

TO THE UNSUNG MEDIATORS:
A RECAP OF THE IAM CONFERENCE IN NASHVILLE, TENNESSEE

As the program promised, the IAM Conference in Nashville was, indeed, “Music to my Ears”. The very solid academic learning, the wonderful hospitality of Jack Waddey and Howard Vogel, and stretching to find new ways to employ our passion in a way that addresses other people’s needs, was set to a background of country music everywhere.

I’ll admit that before this trip, I had a very limited familiarity with country music. As a lifelong resident of the West Coast, I considered country music more like a foreign language than anything else. But what I learned in Nashville was about the striking similarities between the music and the craft we practice in mediation. Clearly, songwriters everywhere resort to their own most intimate life stories to present lyrics that are compelling and universal. In doing so, they not only unpack their private woes, but offer a chance to reframe their past and work out their pain by connecting with an audience who is willing to hear their voice. As we see in the work that we do, so many people share in the same deep doubts and disappointments, the same self-deprecating laughs and poignant moments of grace, the same hurts and highs. Like a songwriter, we are often in the position of listening to the life stories of our clients (and their clients), helping them to see them in a different way, and then stringing along a melody that relates and communicates the basis for their dispute and a way out of it.

Daniel Porter taught us the tender, subtle cues, which frame the human personality. Whether it’s in the eyes, or the behavior or speech, if we understand the basis for the hurt or pain and whether it is feigned or genuine, we are so much better equipped to help the parties out of their conflict with dignity and integrity.

Doug Noll reminded us that as mediators, we need to ask about the emotions under the story and then listen before offering our own perspective on how to bring back hope and soothe those feelings of disgust and disdain. Just as a coda in music provides a moment of reflection or pause, Noll urged us to lead the disputants “up to the balcony” for a deep breath before resolving the conflict in a path uniquely chosen by them.

And Don Philbin, a newly inducted member of IAM, gave us a statistical analysis that reminded us that no matter the tune, the guitar has only 6 strings and that together they play a set of predictable chords and melody. We can bend the sounds to make the tune fit the lyrics, the story match the tempo, but ultimately, we have but limited input in getting to that moment where the natural chords subside and we create our own musical melody.

Our first lunchtime speaker, John Seigenthaler, was the former editor in Chief of The Tennessean, Nashville’s morning newspaper for 43 years. In 1982, he founded USA Today. He spoke of his own challenge in another demonstration of unsung mediation, when he served as Administrative Assistant to the U.S. Attorney General, Robert F.

Kennedy. He told of the negotiation with the Governor of Alabama to allow the Freedom Riders to pass through that State in the 1960's, and he told of that fateful night at the Ambassador Hotel in Los Angeles, when Kennedy was assassinated. Seigenthaler is a virtual treasure trove of America's historic struggles over First Amendment rights, diversity and national dialogue concerning free speech. His talk was humble, compelling and engaging, and he left us longing for more and proud to be in his audience.

We were also treated to a private concert at The Bluebird Café, where songwriters Thom Schuyler, J. Fred Knobloch, Tony Arata and Jelly Roll Johnson revealed their most intimate, poignant life stories through song. Their lyrics have made them a living for twenty or thirty years or more, but their voices have mostly been heard through other, more famous recording artists (including Faith Hill, Kenny Rodgers, Trisha Yearwood, Etta James, Rosanne Cash, Randy Travis and Garth Brooks). Listening to their stories made us laugh and made us cry. It was a kind of soul-baring intimate experience that both music and mediation can sometimes reveal. The songwriters at The Bluebird Café first lay down the ground rules, which request the audience to simply "Shhh..." during their performance, as a sign of respect and to allow them creativity in working through their stories and their music. In this way, we were able to more clearly observe and experience the emotions that went into writing the lyrics and hearing their voices more clearly without the normal distraction found in a bar or nightclub.

Dr. L. Randolph Lowry, former Dean of the Straus Institute at Pepperdine University School of Law in California and current President of Lipscomb University in Nashville, helped us to look for that intersection between our passion and other people's needs: whether we engage in system design for hospitals, prisons, churches or schools, we have valuable skills that should not be limited to commercial litigation. He gave us a framework that better defines conflict resolution when he said: "Peace is not the absence of conflict. Peace is dealing with conflict effectively, efficiently and respectfully."

The afternoon panel members, Peter Meyers, Steve Groom, Larry Bridgesmith and Denise Madigan reminded us that people need mediators and those passionate souls who are willing to respectfully and effectively listen to other people's needs, even when they are "real and they're raw" and that we do have the capacity to improve the human condition wherever unfairness, injustice, challenges and pain collide.

Our lunchtime speaker, W.J. Michael Cody, a 70+ Country Lawyer, revealed his own story of being recruited by the late Lucius Burch right after law school to return to Memphis, Tennessee so that he could assist the firm in taking up a defense of Dr. Martin Luther King, Jr. in paving the way for a peaceful march in Memphis: a march which was cut short by Dr. King's assassination while Cody was in Court pleading with the Federal Judge to essentially "Give Peace a Chance". His tale of Dr. King's prophetic "I have a Dream" speech on the eve of his assassination was nothing less than chilling. His intervention, in talking the African-American teens out of the church where they were protesting, and thereby avoiding the rioting that went on in so many other cities in the Nation in angry reaction to that event was hardly heralded as heroic; yet it was so

obviously the work of an unsung mediator who was called by his passion to meet other people's needs.

Cody was a small, but powerful voice in American history. He was, even in his 20's, a singular white man with the courage to stand up to the United States Government for something he believed in and for something the country had not yet come to grips would be a part of our national shame.

Our mock mediation involved a performer and his agent, who had backed out of a concert based upon issues with the venue. There were the expected claims for breach of contract and counter-claim for loss of income. At the conclusion, the performer, Alex Harvey, performed the song he wrote in the 1970's which was famously recorded by Kenny Rodgers and The First Edition, "Delta Dawn". Although many of us were familiar with the tune and even the lyrics, we didn't know that the song was written by a young Harvey about losing his mother at age 14 and blaming himself for her mysterious, untimely death. It was made even more surprising because the actor in the mock mediation professed to refuse to pay the mediator's fee (when our own Lee Jay Berman concluded the session), offering instead a kind of barter of a song or two. His performance was not only a highlight of the conference, but served to underscore the message that music is but a metaphor for the framing and reflecting back that we employ in order to tell a human story before the solution to the conflict can be found.

At the Banquet, which was held at the Country Music Hall of Fame, we were able to view Elvis Presley's Gold Inlaid Cadillac, and read stories which revealed heartbreak upon heartbreak of talented musicians, whose lives and families were devastated by alcohol, pain, and poverty. During the dinner, we had the privilege to hear the very humble story of our own member, George Brown, who was the first African American Supreme Court Judge ever appointed to the Tennessee Court. He told a story of a segregated South where an African-American woman went in search of a washing machine that was not white in color. The salesman, eager to please, pointed out that although all of the machines were built in white, in the inside, they had a mechanism known as the "agitator", which was black in color. Brown reminded us that this was a metaphor for his own career and life's work, as the agitator in an otherwise White machine. We were all made proud when Michael Cody acknowledged Brown's collaboration with his firm in founding a pro bono legal services clinic in the basement of his church in the 1960's to give the African American citizens access to legal counsel and thereby access to justice in a post-civil rights South.

The banquet was also the showcase for two rising country music stars (our own Gary Weissman and Cliff Hendler) to synopsise the Conference in the parody they wrote to the tune of "The Rolling Tennessee River". The full lyrics follow, but when the chorus came round, the IAM'ers joined in a sing-along with the words: "When it's close to 4 P.M., fellows of the IAM, know that it is time to bend the curve."

The parody, which has become a much anticipated tradition at our Conferences, poked fun at our Ivy League pedigrees, re-capped the highs and lows of the presentations

(from the tell-tale sign of false tears without a dripping nose to the sad reality that matters of public policy urgently need mediators, but generally can't afford to compensate them). Of course, the songs behind the song (like the lyrics of Alex Harvey's funny tale of the 22 divorced women in his town) made their own appearance in this clever ode to the IAM conference in Nashville.

At the conclusion of our "Open Microphone" session on Saturday, a beautiful, soulful young artist, Sammi Moore, treated us to one last song. Her website describes the music she sings as: "It's real and it's raw". She says: "If I'm hurting because something bad happens, I always turn to music and I feel better."

The music is an apt metaphor for the mediating that we do. It's at times improvisational, at times poignant and at other times humorous, but Country Music consistently frames the window through which we can view the highs and lows of the human condition. It's original, yet confined to a predictable range of instruments. It's that honky tonk sound that will not soon be forgotten by those that attended this special conference in Nashville.

In the end, it was so clear that the IAM members who attended were energized with the beat of country music in our ears to make the world a better place, one achy breaky heart at a time.

Jan Frankel Schau

SUMMARY OF THE NASHVILLE IAM CONFERENCE

TUNE: *The Rolling Tennessee River*

Disputants who are in turmoil
Surely know that lies are oil.
They shift their eyes and try to second-guess.
Contractions manifest fatigue
Unless you're from the Ivy League.
Equivocating mitigates the stress.

CHORUS: WHEN it's close to 4:00 p.m.
Fellows of the I.A.M.
Know that it is time to bend the curve.

The five-factor continuum
Is a handy Rule of Thumb
To gauge a party's personality.
Be attentive; do not blame;
Remove the triggers; change the frame.
If they're the types who have no empathy.

(CHORUS)

It may not mean diddly-squat
If they're sobbing without snout.
You'll find they are likely croco-tears.
Deception is a way to gain
Self-esteem without much pain.
Truthiness is not what it appears.

(CHORUS)

If you really like to see
Confidentiality,
Public policy won't work for you.
Yes, there's a new paradigm,
Yes, we'll stretch to make a rhyme.
Brand new rules, and pluck your soul strings too.

(CHORUS)

To ring the governmental bell
Need to serve before you sell

As THE convenor, or some other name.
If you want to make big bucks,
Convict resolution sucks.
BUT succeed by yelling "it's a shame!"

(CHORUS)

It is a five-dollar fine
If you dare decide to whine.
Goin' home is what you need to do.
If you stay, you better pray,
Hope that joy will rule the day,
Or you'll end up with Number 22.