/style for the parties involved."

In his private life, Bill's passions are whitewater kayaking, rafting, mountain biking, fly fishing, skiing, playing guitar and travel. He has two sons, aged 11 and 14, the older of which is severely afflicted with tuberous sclerosis, a condition characterized by cognitive and learning difficulties, autistic behaviors and seizures. His relationship with his disabled son is the most important challenge in Bill's life and, in his words, has given him "an amazing opportunity to gain perspective on all the good things my life has given me" as well as the ability to remain calm in (almost!) any situation.

Bill Joyce had the "right stuff" to become a successful mediator even as a young lawyer and WAMS is proud to be associated with him.



...WAMS Buzzz

At the end of 2011, the WAMS staff celebrated the holidays by shopping to fulfill the needs of various local charities. Some of our favorite worthy causes in 2011 were:

Mary's Place Homeless Women's Shelter, (www.churchofmarymagdalene.com);

Sou Digna/I Am Worthy; (www.soudigna.org)

St. Charles Borromeo Community Food Bank, (www.stcharlesb.org);

Marine Toys for Tots Foundation, (www.toysfortots.org);

Tacoma-Pierce County Bar Foundation, (www.tpcbfa.org).

So You Want To Be a Mediator, Continued from page 1...

needed for commercial dispute resolution. Check out the training links and resources available at <http://law.pepperdine.edu/straus/> as well as at www.mediate.com. Once trained, try to gain experience with one or more of the volunteer mediation programs available in Washington, including the various Dispute Resolution Centers, opportunities through the courts, EEOC, Settlement Now or Better Business Bureau, just to name a few.

So, what happens next after the training and volunteer work have convinced you that a career in ADR is still in your future? Consider whether you have the administrative and networking capabilities to allow you to be a successful sole practitioner neutral. If you don't want the responsibilities of scheduling, billing and overhead for hearing rooms, affiliation with a mediation service may be your best option. Most trial attorneys in the Pacific NW are familiar with WAMS, JDR, JAMS and the AAA. Each organization has its own panel requirements, fee structure and administrative policies. At WAMS, for example, a mediator prospect is typically a current WAMS client who has been identified as a potential mediator based on personality and advocacy skills demonstrated over several years of interaction with current WAMS mediators. Mediation advocacy can be indicative of a

lawyer's attitude and aptitude for the practice. For instance, WAMS will evaluate how the prospective mediator prepared both mediator and client for their mediation. When considering whether to add an applicant to the WAMS mediator panel, McGaha mentioned that "One of the considerations I have as the Attorney Director of WAMS is about the prospect's reputation as a person. Has this lawyer been able to maintain good relationships with opposing counsel despite being a zealous advocate? Has this prospect pursued a 'win at all costs' approach to litigation and ruined his or her reputation for integrity and fair dealing in the process? Does this person provide pro bono service or volunteer his or her time to a charitable cause? Is this potential mediator well-regarded within the local and legal community?"

While the aforementioned guidelines may provide some assistance to prospective mediators, keep in mind that mediation as a career is an ongoing learning experience. Each member of the WAMS panel has come to the career by a unique path that may not be applicable for anyone else. Bill Joyce was told that he was far too young to be a mediator just four years out of law school. Pat Duffy's solo practice in Sumner made him an unlikely candidate compared to more high-profile firm attorneys. But both Bill and Pat were

Continued on back page...

determined to have mediation careers in addition to their law practices – and both have been resoundingly successful in that endeavor.

If mediation is your desired future vocation, consider the advice offered above and find a way to make it happen.



***Think you have what it takes
to become a professional mediator?***

For advice or inquiries about WAMS panel opportunities, contact Diane McGaha, WAMS Attorney Director, via email to dmcgaha@usamwa.com.



Mac Shelton

“I recently completed a mediation with Mac Shelton at your office. The subject matter was beyond Mr. Shelton’s experience, and the opposing counsel was very difficult. This case had all the indications of a long and hostile battle. I don’t have any idea how Mr. Shelton accomplished resolution. I have recommended Mr. Shelton a dozen times to my colleagues, and will continue to recommend and use WAMS when possible. Mr. Shelton belongs in the Mediator’s Hall of Fame.”

- WAMS Client

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