

# EMOTION-full NEGOTIATIONS

11th Annual TMCA Symposium

Saturday, October 17, 2015

8:30 am to 5:00 pm

Thompson Conference Center  
University of Texas, Austin



TEXAS MEDIATOR  
CREDENTIALING  
ASSOCIATION

Promoting Quality Mediation  
Throughout Texas

WWW.TXMCA.ORG

We know it is impossible to eliminate emotions and cultural biases during mediation, and we can learn effective ways to deal with them when they arise. In both plenary and interactive concurrent sessions, speakers of myriad backgrounds and experiences will give you tools to use in your next mediation.

6.25 hours (2.75 hours ethics) CLE approved

## 2015 TMCA SYMPOSIUM AGENDA

8:00 Networking Breakfast

8:30 Welcome

### Framing the Day: Why Mediations Fail

Cecilia Morgan

In 2014 and 2015, the speaker surveyed approximately 300 mediators from across the state. The author will report the results.

.25 CLE

9:00 Plenary Session

### Harnessing the Power of Emotions in Mediation

Joseph C. Parker, Jr.

Rev. Parker will give unique perspectives on how emotions come into play in mediation and how to respond to them for the benefit of the mediation participants and the process.

1.25 CLE .50 ethics

10:15 Break

10:30 Concurrent Sessions

Each is 1.25 CLE

### Emotions: Just How Did They Get in My Mediation?

Diane Harvey

This interactive session will examine how to recognize emotions in mediation participants, through behavioral, verbal and non-verbal communication. It will look at the cognitive cycle that can trigger emotions and the importance of recognizing our own emotions in highly charged conflicts. Finally, participants will explore ethical considerations when working in highly charged mediations.

.25 ethics

## The Effective Management of Emotions in Mediation

Ben J. Cunningham

The (gentle) martial art of managing emotions and difficult people in mediation – a practitioner's perspective. The session will include a look at how emotions in mediation can trigger ethical issues for the mediator.

.25 ethics

## Emotional Intelligence and Cognitive Bias: 6 Views You Can Use

Randy Braidfoot, Chandrika Shori, Andree Swanson

This discussion will focus on the interplay between emotions and biases that exist in conflict situations. We all know that each decision point in mediation can be impacted by the slightest variable. The feelings of the parties, their emotions and biases are among these situation variables. Recognizing the points on the scale where the parties lie can help the mediator achieve a successful and ethical process.

.25 ethics

## Understanding Your Emotional Intelligence for a Better Mediation (Part 1)

Julie Chandler

Participants will be introduced to incorporating emotional intelligence into mediation by utilizing an assessment tool for a better understanding of their strengths and deficiencies. Participants will engage in robust discovery of emotional intelligence skills and how these skills assist in meeting ethical standards.

Participants in this morning session may gain deeper understanding by joining the afternoon breakout session on this same topic.

.25 ethics

## Common Arcs of the Emotional Storyline: Mental Health, Movies and Mediation

Robert W. Moats

Mental health (psychotherapy), movies and mediation all share the same challenge of moving the arc of the storyline from conflict, through resistance, to resolution. Major emotional themes/storylines will be identified, along with strategies to overcome resistance to resolution. Q&A will follow.

.25 ethics

11:45 Networking lunch

**12:45 Presentation of TMCA's Outstanding Credentialed Mediator Award**

**1:00 Plenary Session**

**Understanding Cultural Differences in Mediation**

*Moderator: Patricia M. Porter*

*Panelists: Sahar F. Aziz, Melanie E. Grimes, Joseph C. Parker, Jr.*

Panelists will provide unique perspectives on how cultural differences may impact mediations.    1.25 CLE .50 ethics

**2:15 Presentation of James W. Gibson Scholarship**

**2:20 Break**

**2:30 Concurrent Sessions**      Each is 1.25 CLE

**Cultural Differences and Their Effects on Negotiation and Mediation**

*Walter Wright*

This session will briefly introduce the concepts of objective and subjective culture, provide examples of both, and demonstrate how cultural differences can affect parties' negotiation styles in mediation. Participants should leave the session with an enhanced ability to detect and work with cultural differences in mediations and also meet the mediator's ethical responsibilities.    .25 ethics

**You're Different than Me: Fear vs. Celebration**

*Mathilda El Hachem*

This interactive session will explore methods mediators can use to reduce cultural bias and embrace the opportunity to develop more creative dispute resolutions that respect and even celebrate diverse backgrounds and points of view. Participants will discuss how to achieve these goals ethically without compromising mediator impartiality.    .50 ethics

**Overcoming Confirmation Bias In Mediation**

*Michael Kuhn*

Confirmation bias is a tendency to favor information that confirms one's preconceptions regardless of whether the information is true. This bias appears most strongly in emotionally significant issues and impacts an ability to appropriately analyze and settle a case. This session will explore creative strategies and solutions that break through confirmation bias, as well as the ethical responsibilities of mediators.    .50 ethics

**Understanding Your Emotional Intelligence for a Better Mediation (Part 2)**

*Julie Chancier*

(This session is open to participants who have attended the morning session, and who wish to delve more deeply into the topic.)    .25 ethics

**Mediation and Culture: The Influence of Acculturation**

*Don R. Kelly*

This interactive presentation helps mediators recognize and overcome acculturation challenges in mediation through an understanding of theoretical frameworks supported by empirical evidence. Participants will gain insight and understanding of culturally diverse parties, their behavior and interactions that can help lead to successful outcomes and mediating ethically.    .25 ethics

**3:45 Break**

**4:00 Plenary Session**

**Ethical Dilemmas Involving Emotions and Cultural Differences**

*Moderator: Suzanne M. Duvall*

*Panelists: Joseph C. Parker, Jr., Sahar Aziz, Melanie E. Grimes*

Plenary speakers will participate in a panel discussing ethical dilemmas centering on emotions and cultural differences.

1 CLE 1 ethics

**5:00 Adjourn**

**FEE:** \$130 (current credential holders)  
\$150 (non-credential holders)

Checks should be made payable to:  
Texas Mediator Credentialing Association  
(Fee includes registration, breakfast, lunch and snacks.)

**Payment and form must be received by Friday, October 2nd.** Mail your form and payment to:

TMCA Board Treasurer; c/o Shelly Hudson  
211 Houston St., Richmond, TX 77469  
(281) 342-5000 Fax: (281) 232-6443  
fortbendrc@aol.com

**Seating is limited to 180. Registration on-site not guaranteed.**

*Please note that you are not fully registered until we have received your registration payment.*

**TMCA Symposium Registration Form**

Name \_\_\_\_\_

Address \_\_\_\_\_

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

Phone \_\_\_\_\_

Email \_\_\_\_\_

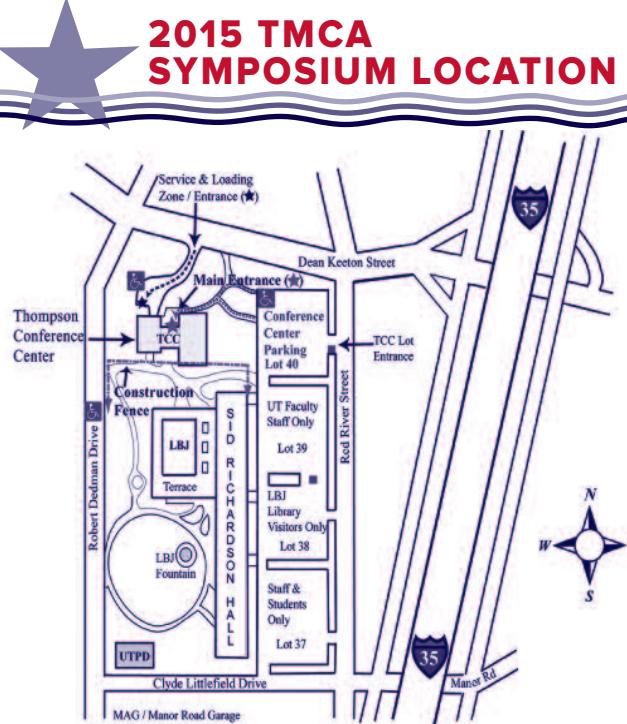
**TMCA Credential Status:**  Credentialed  Distinguished  Credentialed Advanced

Credentialed  Candidate

Non-TMCA Credential Holder

**Get credentialed or renewed at the Symposium and receive a 10% discount on your application/renewal fee.**

# 2015 TMCA SYMPOSIUM LOCATION



Please find driving directions to the Thompson Conference Center at [www.txmca.org](http://www.txmca.org). Parking is available in Lot 40 on a first-come-first-served basis or in the UT Manor Road Garage (fee charged). Be sure not to park in spaces requiring UT permits.

# 2015 TMCA SYMPOSIUM SPEAKERS

## Sahar F. Aziz

Sahar F. Aziz serves as an associate professor at Texas A&M's School of Law, where her scholarship focuses on the post-9/11 era. She incorporates critical race theory, feminist theory and constitutional law into her examination of the impact of post-9/11 laws and public policy on ethnic, racial and religious minority groups in the U.S. Professor Aziz served as a senior policy advisor for the Office for Civil Rights and Civil Liberties at the U.S. Department of Homeland Security (DHS), working on law and policy at the intersection of national security and civil rights. Prior to joining DHS, Professor Aziz was an associate at Cohen Milstein Sellers and Toll PLLP (Washington, DC), where she litigated class action civil rights lawsuits alleging a nationwide pattern and practice of gender discrimination in pay and promotion. Professor Aziz began her legal career at WilmerHale (Washington, DC), and clerked for the Honorable Andre M. Davis (U.S. District Court for the District of Maryland). She has both a J.D. and M.A. in Middle Eastern Studies from the University of Texas and a B.S. from the University of Texas in Arlington.

## Randy Braidfoot

Randy Braidfoot is the Director of the Dispute Resolution Center (DRC) in Amarillo providing mediation services to the Texas Panhandle. The DRC is a division of the Panhandle Regional Planning Commission, a Texas Council of Government. Randy has published several academic studies with Dr. Andree Swanson on the topic of Emotional Intelligence. Randy is a CERTIFIED FINANCIAL PLANNER™ practitioner. He holds a Master of Science in Personal Financial Planning from the College for Financial Planning and a Bachelor of Arts in Mass Communications from West Texas A & M University. He is also a "subject matter expert" for the Certified Financial Planner Board of Standards. Randy holds the Master Planner Advanced Studies(SM) designation from the College for Financial Planning. Randy is also a Certified Divorce Financial Analyst™ and has both basic and advanced training in mediation and as a financial specialist in Collaborative Law.

## Julie Chancler

Julie Chancler (Ed.D.) received her 40-hour basic mediation training, Advanced Family – Divorce Child Custody training and Parenting Coordinator certificates at Manousso Mediation in Houston. Julie currently works as a mediator in the Coastal Bend area of Texas. Her background includes nearly twenty years of experience as a teacher, Section 504 campus coordinator and principal in Texas public schools. She is also a U.S. Army veteran. In addition, Julie offers training and staff development for parents and teachers and owns a driver's education school. Julie received her doctoral degree in Educational Leadership from Texas A&M University Kingsville. Her dissertation was entitled, "A comparison of emotional intelligence and leadership styles among Texas public school principals." Julie has spoken at numerous conferences at EITRI (Emotional Intelligence Training & Research Institute) and with NASAP (North American Society of Adlerian Psychology).

## Ben J. Cunningham

A nationally recognized attorney-mediator, Ben Cunningham has mediated more than 3,000 cases. He is a founding partner of Lakeside Mediation Center in Austin. Ben holds the highest credentialing designation awarded by TMCA, is rated AV-Preeminent by Martindale Hubble and is a Fellow in the Texas Bar Foundation. Known as an expert in the field of conflict resolution, Ben has trained mediators from all over the world and is co-author of the critically acclaimed ABA book on mediation, *Stories Mediators Tell*. Ben writes and lectures regularly on managing emotions in high-conflict situations. Before his life as lawyer and mediator, Ben worked in law enforcement as a street cop and hostage negotiator. Ben is a Past-President and sitting Board member of the Travis County DRC, serves as a member of the Graduate Advisory Board for Legal/ADR Studies at Texas State University and is a current member and former Board member of the Texas Association of Mediators.

## Suzanne Mann Duvall

Suzanne Mann Duvall has mediated more than 2500 cases to resolution in a practice spanning more than 20 years. Suzanne mediates in all areas of practice from complex, multi-party commercial matters, to family disputes. She is a faculty member, trainer and lecturer for numerous academic and ADR organizations. Suzanne is a TMCA Credentialed Distinguished Mediator and has received numerous awards for her mediation skills. Suzanne was the first recipient of the American Arbitration Association's Annual Steve Brutche Award of Professional Excellence in Dispute Resolution. She has received an Association of Attorney Mediators Pro Bono Service Award and the Suzanne C. Adams and Frank G. Evans Award for outstanding leadership in the field of ADR. Suzanne has been named a "Super Lawyer" by Thompson Reuters and the Publishers of Texas Monthly since 2003 and has been on the "Texas Best Lawyers" list since 2009. She was also recognized by Best Lawyers in America in 2014 through 2016.

## Melanie E. Grimes

Melanie E. Grimes is blessed with a private mediation practice in Dallas which encompasses primarily family law matters. She has mediated almost 1000 cases, is a TMCA Credentialed Distinguished Mediator and was honored with the Louis Weber Award as "Outstanding Mediator of the Year." Melanie currently serves as the Texas Association of Mediators' representative to TMCA and as Vice-Chair, Administration, on the TMCA Board of Directors. Prior to becoming a mediator, she spent 15 years in senior- and executive-level corporate management. She has an M.L.A. from Southern Methodist University and a B.B.A. from Baylor University

## Mathilda El Hachem

Mathilda is an attorney licensed to practice law in Lebanon. She received her law degree in Lebanon in 2009, followed by Master's program work in Paris where she focused on international litigation, arbitration and ADR. Mathilda has served as a judicial intern in Paris and completed an appellate judicial clerkship in Lebanon. She has private law firm experience in commercial, banking, corporate and other civil matters. Mathilda is also an experienced arbitrator and mediator and has successfully completed a significant number of insurance-related mediations in Lebanon. She spent the 2014-15 academic year in Austin while her husband completed his LL.M. degree at the University of Texas School of Law. Mathilda and her husband now live in Houston where she is pursuing her LL.M. degree at the University of Houston Law Center, focusing on ADR. Fluent in Arabic, French and English, Mathilda is well qualified to address the topic of cultural issues in mediation.

## **Diane M. Harvey**

Diane M Harvey, LCSW, is a social worker and mediator, earning her B.S.W. at Buffalo State College and her M.S.W. at Fordham University. After a long career with New York State in the mental health system (concurrent with years of union leadership), she moved to Austin in 1993 and headed the social services department at a private psychiatric hospital. Since 1995, she has maintained a private therapy/mediation practice and is currently a host for Conversation Corps, a joint venture of the City of Austin, Cap Metro and AISD, administered by Leadership Austin to elicit community input at a local level. She mediates at the Austin DRC, is on the board of the Austin Association of Mediators (Past President), a past board member of TAM and TMCA, and is a TMCA Credentialed Advanced Mediator. Diane was honored by NASW-TX, Capital Area Branch, as the 2014 Social Worker of the Year.

## **Don R. Kelly**

Don R. Kelly, LMSW, earned his Bachelor degree in Social Work from New Mexico State University with minors in philosophy and Child Advocate Studies. He graduated from the University of Texas at Arlington with a Masters in Social Work and is currently a second year Ph.D. student at University of Texas at Arlington. His research interests include peer mediation, restorative justice, cultural diversity and violence reduction in primary and secondary education. Mr. Kelly is a U.S. Naval veteran, has served as President of the Board for Dispute Resolution Services of North Texas and the Tarrant County Association of Mediators and has worked with the Texas Mediator Trainers Roundtable. Mr. Kelly is a licensed master of social work, qualified court-appointed mediator in both Texas and New Mexico, has been a mediation trainer since 1996, and is a member of ACR, TAMs, TCAM and NASW and is TMCA Credentialed Distinguished Mediator.

## **Michael Kuhn**

Michael Kuhn is a Senior Partner in the Trial Section of Bracewell & Giuliani. He is Board Certified by the Texas Board of Legal Specialization in Civil Trial Law and was recently named a Best Lawyer 2015 in Commercial Litigation. His practice focuses on corporate governance and compliance, risk management and loss prevention, creative pre-litigation and post-judgment alternative dispute resolution, mediation and arbitration, internal investigations, and advice on issues of legal ethics, professionalism, risk management and insurance coverage. In addition, for 20+ years, until January 2015, he served as Bracewell & Giuliani's General Counsel with responsibilities for risk management, loss prevention, legal ethics and compliance programs. Before joining Bracewell, Michael Kuhn served as a law clerk to Hon. Joe Ingraham on the United States Court of Appeals, Fifth Circuit (1975-1976), and as an Assistant District Attorney in Harris County Texas (1976-1979).

## **Cecilia H. Morgan**

Cecilia H. Morgan, a Texas Super Lawyer and *D Magazine* Best Lawyer in Dallas, has been associated with JAMS since 1994, and has mediated, arbitrated and/or facilitated more than 2000 cases in 30+ states. She is a Texas Bar Foundation and Dallas Bar Association Foundation Life Fellow. Cecilia was the 2010 recipient of the SBOT ADR Section Justice Frank G. Evans Award, has served as officer and director at the national and local levels of AAM, is a former national chair for the Legislation Committee of the ABA Section of Dispute Resolution, is a former Chair of the State Bar of Texas ADR Section Council and is a TMCA Credentialed Distinguished Mediator. She served as Chair of the DBA's Labor & Employment Law Section in 2011, is a Fellow of the College of Labor and Employment Lawyers and, since 2013, an Adjunct Professor for Texas Tech Law School.

## **Robert W. Moats**

Robert W. Moats, Ph.D., J.D., has been in private practice as a psychologist for 35 years in Austin. He has applied the pattern recognition acquired from conducting more than 40,000 counseling sessions to the mediation process, particularly as it relates to psychological resistance to resolution. In addition to his counseling practice, he has served as a mediator, consulting expert to mediation and mediator/negotiator coach. His training in psychology includes a doctorate from Northwestern University, a clinical internship at Michael Reese Medical Center and a postdoctoral fellowship at The University of Texas at Austin. He is also a graduate of the University of Texas at Austin School of Law.

## **Joseph C. Parker, Jr.**

Joseph C. Parker, Jr., is Senior Pastor of David Chapel Missionary Baptist Church in Austin, Texas. Prior to being called as Pastor in September 1992, he served as Associate Pastor for Christian Education at David Chapel from 1984–1992. He was licensed to practice law in 1983 and has served as prosecutor and Chief of Criminal Litigation in the Travis County Attorney Office, as civil litigator, director and vice-president with Long, Burner, Parks & Sealy, P.C., as Chief of Litigation for the State Bar of Texas and as the first African American president of the Travis County Bar Association. He resigned from the State Bar of Texas to devote more time to his pastorate. He has taught preaching at Baylor University's George W. Truett Theological Seminary and Advanced Civil Litigation in Trial Advocacy at the University of Texas School of Law. His degrees include: B.A., Morehouse College; M.P.A., University of Georgia in Athens; J.D., University of Texas; M.Div., George W. Truett Theological Seminary at Baylor University; D.Min. Urban Ministry, Gordon-Conwell Theological Seminary.

## **Patricia M. Porter**

Pattie Porter is The Texas Conflict Coach® and President of Conflict Connections®, Inc. located in San Antonio, Texas. In 1994, Pattie began a passionate journey to help people manage and resolve conflict in their

lives and work. By doing so, she has helped hundreds of employees and work teams release their angst and move forward with more productive relationships and constructive action steps. She provides intervention services and training throughout the United States. In 2009, Pattie founded a global online radio program to raise awareness and educate the public about the strategies and resources needed to address the conflict encountered in all aspects of people's lives. Pattie and her team have produced more than 235 podcasts and reached more than 250,000 listeners around the world. She currently teaches conflict coaching at Southern Methodist University's Dispute Resolution Program and is the author of *Stop the Dreaded Drama: 55 Tips for Ending Destructive Conflict*.

## **Chandrika Shori**

Chandrika Shori is a Dallas-based attorney and mediator and is an Independent Associate with DeGroote Partners. Prior to entering the legal profession, Chandrika spent more than ten years in the business field, during which time she held management positions at businesses ranging from small family-owned entities to AT&T. Chandrika earned her law degree from Southern Methodist University's (SMU) Dedman School of Law, her M.B.A. in Finance through SMU's Cox School of Business, and her Bachelor's emphasis in Chemistry from the University of Kansas. She currently serves as the Treasurer of the Dallas Bar Association's ADR Section.

## **Andree C. Swanson**

Andree Swanson (Ed.D., M.H.R., M.A.O.M.) is an Assistant Professor of the Forbes School of Business at Ashford University based in Denver, Colorado. She also is the owner of A C Swanson Group, an Educational and Business consulting organization. Andree has published numerous peer-reviewed research papers with writing partner Randy Braidfoot, as well as with several other individuals.

## **Walter A. Wright**

Walter A. Wright is an associate professor in the Legal Studies Program of the Department of Political Science at Texas State University, where he teaches courses in law and ADR. An attorney and mediator, he received B.A. and J.D. degrees from the University of Houston and an LL.M. in International Legal Studies from New York University. He is former president of the Texas Association of Mediators and the Association of Attorney-Mediators, and he has been Chair of the International Section of the Association for Conflict Resolution (ACR). Currently, he is co-Chair of ACR's International Expansion Work Group; a director of the Chantal Paydar Foundation, which works toward many of the same goals as TAM and ACR; and co-director of *El Acuerdo*, an ADR newsletter published in Buenos Aires, Argentina. He is a TMCA Credentialed Distinguished Mediator. Since 1995, he has enjoyed teaching ADR courses and conducting facilitated dialogues in foreign countries such as Argentina, Uruguay, Mexico, Ecuador, Panama, Venezuela and Nicaragua.