



Heartland Mediators Association

## Newsletter for Midwest Mediators

April 2013 Vol XII, No. 4  
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2013 Heartland Mediators Association

## A Message From the President: Putting Out Those Fires and Preventing Disasters

"You must have something awfully valuable in that pouch." One of the more observant mediators in the group was talking to me, and I couldn't figure out why. Across my shoulder was the long strap of a small leather pouch I wear most of the time to hold my cell phone, pen, and a few other things I don't want to be without. If all my clothes had big pockets I wouldn't need it. But they don't.

Why he thought it was so precious to me, I couldn't figure out. So I just gave him a quizzical look.

This is my last HMA President's Report. My year has zoomed by like a speeding truck. During my year, HMA members, myself included, have learned a lot about conflict coaching and other methods and

topics of dispute resolution, we have shared some meals, done some networking, and will soon learn to take the war out of our words as we gather in Overland Park for our annual conference. We still have challenges ahead: We continue studying how to credential an advanced level of mediator, and we forever seek more and better ways to bring conflicting parties to agreement. New president Linda Laird will take the HMA helm from here.

Mediation is needed more than ever – yet it seems as hard as ever to convince people of the wisdom of mediation and interest-based bargaining, the value of more communication – especially using a  
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## Taking the War Out of Words Training Associated With HMA Annual Meeting

Heartland Mediators Association will meet for its important annual meeting at noon Thursday, April 25. The meeting includes the award of honors to a number of special mediators and members of the community during the lunch hour of the first of two days of training, part of the 2013 Heartland Regional Conference of Mediators.

The membership will vote on the new board of directors and officers for the coming year.

"Reconciling Our Border Wars: An Invitation to the Dialogue" is the title of the two-day conference Thursday April 25 and Friday April 26, at the KU Edwards Campus BEST Complex in Overland Park.

Sharon Strand Ellison, author of "Taking the War Out of Our Words", and creator of the Powerful Non-Defensive Communication process, believes we interact in ways that systemically create and accelerate conflict.

Communicating with non-defensive power is crucial to our capacity for solving problems. She describes the "rules of war" we typically use

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# PNDC Came From Concern for Others

At her home Sharon Strand Ellison looks over the idyllic mountain scenery of Oregon, but it was the integrated community of Oakland, CA, where she developed what she calls Powerful Non-Defensive Communication.

Born in San Bernardino, CA, she grew up in Oregon but went back to California to see what she could do to help people tell others about the pain they are in or what might be causing their conflict.

"I could always see the pain in people and wondered what could be done to keep others from being in such pain and in such power struggles," she said recently in a call from her home. She was preparing to come to Kansas to offer a two-day symposium on her work to attendees of the 2013 Heartland Regional Conference on the KU Edwards campus.

The war model seemed to be a logical place to start as others told her it was normal for people to be violent.

"I kept thinking how can we solve things if we don't know how to tell anyone we were hurt?" She said, "You don't walk out on a battle field with your arms open." In other words, one can't

## President's Message

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skilled intermediary – rather than less.

Heartland Mediators Association keeps promoting mediation because understanding between human beings is the way to a better community, a better family, a better business, a better world.

One person's actions (or lack of action) may seem a clear signal of intent. How often I've heard, "He didn't contact me because he didn't care." "She changed her number so I couldn't stay in touch." "I know what they were thinking."

But with a mediator to draw out the other possibilities, we learn he lost contact because he was frustrated or ashamed; that she lost her phone or couldn't pay her phone bill; and what they were thinking was something altogether unexpected.

We see someone burst out in anger for no apparent reason – but when we peel back the layers of frustration and irritation, we may find the person had a sense of being pigeon-holed into an identity the person absolutely rejects.

show vulnerability which just perpetuates the war model. The alchemy is in being more willing to be open and honest and direct.

She has looked back at some of her papers she's done in high school and college and noticed much of the process was already formed while she was becoming a social worker.

She said she has never thought of herself as a writer, a peacemaker or observer but more of a direct person wanting to prevent other people from having too much power. If you don't have cooperation or compromise you often have war, but she believes that's untrue.

Some have said of her process, that it is disarming. "What is disarming?" she says. "It has occurred to me that disarming when it comes to battle means a soldier bringing his weapon down from the shoulder when the shooting is over.

"I've always been interminably curious," she said. It has always been important to get the rifle off her shoulder.

What are the tools she uses? Questions, statements and predictions, but she adds intention, body language, and voice tone.

**Linda Laird is a mediator from Burlingame, KS and President-Elect of HMA.**

Mediators are sleuths, searching through the mysteries and messes of conflicts to help people find a way out of their problems. Like fire inspectors, we comb through remnants of fires to find the cause of the blaze. Like the inspector, a mediator hopes above all to find the source and get the fire put out before disaster happens, before the whole house burns down.

Why, I asked myself, does this guy think I have treasure in my cell phone pouch? He finally said, "It must contain something terribly important, because you haven't taken your hand off it since you got here." I realized it was true – I'd had ahold of that thing the whole time.

"The strap pulls on my neck," I said, "I hold it to keep it from pulling."

Communication, communication, communication. That little item might be a pocket full of gold. Or it might just be a pain in the neck.

Unless you communicate, you'll never know.

**Ann Zimmerman is an attorney-mediator from Salina.**

# Regional Conference in Kansas City Looks at 'War of Words' and Better Communication

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to communicate as a model which prompts us, at a physiological level, to instant defensiveness to the slightest provocation.

Ellison's non-defensive model is built on methods of communication that speak with clarity, power and compassion without being dependent on others for cooperation. With control and manipulation no longer part of the process, we are freed from power struggles. Using these skills, we will see a different side of human nature and create a different reality.

Ellison inspires audiences by modeling what she teaches with honesty, humor, and integrity. She has worked with Hewlett Packard, U.S. Internal Revenue Service, Lockheed Martin, Nordstrom, Wells Fargo, the American Bar Association, Association of Conflict Resolution, and the Association of Human Resource Managers, among others.

She will present an overview of the process and workshops on three components of non-defensive communication during this conference.

Besides Ellison, other workshops will be available to the attendees. Choices will be available in the morning and two in the afternoon. They include: A.M. Fink on "Mediators Will Be Dazzled by Applications of Game Theory to Resolve Disputes." The mediator, mathematician, and creator of the "Lone Chooser" algorithm (1964) will reprise his ever-popular workshop on methods for enhancing win-win outcomes in disputes over finite resources. Professor Fink will discuss some of the most popular Game Theory solutions and how they can be used in mediation.

Dr. Zach Schaefer will present a workshop on "Eliciting and Narrating Meaningful Stories in Mediation." This is a cutting edge topic given current research into the types of effective interventions that will shape more constructive attitudes during a conflict. Listening is a key factor. Findings published online in the Journal of Experimental Social Psychology last year indicate members of a less dominant group had a more significant boost in a positive attitude toward the dominant group when their stories were heard.

Attitudes of the dominant group most improved when they heard the stories of the less dominant group. A program that decreases a perception of bias and irrationality within the other group, he suggests, may be more successful than one designed to im-

prove trust.

"Facilitating Forgiveness: The Holy Grail of Reconciliation?" is mediator and pastor John Richardson's awe-inspiring workshop on ways mediators may assist people to move toward relational reconciliation. Through practical examples and case studies, mediators will learn how to enhance the process for forgiveness to lead to more durable and mutually satisfying outcomes. Mediators who have attended this workshop in the past have rated it as one of the best. This workshop is repeated on both days of the conference. Don't miss it.

Please consult the Conference Schedule for other top quality workshop offerings.

Registration for members of AMM, HMA, IAM and NMA: \$145 full conference until April 1, 2013 (\$ 175 thereafter); \$ 95 per day until April 1, 2013 (\$ 115 thereafter). Students: \$ 25 one day, \$ 45 both days. Scholarships are available.

Non-members fee: is \$115 a day. Conference materials are provided on CD. If you wish printed materials add \$15.

Payment may be sent to 2013 Heartland Regional Conference of Mediators P.O. Box 2257, Jefferson City, MO 65102. You may pay through PayPal at the AMM Website [www.mediate.com/amm](http://www.mediate.com/amm) but please also send in a registration form.

Lodging is available at Hawthorn Suites Executive Village, 11400 College Blvd, Overland Park, KS. Phone: (913) 344-8100. Rates are good April 24 through April 28: \$89.00 King, \$109.00 suite. Registration is required by April 2. Late reservations honored based on availability.

**For more information or to register go to the AMM website at [www.mediate.com/amm](http://www.mediate.com/amm)**

**We Want to Know How  
You Became Interested  
in Conflict Resolution**

Send your stories to Janet  
at [hmaorganization@everestkc.net](mailto:hmaorganization@everestkc.net)

# *Desire to Mediate Motivated From Resolve to Help Others*

In 1969 when I started practicing law, I realized very quickly that clients were rarely able to accurately evaluate their case. Cases were difficult to settle because both parties over evaluated their position. When you pointed out weaknesses in their cases, clients would lose confidence in you as a lawyer and often disregard your realistic evaluation. I tried many cases where the same result could have reached in an early settlement if both parties had listened to their attorneys.

Mediation helped. Clients seemed to accept their attorney's evaluation of the weaknesses of their case after discussing the case with an experienced mediator. But most clients wanted to win in court, not reach a compromised settlement. Clients hired you to win in court, not compromise a claim. Clients did not want to mediate and would lose confidence in an attorney that suggested it. Most judges were reluctant to order mediation over the parties' objections. This situation did not change much in the 24 years, I practiced law.

In 1993 when I became a judge this same problem still existed. I was trying too many cases that would have been settled if the clients had listened to their attorneys. I started asking the attorneys if they thought a mediator might help them convince their clients to settle the case. If they answered yes, I would order mediation over their clients' objections. These cases almost always settled. Lawyers began volunteering that their clients did not want mediation; but that if I ordered it, the case would probably settle. Attorney's were seeing the value of mediation and wanting to use it more often.

Because of my belief in mediation, other judges in my district began sending me some of their more difficult cases to mediate. I was usually successful, but I felt I could do a lot better with proper training. So in 2002 I took a one week mediation course from the ABA and National Judicial College and I have taken CME courses every year since. My success rate was about the same, but I did not feel as bad when I did not achieve a settlement. I better understood why a case did not settle. And in fact in most of the cases the dispute was resolved before actual trial based on groundwork started at the mediation.

During the 12 years or so I have done mediations, I came to realize that mediation was more than just a method of avoiding a trial. I observed that mediation actually empowers the parties and gives them more

control over the resolution of the case than they can ever have through a trial. The parties are more satisfied with the compromised result they negotiated and agreed to, than they would have been with the same result after a trial. And where sometimes at trial a party loses everything, this never happens in a mediated settlement where both parties agree to, accept and can live with the mediated result. Moreover, the parties have saved the cost of litigation, their own time and have closure which more often than not does not occur after a trial. I came to see mediation as a win-win process superior in most ways to a trial.

I enjoyed my work as a judge, which included mediations, but I retired because there were things I wanted to do while my health still permitted but were not possible as a full time judge. Because I think mediation is usually a better method of dispute resolution than trials, I want to continue as a part time mediator as my schedule permits.

I am motivated to mediate by my desire to resolve a dispute with a better result for the parties than that resulting from a trial. I practiced law for 24 years before becoming a District Judge and was then a District Judge for 17 years. Over and over during this time litigating and deciding people's disputes, I saw cases where neither side was satisfied with the result that was reached through costly litigation.

Often this resulted in more costly litigation -- motions for rehearing, appeals, retrials and continued new litigation of related issues between the parties who were trying to turn a loss into a win. More often than not each party could have obtained the same result rendered by the judge or jury with an early settlement and saved substantial costs of litigating through trial.

I also observed that while neither party is happy with the mediated settlement because each feels he gave up too much, the parties are willing to accept it and move on because they agreed to it. Settlement provided closure in a manner each party could accept, much sooner and with much less expenses than if each had litigated the dispute to conclusion. While not all cases can or should settle, far more should settle than do settle. I want to help in this process. Please except this as my personal statement of my motive to mediate.

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