



## JANUARY 2018 NEWS

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### President's Message by: Stephen L. Shields

I previously informed you about TAPM's business relationship with TALS. We have had an opportunity to work with their personnel and we are very impressed with their work. And it will move TAPM further into the digital world. You can look forward to many more "all-membership calls" and other seminars this year. Speaking of this year, March 2, 2018 is our annual seminar. (Save the date.) I assure you our speaker Kimberlee Kovach is an outstanding trainer. Set forth below is her description of the seminar and its learning objectives, along with an agenda for the day.

#### ABOUT THE SEMINAR

As the field of mediation and dispute resolution has grown, so too has the research and knowledge about the various aspects of interpersonal interaction. Too often, the parties (and lawyers) are at an impasse - and not even sure how they got there. This workshop will first examine the complexities in information processing, and how mediators can be effective in moving the parties to a better understanding of one another's perspectives. Contemporary research has also revealed some difficulties in the decision-making process, and we will consider the role of the mediator in intervening in that process from a practical as well as ethical view. As mediation expands globally, it is important to consider what different approaches may differ, and what skills may be necessary in differing approaches. It is also important to consider, at this juncture of mediation's use, who or what should define what the process is or has become. It is time to consider the tension between the practitioner and the marketplace, along with related ethical ramifications.

#### LEARNING OBJECTIVES

- \* Participants will consider the differing types of information processing approaches and how each can limit or enhance communication within the mediation process
- \* Participants will become familiar with decision making, and the obstacles that can impact the process
- \* Participants will examine the ethical constraints in a mediator's intervention in the parties' (and lawyers') decision-making process
- \* Both advantages and downsides to online dispute resolution (ODR) will be considered, along with skill work for such approaches
- \* Participants will consider global growth of mediation and the data resulting from the Global Pound Conferences



\* Participants will examine, and consider the ethical challenges in the practice as originally designed and that as required by the market

### Agenda for TAPM 2018 Annual Seminar

Time	Title	Hours	Type
7:45 AM - 8:30 AM	Registration & Continental Breakfast		BRK
8:30 AM - 8:45 AM	Overview, Assessment of Expectations	0.25	
8:45 AM - 9:30 AM	Discussion of information and cognitive processing in mediation and negotiation	0.75	
9:30 AM - 10:30 AM	Decision making process and pitfalls	1.0	
10:30 AM - 10:45 AM	Break		BRK
10:45 AM - 12:15 PM	Practicum: Utilizing (Ethical) skills to assist parties and lawyers in making decisions of settlement or resolution	1.5	
12:15 PM - 1:15 PM	Luncheon		BRK
1:15 PM - 2:15 PM	The state of the art of mediation - global and online perspectives	1.0	
2:15 PM - 2:45 PM	Enhancing communication online	0.5	
2:45 PM - 3:00 PM	Afternoon Break		BRK
3:00 PM - 4:30 PM	Current dilemmas in practice: Who does/should control the practice of mediation - incl. ethics	1.5	
<b>TOTAL HOURS</b>		<b>6.5</b>	

**PLEASE NOTE EARLY REGISTRATION ON OR BEFORE FEBRUARY 16, 2018**

**1. Renewing Annual Dues or Joining TAPM for the first time:**

\$100.00 Annual Dues  
\$150.00 CLE/CME Fee  
**\$250.00 Total Due**

**2. TAPM Member (dues are current)**

**\$150 CLE/CME Fee**

**3. Associate Member Renewing Annual Dues or Joining TAPM**

\$150.00 CLE/CME Fee  
\$ 50.00 Annual Dues Renewal  
**\$200.00 Total due**

4. NON TAPM Member  
\$300.00 CLE/CME Fee Due

5. TAPM Business Luncheon Only  
\$35.00

LATE REGISTRATION AFTER FEBRUARY 16, 2018:  
\$50.00 Fee added to CLE/CME Fee

PARTIAL REFUNDS WILL BE GIVEN IF REQUESTED  
ON OR BEFORE FEBRUARY 16, 2018 - a \$25.00 handling fee will be deducted from the refund.

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## Reframing and Encouraging "I" Statements by: Chuck Hill

In teaching family mediators the techniques of reframing and active listening, we often imply using "I" statements (acknowledging and accepting responsibility for one's own feelings rather than blaming the other party), is preferable to "you" statements. We spend considerable time reframing, rephrasing, and practicing removing the venom, if you will, from parties' statements to make them more neutral, less accusatory, and less likely to incite the classic conflict dialogue trap of attack, defend, and counterattack.

In fact, as we teach new mediators to try to uncover the underlying feelings, interests, and needs of the parties, we inevitably tend to move away from "you" and toward "I" statements. We wordsmith, imply, and nudge trainees toward the concept of "I" statements, but we don't usually employ the terminology or language associated with interpersonal communications (at least I've not heard us do so).

I'm wondering if rather than implying their use, if we shouldn't more specifically and directly advocate "I" statements and the taking of "I" ownership responsibility in teaching mediation trainees?

Pronouns are notoriously ambiguous and their use makes it confusing and difficult to develop clear illustrations. Nevertheless, the following are examples of how mediators typically reframe to parties, incorporating the "I" statement concept rather than blame assigning "you" statements:

**Taylor's Dad:** *"Her Mom's always just hanging out with her girlfriends and shopping - so she says. I'm the one working two jobs and sometimes have to put in overtime to make ends meet. She really pisses me off when she changes our exchange time or asks me to bring Taylor to meet her at the mall or at her mom's house. My inconvenience is never considered!"*

**Mediator:** *"Is it fair to say, you feel underappreciated, get annoyed and become upset when the agreed schedule or exchange location is changed?"*

**Lil' James' Mom:** *"I hate it when his Dad tells Lil' James he's gonna come take him to play ball down at the park and he's a "no show." He doesn't call, text, nothing - he's just a trifling, undependable NO SHOW!"*

**Mediator:** *"I take it trust is important to you, and you become very irritated whenever follow-through is missing and there's no notice?"*

**Kayla's Mom:** *"He accuses me of not overseeing Kayla's homework when I know damn well we do it every evening she has homework (some nights she doesn't have any). Her teacher even mentioned how well she's doing! He's never done homework with her, doesn't know any of her teachers, and never even been to her school, but he accuses me of things he knows absolutely nothing about!"*



**Mediator:** *"I hear you saying your daughter's school work is important, you value involvement with her teachers and her school, and you're offended when challenged about that."*

While encouraging more effective interpersonal communications and improved understanding among the parties, mediators would do well to point out how the speaker takes responsibility for their own feelings in these reframed examples and encourage parties to practice using "I" statements. Doing so might produce:

**Taylor's Dad to Mom:** *"I feel inconvenienced and disrespected when Taylor's exchange place or time gets changed. I'm working really hard to hold up my end, and I'm feeling like my problems and my needs don't count."*

**Lil' James' Mom to Dad:** *"My protective instinct kicks in and I go on the war path if I see Lil' James disappointed and emotionally hurt because there was no follow-through on promises made to him."*

**Kayla's Mom to Dad:** *"Kayla's school work is extremely important to me and when I'm accused of not being on top of it, or of failing to monitor it without knowing the facts, it drives me over the edge!"*

Encouraging parties to adopt "I" statements in their communication practices is totally consistent with the reframing many mediators already employ. Referring to the technique by the name "I" statements, recognizing that such statements are known to significantly improve interpersonal communications, and advocating for their adoption and use by parties in dispute, may offer added value to parties, regardless of whether or not a formal agreement is ultimately reached!

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Charles A. "Chuck" Hill is a retired administrator from the University of California, Berkeley. He earned a Bachelor's degree in Sociology from Dillard University, a Master's in Industrial Relations from the University of Minnesota, a Certificate in Health Systems Management from Harvard, and several certificates in ADR from UC Berkeley, UC Irvine, and Lipscomb University.

Chuck is a past Vice Chair of the Board of Directors of the Nashville Conflict Resolution Center, and has been appointed an Ombudsman/Mediator by the U.S. Department of Defense's Employer Support for the Guard and Reserve. Over the past six years, Chuck has been a frequent coach and guest evaluator in Lipscomb University's Institute for Conflict Management Rule 31 training.

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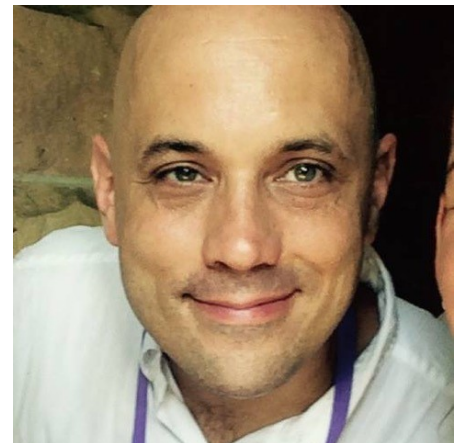
## Featured Mediator - Matthew Daniels

### Bio

Explorer, connector, and architect of meaning, Matt helps leaders, teams, and organizations find their voice and transform their worlds.

Matt serves clients through courageous, creative, and provocative conversation that opens up new insights and releases the focus and energy needed to create and sustain the right changes at the right time.

Matt has a Masters of Divinity from Columbia International University and a B.A. in Cultural Anthropology from the University of Memphis. He worked in Leadership Development for non-profit organizations in Montevideo, Uruguay from 2001-2012, strengthening and founding organizations that work to meet the social, physical, and spiritual needs of their communities. This work culminated in the founding of the Geronimo Center for Innovation and Leadership, where he and his wife work as a dynamic duo with schools, churches, and businesses in the country to teach relational leadership skills to management and staff.



As a Rule 31 Listed Mediator in the State of Tennessee, Matt also employs his transformative conflict approach to help individuals, teams, and organizations find and live out a bigger story, where everyone gets everything they need, plus a whole lot of what they want.

When not coaching others, he enjoys hanging out with my family, fostering meaningful connections with friends old and new, walking in nature, pretending to be a folk singer, reading a good book, and practicing mindfulness.

### **In finding your niche what area do you practice in? How did you get started in this?**

I feel like I have not found my niche yet. I am still very much a "newbie." I am drawn to victim-offender because when good mediation happens. I was mediating in a case with Sipi (Siprichanh) and she asked me what mediation style I favored, and I said, "I guess, between evaluative and facilitative, I am much more facilitative." "Nope," she said. "You are a transformative mediator." I had forgotten that was a category.

Sometimes I think my brain is broken, because I inhabit this internal world where I deeply attune to the "story under the story." I know that I myself have no clue whatsoever what that story is in any particular mediation case, though it is always some variant of, "I am strong. I am beautiful. I feel/am wounded. I want to feel/be whole." There is, at the end of the day, only one story, and that is it. I love it when victims and offenders experience the safety of the mediation container enough to let down their guard, own their internal experience, and speak out of a place that is so much closer to the Deep Story. If I can help create that container, and then see true restoration happen, I experience the same joy I felt the day each of my three children were born. When it doesn't happen, I still feel the satisfaction of watching one or either of them give it their best.

### **What is in your mediator tool kit? What is your favorite or most used tool?**

I have a parallel life as a leadership development coach, so most of my tools come from that world. I work with executives, entrepreneurs, and influencers as they build internal awareness and alignment around what they truly want and need. I help them gain the tools and practices to know how to successfully do what I call "intrapersonal mediation." In every person there are typically a handful of different ideas, voices, or stories about any given situation. The tools I use are attuned awareness, reflective listening, metaphor and story, and curious questions, and what MIT professor Peter Senge calls "presencing." Presencing is helping a person stand in the future where the problem is already solved and getting them to walk through the process they used to get there. Huge! But you have to "bring peace into the room" for that to even get much of a chance to work in the first place.

### **Once you have been selected as the mediator, what do you do to prepare the attorneys and their clients for the mediation?**

Confession time. I have never been selected as a mediator through the ADR Courts selection process. Most of my mediation has been done informally or only in conjunction with my good friends at Nashville Conflict Resolution Center. But here is what I WILL do when they call me. First, in about 60 seconds, I want to ask them what they know about and expect from mediation. The next 60 seconds I try to get from their understanding to what it "really" is and what my distinctions are. During this time, my "inner game" is all about attuning with them on an emotional level, meeting them where they are, and listening to my own intuition about "what is really going on here." I am thin slicing the situation to get a sense of where this is going to end, and asking out loud the question, "Let's say it's a month from now and you felt like this mediation gave everyone exactly what they wanted/needed, how are things different? What happened here today?" In addition to that, there is the necessary "nuts and bolts" stuff, confidentiality, legal implications of the agreements, etc, and I want to make sure they know all that too.

### **If you were a superhero/mediator what would be your name and slogan?**

Fun! My superhero name would be Presence, and my slogan would be "There is enough for everyone and some to share."

### **What is your pet peeve in mediation?**

When a "good enough" agreement unravels because "I" felt we could get it 1% better. What was I thinking? Really??? I mediated with Don Schulze once. He is a monster. He gets it done. I want to be as practical AND good as he is. Maybe my superhero name would actually be "Don Schulze"

### **Are you married/do you have kids/pets etc?**

My wife Toni and my kids Allie (17), Anne (8), and Matt, Jr. (7), and our dog Champy (pronounced "Shampy") are my number one Mediation School. We have a "peace jar" wherever we all have to pay a fine when we offend one another, and we are saving up the fines as a donation for NCRC. Toni and I are both the "babies" of our own families, so we both have a debutante/spoiled/entitled streak to us. We read a book when we first got married called "Fighting for Your Marriage," and truly made our life's goal to become "emotional and relational ninjas." Our relationships are all we have at the end of the day, and need to be our best investment.

### **Why did you become a mediator?**

I became a "little m" mediator by virtue of being the youngest in my family, and seeing my parents get a divorce, and feeling in my bones the pain of human beings not knowing how to get along. I became a "big m" Mediator by happenstance. There was an offense within my own extended family in 2014. I had just moved to Nashville from Uruguay, South America, and was looking for mediation resources. I saw the training program for Rule 31 Listed Mediators at NCRC and something clicked. "I am the guy I'm looking for." I had just to polish the edges and professionalize my practice.

**What is your favorite mediation read and why?**

I am probably not supposed to say "The Bible," but I will. That book is filled with SO MANY screwed up people in the Bible. They murder, rob, commit adultery, break promises, lie, cheat, steal, swindle-and those are the "GOOD" guys. But if you look really closely, there are some AWESOME mediation moments as well. After the Bible, I suppose Tammy Lenski's book Making Mediation Your Day Job would be right up there. You can be the best mediator in the world, but if you have sales fears, stage fright, etc, you become your own worst enemy. She is a huge help with that.

**What are you most afraid of in mediation?**

I am afraid of not showing up enough and simultaneously afraid of showing up too much. If I don't show up enough, with the right intro, setting the right context, creating the right container, then there might not be enough clarity or safety for mediation to work. If I show up "too much," then the mediation becomes about me, not them. If I start caring more about the outcome than the participants do, it is about me, not them.

**How do you debrief yourself after a mediation?**

Whiskey sour. Just kidding. I love co-mediating. It helps both of us "hold on to ourselves" during the mediation, and gives the parties a "mirror" of cooperation. Most of all, it gives me a person with whom I can do a quick "replay" of the highlights of the conversation. I use four questions: What went right? What went wrong? What was missing? What was confused?

**Personal or professional accomplishments you are particularly proud of:**

I crashed and burned as the head of a social business venture in Uruguay, South America. I recruited investment capital, a partner, an operations team, and even made cooperative agreements with the President of the country to start a social housing initiative. Then through a combination of my own lack of knowledge and experience, the tough nature of the market, and my failure to perceive or honor requests for very costly "back channel" favors, saw the whole thing fall apart. I was a personal disappointment for the President of a nation. Wow! I mean, I hated that the whole project fell apart, and I hated the heartbreak and pain that we all felt, but I was "the man in the arena." Sometimes it works, and sometimes you get that #\$\$%@ knocked out of you. I have never learned so much in my life. I even got sued by an employee! There is nothing like sitting in a courtroom in South America to make you value mediation.

**Please complete these sentences:**

*I have a burning desire to see:* 50 Nashville Influencers unlock and blow past their human potential. Not just to write platinum albums or make a billion dollars, but to fundamentally alter the conscious of the community. They'd come from a broad swath of civic society, business, education, faith, the arts. I'd love to see them create a human reality around them that shows the world what is possible when human beings get fully unlocked, and see a city which shines on a hilltop not because it is "It City" but because we become a paramount example of Micah 4:4: "Everyone will sit under his own vine and fig tree, and no one shall make them afraid." And then maybe people could find nice 3 bedroom homes in safe neighborhoods for less than \$500,000. :)

*People tell me I look like:* a bald Dave Matthews.

*If I could have a 30 minute conversation with anyone (alive or otherwise, famous or not), I would want to speak with* George Washington. I learned from Lin Manuel Miranda that Micah 4:4 was his favorite verse, and it is mine as well. He had a vision for a world that was truly about liberty and justice for all. We need to renew that vision. Mediation and coaching, in my book, are singular in their capacity to do that."

**What do you see for the future of mediation?**

Mediation and coaching both have a low bar for entry and a high bar for success. There is a huge market for mediation, but we have to get creative and create it, and we have to perform at high bar levels to help create the market. It is a great profession, with a professional level pay-scale. I don't like to see people get weeded out per say, but I love to see habits get weeded out. If you are determined to make a career out of conflict, you have to be on a lifelong journey of transformation yourself. There is a lot of stuff that gets weeded out, and we take our whole process and whole selves into every mediation. None of the work we do to become first rate, professional mediators is wasted. If a person can successfully confront and do the work on their own "folded" spaces, they carry that into the mediation room and everyone benefits.

When we approach "conflict engagement" (Thanks Tammy Lenski) as an industry, then literally EVERYONE needs us to get past ourselves and create pathways for them to contract our services. Families, churches, schools, businesses, government. They need seminars, workshops, webinars, corporate trainings. Our own issues keep us from creating peace all throughout our societies. Mediation will have the future we collectively create for it.

**Knowing what you now know about life etc., would you choose the same career path? If not, what would you**

**like to do?**

I would definitely choose this path. In addition to leadership coaching and mediation, I do non-profit work helping families step actively into "self-pastoring" their homes. The Christian family learns to see their home as a chapel with moms and dads as pastors. The Jewish home becomes a synagogue, with moms and dads becoming like Rabbis. A Muslim home could be like a mosque, with moms and dads being Imams. Given my reality, I am rolling this out within a Christian context, but the framework is readily transferable. There is a lot of spiritual responsibility that generations have "outsourced" to religious professionals. The institutions too often fail to train and transfer that responsibility back into their constituents. It is simple, but not easy, for parents and grandparents to "in-source" that again. This trifecta of coaching, mediation, and family restoration work leaves me a deeply blessed man at the end of the day.

**What is your contact information?**

Matt Daniels, 615-992-4866, [matt@transformingconflict.io](mailto:matt@transformingconflict.io) [www.transformingconflict.io](http://www.transformingconflict.io)

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## Community Mediation Centers

Community Mediation Centers are a vital component of the Access to Justice initiative. They provide people with help in resolving their legal disputes. These disputes range from domestic issues to business issues. They also provide training in mediation and continuing education throughout the year. They provide seasoned mediators with an opportunity to continue to hone their skills as professionals. The link attached gives a listing of the Community Mediation Centers in your area: [http://www.tncourts.gov/sites/default/files/docs/vorp\\_fy\\_2017-2018\\_grantee\\_list\\_as\\_of\\_jul\\_2017.pdf](http://www.tncourts.gov/sites/default/files/docs/vorp_fy_2017-2018_grantee_list_as_of_jul_2017.pdf). Please consider giving a donation to these centers and volunteering at them.

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## Save the Date: Mar. 2, 2018

### TAPM ANNUAL SEMINAR

**Lipscomb University**  
**Institute for Conflict Management**  
**KIMBERLEE KOVACH**

Kimberlee K. Kovach has over thirty-five years of experience in dispute resolution as a leading teacher, trainer, scholar and practitioner.

She was a founding officer and Past Chair of the American Bar Association Section of Dispute Resolution, as well as a former Chair of the State Bar of Texas and Houston Bar ADR Sections. Kim was also actively involved with the development of early dispute resolution programs at the local, state and national levels.

Kim was instrumental in the development of court-annexed mediation and dispute resolution programs, working with courts throughout Texas. She also served as a consultant to courts in several other jurisdictions nationwide. Kim was an early pioneer in the creation of community dispute resolution centers, and trained several hundred initial volunteer mediators in Texas.

Professor Kovach has taught a variety of ADR courses in legal education for nearly twenty-five years, and is the author of a text book for law school use, *Mediation: Principles And Practice* (3rd ed. 2004). She is also the author of *Mediation In a Nutshell* (3rd ed. 2014). In addition, Kovach has published numerous law review articles, book chapters as well as short articles on a variety of ADR related topics. Kovach has also lectured extensively throughout the United States and abroad, working in advancing the awareness and use of dispute resolution processes.

Kim was the first recipient of the State Bar of Texas ADR Section Evans' Award for exceptional work in the field of dispute resolution in 1995. More recently, Kim was honored with the prestigious Lifetime Achievement Award by the International Academy of Mediators (IAM) in recognition of her extensive work in the field of mediation and ADR. In presenting this award, Howard Vogel, then President of IAM noted, "Kim Kovach is a Texas treasure, legend and



pioneer. She was an early voice for the advancement of ADR in the United States. That voice has remained strong and highly respected around the world."

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## From the Editor's Desk by: Regina B Newson, Editor

### Important News:

TAPM has a new number. It is 615-775-9686

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### TAPM DUES

Have you renewed your TAPM DUES? Your dues expire on the one year anniversary date of your last payment. We hope you will continue to support TAPM and renew today.

TAPM appreciates you being a member and you, as a member, receive benefits in return!

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### MARKETING TIP

**Dress for success:** This is an old saying, however it is true. As mediator's we are only as good as the last mediation that we conducted. We are constantly selling the idea of using mediation to resolve disputes, we are professionals. As a first point of contact for mediation we must give the appearance of being professionals in our dress, speech, and decorum. This will get your foot in the door. Doing great work will get you repeat business.

**This has been reprinted with permission of the Administrative Office of the Courts (ADR) from their ADR FALL 2017 Newsletter.**

### IMPORTANT DAYS

January 23, 2018 - ADR Commission Meeting, AOC Office, Nashville

March 2, 2018 -Rule 31 Mediator Applications Deadline for ADRC review on April 24, 2018

April 24, 2018 - ADR Commission Meeting, AOC Office, Nashville

For a list of approved Continuing Mediation Education courses, please go to:

<http://www.tncourts.gov/programs/mediation/resources-mediators/continuing-mediationeducation>.

### IMPORTANT NEWS

To file online mediation reports, go to: <http://www.tncourts.gov/programs/mediation/resourcesmediators>.

On the renewal forms it is important to remember to provide proof of continuing education hours. ADR asks that providers provide a list of attendees to their classes; however, it is the responsibility of the mediator to provide this proof. It is suggested that all mediators request two (2) copies of hours of attendance - one for their records and one for the provider.

If you have forgotten your username and password needed to submit an online mediation report, please contact Caitlin Vasser, Programs Assistant, at (615) 741-2687 or by email at [caitlin.vasser@tncourts.gov](mailto:caitlin.vasser@tncourts.gov).

### IMPORTANT ADR DATES

**March 2, 2018 - TAPM will have its Annual Conference. This year's speaker is Kimberlee Kovach.** The conference will be at Lipscomb University. At this meeting, TAPM will have its annual business meeting and present the Greyford Grey Award.

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If you have an article that you want published in the TAPM Newsletter, please contact the Editor, Regina B. Newson at [reginanevson@bellsouth.net](mailto:reginanevson@bellsouth.net).

[Click here to visit our website](#)