



Q&A WITH Chris M. Kwok, Esq. MEDIATOR

During your time at JAMS, have you learned any lessons that you'd like to share with your fellow mediators?

Learning to roll with things that you're not sure of. I always tell people that mediation is an art and a science: The science is the law, and the art is something I've developed an appreciation for as I've gotten older. Mediation is about people, it's about psychology, it's about emotion, but it's also about artistry. It's about not knowing exactly where something is going, but you think you feel something. That is also an important part of mediation—trusting that feeling. You have to know the science, and then you have to be mature enough to appreciate the art and work with the art. And then when you put it all together and you have the parties' trust, it can be really effective. It's an alchemy.

Tell me about the connection between your personal interests in advocacy and the work you do at JAMS?

One of the primary reasons I joined JAMS is my interest in China and the international scene. There have been many exciting developments recently, like the Singapore Convention, which tells me that this is just the beginning for ADR internationally! I do a lot of work in international ADR to lay the groundwork in this growing field and put myself out there. Even not knowing what's going to happen, I still wanted to say yes to any opportunity that might allow me to have a role in the future of international ADR. Everything is constantly changing. It's exciting because you can figure out where you belong within the context of your entry point. And even if you don't know exactly where you belong, it's still exciting to think about the future and engage in it.

How did your work at the EEOC impact you today, and how did it impact your view on diversity within the ADR profession?

It is a foundational part of who I am, because I was interested in Asian-American studies and civil rights, and I quite honestly didn't think much about how I could turn those interests into a living. When I had trouble finding work, an acquaintance at the EEOC told me about a volunteer position. Initially, I didn't want to do mediation, but my connection was a mediator, and I did not want to turn down any opportunities, so I just went with it. When I got there, it

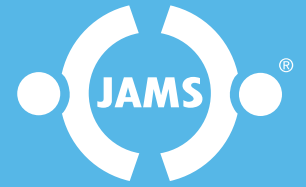
was a revelation. I don't know why it hadn't occurred to me—maybe because I was a child of immigrants—but I just didn't have a strong conception of how to do these things. I had to learn the hard way. But once I got there, I knew I was in the right place. Because I had started as a volunteer, I became really active in supporting the volunteer program. That, in terms of diversity and inclusion, is really important because it's so necessary to give capable people a chance to build a skill. At the EEOC, parties don't get to choose a mediator; one is assigned to them. This opens up opportunities for mediators, but it can be an adjustment for clients who are used to private mediations, where they have that control. But many of those clients were assigned a mediator who did an excellent job. I feel like I got that chance, so it is essential to give others that chance.

Tell me about your role and involvement with the Asian American Bar Association of New York (AABANY).

I'm really proud of my involvement with AABANY. It's done so much for me, and hopefully, I've done some good things for it. Early in my career, there was a community issue that I wanted to affect. As I was putting together the community program, I realized that no one would care if Chris Kwok put on that program and that I needed a community platform to present my message. I thought AABANY might be interested in that. I went to meetings and explained that I wanted to get involved, that I wanted to start taking action, and they gave me a platform. Unbeknownst to me, they had been dealing with critiques that they were too corporate. People were wondering, "where is the small-firm lawyer," "where is the public interest lawyer," "where is their space in AABANY?" A lot of people never joined because they felt there was no space for them, but I didn't know

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that. All I knew was that I went to AABANY with this issue and it's been nonstop ever since. The timing was great because I got there just as other public-interest-minded people joined who also wanted AABANY to engage in the community on a public service level.

We've brought a new flavor to AABANY: to serve. We've offered pro bono clinics in Chinatown and engaged in issues at a municipal level. We noticed after about three to five years of leading in New York that we became a model for minority bar associations across the country to emulate our process and get engaged in the public sphere. The model that I brought to AABANY was not necessarily to have to take a position, but that we would engage the communities in public discussions in a way that they had not been before. That was really a revelation, because so often people think that you have to take a strong stance to be involved—and of course there are times when you have to do that—but just the act of being engaged and bringing people to the table, that was perhaps better. Even if you don't win a particular fight, you're there now, you're going to be heard and you'll be speaking to the next fight. You're going to convene, and you're now part of the process. These are important steps to gaining influence and political power, particularly for those groups who were not normally part of that structure. The engagement was key.

Are you still teaching a mediation advocacy practicum? How has that affected your ADR practice?

In that context, I'm a plaintiff's attorney, it's a class and it's pro bono for unrepresented plaintiffs. I like doing it because there's an aspect of public service, which I like to still have as part of my work. It's like when you have sushi and you're served ginger. Not everyone realizes that the ginger isn't there for you to eat and taste the ginger; it's there for you to cleanse your palate between sushi pieces. I see mediation advocacy as the ginger. If you're the mediator all the time, you have to step out of the role sometimes to see other people's styles, to cleanse your palate and look at yourself from the outside. The mediator is always on a tightrope, trying to maintain his or her balance. It can take a lot out of you. You have to work really hard at it, so it's great to refresh and step out of the role.

What are your most successful traits as a mediator?

These are very difficult times; people have lost their jobs. I try to be empathetic. That's the human element of mediation, which is front and center and is probably one of the most valuable things that a mediation allows. I always keep in mind that the complainant, the plaintiff, is not the only human present; the company's representatives are also human. It's important that you treat them that way, because they are often wary of mediation, especially one with the government. And I try to make them feel that they don't have to prove anything to me. I won't be judging them.

My curiosity about life actually helps me during mediations in a way I never anticipated. I always spend some time talking to people about their companies and about themselves because I'm just nosy. I feel a little guilty about that, like I'm stopping the meeting just because I'm curious. But what I've learned over the years is that their counsel appreciates that. They walk in expecting to get yelled at, and instead they find someone who wants to know about what they do, so they're relieved. And I guess it works, because they feel I'm not a terrible person and that I get it, so that makes it easier for them to trust me.

What would you say to young and/or minority students who are interested in following a career path similar to yours?

Well, I didn't start my career intending to be a mediator; I was given an opportunity that not a lot of people get. But what I tell young people, young lawyers, is to develop substantive expertise in their field of choice and spend 10 to 15 years in that career. Then they can consider transitioning to ADR. Without that background, I think it's a very difficult field to enter unless you have unique experience. The ADR field is changing; it's changed a lot in the last 10 years. You must develop that substantive expertise because you need to know the science before you can do the art.

To schedule an in-person or virtual mediation with Mr. Kwok, visit jamsadr.com/kwok or contact Case Manager Christine Smith at CSmith@jamsadr.com.