



Heartland Mediators Association

## Newsletter for Midwest Mediators

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P.O. Box 14971  
Lenexa, KS 66285  
913-956-7620

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[kathy@kathy-perkins.com](mailto:kathy@kathy-perkins.com)

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*Janet Lhuillier*  
[HMAOrganization@everestkc.net](mailto:HMAOrganization@everestkc.net)

2011 Heartland Mediators Association

## A Message From HMA President: Different Kind of Diversity

I heard an amazing, inspiring, thought-providing speaker at the American Bar Association Alternative Dispute Resolution Section conference in Denver this April.

Dr. Temple Grandin is the most accomplished and well-known person with autism in the world. She is a Professor of Animal Science at Colorado State University, designs innovative livestock facilities, and speaks and writes about autism.

She has an extraordinary ability to tell her own story, which she describes as “groping her way from the far side of darkness,” and to relate the process by which she learned what she did not intuitively understand about how “normal,” or as she calls them, “neurotypical,” people think.

For the attorney mediators in the audience, she opened a window into the differently functioning brains of those with Autism or Aspergers (often the diagnosis of more highly functioning individuals with autistic characteristics).

Grandin emphasized that every individual is unique and these traits fall along a spectrum. Recent studies suggest that far more people, both kids and adults, have undiagnosed autism or autistic traits than previously thought.

Our job as mediators is to develop an awareness that people may think differently than we do.

Grandin described those far along the Autism/Aspergers scale to be visual thinkers – as contrasted with the more neurotypical verbal thinkers.

Some visual thinkers think in patterns (these may be the musical or mathematic geniuses we hear about) and others, like Grandin, in photo-realistic pictures.

She explained that visual thinkers tend to have a “bottom up” approach to solving problems, compared with a neurotypical “top down”

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## Annual Awards Presented at Spring Conference

HMA Award winners were announced and acknowledged at the 2011 HMA Annual Conference April 8, 2011 at Maceli's in Lawrence. More than 75 members and non-members attended the conference that includes a number of different modalities of alternative dispute resolution practices including a panel on getting started.

The following awards are presented each year by HMA:

The President's Award went to the Honorable Judge Jean Schmidt, Third Division Judge of the Third District Court of Shawnee County, Kansas. Heartland Mediators Association annually bestows The President's Award, to individuals or agencies (government, business, media)

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## President's message

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approach.

For her, this manifests in difficulty understanding an abstract concept that words might be able to describe – such as justice or fairness.

She must have concrete examples or illustrations of the concept that would allow her to access it. A stream of words defining or describing “justice” simply would not register.

Grandin believes visual thinkers have a real advantage when it comes to creative work and system design. She can “run things in her mind” - power plants, animal handling facilities – in a way that

allows her to troubleshoot and avoid serious errors.

According to Grandin, for neurotypical and autistic people alike, words may actually distract from seeing important details.

I've been experimenting with offering alternative ways of communicating that might work better with visual thinkers and observing what seems to best reach parties I'm mediating with and their counsel. This might involve using drawings, pie charts or graphs rather than a barrage of words, or providing concrete examples of ways a term in an agreement might play out.

We simply communicate better when we consciously think about doing it more effectively, and when we take different thinking styles

into account.

In this diverse world, Grandin's insights can aid those of us whose business is breaking down barriers in communication.

*Kathy Perkins, an attorney mediator of Lawrence, is the President of Heartland Mediators Association.*

## New Directors

Diane Oakes - Upon retirement, she became a Kansas State Supreme Court approved domestic mediator. Responding to a request by the Douglas County District Court, Diane agreed to develop a pilot project to provide mediation services to pro se litigants involved in parenting disputes. The project has successfully evolved into Douglas County Mediation Services. As a result, beginning March 2011, Douglas County District Court mandates mediation for all domestic cases involving minor children. Before retirement she was Chief Executive Officer for the Girl Scouts of Kaw Valley Council until her retirement in 2007.

Verdell Taylor, Jr. earned a Bachelor of Science Degree in Elementary Education at Emporia State and returned to Emporia State University and earned a Master of Science in Counseling. After leaving public education, he became a full time African Methodist Episcopal Church Pastor. For the past 16 years, I have served as pastor at St. Luke AME Church, Lawrence. He now works as a mental health therapist for Christian Psychological Services, also in Lawrence. He serves on seven Community groups.

Wayne Olsen grew up learning how to out run the bully of the school. (At a young age he says he knew what conflict was). He has degrees in forestry, nursing, government administration, project management and medical administration. He retired as head of Management Information Systems for the Department of Veterans Affairs and then worked as the technical disaster recovery manager for Washington Mutual Bank. When his wife was appointed Asst. Emergency Manager for Johnson County they relocated to Kansas.

## HMA Annual Honors

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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 (Oklahoma, Kansas, and Missouri).

Acorn Award: was given to Evan Ash, who has given many years to the betterment of the organization and to the profession of alternative dispute resolution. The Acorn is for a member for their extensive contribution to the field of mediation and to the association.

Margaret 'Peg' Nichols Volunteer of the Year was given to Ron Robinson of the Topeka Victim Offender Mediation Program. This award honors volunteer mediators whether they are members of HMA or not for their efforts in the field of mediating without compensation. The winner of the award will receive a free HMA membership for 2011 - 2012.

No award for Peer Mediation Program was given this year. This award is given to schools who promote peer mediation programs as a practical educational experience. These programs provide hands on opportunities for student mediators and students in conflict as well as others in the student body to experience or learn of the benefits of alternative dispute resolution. Heartland Mediators Association is also interested in helping schools establish and maintain mediation programs. If members know of programs or would like to develop a peer mediation program please let the HMA Board of Directors know about the program.

Perhaps you know someone who might be qualified to be a recipient for the 2012 awards. Please keep note and offer their names in the future.

# Regional Has Varied Topics

The Heartland Regional Conference was in Ankeny, Iowa, this year. This conference rotates every two years between the four states. The 2013 Regional Conference will be in Missouri and the 2015 Regional Conference will be in Kansas.

This year 84 registrants including seven HMA members attended to hear a magnificent speaker, Jim Melamed, who founded the Oregon Mediation Center in Eugene, OR and is currently CEO of Mediate.com

Melamed started the conference with suggestions on elevating the use of mediation services and creating mediation excellence in the future by: using many options beyond single-sit crisis mediation, utilizing time between meetings, integrating a “choreography of communication” online and face to face, supporting negotiating capacity and maximized problem solving-shared knowledge, and giving a three day right of rescission.

His concerns regarding mediation include: community mediation is under-funded; a lack of a National Mediation Association; little regulation of the mediation field and establishing qualification standards; and the culprit is a single sit mediation. Melamed stressed that after his first mediation, he writes an advanced statement of understanding, he gives the parties homework and asks them to create a problem solving agenda.

He believes the most valuable time of all is between mediations. (He even sends his clients to the Mediate.com web site to review other parenting plans.) His idea for generating interest in mediation is by crafting reduced court filing fees for people who have already mediated.

He believes one of his most valuable techniques includes: finding out what the parties like to do in their spare time and relate what they like to mediation. Melamed was a master of this and gave participants in the conference several examples. Friday’s presentation gave mediators great skills to think about and try especially when caucusing.

Melamed is much in favor of online mediation and discussed the choreography of communication we should be using for it. He believes we can mediate with the people 365 days a year 24 hours a day seven days a week.

He gave examples for when people would respond to him by email at three o’clock in the morning. The modality of communication includes

text, image, audio, video, internet, web resources, email and attachments.

Security regarding online mediation was a huge concern to the attorney mediators at the conference. Melamed agreed it is difficult to control the confidentiality of online mediation but he believes online mediation compared to nothing gives people much more opportunity for mediation services.

During the lunch break four representatives of each state presented what was new in their state regarding mediation.

I represented Kansas since Art Thompson could not attend. Information was sent by Thompson so it could be passed on.

The Supreme Court’s Advisory Council on Dispute Resolution has proposed a change to Rule 902 to add more requirements for Mentor Mediators.

A Mentor Mediator must complete 40 hours or more training and complete a mentor mediation training; must complete 10 mediation cases for core and parent/adolescent and 20 mediation cases for domestic and civil, must have two references from experienced mediators.

Mentor Mediators will use an evaluation form provided by the dispute resolution coordinator and will insure that the trainees become progressively involved with the three mediations.

Kansas is losing court mediators due to cuts to the judicial branch budget. Many of these would mediate the lower income parties’ cases.

Private mediators do those of parties who can pay. This may affect courts mandating mediations for private mediators and may see a decrease in mediation cases.

The Conference committee wanted to have local trainers present at this conference and they decided on two sets of four break out sessions.

The Werner Institute at Creighton University has a free interactive portal for ADR practitioners, scholars and students. ADRHub.com provides multiple levels of engagement including: news, articles, virtual conferences, webinars, job boards, blogs, discussion forums, social networking, podcasts and book club. I would recommend using this ADR site.

*Janet Lhuillier is Executive Director of Heartland Mediators Association.*

# Resolving Conflicts Became Important

Dave Cichy became interested in mediation/ arbitration in the mid 1980s when he saw, first-hand, the advantages of ADR over conventional litigation as Industrial Relations Manager for a major electrical and electronic equipment manufacturer headquartered in Chicago.

However, training opportunities in or near the Chicago Area for those outside the legal profession were virtually non-existent.

None-the-less, he kept searching and was continuously encouraged to pursue his goal by a business colleague/labor attorney who at one point was a regional director for the National Labor Relations Board.

As his career advanced, he became increasingly more involved with resolving internal workplace and employment related disputes and eventually with commercial related contractual, product liability, and product warranty disputes involving customers and suppliers.

In 1995, Dave was transferred from Chicago to Kansas City. When Baker University, Overland Park, Kansas inaugurated its ADR program in 2005, Dave enrolled. In 2006, he transferred to Southern Methodist University (SMU) where he earned a Master of Arts in Dispute Resolution.

Currently, he is a principal in Davro Associates, LLC. In addition to mediation services, the firm offers a broad range of executive, management, leadership, and team development training and facilitation services to businesses and other organizations along with transitional, developmental, and remedial executive coaching.

His primary areas of mediation focus are workplace/employment, contractual, product liability, warranty, and similar types of disputes.

Prior to Davro, he spent more than 30 years with medium to very large global union and non-union manufacturing, distribution, hospitality, and service organizations including Fujifilm, Inc. (Fuji Photo Film), BP plc, Burmah Castrol plc., and Lex Service Group plc.

He was in a number of key management and executive human resources, training, and organization development positions within major divisions and business units of those organizations including more than 25-plus years at the director and V.P. levels.

He also directed and served as company representative for internal and external disputes involving litigation, mediation, and arbitration of employment related and general business disputes.

In addition to the M.A. in Dispute Resolution,

Dave holds a Bachelor of Business Administration (B.B.A.) with a Marketing Major from Loyola University, Chicago, Illinois, and a Certificate in Executive Coaching from SMU.

*Dave Cichy may be reached at [davecichy@me.com](mailto:davecichy@me.com)*

## *Start in a Car Lot*

In 1990, a position selling cars was an almost unheard of career choice for a woman up until that time. I had little previous sales experience and the all-male management team's expectations of me were low.

I quickly figured out selling a car was more than test drives and product features. Convincing a potential customer your product was superior to the competition was only half the battle.

The real challenge was acting as an intermediary between the customer and the upper management in regard to trade in values, down payment requirements, interest rates and other related potential sale stoppers. Both sides had the same desire (to sell a car, to buy a car) yet relatively minor details had the potential to derail a sale.

I became an expert at suggesting options and smoothing over strong emotions on both sides. I had become a mediator without knowing it and as a result, I was selling a lot of cars.

I was promoted and held other positions at the dealership over the years but selling cars was what really taught me mediation skills. After several years I left the dealership and went to work for the Kansas Attorney General's Office in the Consumer Protection Division as a "Special Agent" investigating consumer complaints.

Once again, I found most complaints could be resolved through informal mediation. In 2009, the Attorney General's Office decided to implement a formal mediation program aimed at assisting consumers in resolving their complaints. I volunteered to complete mediation training and assist in implementing the program, which I can proudly say has exceeded our expectations.

Though relatively new to mediation, I tell people I have become a true "believer" because I have seen it work firsthand. I find real satisfaction in assisting consumers and businesses reach a solution to a problem that often appears to be unsolvable.

*Natalie Hogan is Special Agent for the Kansas Attorney General's Office Consumer Protection/Antitrust Division, Topeka, Kansas 66612-1597 or [natalie.hogan@ksag.org](mailto:natalie.hogan@ksag.org)*