

# SOLUTION FOCUSED MEDIATION

by Fredrike P. Bannink

*“Winning will depend on not wanting other people to lose.”*

--R. Wright. *Nonzero. History, Evolution and Human Cooperation*

## INTRODUCTION

Using mediation, conflicts can often be resolved rapidly, economically and at an early stage, with a satisfying outcome for the clients involved. From the perspective of ‘game theory’ mediation revolves around a non-zero-sum game (‘win-win’), whereas a judicial procedure revolves around a zero-sum game (‘win-lose’). ‘Win-win’ means you swim together. ‘Lose-lose’ means you sink together. ‘Win-lose’ means you swim and the other party sinks, or if the other party swims, you sink. (Schelling, 1960; Wright, 2000). Mediation can help to form or strengthen relationships encouraging trust and respect or, alternatively, to end relationships in as pleasant a manner as possible. Not all forms of mediation accomplish the same goals in the same way.

## THE SOLUTION FOCUSED MODEL

Solution focused mediation asks: What would you prefer instead of the conflict? The focus is on the preferred future. Clients are considered competent in formulating their own hopes for the future and of devising solutions to make it happen. The mediator’s expertise lies in asking solution focused questions and in motivating clients to change. The concept and the methodology differ significantly from other types of mediation. Conversations become more positive and shorter; ensuring that solution focused mediation is also cost-effective.

Developed during the 1980s by De Shazer, Berg and colleagues, the solution focused model expands upon the findings of Watzlawick, Weakland and Fish (1974), who found that the attempted solution would sometimes perpetuate the problem and that an understanding of the origins of the problem was not necessary. Propositions of the solution focused model include (De Shazer, 1985):



- *The development of a solution is not necessarily related to the problem (or conflict).* An analysis of the problem is not useful in finding solutions, whereas an analysis of exceptions to the problem is.
- *The clients are the experts.* They determine their preferred future and the road to achieving it. De Shazer (1994) assumes that problems (or conflicts) are subway tokens: they get a person through the gate (to the table of the mediator) but do not determine which train he will take, nor do they determine at which stop he will get off.
- *If it is not broken, do not fix it.* Leave alone what is positive in the clients' perception.
- *If something works, continue with it.* Even though it may be something completely different from what was expected.
- *If something does not work, do something else.* More of the same leads nowhere.

Building solutions is different from problem solving. According to the cause-and-effect 'medical' model, one should explore and analyze the conflict in order to make a diagnosis, before the 'remedy' can be administered. This model is useful where it concerns relatively simple problems, which can be reduced to uncomplicated and distinct causes, for example simple medical or mechanical problems. A disadvantage is that this model is problem focused. If the conflict and its possible causes are studied, a vicious circle may be created with ever increasing problems. The atmosphere becomes loaded with problems, bringing with it the danger of losing sight of solutions.

## LOOKING TO THE FUTURE

De Bono (1985) distinguished four dimensions in conflict thinking: is the action *fight*, *negotiate*, *problem solve* or *design*? The *fighting* approach revolves around tactics, strategy and weak points. It includes the language of the courtroom, where winning is the goal. *Negotiating* suggests a compromise, whereby the possibilities are limited to what already exists, rather than envisioning something new. *Problem solving* concerns the analysis of the problem along with its causes. These three ways of thinking about conflict look *backward* at what already exists.

The fourth and best conflict resolution approach is the *design approach*. It is *solution focused* and looks *forward* at what might be created. One possibility is to first determine the end point and then to see what solutions may get us there. Another approach is to simply jump to the end and conceive a 'dream solution'. Its content can be illogical, because it concerns a fantasy. More importantly it can suggest circumstances in which the conflict would no longer exist: '*Imagine the conflict resolved, what would you then be doing differently?*'

Salacuse (1991) mentions a few rules to ensure that clients are 'paddling the same canoe in the same direction'. First, precisely define the goal of the negotiations and investigate new possibilities for creative solutions that serve the interests of all clients. Emphasize the positive aspects of the goal and of the relationship, and stress those moments when agreements are (already) reached and when progress is (already) being made. Salacuse (2000) also discusses the importance of having a vision of the end result. Michelangelo could already see in a block of marble the magnificence of David, as Mozart already heard in his quiet study the overpowering strains of the Requiem. What clients seek is not just help but help with their future: 'Whether an advisor is a doctor, a lawyer, a financial consultant or a psychotherapist, his or her mission is to help the client make a better future' (p. 44).

Mnookin et al. (2000) note that lawyers and clients tend to overlook solutions possibly lying *outside* the field of the original conflict. Frequently, these solutions have *nothing* to do with the formal conflict and the agreement may be of an order that could never be envisaged in a courtroom.

A mediator can only mediate in the future tense (Haynes, Haynes & Fong, 2004). They propose that a mediator uses future focused questions to initiate change: ‘Most clients are highly articulate about what they *do not* want and equally reticent about what they *do* want. However, the mediator is only useful to the clients in helping them to determine what they do want in the future and then helping them decide how they can get what they want. It is difficult for the mediator to help clients not get what they do not want, which is what clients expect if the mediator dwells with them on the past’ (p. 7).

## SOLUTION FOCUSED MEDIATION IN PRACTICE

Solution focused conversations revolve around four main questions: 1) What is your best hope? 2) What difference would that make? 3) What is already working towards it? 4) What would be the next step?

- *What is your best hope?* The first question follows introductions, an explanation of solution focused mediation, and a presentation of the structure and rules of play. It focuses on what needs to come out of the mediation. Clients may react to this with a (brief) description of the conflict, to which the mediator listens with respect, or they may immediately indicate their hopes and wishes. In solution focused mediation it is important to both acknowledge and validate the influences of the conflict *and* to help clients to change the situation. It may be helpful to give clients one opportunity to say what needs to be said at the start of the mediation to reduce reverberating of negative emotions.
- *Developing a clearly formulated (mutual) goal.* Clients are invited to describe their (shared) preferred future: What difference would that make? Sometimes the *miracle question* is put forward: ‘Imagine a miracle occurring tonight that would (sufficiently) solve the conflict which brought you here, but you were unaware of this as you were asleep. What would be the first sign tomorrow morning that you would tell you that this miracle has happened? What would be different (between you)? ‘What would you be doing differently?’
- *Assessing motivation to change.* The mediator assesses the relationship with each client. Did the participant personally come forward in search of help? Is the participant suffering emotionally, but does not (yet) see herself as part of the conflict and/or the solution? Does the participant see himself as part of the conflict and/or solution and is motivated to change his behavior?

The solution focused mediator goes beyond the verification of commitment: he is trained in relating to the existing motivation and in stimulating change. This early assessment of each client’s level of motivation is of essential importance for the strategy of the mediator.

- *Exploring the exceptions.* There are always exceptions to the problem (Wittgenstein, 1968). Questions are asked regarding the moments when the conflict is or was less serious and who does what to bring these exceptions about. The mediator can also ask about moments that already meet (to a degree) the clients’ preferred future.
- *Utilizing competence questions.* The mediator evaluates the clients’ competences through questions such as: ‘How did you do that? How did you decide to do that? How did you manage to do that?’ The answers are empowering and may help reveal whether something which helps or has helped at an earlier stage can be repeated (*if it works, continue with it*).

- *Utilizing scaling questions (10 = very good, 0 = very bad).* On a relationship scale 10 would mean ‘pure collaboration’, clients having identical preferences regarding the outcome and 0 would mean ‘pure conflict’ (Schelling, 1960). Scaling questions can be asked in order for the mediator to assess improvement. ‘What is already working in the right direction? What else? And what else?’ Scaling questions can also serve to measure and speed up progress in the mediation, to measure and stimulate motivation and confidence that the goal can be achieved. ‘What would be the next step?’ is a nice way to continue the conversation.
- *Feedback at the end of the session.* At the end of a solution focused conversation the mediator may formulate feedback for the clients, which contains compliments and usually some homework suggestions. The compliments emphasize what clients are already constructively doing in order to reach their goal and can be seen as a form of positive reinforcement. The suggestions indicate areas requiring attention by the clients or further actions to reach a higher point on the scale. The solution focused mediator also invites the clients to give their feedback at the end of every session.
- *Evaluating progress.* Progress is evaluated in every session on a scale of 10 (goal achieved) to 0 (worst situation the clients can imagine). The conversation continues to explore what is yet to be done before the clients would consider the preferred future (sufficiently) reached and would deem the mediation process complete. Every solution focused conversation is considered the final one; at the end of every conversation the mediator asks whether another meeting is still considered necessary. If the clients deem that it is, they determine the scheduling of the next meeting.
- *The attitude of the mediator* is one of ‘not knowing’ and ‘leading from one step behind’. In a sense the mediator stands behind the clients and prods them with solution focused questions, inviting them to look at their preferred future and defining solutions to get there.

See Table 1 for an overview of differences between problem focused and solution focused mediation.



**Table 1**

Problem-Focused Mediation	Solution-Focused Mediation
Past/present-oriented	Future-oriented
Conversations about what clients do not want (the conflict)	Conversations about what clients do want instead of the conflict (preferred future)
Focus on the conflict: exploring and analyzing the conflict	Focus on exceptions to the conflict: exploring and analyzing the exceptions
Conversations about the same and impossibilities	Conversations about differences and possibilities
Conversations for insight and working through. Conversations about blame and invalidation	Conversations for accountability and action. No invitations to blame and invalidation. Insight may come during or after mediation
Clients are sometimes seen as not motivated (resistance)	Clients are seen as motivated (although their goal may not be the goal of the mediator)
Client is sometimes viewed as incompetent (deficit model)	Client is always viewed as competent, having strengths and abilities (resource model)
Mediator gives advice to client: he is the expert	Mediator asks questions: clients are the experts. Attitude of the mediator is 'not-knowing' and 'leading from one step behind'
Mediators theory of change	Client's theory of change
Expression of affect is goal of mediation	Goals are individualized for all clients and do not necessarily involve expression of affect
Recognition and empowerment are goals of mediation	Recognition and empowerment can be means in reaching the preferred future
Interpretation	Acknowledgement, validation and opening possibilities
Big changes are needed	Small changes are often sufficient
New skills have to be learned	Nothing new has to be learned: clients are competent and have made changes before
Maybe feedback from clients at end of mediation	Feedback from clients at the end of every session
Long-term mediation	Variable/individualized length of mediation: often short-term mediation
Mediator indicates end of mediation	Clients indicate end of mediation
Success in mediation is defined as the resolution of the conflict	Success in mediation is defined as the reaching of the preferred outcome, which may be different from (or better than) the resolution of the conflict

## CONCLUDING REMARKS

In mediation the measure of success is not whether one client wins at the other client's expense, but whether he gets what he wants *because* he enables the other to achieve his dreams and to do what he wants. Mediators could be trained to help their clients design their dreams and solutions and assist them in the motivation to change. Clients can be motivated to work hard to achieve their goal.

Research has shown that solution focused conversations have a positive effect in less time and that they satisfy the client's need for autonomy more than problem focused conversations (Stams et al., 2006). The solution focused model has proved to be applicable in all situations where there is the possibility of a conversation between client and professional, in (mental) health care (De Shazer, 1985; De Jong & Berg, 2002; Bannink, 2006, 2007, 2008c; Bakker & Bannink, 2008), in management and coaching (Cauffman, 2003, Stam & Bannink, 2008), in education (Goei & Bannink, 2005), in working with mentally retarded people (Roeden & Bannink, 2007) and in mediation (Bannink, 2006ac, 2008abd). The solution focused model helps clients *and* mediators create their future with a difference.

### CASE EXAMPLE: SOLUTION FOCUSED MEDIATION

Driving to work one morning Ben Johnston (age 44) is hit from behind by a van while waiting at a traffic light. The collision is not too serious, with damage limited to the back of the car. The driver of the van apologizes and the accident claim forms are completed.

A few days later Ben begins to experience neck pain. The pain increases, he is unable to continue his job as a construction worker and remains at home. He is diagnosed with whiplash.

Two months later Ben is still unable to work: his condition has not improved. He is considering making a compensation claim and on more than one occasion he calls the van driver's insurance company, with discussions becoming increasingly heated. Due to the lack of progress, he engages a lawyer to act on his behalf. The conflict escalates: the insurance company states that the seriousness of the whiplash injury cannot be solely the result of a small collision and that the complaints are probably mostly psychological. A connection with problems at work at the time of the collision is suggested. Finally the insurance company offers a settlement of \$10,000.

Ben and his lawyer do not accept this proposal, which in their view is much too low – Ben is at risk of losing his job – and initiate legal proceedings against the insurance company. The company responds by requesting an independent report from both an orthopedic specialist and a psychiatrist. Ben reacts furiously to the suggestion that he has psychological problems and later, following an emotional confrontation in court, the judge proposes mediation. After some hesitation the parties agree.

Seven months after the collision the first meeting takes place. Ben, his lawyer, a representative of the insurance company (Fred), and a company lawyer are all present.

The mediator welcomes everyone and gives an explanation of the (solution focused) mediation procedure. The focus in the conversations will be on what those concerned would like instead of the conflict and how they can achieve this, rather than on the conflict itself and what has already transpired.

The mediator also *compliments* everyone's willingness to mediate: all appear motivated to resolve this case through mediation. The mediator gives Ben and Fred the opportunity to briefly express their emotions; they get '*one chance to say what definitely needs to be said*'. Ben vents his anger about the slow progress and the demands made by the insurance company. The mediator gives *recognition* to Ben's anger and concerns: they are understandable. Fred indicates that he would like to resolve the case fairly. In addition he says that he can understand that Ben is worried about his future. This remark lessens the tension in the room.

The mediator then asks *what they are hoping for* and *what difference that would make (goal formulation)*. Ben is hoping for a quick conclusion. He is not willing to cooperate with respect to the proposed medical examinations; he finds the necessity for a psychiatric report particularly ridiculous. The *difference* for him would be that he would no longer need to feel insecure about the outcome of this lengthy case and he could put it all in the past. He feels angry and is not sleeping well. He is also worried about his health and about keeping his job. The mediator asks what he would like to see *instead* of the worry and anger if his hope were to become reality. Ben states that he would then sleep well again and his mood would improve. Furthermore he would feel confident that he could continue with his life.

Fred says that he has no desire to prolong the case, he too is hoping for a quick settlement. For him the *difference* would be that he would be free of this emotional man and that he would feel like he has settled the case in a decent and proper manner.

Then, the mediator asks *what is already going in the right direction* in order to achieve their goal. It appears that Ben is surprised about the insurance company's willingness to engage in mediation, apparently he had not expected it. Also helpful is the fact that at the table they talk more calmly than they did on the telephone. Fred's sympathetic remark is also constructive. Moreover, both sides consider the presence and support of both lawyers, specialized in physical injuries, to be beneficial. Again the mediator gives *compliments* for the steps that have already been taken in the right direction.

The mediator asks a *scaling question*: if a 10 is total cooperation and a 0 is pure conflict, where would both say they are right now? Ben gives a 4, Fred a 5.

At the end of the first meeting the mediator asks Ben and Fred if they would find a return visit useful. Both agree and schedule another appointment. The mediator ends the meeting with the request that in the meantime both reflect on *what could be the next step*. Which step can they take themselves and which step would they like to see the other person take? They will discuss this with their lawyers in the intervening period and focus on this in the next meeting.

At Ben and Fred's request, the second and final meeting takes place three weeks later. Both lawyers are again present. The mediator opens the conversation with a question relating to *what is better*. In the past weeks Ben has begun to feel better, his anger has diminished to some extent. However, the neck pain persists. Fred is pleased that the first meeting put both on speaking terms: the air has cleared somewhat. This is also evident from the fact that Ben and Fred begin the session with a handshake. The mediator *compliments* both on this progress.

As a proposal for *the next step* the insurance company lawyer offers an amount of \$25,000. As a *next step* Ben and his lawyer see compensation of \$50,000 to be acceptable. After some negotiating the lawyers arrive at an amount of \$40,000, payable within a month as compensation for material damages

and loss of working ability. This is included in the settlement agreement which is signed at the end of the meeting.

Ben is visibly relieved that the case has ended. He says that he is now able to continue with his life. Fred is satisfied: he feels that the case has been resolved fairly. There are also positive reactions from the lawyers, who had not expected to achieve a satisfying result so quickly. The mediator *gives compliments* to all for their efforts and motivation to reach a solution together. The mediation is concluded.

\*Interestingly, the insurance company referred to in this example has since changed their policy to attempt to hold face-to-face meetings rather than attempt to resolve disputes through telephone conversations.

## REFERENCES

- Bakker, J.M. & Bannink, F.P. (2008). Oplossingsgerichte therapie in de psychiatrische praktijk [Solution focused brief therapy in psychiatric practice]. *Tijdschrift voor Psychiatrie [Dutch Journal for Psychiatry]*, 50, 1, 55-59.
- Bannink, F.P. (2006a). *Oplossingsgerichte Mediation [Solution Focused Mediation]*. Amsterdam: Harcourt.
- Bannink, F.P. (2006b). *Oplossingsgerichte Vragen. Handboek Oplossingsgerichte Gespreksvoering. [Solution Focused Questions. Handbook Solution Focused Interviewing]*. Amsterdam: Harcourt.
- Bannink, F.P. (2006c). Oplossingsgerichte Mediation [Solution Focused Mediation]. *Tijdschrift Conflicthantering [Journal of Conflict Resolution]*, 7, 143-145.
- Bannink, F.P. (2007a). *Gelukkig zijn en geluk hebben. Zelf oplossingsgericht werken. [Being Happy and Being Lucky. Solution Focused Self-Help]*. Amsterdam: Harcourt.
- Bannink, F.P. (2007b). Solution Focused Brief Therapy. *Journal of Contemporary Psychotherapy*, 37, 2, 87-94.
- Bannink, F.P. (2008a). Solution Focused Mediation. *Conflict Resolution Quarterly*, 25, 2, 163-183.
- Bannink, F.P. (2008b). Solution Focused Mediation. Online article at <http://www.mediate.com/>.
- Bannink, F.P. (2008c). Posttraumatic Success. *Brief Treatment and Crisis Intervention* (accepted for publication)
- Bannink, F.P. (2008d). Vergelding of verzoening [Retaliation or Reconciliation]. *Forum voor conflictmanagement*, 1, 26-28.
- Bono, E. de. (1985). *Conflicts: A Better Way to Resolve Them*. London: Penguin.
- Cauffman, L. (2003). *Oplossingsgericht management & coaching [Solution Focused Management and Coaching]*. Utrecht: Lemma.
- Goei, S.L. and Bannink, F.P. (2005). Oplossingsgericht werken in remedial teaching [Solution Focused Remedial Teaching]. *Remedial, Tijdschrift voor leer- en gedragsproblemen in het vo/bvo [Dutch Journal of Learning and Behavior Problems]*, 5, 3, 19-26.
- Haynes, J.M., Haynes, G.L. and Fong, L.S. (2004). *Mediation. Positive Conflict Management*. Albany: State University of New York.
- Jong, P. & Berg, I.K. (2002). *Interviewing for solutions*. Belmont: Thomson.
- Mnookin, R.H., Peppet, S.R. and Tulumello, A.S. (2000). *Beyond Winning: Negotiating to Create Value in Deals and Disputes*. Cambridge: Belknap Press of Harvard University.

- Roeden, J.M. & Bannink, F.P. (2007). *Oplossingsgericht werken met licht verstandelijke beperkte cliënten [Solution focused brief therapy with mentally handicapped clients]*. Amsterdam: Harcourt.
- Salacuse, J.W. (1991). *Making Global Deals: What Every Executive Should Know About Negotiating Abroad*. New York: Times Business Random House.
- Salacuse, J.W. (2000). *The Wise Advisor: What Every Professional Should Know About Consulting and Counseling*. Westport: Praeger.
- Schelling, T.C. (1960). *The Strategy of Conflict*. Cambridge: Harvard University Press.
- Shazer, S. de. (1985). *Keys to Solution in Brief Therapy*. New York: Norton.
- Shazer, S. de (1994). *Words were originally magic*. New York: Norton.
- Stam, P. & Bannink, F.P. (2008). De oplossingsgerichte organisatie [The Solution Focused Organization]. *Tijdschrift voor Kinder- en Jeugd Psychotherapie [Journal Child- en Youth Psychotherapy]*. (accepted for publication)
- Stams, G.J., Dekovic, M., Buist, K. & Vries, L. de. (2006). Effectiviteit van oplossingsgerichte korte therapie; een meta-analyse [Efficacy of Solution Focused Brief Therapy: A Meta-analysis]. *Gedragstherapie [Journal of Behavior Therapy]*, 39, 2, 81-94.
- Watzlawick, P., Weakland, J. and Fish, R. (1974). *Change: Principles of Problem Formation and Problem Resolution*. New York: Norton.
- Wittgenstein, L. (1968). *Philosophical Investigations*. New York: Macmillan.
- Wright, R. (2000). *Nonzero. History, Evolution and Human Cooperation*. London: Abacus.

**Dr. Fredrike P. Bannink (email: [solutions@fpbannink.com](mailto:solutions@fpbannink.com); website: <http://www.fpbannink.com>) is a clinical psychologist and Master of Dispute Resolution with a training, coaching and mediation practice in Amsterdam. She is a graduate study programme lecturer, trainer for Doctors without Borders and Founding Member of Mediators beyond Borders. She is a mediator at the Amsterdam District Court and founder of the international Solution Focused Conflict Management Network. Her book *Positive Mediation: Solution Focused Conflict Management* will be published in the USA, spring 2009 by AlphaHouse Publishers.**

\*  
\*

\* \* \* \* \*

**We asked two experienced ASTC-member trial consultants to react to Dr. Bannink's article on Solution Focused Mediation. On the following pages, Jill Holmquist and Matthew McCusker give us their thoughts on this approach to mediation.**

## The Client Is the Focus: A response to Dr. Fredrike P. Bannink's "Solution Focused Mediation"

by Jill P. Holmquist

*Jill Holmquist, J.D. ([jill@fai-insight.com](mailto:jill@fai-insight.com)) is a trial consultant based in Lincoln, Nebraska. She works on civil and criminal cases nationwide.*

One of the challenges counsel face, and trial consultants help to address is the challenge of seeing a case from others' perspectives, including those of jurors, witnesses, opposing counsel and the judge. Awareness of others' perspectives is invaluable in preparing for trial.

In Solution Focused Mediation, Dr. Fredrike P. Bannink presents a model of mediation that encourages seeing the mediation process from a different perspective than is typical in litigation-related mediations. In this model, the perspective of the client, rather than that of the mediator, is primary. The mediator and the parties consider the conflict from the perspective of the goals the parties want to achieve, rather than the perspective of the strength of evidence or the likelihood of success is at trial. And it invites counsel to see options for resolution from a new and broader perspective.

In my experience with traditional mediations between litigants, the nominally collaborative process that promises party empowerment and mutually (or, at least, more) satisfactory outcomes, quickly devolves into shuttle diplomacy aimed at badgering one or both parties into moving from their positions to a compromise. Often, the end point is determined by the mediator's personal judgment about how far the parties are willing to go and sometimes that judgment is incorrect. As a mediator, I know the process can be truly collaborative, more empowering and more satisfying, but it requires a different and more creative perspective.

Dr. Bannink describes the process from such a perspective, distinguishes solution focused mediation from traditional ("problem focused") mediation, and provides tools to engage successfully focus on solutions. Although in some cases revisiting the original issues is necessary in order to meet parties' needs for being acknowledged, maintaining the ultimate focus on meeting the parties' future interests will prevent the parties from getting bogged down in the past. This approach can be useful in many litigation scenarios if mediators and counsel can trust the clients and the process. Institutional defendants and old school mediators might resist such an approach, but by adapting new methods, counsel can find new ways to make their clients' lives better. And that's what it's all about.

**Subscribe to The Jury Expert now! Don't miss an issue. Sign up [here](#).**

## A Peer Review of Solution Focused Mediation

by Matthew McCusker

***Matt McCusker, MA [[matt@SheldonSinrich.com](mailto:matt@SheldonSinrich.com)] is a trial consultant based in Atlanta, Georgia. He does both civil and criminal work in venues across the country and specializes in negotiation preparation, research, case strategy, and jury selection.***

As a former mediator, I was delighted to review Dr. Bannink's article on solution focused mediation. I had heard of this technique before, but had little knowledge about how it is practiced. Dr. Bannink's article begins with an outline of the solution focused mediation style and then utilizes a case example to demonstrate the technique in action. I found this design to be an excellent teaching aid which clarified what can be complex concepts.

When I mediated, I used to tell people that we were beginning with a large pile of poker chips in the middle of the table. These chips had different values and would actually change value as they slid from one side of the table to the other. Our goal in mediation was to find the split that provided the necessary balance for a settlement. When everything went right, both sides left the table content.

Solution focused mediation seems to have a similar goal, which is finding the win-win scenario. However, Dr. Bannink's process puts the onus on the parties to imagine what they would consider to be a win and asks the mediator to help them create that goal. In essence, it invites the mediator to be a blend of artist, psychologist, and fortune teller.

This technique could be particularly effective in domestic situations, contract negotiations, and even criminal mediations. These are all scenarios where non-traditional agreements are more easily developed. Additionally, these situations are usually accompanied by a great deal of emotion from both parties. As a result, words of validation and apology can carry significant weight. I have always believed that these types of mediations are fertile ground for creative solutions because the issues at hand are far more complex than simple dollar figures.

It strikes me that mediations which are focused only on money (as we so often see) would be the biggest challenge to the solution focused mediation model. However, as Dr. Bannink's case example demonstrates, a skilled mediator may be able to help parties realize that no conflict can be as simply defined as a matter of dollars and cents.

Citation for this article:

*The Jury Expert*, 20 (3), 13-23.



The September edition of *The Jury Expert* unveils several firsts: our first reader-requested feature (on preparation of narcissistic witnesses); our first law student author (Jason Miller on buffer statutes); our first author from the Netherlands (Fredrike Bannink on solution focused mediation); our first article on training law students (the DePaul program); and our first Favorite Things (we couldn't choose just one). Help us stay fresh--send in your wishes for upcoming issues--what would you like to see? Tell [me](#)...we'll see if we can make it happen.

*Rita R. Handrich, PhD  
Editor, The Jury Expert*



*The Jury Expert* [ISSN: 1943-2208] is published  
bimonthly by the:

**American Society of Trial Consultants**

1941 Greenspring Drive  
Timonium, MD 21093  
Phone: (410) 560-7949  
Fax: (410) 560-2563  
<http://www.astcweb.org/>

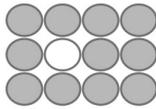
*The Jury Expert* logo was designed in 2008 by:  
Vince Plunkett of *Persuasium Consulting*

## Editors

**Rita R. Handrich, PhD — Editor**  
[EditorTJE@astcweb.org](mailto:EditorTJE@astcweb.org)

**Kevin R. Bouly, PhD — Associate Editor**  
[AssocEditorTJE@astcweb.org](mailto:AssocEditorTJE@astcweb.org)

The publisher of *The Jury Expert* is not engaged in rendering legal, accounting, or other professional service. The accuracy of the content of articles included in *The Jury Expert* is the sole responsibility of the authors, not of the publication. The publisher makes no warranty regarding the accuracy, integrity, or continued validity of the facts, allegations or legal authorities contained in any public record documents provided herein.

**ASTC**   
AMERICAN SOCIETY OF TRIAL CONSULTANTS