



IAM

**Moving from the
Unconscious to the
Self-Aware...**

...Exploring How the Unconscious Mind
Sets Traps for the Unwary Mediator

Moving from the Unconscious to the Self Aware Conference Program

Pre-Conference – Wednesday, May 29

3:30 – 6:30 PM Board of Governors Meeting (Oak Room)

Thursday – May 30

Spouse/Guest Tour Buses Depart 9:30 AM (meet in the hotel lobby 9:15)

Discover Banff Wildlife Tour/Banff Wildlife Tour with Gondola Ride/Johnston Canyon Hike

8:00 – 9:00 Breakfast for All Attendees – Special welcome for New Attendees, Mentees and Ambassadors (Conservatory room - Mezzanine 2)

9:00 – 10:40 Priming for Success in Mediation* (Cascade Room) - Mezzanine 2

Professor John Bargh, Founder and Director of the ACME (Automaticity in Cognition, Motivation, and Evaluation) lab, and Professor of Psychology and Management at Yale University. Professor John Bargh, the world's leading expert on the unconscious mind, its impact on conscious thought and behavior, and its role in decision making, will help us understand how ordinary sights, sounds, words, smells, and even our thoughts, can have a material impact on the decisions we – and our clients and parties – make. We will then explore how we as mediators can use this understanding to create more successful mediation experiences for ourselves and the parties while avoiding unintended pitfalls. *Free copy of Dr. Bargh's groundbreaking book, *BEFORE YOU KNOW IT: The Unconscious Reasons We Do What We Do* for all attendees!

10:40-11:00 BREAK



11:00-12:15 Junto Sessions 1 (TBA: Cascade/Oak/Norquay rooms - Mezzanine 1)

Pre-Suasion: Priming the parties for success and other cognitive illusions

Evaluative Mediation Techniques and Mediator's Proposals

Confidentiality v Public Interest in Transparency

"Oh, So it's You Again: Mediating With Repeat Players"

Centering Thy Self

Dealing with "the Ism's": racism, cultural bias, sexism, homophobia

12:15-1:45 Lunch (Conservatory)

1:45-3:00 Interdisciplinary Approach To Overcoming Barriers (Cascade)

with moderator Jon Fidler (IAM Distinguished Fellow and IAM Vice President) and panelists *Dr. Mark Goulston* (former UCLA professor of psychiatry, FBI hostage negotiation trainer and leading authority on deep listening); *Rabbi Shaul Osadchey* (senior rabbi of Beth Tzedec Congregation, Calgary, co-founder Calgary Jewish-Muslim Council); and *Ben Cunningham* (Founding partner of Lakeside Mediation Center, former Harris County Sheriff's Department hostage/crisis negotiator)

We do not have a monopoly on conflict resolution, or conflict resolution techniques. There is much for us to learn as mediators of legal disputes about how to engage with individuals experiencing honest, and often painfully personal disputes. With the help of experts in psychology (*Dr. Mark Goulston*), law enforcement (*Ben Cunningham*), and spirituality (*Rabbi Shaul Osadchey*), we will look at how other experts who are similarly faced with individual and group conflicts, bring their own background, training, and experiences to bear. By understanding how other disciplines approach conflict and seek to overcome barriers to agreement, we can pick up tools and techniques we can incorporate into our own mediations.



3:00-3:15 PEPP Talk 1 – Mediation Magic In East Africa with James Mangerere (Cascade)

3:15 – 3:40 IAM Business

3:40 – 5:30 Free Time

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5:30-6:30 **Cocktail Party: Guests Welcome** (*Mt. Stephen Hall Room - Mezzanine 1*)

7:00 **Sign and Dine** (*Registration Table*)

Friday – May 31

Guests/Spouses Tour Buses Depart 9:30 AM (*Meet in the hotel lobby at 9:15*)

Discover Kananaskis Country · Discover Kootenay Hike

8:00 – 9:00 **Breakfast for all attendees – Optional Breakfast Discussion on Diversity in The Mediation Profession** (*Conservatory*)

On Friday and Saturday mornings, we will be holding optional specialty breakfast discussions on topics fundamental to the practice of mediation as a profession. These discussions are open to all members and are designed to inspire, challenge, and engage our imaginations. On Friday morning, we will discuss diversity in our profession. It goes without saying that the mediation profession – particularly with respect to high-paying mediations of complex commercial legal disputes – is embarrassingly bereft of diversity. One could probably count on one hand the number of African American women mediating complex litigated cases in the entire state of California. And maybe have some fingers left over. This lack of diversity – be that with respect to race, age, gender, disability, sexual orientation, national origin, or any other meaningful criteria – hurts mediation as a profession. But is also deprives some parties of mediators who may be better able to relate to them or their circumstances, and hence be better able to mediate their dispute. This breakfast discussion will focus on the implications of today's state of the mediation profession, and then look to what **we as mediators can do personally** to address this situation.

9:00 – 10:30 **Understanding Fast and Slow Thinking and Unconscious Emotional Decision Making** (*Cascade Room*)

With Professor Cendri Hutcherson, director of the Decision Neuroscience Laboratory, and Professor of Psychology at the University of Toronto. Professor Cendri Hutcherson, leading expert on the hidden influences on decision-making, will help us understand the basic principles of Fast and Slow thinking as described in Daniel Kahneman's seminal book. From that foundation, Professor Hutcherson will explore how this dichotomy impacts decision-making, how it plays out in mediation, and what we can do with this understanding to help parties make better decisions. Among other topics, Professor Hutcherson will look at the circumstances mediators often face of engaging with parties who are stuck in an emotional decision-making state and explore ways of addressing it.

10:30-11:00 BREAK



11:00-11:15 **PEPP Talk 2 – Talking to Crazy: How to Deal with the Irrational and Impossible People in Your Life** *with Dr. Mark Goulston* (*Cascade Room*)

What can you do with a boss who bullies, a spouse who yells, or a friend who frequently bursts into tears? How do you negotiate with *crazy*? Dr. Goulston will share his formula for getting through to the resistant people in our lives and mediations.



11:15-12:30 **Junto Sessions** (*TBA: Cascade/Oak/Norquay rooms*)

Settlement Drift: Dealing with the extreme and unreasonable, the impatient and unrealistic

Creating Safe Spaces and Engaging in Difficult Conversations

Mediation 2025 – where is it going...and where should it go?

The Business of Pre-Mediation calls and Post-Mediation Follow-Up

Hail Mary's and Other Closing Techniques when Impasse Seems Otherwise Imminent

Do Mediators Lie? When Is "Fudging The Truth" OK in Mediation?

12:30-1:30 **Lunch**

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2:00-3:00 *Grieving over Settlement with Dwight Golan, IAM SIR (Cascade Room)*

IAM Scholar In Residence and Suffolk University law professor Dwight Golann will explore the relationship between mediation and the parties' sense of loss. For instance, why are parties' perceptions of loss in settlement so common and so strong? How do these feelings of loss create obstacles to resolution? And perhaps most importantly, how can mediators lessen the parties' perceptions of loss and the feelings they generate, work with lawyers who may welcome or reject mediator "therapizing", and deal with the dysfunctional bargaining behaviors created by the sense of loss to guide disputants to settlement.

3:00-4:30 *Mediator Self-Awareness and Unconscious Cultural Biases (Cascade Room)*

With Stephanie Blondell, Professor of Law and Associate Director of Pepperdine's Straus Institute for Dispute Resolution; Steve Rottman, IAM Distinguished Fellow. Mediators regularly face the challenge of staying neutral in the face of difficult dynamics that often challenge our neutrality. Sometimes these challenges are obvious – mediating with offensive people or parties whose very world view or business is antithetical to our own. Yes, neo-Nazi white supremacists, unapologetic misogynists, and just your average a-holes get into legal disputes and come to mediation seeking our help. With the help of Shaphan Roberts from the Los Angeles City Attorney's community Dispute Resolution Program, Straus Institute Professor Stephanie Blondell, and IAM Distinguished Fellow Steve Rottman, we will examine the explicit and implicit forces that can challenge our neutrality. We will look at how we can check in with ourselves as we mediate to ensure we are maintaining neutrality during contentious sessions, and we will develop strategies for maintaining a sense of balance and fairness when our biases are being triggered.

4:30-6:00 *Free time*

7:00 -10:30 *Cocktails and Banquet (Riverview Room/Alberta/New Brunswick Room)*

Because we are in the relaxed mountain atmosphere of Banff, this year's dress code for our banquet will be Smart Casual, meaning coats, ties, jackets are **not** required. In addition, this evening will mark a surprise in musical entertainment from IAM's new house band *The New Trolls*.

Saturday – June 1

8:00 – 8:45 *Breakfast for all attendees – Optional Specialty Breakfast Discussion on the State of Mediation...And Its Future (Cascade Room)*

As has been discussed from time to time on the IAM listserv, there is a growing dissatisfaction with the direction our mediation process has moved over the years as attorneys become more familiar with – and seek to control – the process. This is not just a California phenomenon, though it is certainly prominent in that state. From the disappearance of joint sessions to the slowly eroding participation of parties themselves, to the expectation that mediators will simply help lawyers negotiate rather than mediate, our profession is changing, and some may say is under attack. This specialty breakfast discussion will look at how the mediation process is evolving, why it is happening, and what if anything can be done about it.

9:00 – 3/4:30 *Bus trip for Attendees and Guests to Lake Louise (must be pre-registered) (Meet in Hotel lobby at (8:45)*

Enjoy a relaxed morning bus drive to Lake Louise where you will have time for a walk around the hotel and the lake. Take in the breath-taking views of incredible scenery. A delicious BBQ lunch will be served at 11:30. After lunch, enjoy more free time to discover this special place with outdoor pursuits: hike, rent a canoe or try horseback riding! If you prefer, the Château Lake Louise has various shops, lounges, restaurants and fabulous architecture that will impress you for hours. A selection of transport options will be available for those who would want to go straight back to Banff or alternatively take a quick stop via Moraine Lake, one of the most iconic and photographed lakes in Banff National Park.

1:30 *Conference Concludes*

Moving from the Unconscious to the Self Aware

2019 BANFF IAM Conference Speakers



John Bargh

Session: Priming for Success in Mediation

Dr. John Bargh is the world's leading expert on the unconscious mind, its impact on conscious thought and behavior, and its role in decision making. For the past three decades, Dr. Bargh has been responsible for the revolutionary research into the unconscious mind, including the effects of priming on behavior, research that informed bestsellers like Malcom Gladwell's *Blink* and Daniel Kahneman's *Thinking, Fast and Slow*. Dr. Bargh now has his own bestseller, *Before You Know It: The Unconscious Reasons We Do What We Do*, which takes the reader into his labs at New York University and Yale where he and his colleagues discovered how the unconscious guides our behavior, goals, and motivations in areas like race relations, parenting, business, consumer behavior, and addiction. In his book, a copy of which will be given to each attendee of our

conference, Dr. Bargh reveals what science now knows about the pervasive influence of the unconscious mind in who we choose to date or vote for, what we buy, where we live, how we perform on tests and in job interviews, and much more. Depending on how far you want to take it, Dr. Bargh's research even raises questions of free will...and destiny.

Dr. Bargh "majored in psychology and minored in Led Zeppelin." He did his graduate PhD work at Michigan before becoming a professor at NYU in Greenwich Village. There he founded the ACME lab which focuses on unconscious or automatic ways in which our current environmental surroundings cause us to think, feel, and behave without our conscious intention or knowledge. Dr. Bargh and the lab moved to Yale in 2003. Today, besides directing the ACME lab, Dr. Bargh is the James Rowland Angell Professor of Psychology, and Professor of Management, at Yale University. He has over 200 research publications and has been awarded a Guggenheim Fellowship (2001), both the Early (1989) and Distinguished (2014) Career Achievement Awards from the American Psychological Association, an Honorary Doctorate from Radboud University, Nijmegen, The Netherlands (2008), and the Donald T. Campbell Award for Distinguished Career in Social Psychology (2006). He was inducted into American Academy of Arts & Sciences in 2011.



Cendri Hutcherson

Session: Understanding Fast and Slow Thinking and Unconscious Emotional Decision Making

Dr. Cendri Hutcherson is the director of the Decision Neuroscience Laboratory, and an Assistant Professor of Psychology at the University of Toronto. She received degrees in psychology from Harvard (B.A.) and Stanford (Ph.D.), and spent several years as a postdoctoral scholar studying neuroeconomics at the California Institute of Technology. Professor Hutcherson's research interests into decision-making are wide-ranging and fascinating. For instance, she has studied how and why some people make selfish, unethical, and short-

sighted decisions, which impact routine daily decisions such as what to eat, whether to be altruistic, even whether to act morally. She asks, and tries to answer, such basic questions as "why is cheesecake so hard to resist? When is it easier or harder to be generous? What orients our moral compass, and how do we manage to steer a course with it?" To answer these questions, Professor Hutcherson examines the architecture of the brain, as well as the computational mechanisms it uses to make a decision. She engages in dynamic behavioral analysis, computational modeling, fMRI, EEG, and machine learning.

More importantly, Professor Hutcherson willingly admits that she loves the deep philosophical implications of neuroscience and psychology ... "and also the pretty brain pictures." She is not averse to finding the ironies in human behavior, as evidenced by this tweet: "This just in! 94% of people want superpowers. Most would use them for selfish ends. So much for super-altruism!" The IAM is privileged to have Professor Hutcherson share her expertise with us and help us better understand the decision-making processes of those parties looking to us for guidance.

Dr. Mark Goulston

Session: PEPP Talk – Talking to Crazy: How to Deal with the Irrational and Impossible People in Your Life; Session Panelist: Interdisciplinary Approach To Overcoming Barriers



Dr. Mark Goulston hosts the "My Wakeup Call" podcast, is a former UCLA professor of psychiatry, FBI hostage negotiation trainer and one of the world's leading authorities on deep listening with his book, "Just Listen," becoming the top book on listening in the world. His recent book, *Talking to Crazy: How to Deal with Irrational and Impossible People*, was translated into Russian as *How to Talk to Assholes*, and went viral in that country.

Moving from the Unconscious to the Self Aware



Rabbi Shaul Osadchey

Session Panelist: Interdisciplinary Approach To Overcoming Barriers

Rabbi Shaul Osadchey is currently in his ninth year of service as the senior rabbi of Beth Tzedec Congregation where he has re-energized the congregation with new ideas and innovative programs. In the interfaith community, Rabbi Osadchey currently serves as a co-chair of the Calgary Interfaith Council and as co-chair of the Habitat for Humanity Interfaith Build Project. He is a past-President of the Calgary Council of Christians and Jews and participates in several interfaith groups. In the wake of 2014 Israel-Palestinian conflict, Rabbi Osadchey co-founded the Calgary Jewish-Muslim Council bringing rabbis and imams together to address common concerns and to promote mutual respect and understanding. A native of Los Angeles, Rabbi Shaul Osadchey served the Jewish community of Houston, Texas for 30 years prior to coming to Calgary. In Houston, he was distinguished for his educational programming, his passion for interfaith work, and for social justice activism. Rabbi Osadchey holds B.A. degrees in Religious Studies and Political Science from the University of California, Berkeley, a master's degree in Hebrew Language from Hebrew Union College, and was awarded Doctor of Divinity, honoris causis, degrees from both Hebrew Union College and the Jewish Theological Seminary. Rabbi Osadchey and his wife, Bobbie, married in 2000. They have six children and eleven grandchildren.



Stephanie Blondell

Session: Mediator Self-Awareness and Unconscious Cultural Biases

Professor Blondell is an Assistant Professor of Law and Associate Director of the Straus Institute for Dispute Resolution and is the Director of the Master of Dispute Resolution Program in West Los Angeles. Professor Blondell teaches Mediation Theory and Practice, Psychology of Conflict, Criminal Law, and supervises the Mediation Clinic. Professor Blondell also is a lead faculty for Mediating the Litigated Case in Washington, D.C. and internationally. Prior to joining the Pepperdine community, Professor Blondell served as the Manager of the King County Alternative Dispute Resolution Program and Interlocal Conflict Resolution Group, a labor-management and public policy mediation program serving a tri-county region in Seattle. She also served as the Alternative Dispute Resolution Coordinator for the City of Seattle where she designed and implemented an employment mediation program for City government in a joint labor-management context. Professor Blondell was also the Court and Program Manager for the Dispute Resolution Center of King County, managing the mediation activities of twelve divisions of the district court. In these capacities, Professor Blondell trained and supervised the mediation practicum of over a hundred law students, attorneys and non-attorneys. It is here she developed a passion for passing on the face of rigorous and mindful professionalism to new lawyers in a classroom and clinical setting.



Ben Cunningham

Session Panelist: Interdisciplinary Approach To Overcoming Barriers

Ben is a founding partner of Lakeside Mediation Center (Galton, Cunningham & Bourgeois, PLLC), a nationally and internationally recognized Mediation and Arbitration practice for twenty years. An accomplished trial attorney, mediator, and settlement counsel, Ben has presided as a mediator over thousands of settlements. Ben has served as an Adjunct Professor at Texas State University, a visiting lecturer in mediation studies at the University of Texas, Austin, and participates in the University's Center for Public Policy and Dispute Resolution basic and advanced mediation trainings. In a prior incarnation, Ben served for several years with the Harris County Sheriff's Department (in Houston, Texas) as a patrol deputy and hostage/crisis negotiator. In recent years, Ben has been invited to provide advanced training for hostage/crisis negotiators at the Austin Police Academy. Over the decades Ben has earned the reputation as a preeminent attorney (Martindale AV Preeminent: 20 years), has been recognized by the Texas Mediator Credentialing Association (under the auspices of the Supreme Court of Texas) as a Credentialed-Distinguished Mediator. Ben regularly participates as a CLE speaker, which has included engagements with the Association of Attorney-Mediators; the Texas Association of Mediators; and the International Academy of Mediators. For almost two decades, Ben has served on the Graduate Advisory Board for the master's degree programs in Legal Studies and ADR at Texas State University. He is a past President and board member of the Austin-Travis County non-profit Dispute Resolution Center, and a past member of the board for the Texas Association of Mediators. Ben is a contributing author for the best-selling American Bar Association Press book, "Stories Mediators Tell." He has lectured frequently on the intersection of mediation, hostage negotiation, and the martial arts. And he still looks forward to heading to the office every day to dive into the next mediation. When not at work as a lawyer and mediator, Ben has managed to raise six remarkable children.

Moving from the Unconscious to the Self Aware



Dwight Golann

Session: Grieving over Settlement Dwight Golann is Professor of Law at Suffolk University in Boston and an active mediator of legal disputes. He has led seminars on mediation and mediation advocacy for federal courts, the ABA, the European Union, the Peoples' Republic of China, and major law firms and corporations. Professor Golann is the author of five books, including *Mediating Legal Disputes* and the new ABA book and video on advocacy, *How to Share a Mediator's Powers*. He is co-author of three law school texts on dispute resolution. Before becoming an academic and neutral, Prof. Golann was an active litigator. He served as Chief of the Government Bureau of the Massachusetts Attorney General's Office, directing the litigation and settlement of all claims brought against the state, and as a special prosecutor, trying and arguing cases at every level of the court system. Professor Golann has been named to America's Best Lawyers for several years and is the recipient of the Lifetime Achievement Award of the American College of Civil Mediators. He is a graduate of Amherst College and Harvard Law School.



Shaphan Roberts is the Director for Los Angeles City Attorney's Dispute Resolution Program and has earned his MBA from Pepperdine University's PKE program. Mr. Roberts manages the coordination of all programmatic aspects of the Dispute Resolution Program, including: community mediation, the Community Police Unification (CPU) Program, Rent Stabilization Ordinance (RSO) mediations, and growth of the program in line with the goals of the City Attorney's Community Justice Initiative. Mr. Roberts also serves as the head liaison with public and private alternative dispute resolution programs; with federal, state, and local agencies, colleges, and universities; and with restorative justice entities and other community-based organizations. Most recently, Mr. Roberts lead an inter-agency collaboration between the Los Angeles City Attorney's Office and the Los Angeles Police Department to develop and implement a 36-month pilot program currently known as the CPU Program, the City's award-winning community police mediation program. The CPU aims to create a better understanding between the police department and the

community it serves by creating an opportunity to bring community members and law enforcement together to mediate selected complaints of biased policing or discourtesy. As part of his efforts in this area, he spearheaded the design of the program's Responsivity Tool which aids in an informed matching of mediators with mediation participants. After navigating to completion, the successful pilot program, the Los Angeles Police Commission unanimously passed a resolution recommending the permanent adoption of the Community Police Unification (CPU)

2019 BANFF IAM Conference Junto Sessions

Prof. John Bargh, Yale University
Stephanie Blondell, Malibu, CA: Honorary Member
Thierry Garby, Paris FR: Distinguished Fellow
Eric Gossin, Toronto, ON: Fellow
Lee Jacobson, Fresno, CA: Distinguished Fellow
Wendy Kramer, Santa Monica, CA: Distinguished Fellow
Alicia Kuin, Toronto, ON: Fellow
Denise Madigan, Los Angeles, CA: Distinguished Fellow
Jerry Palmer, Topeka, KS: Distinguished Fellow
Ben Picker, Philadelphia, PA: Distinguished Fellow
Jan Schau, Encino, CA: Distinguished Fellow
Todd Smith, Calabasas, CA: Distinguished Fellow

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Chuck Doran, Boston, MA: Distinguished Fellow
Elaine Gordon, Westbrook, CT: Distinguished Fellow
Cliff Hendler, Toronto, ON: Distinguished Fellow
Michel Kallipetis, London, UK: Distinguished Fellow
Jeff Krivis, Encino, CA: Distinguished Fellow
Mike Leech, Chicago, IL: Distinguished Fellow
Paul Van Osselaer, Austin, TX: Distinguished Fellow
Steve Paul, Los Angeles, CA: Distinguished Fellow
Cynthia Remmers, Oakland, CA: Distinguished Fellow
Gail Sirmans, New York, NY: Distinguished Fellow

Welcome to the 2019 IAM Inductees

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