



# Newsletter

HEARTLAND MEDIATORS ASSOCIATION

January 2004

Volume X, Issue 1

## Cutting Edge of Child and Family Mediation

February 21, 2004

Washburn University Law School,  
Room 120, Topeka, KS

- 11:30 AM registration
- 12:00 Noon lunch, HMA meeting, networking
- 1:00 PM **KANSAS CHILD SUPPORT GUIDELINES**  
*Linda Elrod*
- 1:30 PM **JUVENILE PERMANENCY**  
*Ann Garlinghouse and Joy Marlin*
- 2:15 PM break
- 2:30 PM **PARENT-ADOLESCENT MEDIATION**  
*Roxanne Emmert-Davis*
- 3:05 PM **GRAYING CONFLICTS OF AMERICA: Mediating Elderly and Intergenerational Issues**  
*Gail Caso Radke*
- 3:40 PM Panel discussion
- 4:00 PM Adjourn

Three hours of CME and CLE credit are pending

**Registration fee:**

\$25 for HMA members; \$10 for Washburn students  
\$75 for nonmembers (includes membership for one yr)

*Cosponsored by the*

*Washburn Children and Family Law Center*

## Join Us on February 21st . . .

We have an excellent three hour training on family issues planned on February 21, 2004 at Washburn University Law School, Room 120.

On October 29, 2003, the Chief Justice of the Kansas Supreme Court officially signed Administrative Order 180, the Kansas Child Support Guidelines with an effective date of January 1, 2004. The Kansas Supreme Court Advisory Committee began working on changes in the guidelines in 2001. **LINDA ELROD** will address the numerous changes that have been made in the guidelines, such as updating the data used for the Child Support Schedules, clarifying what constitutes income, among other things.

Linda Henry Elrod, a Distinguished Professor of Law at Washburn University School of Law, is also the Director of the Children and Family Law Center. Linda is cochair of the Advisory Board for the ABA Child Custody Pro Bono Project and serves on the Steering Committee on

the Unmet Legal Needs of Children. She has been the Editor of the *Family Law Quarterly* since 1992. Linda also serves on the Joint Editorial Board on Uniform Family Laws for National Conference of Commissioners on Uniform State Laws. She is the author of several textbooks. She was the first woman President of the Topeka Bar Association in 1986-87; serves on the 3rd Judicial District Family Law Bench-Bar Committee. She has served as Vice Chair of the Kansas Commission on Child Support since 1984 and was named to the Kansas Child Support Enforcement Association Hall of Fame in 1989.

**ANN**

**GARLINGHOUSE and JOY MARLIN** will be presenting the second portion of the seminar on the topic of **JUVENILE PERMANENCY**.

Ann Garlinghouse is an attorney in private practice in Topeka and works part time at Mid-

*continued on page 2*

---

## February Program

continued from page 1

land Mediation and Settlement Services. She holds an MA in Speech Communication and Human Relations from the University of Kansas, and received her JD from Washburn University Law School. She is a Kansas Supreme Court Approved Mediator, and served as Guardian ad Litem for Shawnee County Juvenile Court.

Joy Marlin is Coordinator of the Juvenile Permanency Mediation Program in Sedgwick County. She is a Kansas approved mediator practicing domestic and civil mediation, including mediating for the Kansas Human Rights Commission and Kansas Insurance Department.

**ROXANNE EMMERT-DAVIS, LMSW** will be discussing PARENT-ADOLESCENT MEDIATION. She is recognized as the Kansas expert on this topic. She is a trainer and consultant for the Child Welfare Training Network at the University of Kansas School of Social Welfare. She has served as a social worker and trainer in child welfare for over 20 years.

Many challenges are facing our aging population. In addition to intergenerational family disputes, the elderly are experiencing conflict in a much broader spectrum than ever before. Issues are multiplying for seniors in the areas of estate planning, health and long term care, bioethical disputes, guardianship, grandparent visitation, residential care facilities and retirement communities to name just a few. Mediation is a way of building trust and open lines of communication for the elderly in a time of great need. **GAIL CASO RADKE** is an expert in ELDER MEDIATION and will discuss this issue to wrap up this seminar. ♦

---

## Upcoming First Friday Meetings

We have established peer study groups in various locations. There is NO CHARGE for these meetings. All we ask is that you be an HMA member. It is a great opportunity to network with other mediators and discuss a topic of interest. Often, one hour of CME credit is available. Information on one such meeting follows:

### OLATHE - JANUARY 9, 2004

Mark your calendars for January 9th (note date change) — a review of Ury's negotiation principles from his book *Getting Past No. 1*. Evan Ash will lead this discussion with the help of Jimmy Stewart and a scene from the movie *It's a Wonderful Life*.

---

## Regional Group Conveners

Olathe, Kansas

Deborah Medlock, (913) 324-6986,  
[deborah.medlock@jocogov.org](mailto:deborah.medlock@jocogov.org)

Kansas City, Missouri

Sharon Lowenstein,  
(816) 751-0553, [sharonl@aol.com](mailto:sharonl@aol.com)

Wichita, Kansas

Jeanne Erikson, (316) 269-2322,  
[cmc334@juno.com](mailto:cmc334@juno.com)

No. Newton, McPherson, Kansas

Barbara Schmidt, (316) 284-5829,  
[bschmidt@bethelks.edu](mailto:bschmidt@bethelks.edu)

Hays, Kansas

Micki Armstrong, (785) 628-5369,  
[marmstro@fhsu.edu](mailto:marmstro@fhsu.edu)

---

## Peer Mediation Award: Opportunity for Networking

HMA is seeking nominations for the annual school peer mediation award. Grades K-12 school mediation programs in Kansas or Missouri are eligible for the award.

Heartland members have an opportunity to expand their mediation network by being directly involved in encouraging their school district to submit an application. Or, alternatively, contact information about peer programs can be sent to the HMA peer mediation award co-chairpersons, Rhonda Harris and Peg Nichols.

Application requirements include submitting an article describing the program which can be printed in the Heartland newsletter.

Last year's winners were Glenwood R-8, West Plains, MO, and Concordia Elementary School, Concordia, KS.

For more information, contact Peg Nichols, [rmnichols@att.net](mailto:rmnichols@att.net), telephone - 913.782.0189, or P.O. Box 382, Olathe, KS, 66051-0382. ♦

---

## Board Now Seeking Nominations for Acorn Award

The Acorn Award is given from time to time to a member of HMA who has been instrumental in the field of mediation and through activities with the Association.

Nominations may be made by sending an email to: [hma@grapevine.net](mailto:hma@grapevine.net). The award will be presented during the annual banquet on April 16th. ♦

# Posture vs. Position

by Evan Ash, mediator, Kansas Tenth Judicial District

Students coming out of mediation training programs are consciously trying out newly acquired knowledge and skills on real life cases, often in the form in which they learned these essentials. Trainers teach principles and concepts about skills, illustrated with examples and role plays. But at that level of professional development, the knowledge and skills are still on the student's "surface" and have not become embedded at a deeper, more intuitive level. Such embedding can only come from practice and experience. Of course, the sounder the practice the more effective the embedded understanding and ability.

One example of this superficial approach that I frequently see is students approaching their clinical mediation cases with a focus on "positions" rather than "posture."

The student learned the important difference between positions and interests, *a la* Ury and Fisher<sup>1</sup> in class. They were trained to think about questioning, reflecting, and summarizing as ways to learn and sort out the difference between these two essential parts of any dispute. These skills help the new mediator look at the *cognitive* content of the parties — the ideas in each party's mind about their wants and needs. The tendency, then, is for the new mediator to remain in the realm of ideas, trying to massage the expressed ideas or contributing the "options" of new ideas. All of this tends to keep the



dialogue at the surface as if the conflict was only a war of words.

This novice approach does not get to the real content of the conflict and the place where the real hope of resolution can be found. More than positions, the new mediator needs to assess the "posture" of the parties. This tells the mediator more about how the parties experience, understand, and approach the conflict than the discussion of ideas will allow. The "posture" of each party reflects their attitude, style, and treatment of the issues.

Consider this example. Parents divorced for 7 years, who live an hour away from each other, are now fighting about whether their children should be enrolled in church-related schools, 20 minutes away from their primary residence with mom. The typical approach a new mediator would take is to discuss the merits of the change of school and each parent's position on the change. This is a focus on positions. If the discussion stops there, impasse is more likely to ensue. Even to explore the interests behind these positions will limit the mediator's appraisal of where the parents may find resolution.

However, in the same case, further exploration of each parent's posture would reveal that dad's opposition to the change of school is because it resembles mom's move away from the locale of their marital history, and a parental distance of eight blocks, five years earlier. This move was made in ignorance of possibilities and dad's silence in spite of the sense of loss and disenfranchisement he felt by the move, leaving dad



with unresolved resentment about the event. Now that dad is more informed, he is motivated to make up for the losses of five years ago, or at least, prevent their reoccurrence. In spite of the potential value added to the children's lives by the change of school, and dad works with value-added concepts every day in his employment, he cannot bring himself to agree because of his experience of the parental history. His posture is expressed by challenging the change of schools, like "What problem is solved by the move?" as if problems are the only reason for change. This approach also mirrors his life experience and approach to life. His style is not one of a proactive nature, hence the predicament he finds himself in.

By discovering what dad's posture is, the mediator can then approach the dynamics of the conflict through that energy. How can dad reestablish with mom a more respected role in the life of the children through parenting activities like decision making? In this question is the hope of the parents resolving their dispute about schools and fostering a more positive parenting environment for their children.

One way mentors help students discover the search for a party's

*continued on page 4*

posture is through “peeling the onion.” Typically the positions are most obviously the outer skin. The interests most superficially associated with the position are usually at the next layer. But they are shallow and not as connected to the core because of their obvious proximity to the surface. They are simply too accessible to be useful. Like the onion, the strong and real flavor is found deep. So with the party. The real strength of their posture is found many layers below the surface, closer to their heart.

The way a mentor encourages a new mediator to get to that heart is through challenging the student to actively listen. This is accomplished by the mentor’s modeling of active listening and the questions we use with the student as we debrief a mediation session. The fruit of active listening is expressed through the skill of reframing. Ironically, this emphasized skill is the one I see new mediators using least, yet it is the key to peeling the onion.

The mentor needs to challenge the student’s comfort with their skills and call forth the deeper realizations of the parties’ postures revealed during the session, forcing the student to incorporate those revelations into their appraisal of the session and their performance in the session. When the potential for impasse is experienced, debriefing needs to focus primarily on party postures to understand what was missed or needs further development in the mediation process.

A final thought on “*posture vs. position*.” Paper never solved a dispute, only action. Paper should never be a mediator’s sole goal. A focus on positions only anticipates putting ideas on paper. A focus on postures encourages the actions that produce a new life through reconciliation. Paper merely provides a method to recall the

way. New mediators need to discover the unique opportunity they have to be objective listeners and explorers of the deeper realms, unaccessible to the parties on their own, where the real energy of conflict and resolution lie.

<sup>1</sup>Roger Fisher and William Ury, *Getting to Yes*; William Ury, *Getting Past No*. ♦

## Mark Your Calendar Now for the **ANNUAL CONFERENCE** April 16 and 17, 2004

Holiday Inn Hotel & Suites, 87th & I-35, Overland Park, KS

### April 16 Annual Banquet

5:30 - 9:00 PM - awards, keynote speaker



### April 17

8:30 AM - 4:00 PM - 2 concurrent sessions:

#### I - Collaborative Family Law Stu Webb

Stu Webb has been in the private practice of law since 1964. For the past 25 years he has been a family law practitioner, and since 1990 he has practiced collaborative family law exclusively. Stu is a founder of the Collaborative Law concept.

#### II - Forgiveness as a Tool for Reconciliation and Healing: Implications for Practitioners from the Stanford University Forgiveness Project

#### Dr. Fred Luskin

Dr. Luskin is Project Director of the Stanford Forgiveness Projects, Associate Professor of the Institute of Transpersonal Psychology, and Senior Fellow with the Stanford Center on Conflict and Negotiation.

Watch for further details on registration and fees. CME, CLE, and Social Science continuing education credits will be available.

## Training, Workshops, Conferences

• February 4-5, 2004, two days, Des Moines, IA, Mediation from the Heart, Ken Cloke, Iowa Peace Institute, 641-236-4880, or [iapeace@netins.net](mailto:iapeace@netins.net).

• February 26, 2004, U.S. Foreign Policy: Its Effect on Christian/Muslim Relations in the United States, Maher Hathout, KIPCOR Peace Lecture Series, Bethel College, North Newton, KS, 316-284-5217, [kipcor@bethelks.edu](mailto:kipcor@bethelks.edu).



• April 16-17, 2004, Heartland Mediators Association Annual Conference, Holiday Inn Hotel & Suites, 87th and I-35, Overland Park, KS.

• April 18, 2004, The Heroes of My life, Patricia Polacco, KIPCOR Peace Lecture Series, Bethel College, North Newton, KS, 316-284-5217, [kipcor@bethelks.edu](mailto:kipcor@bethelks.edu).

• May 12-15, 2004, AFCC annual conference, San Antonio, TX.

• May 13-15, 2004, Spring KACSO Conference, Lawrence, KS.

• Check out the sources for additional training:  
Johnson County Community College, Overland Park, KS  
Wichita Bar Association, Wichita, KS  
Association of Missouri Mediators, [www.mediate.com/amm](http://www.mediate.com/amm).

## HMA Is Looking for a Few Good People



The time for elections is fast approaching (April 2004). If you are interested in serving on the board, please contact Evan Ash (see the column to the right for contact information).

We are also looking for people interested in working on —

Joint conference with the Association of Missouri Mediators in 2005;

Editing and writing for the newsletter;

Training programs that we can take around the state.

If you are interested in any of these projects, please let Evan know.

## Don't Forget to Check Out Our Web Site

**[www.heartlandmediators.org](http://www.heartlandmediators.org)**

for information on membership, calendar,  
back issues of newsletter, and more

### 2003-2004 Heartland Mediators Association Board of Directors

• **President N. Trip Shawver**  
634 North Broadway  
Wichita, KS 67214  
(316) 262-6466 • [nts44@aol.com](mailto:nts44@aol.com)

• **President-Elect Evan Ash**  
1114 East Northview  
Olathe, KS 66061  
(913) 324-6978 • [evan.ash@jococoks.com](mailto:evan.ash@jococoks.com)

• **Secretary Peg Nichols**  
604 South Grant Avenue  
Olathe, KS 66061  
(913) 782-0189 • [rmnichols@att.net](mailto:rmnichols@att.net)

• **Treasurer Barry Carroll**  
1140 Coolidge Avenue  
Wichita, KS 67203  
(316) 619-1628 • [barrycarr@aol.com](mailto:barrycarr@aol.com)

• **Member at Large Micki Armstrong**  
Fort Hays State University  
600 Park Street, Sociology Dept.  
Hays, KS 67601  
(785) 628-5369 • [marmstro@fhsu.edu](mailto:marmstro@fhsu.edu)

• **Member at Large Rhonda Harris**  
Kansas City Human Relations Dept  
414 East 12th Street  
Kansas City, MO 64106  
(816) 513-1836 • [rhonda\\_harris@kcmo.org](mailto:rhonda_harris@kcmo.org)

• **Member at Large Kathy Kirk**  
1727 E. 1000 Road  
Lawrence, KS 66049  
(785) 840-9400 • [kathykirk@earthlink.net](mailto:kathykirk@earthlink.net)

• **Director at Large Elgene Ver Dught**  
13910 Noland Court, Suite B-1  
Independence, MO 64055  
(816) 836-4141 • [elgene@aol.com](mailto:elgene@aol.com)

• **Past President Curt Straub**  
P.O. Box 9254  
Shawnee, KS 66201-1854  
(913) 362-3332 • [aquaticonsult@planetkc.com](mailto:aquaticonsult@planetkc.com)

• **Executive Director Sandra Sabanske,**  
8826 Santa Fe Drive, Suite 208  
Overland Park, KS 66212  
866-381-4458 • fax (913) 381-9308  
[sabanskes@aol.com](mailto:sabanskes@aol.com);  
[mediation@grapevine.net](mailto:mediation@grapevine.net)

### DISCLAIMER

The opinions expressed in the HMA Newsletter are those of the writers and are not necessarily those of the Heartland Mediators Association.

Editor: Margaret (Peg) Nichols,  
(913) 782-0189, [rmnichols@worldnet.att.net](mailto:rmnichols@worldnet.att.net).

Hearland Mediators Association  
8826 Santa Fe Drive, Suite 208  
Overland Park, KS 66212  
Address Service Requested

FIRST CLASS

## HMA Registration Form

Name \_\_\_\_\_ E-mail \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_

Please register me for the following meeting - enclosed is my check in the amount of \$ \_\_\_\_\_  
\$25 HMA members; \$10 Washburn students; \$75 nonmembers (includes one year membership)

\_\_\_ February 21, 2005 - Topeka

Return this form with your check to: HMA, 8826 Santa Fe Drive, Suite 208, Overland Park, KS 66212.