



# Newsletter

HEARTLAND MEDIATORS ASSOCIATION

November 2004

Volume X, Issue 3

Dear Colleagues,

*Be part of an ongoing heritage . . .  
of fellowship for conflict  
resolution excellence*

The future for HMA, as in any human endeavor, will be rooted in its heritage. The example, courage, and leadership of those who have pioneered mediation in our region will always be our foundation. This past year has been an opportunity to celebrate the 15 years of Heartland's history.

And like in all human endeavors, positive efforts give life, and evolution takes place. Today we recognize the myriad ways the conflict resolution "science" of mediation has been expanded to most aspects of human activity. And the fellowship of conflict resolution practitioners has grown in depth and breadth. Heartland is the place where that fellowship can come together, be upheld, and grow in excellence. The "blue print" adopted by the Board (see August, 2004 *Special Edition* newsletter) is Heartland's guide as we welcome and embrace the fullest measure of that fellowship.

But we know as mediators that words — whether spoken or written — are meaningless without commitment and application. Good faith depends on more. Words alone do not give life; putting our intentions into action is what gives life, be it to our goals, our practice, or the clients placed in our service.

We all have a role to play in that good faith. We can say all of the right things but stay focused on only what is good for us individually. In that sense we are exactly like our clients, driven by need and fear in a shrinking view of life and the world.

Or we can seek a larger hope, where by bringing our common energy together, we can create an atmosphere of mutual benefit and support. That is the real nature of fellowship. I hope that will be the future spirit and vitality of Heartland.

May you and yours be blessed in this season where we celebrate peace. ♦  
*Evan Ash, President*

## What's in a Name? A Welcome? Or a Barrier?

The "blue print" for Heartland Mediators Association's future looks to welcome and include all practitioners of conflict resolution. That kaleidoscope goes beyond "mediators." Titles include facilitators, neutrals, trainers, case managers, special masters, collaborative law attorneys; the list surely goes on and on. Through the sections, we hopefully will be welcoming and affirming their commitment, practice, and fellowship in conflict resolution.

At its last meeting, the HMA Board recognized that our name — Heartland Mediators Association — may send a limiting message to many potential future members of our fellowship. If these practitioners are going to see a potential role for HMA in their future, a more inclusive welcoming name for the organization may be needed.

As mediators, we should be the first to recognize the importance for "reframing" to bring about a more positive outcome. We need to apply the same principle to our organizational name. Perhaps we are destined to be the "Heartland Association for Conflict Resolution" or other similar wording?

The Board asks for your thoughts on changing the organization's name to a more inclusive wording. It is the Board's intention to examine this question at its next Board meeting on February 25, 2005, and to announce its decision at the Heartland Regional Conference Banquet on April 1, 2005. You may send your thoughts to Evan Ash, President, at [evan.ash@jocogov.org](mailto:evan.ash@jocogov.org) or (913) 768-7006 for consideration at the Board meeting in February. ♦

## Peer Mediation Awards

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 chairperson, Don Hampton, Mediation Associates, 435 Pamela, Wichita, KS 67212, (316) 722-7817, donhampton@onemain.com.

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

**Deadline: January 21, 2005. ♦**

## The Settlement That Wasn't

In a recent en banc decision, the District of Columbia Court of Appeals found that the attorney representing the plaintiff in an employment case had the authority to negotiate on his client's behalf but did not have the actual or apparent authority to enter into a final settlement agreement.

The simplified facts are these: Plaintiff was terminated and the attorney represented her in an administrative appeal before the EEOC and in a court action. In the lawsuit she

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## President's Award

Heartland Mediators Association annually bestows The President's Award, which honors individuals or agencies (government, business, media) that have contributed significantly this past year by increasing public awareness pertaining to conflict resolution. The focus of this award is to recognize a non-HMA member in the region encompassing the Heartland membership. (Currently HMA membership encompasses Oklahoma, Kansas and Missouri.)

Those wishing to nominate candidates should include the following information in an email to [marmstro@fhsu.edu](mailto:marmstro@fhsu.edu) or mail to Micki Armstrong, Fort Hays State University, Rarick Hall Rm 349, Hays, KS. 67601.

Nominations must be received by **January 21, 2005**. The newly formed Advocacy Committee will review all nominations and make recommendations for the award selection to the HMA board. The award will be presented at the annual banquet scheduled for April 1, 2005 at the Heartland Regional Conference of Mediators, Kansas City, Missouri.

### AWARD INFORMATION:

#### NOMINEE

Name: \_\_\_\_\_

E-mail address: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

Occupation: \_\_\_\_\_

#### **Narrative:**

In two hundred words or less explain how the individual or agency has contributed significantly this past year by increasing public awareness pertaining to conflict resolution.

**NOMINATED BY** \_\_\_\_\_ **Date of nomination:** \_\_\_\_\_

Name: \_\_\_\_\_

E-mail address: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

## February 25, 2005 Training

**Where:** Topeka and Shawnee Public Library, Topeka, Kansas

**When:** 12 noon, lunch, training 1 - 4 pm

**Cost:** \$25 HMA members, \$30 for nonmembers, includes lunch

**Topics:** Two concurrent sessions will be offered:

### Workplace and Employment Practices

One half will be a presentation for employment law issues in mediation as presented by a plaintiff's attorney, a respondent's attorney, and a mediator.

The other half will be a panel of mediators who provide workplace mediation services who will discuss the programs they mediate for and their experiences and insights. Julie Maclachlan and Kathy Robinson are two confirmed panel members.

### Public Policy - A Practical Guide to Consensus

This will be a three-hour presentation of the dynamics of conducting a multi-party public policy dispute mediation/facilitation. A panel will concentrate on:

- Why Use a Consensus Process
- How to Sponsor Consensus Processes
- How to Assess Whether Consensus Will Work in a Specific Situation
- How to Ensure Representative Participation
- How to Decide Who Participates
- How to Select and Work With a Facilitator or Mediator
- What is the Role of the Facilitator
- How to Plan and Organize the Process
- What are the Phases of Policy Formulation
- How to Write Ground Rules

### Receive Newsletter by E-mai!

This newsletter is being sent by e-mail and "snail mail". We hope you will consider taking future issues by e-mail — if so, please send an e-mail to [mediation@grapevine.net](mailto:mediation@grapevine.net).

### Check Our Web Site

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

### 2004-2005 Heartland Mediators Association Board of Directors

• **President Evan Ash**  
Domestic Court Services  
1255 East 119th Street  
Olathe, KS 66061  
(913) 324-6978 • [evan.ash@jocoks.com](mailto:evan.ash@jocoks.com)

• **President-Elect Rhonda Harris**  
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• **Secretary Ronnie Beach**  
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P.O. Box 3930  
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• **Treasurer Barry Carroll**  
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• **Director at Large Micki Armstrong**  
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• **Director at Large Kathy Robinson**  
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• **Director at Large Larry Rute**  
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• **Past President Trip Shawver**  
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• **Executive Director Sandra Sabanske**  
8826 Santa Fe Drive, Suite 208  
Overland Park, KS 66212  
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#### DISCLAIMER

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

## Dates to Remember

**January 21, 2005**  
Deadline for  
President's Award and  
Peer Mediation Award  
Nominations

**February 25, 2005**  
Topeka Training

**April 1-2, 2005**  
Heartland Mediation  
Conference  
Four Points Hotel  
Kansas City, MO

Hearland Mediators Association  
8826 Santa Fe Drive, Suite 208  
Overland Park, KS 66212  
[Address Service Requested](#)

## FIRST CLASS

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### Settlement that Wasn't

*(continued from page 2)*

was ordered to mediation before a magistrate judge who agreed she could appear by telephone. During the negotiations with the employer, her attorney called her a couple of times and brought new offers to the employer. At the end he spoke to her for about half an hour and came back

into the room to shake hands. Her attorney drafted the final settlement document and Plaintiff refused to sign it. The court looked at both a lawyer's ethical responsibilities and general agency law before concluding that the employer did not have reasonable grounds to believe Plaintiff's attorney had even apparent authority (which the trial judge had found) to agree to the settlement.

The lesson here is that a party who does not appear in person at a mediation should be required to personally affirm consent to the settlement by telephone or in writing prior to the conclusion of the mediation. The case is worth reading all the way through the concurring opinion. *Matkins v District of Columbia*, 2004 WL 2471504(D.C.) Decided Nov. 4, 2004 (as yet not released for publication). ♦

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## Have You Attended a Peer Mediation Meeting?

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. Feel free to contact the

coordinator nearest you and let them know that you want to be put on the list for notices of meetings — all notices are sent by e-mail.

### Regional Group Conveners

Olathe, Kansas

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

Kansas City, Missouri

Kathleen McCarther, (816) 531-6265,  
[kmccarther@earthlink.net](mailto:kmccarther@earthlink.net)

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)

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