

The Communicator

Newsletter of the Association of Missouri Mediators, Inc.

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Jane Rippeto, President ■ Stephen Stark, President Elect ■ Kathleen Bird, Secretary ■ Danny Johnson, Treasurer ■ Board members: Susan Amato, Ann Beatty, Randy Hoerschgen, Danny Johnson, Michael Maguire, Kathy Robinson, and Bruce Feldacker, President emeritus

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What's brewing this Summer?

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AMM News

Development of Mediation Business is Theme of 2009 Conference on October 31, 2009 in Columbia, MO

AMM's eleventh annual conference will explore the challenges and opportunities for developing a mediation practice and gaining and retaining clients. The MU School of Law in Columbia, Missouri is the site of this year's conference. The morning schedule will focus on the book "*Making Mediation Your Day Job: How to Market Your ADR Practice Using Mediation Principles You Already Know*" by Tammy Lenski. Dr. Lenski's book has been hailed as the most unique book on marketing mediation in some time, and as a primer for people who hate marketing but love to mediate. Dr. Lenski will lead a discussion of the book by video conference. This will be followed by a panel of Missouri mediators who have successfully developed a mediation business. Lunch and the annual membership meeting will precede afternoon sessions covering development of a marketing image; gaining commitment to the mediation process; exploring opportunities in elder mediation; and avoiding ethical pitfalls. A conference brochure is being sent to AMM members and appears on the AMM website. AMM members will attend the conference at a discounted rate.

President's Message: Flexible Means Strong

I am impressed with the power of flexibility. Our Board has had to make some very tough decisions in the past few months. Each of us had strong feelings about how to proceed, and some of us thought our decision-making process could have been better. Be assured that these



Jane M. Rippeto, M.A.

decisions have been made with the idea of preserving the integrity of this fine organization. We are standing together: flexible and strong.

We decided to change the structure of our Board of Directors going forward. Randy Hoerschgen, who remains on our Board, stepped down as our Executive Director in order to save us money. Although Randy's monthly stipend was far below the compensation he deserved for his myriad of duties, he agreed that our financial situation required this step. Randy continues to serve as our Administrative Director and generously allows AMM to keep a physical presence at his office in Jefferson City. I want to express the Board's, and my personal appreciation to Randy for his past and continuing work on behalf of AMM. Board members have taken on various duties on a volunteer basis to keep us moving forward.

Our Annual Conference has been reformatted in light of the pressing economic times. We are returning to our roots as an organization devoted to mediation practice and education. Please review the announcement of our conference on October 31, 2009, at the University of Missouri Law School. Sign up now!

My dearly departed father used to proclaim that a willow tree was stronger than an oak because the willow could bend and give with the weather, but the oak just broke under the pressure. My fellow members, I hereby proclaim that your Board stands strong and flexible, just like the willow tree. We will continue to grow strong together. I know we can count on your support. See you at the conference!

Jane M. Rippeto, President
Association of Missouri Mediators
September 8, 2009

Tips for Mediators in Tough Economic Times By Kathy Robinson

Virtually everyone has struggles resulting from the current state of the economy. Many mediators are experiencing a decrease in business and many mediator positions, even entire mediation departments, have been eliminated. During these trying times there is much we can do to take care of ourselves and each other.

1. Remember why we became mediators and what about this field we find so compelling.
2. Now more than ever, it remains crucial to form and strengthen our bonds with each other and as a community by joining or rejoining worthwhile mediator organizations (such as AMM), attending trainings, and finding other opportunities to connect with and sustain each other.

3. Reach out to members of our community with business leads, referrals, purchase mediation services ourselves, and otherwise exercise opportunities to be a friend to each other, with particular care to those who have lost their jobs.
4. Prioritize the need to publicize and tout the value of mediation every chance we get.
5. As we look forward to better times for our field, glean all possible learning from this experience and act to prevent such losses from occurring in the future.

Suggested actions include working to better quantify the value and benefits of mediation, which occur not only through dispute resolution, but also through enhanced communication, relationship and interpersonal skills. We can work to change a business mindset which too often considers dispute resolution services to be expendable rather than essential, as costs to be cut rather than cost effective. Together we can emerge from these challenges as stronger mediators determined to maximize opportunities to help mediation and our community of mediators thrive.

Missouri Headlines

MARCH has Record Year and Receives Record Support

MARCH Mediation Inc., a statewide non-profit provider of mediation in domestic relations matters, reports that it has mediated 30 percent more cases in its current funding cycle (starting Oct. 1st) than in 2008. The demand for mediation services is another sign that people are seeking cost-effective measures in difficult economic times. A record 125 cases were mediated this April alone. MARCH is funded from Child Support Collections Fund, under contract with the Family Support Division. This spring the state legislature approved funding for FY10, but the funding was questioned at the executive level. Many supporters of MARCH contacted the Governor's Office in June to avert a veto of FY10 funding. MARCH services have been evaluated by the federal child support agency, which has documented that parents who engaged in mediation to develop a parenting plan pay child support at a higher rate than parents who do not mediate. Clay County (Seventh Circuit) has the highest child support collection rate (over 61% compared to a statewide average of 48%) and has been offering mediation through MARCH and court services since 1995.

Funding Efforts are Life or Death for Aim4Peace

Aim4Peace organizers have been successful in obtaining a \$300,000 bridge grant from the Health Care Foundation of Greater Kansas City after the City cut its budget from \$773,000 to \$150,500. The City funds were only sufficient to continue operations to August 1, 2009. The bridge grant funds the programs for another six months in order to seek permanent funding. In 2008 Aim4Peace estimates it saved the community \$963,000 in health care savings and \$1,449,000 in law enforcement savings by intervening in 22 documented conflicts.

Excerpts from "Ex-cons mediate in rough neighborhoods from Kansas City to Chicago before feuds turn violent" by Andale Gross, Associated Press Writer, July 11, 2009

KANSAS CITY, Mo. (AP) An argument earlier in the day between teens from rival neighborhoods had Jason Broom worried as he stood in a pothole-riddled parking lot pondering his next move. Broom was released from prison last year after serving time in two killings and is now a conflict mediator on Kansas City's gang-infested east side. He grew anxious as none of the feuding youngsters answered his cell phone calls. Worried the confrontation could escalate to a gunfight and perhaps another killing, Broom took off, peering down blocks and slowing his car to check out teens huddled on porches and stoops. Nothing. The stocky, 270-pound Broom easily blends into

the neighborhood scenery as part of Aim4Peace, a program that sends reformed criminals into some of the city's tensest neighborhoods to calm disputes before they erupt. Police credit the program with reducing violence on the east side, where most of the city's 126 homicides occurred last year.

Leaders in the nation's most violent cities have talked for years about trying to get ahead of their crime problems, but efforts in Kansas City and Chicago take a different approach by sending former convicts into neighborhoods to more quickly identify, and defuse, trouble spots. "I've done everything they're thinking about doing," Broom said. As the 38-year-old ex-convict combed the streets for the feuding boys, Broom couldn't help but think the worst. Night came and went without a word. But he caught up to them the next day, demanded they "chill out" and detailed what could happen if they let their argument turn violent: jail, or worse. That's over with," a relieved Broom said later. "Another conflict resolved."

Broom and the other half-dozen or so Aim4Peace street intervention workers, also known as "violence interrupters," say they resolved 22 conflicts last year in Kansas City and at least 14 this year. And the east side - where poverty, gangs and drugs have conspired against residents for years - no longer leads the city in killings, according to crime data. "The work they're doing in that area is having an impact," said Maj. Anthony Ell, commander of the Kansas City Police Department's violent crimes division. Ell said Aim4Peace is unlike any other prevention program he has seen in his 24 years with the department, because its members "go directly to the neighborhoods" to work with young people who run a high risk of committing violence or becoming victims. The group also helps find mentors for at-risk youth and links residents to community services.

Broom tends to reach out to young men whose families have violence or other criminal activity in their backgrounds, such as a teen whose older brother was convicted of killing someone in a drive-by shooting. Broom said. "That's sort of the situation I was in. My dad was a heroin addict and used to rob people. My brother's in prison for murder." By the time Broom turned 19, he was selling drugs and had been shot twice. In 1999, he was sentenced to 10 years on two second-degree murder counts. Broom said he left prison determined to use his street influence to help heal neighborhood problems. Aim4Peace recruited him and offered him a contract position starting at \$12.50 an hour. "These guys out here know my history. They know what I've done," said Broom, who could go unnoticed as an outsider in his black Aim4Peace shirt, jeans and work boots. "Who's more qualified to say, 'That ain't the road you want to take?'"

Aim4Peace largely borrows its methods from Chicago's CeaseFire project, which sends former gang members and ex-convicts to the streets to stop violence before it starts. The program is rooted in the theory that violence is a public health concern akin to diseases or viruses. Dr. Gary Slutkin, an epidemiologist who founded CeaseFire, said training people to control violence is no different from teaching them to control tuberculosis or AIDS. "Violence behaves like every other epidemic does," said Slutkin, who spent 10 years in Africa battling infectious diseases. "One event leads to another just like every other epidemic."

Missouri Fails to Adopt Mediation Act

A bill establishing a State Mediation Act introduced in the 2009 legislature by State Senator Yvonne Wilson has failed to pass. The bill was referred to the Senate Judiciary Committee but did not advance out of committee. The bill defined mediation as a consensual process, included procedural practices found in Supreme Court rules 17 and 88, and some ethical provisions previously adopted by several national dispute resolution organizations. Missouri currently has no statute defining mediation or the role of mediators aside from a clause in the State Uniform Arbitration Act that addresses the confidentiality of mediation. Supporters intend to seek sponsors to reintroduce the bill during the 2010 session.

Mediator Sites and Blogs

Check out these sites for online mediator chat:

www.adrblogs.com is a world directory of ADR blogs

www.mediationchannel.com is a clearinghouse for news and ideas about mediation and negotiation that posts articles and news stories every few weeks.

Got a favorite mediation site or blog? Send the address to momediator@mediate.com

AMM is looking for volunteers to read and review mediation blogs. If you are interested, contact us at the above address.

AMM Public Discourse: Summer Conversations

AMM members have an opportunity to chime in on the Public Discourse topic of the week. This summer President Obama's invitation to Professor Gates and Police Sgt. Crowley to reconcile over a beer at the White House drew the most responses.

Question: If you were coaching the President in how to conduct a sensitive conversation, what would you suggest? Should an apology be on the agenda?

Sampling of Responses ...

"I would advise the President to leave his own personal experiences as a black man out of the conversation, since he cannot also weigh in as a member of law enforcement. I would not create an expectation of an apology by any party, including the President for his public comments about the incident. The only expectation I would impose on participants is to understand and be understood."

"I think the President should have stayed out of it. It was a low level incident of disturbing the peace by someone who was obviously tired from a long trip... Of all the race issues and problems we need to work on in this country, this is not even on the list in my opinion."

"It's amazing how a conflict between two people can affect a nation. People are jockeying for position in one of the two camps ...I have faith that he can focus on the common interests of these gentlemen. They both feel they responded correctly. An apology is definitely needed from both sides."

"The President acted inappropriately when he interjected his unfounded opinion into a local non-federal incident. Asking the two antagonists to the White House is a publicity stunt seeking to repair his image with no particular training in "sensitivity". Once the President opened his mouth with little thought to the import and impact of such a statement, the President should have immediately apologized to the officer, the community and all law enforcement."

"The President should keep it collegial and low-key. Let the men get to know each other personally. It should be their choice if they want to delve into the incident. An apology should be internally motivated and heartfelt. It should not be presumed that apology is necessary to make this meeting a success."

"Hold off on the beer until after the discussion of the incident, but only proceed with the discussion if all of the parties agree both to the possibility of continued disagreement and to having a beer after the discussion. Obtain very experienced conflict resolution services, possibly from two people, one black and one white. It appears President Obama is attempting to facilitate the possible resolution of the incident, but he is not neutral (a)fter making his public comments. As for apologies, I believe they should happen only if that is the direction the discussion takes. If

there is an expectation all three parties will apologize for what they did to create the situation as it is today, then there is a chance the discussion will be viewed as a failure even if it's a good and healthy discussion."

Question: Janet Cohen, author of a play set to debut at the Holocaust Museum the day a security guard was killed there, stated that we tolerate hate speech as free speech and questioned why we take a wait and see attitude toward people using terrorizing language and at the same time scrutinize innocent people at airports. How do you define "hate speech?" When should "free speech" be restricted?

Sampling of Responses ...

"I do not believe we should invent and criminalize a category of "hate speech." Perhaps it would be better to counter hateful speech with peaceful speech, in such quantity and quality as to isolate and dissuade development of haters. Perhaps we should increase access to mental health resources for those at risk of the "descent into violence." Perhaps we should support community dialogue programs. We have struggled to distinguish obscenity from pornography, incitement from inflammatory speech and etc. The usual problems arise of who gets to decide what constitutes "hate speech" and what price does our democracy pay for chilling the market place of ideas? For me the price of being marginally safer would be too high."

"We assume that "words will never hurt us." Obviously most of us have experienced occasions when thoughtless words have injured us. In our free society the forum for words is ill defined. It's a breach of the peace to shout "fire!" in a crowded theater but permissible to incite others to set a theater on fire as long as the instrumentality (torches) is not present."

Not receiving the Question of the week? Have a comment or topic suggestion for discussion?
Contact momediators@mediate.com

Member News

Nina Balsam and **Paul Ladehoff** are working on a symposium on restorative justice in the adult criminal justice system to be held at the University of Missouri School of Law on November 13th. **Dawn Kuhlman** organized an interdisciplinary presentation on utilizing mediation for permanency planning for foster children. Randy Hoerschgen was interviewed by US News & World Report about his paper on avoidance and managing conflict. Former President **Lynn Malley is presenter for the September ACR family mediation teleconference on working with the families of returning active duty service members. Jane Rippetto and Randy Hoerschgen are interviewed about family mediation in a new video created for the Missouri Supreme Court. Larry Swall is recipient of the 2009 Missouri Bar Family Law Practitioner of the Year Award. Member Betsy Ann Stewart has been appointed to the Missouri Supreme Court Committee on Dispute Resolution.**

Mediation News Roundup

KANSAS – The Court of Appeals recently upheld the dismissal of a suit on breach of a real estate purchase contract for failure of a party to participate in mediation as required under the contract. *Santana v. Olguin*, 2009 WL 1491383 (Kan. App., May 29, 2009). A pre-inspection agreement had a mediation provision, which the court found was a condition precedent to litigation. The parties were first required to mediate their disputes, and therefore it was within the lower court's discretion to dismiss the lawsuit.

NEVADA – The Nevada Supreme Court has adopted rules for mediation at the request of homeowners facing foreclosure in response to enactment of a state statute authorizing a

mediation foreclosure program. Homeowners have 30 days to request mediation after receiving the foreclosure notice. The request freezes foreclosure proceedings until mediation is conducted.

TEXAS – Gov. Perry has signed legislation establishing a mediation process for billing disputes between patients and hospital-based physicians over out-of-network claims.

UTAH - The chief sponsor of the 2008 statute requiring mandatory arbitration of medical malpractice claims wants to repeal it in the face of a growing public backlash. Sen. Hellewell told ADRWorld.com that his decision to support the bill last year was "wrong," and acknowledged that a primary concern that malpractice lawsuits are damaging the state's health care system -- is not a real problem. Opposition has grown since Salt Lake City-based Intermountain Health Care began presenting its customers with arbitration contracts lopsided in IHC's favor. The Senator said his attempts to get "IHC to tone down the clause" were unsuccessful. A joint Commission on Health Care Dispute Resolution of the American Medical Association, the American Bar Association and the American Arbitration Association has called into question the fairness of mandatory arbitration for medical malpractice claims. Reaction to the law has led to public protests at the state capitol. A few other states have been drafting plans to authorize the use of alternative dispute resolution mechanisms to settle claims. In most cases they are looking to mediation rather than arbitration. Last year Florida enacted legislation that caps medical malpractice damages and requires claimants to attempt mediation within four months of filing a lawsuit.

Current Mediation Articles

ABA Dispute Resolution Magazine Spring 2009: Uncovering Race in Dispute Resolution

ABA Dispute Resolution Magazine Summer 2009: Finding the Appropriate Problem Definition in Mediation (Len Riskin); Is Mediation a Profession?

ACR Resolution Magazine Spring 2009: Marketing Your ADR Practice

ACR Conflict Resolution Quarterly Spring 2009: The Struggle to Define Mediation and Its Various Approaches; Building Trust-Are Mediators Overdoing it?

ACR Conflict Resolution Quarterly Summer 2009: Challenging Dominant Paradigms in ADR

AFCC Family Court Review July 2009: Collaborations Between Law and Social Science to Advance the Field of Family Dispute Resolution

University of MO Journal of Dispute Resolution Vol. 2009 No. 1: The Future of Mediation-A Sociological Perspective

Training Calendar

September 11, 2009 – MO Chapter AFCC, "Mediation Minefields" with Gary Kretchmer, Brentwood Community Center, Contact Andrea Clark at 314-615-8094.

October 7-10, 2009 – Association for Conflict Resolution annual conference, "Integrating Approaches & Practices to Address Conflicts in a Chaotic World," Atlanta, GA. See more information at www.acrnet.org

October 30, 2009 - Colorado Statewide ADR Conference in Denver. For more information contact drtkyoung@fyamediation.com.

October 31, 2009 Eleventh AMM Annual Conference, Columbia, MO, "Making Mediation Your Day Job Using Mediation Skills You Already Know." Conference brochure and registration form can be downloaded at www.mediate.com/amm Pay Pal is available.

Nov. 13, 2009 - Restorative Justice Symposium at MU Center for Study of Dispute Resolution cosponsored by the MU Peace Studies Program and the Missouri Restorative Justice Coalition. For details contact colemanl@missouri.edu

Nov. 13-14, 2009 - Interdisciplinary Collaborative Divorce Training. St. Louis University School of Law, sponsored by the Collaborative Family Law Association. Contact collabtraining@me.com

AMM Training events conducted this past year:

Victim-Offender Dialogue Training (Columbia July 2008 – 21 credit hours)
Listening Skills for Mediators (Kansas City Sep 2008 – 1 credit hour)
Domestic Violence & Assault (Springfield Oct 2008 – 2.5 credit hours)
Psychology of Conflict (Columbia Oct 2008 – 6.35 credit hours)
AMM Annual Conference (Columbia Oct 2008 – 6.35 credit hours)
Red State / Blue State: Discussing Common Ground (Kansas City Nov 2008 - 1 credit hr)
What a Judge Wants (Springfield Jan 2009 – 2.5 credit hours)
Mediator Ethics (Teleconference Feb 2009 – 1 credit hour)
Motivational Interviewing Techniques (Kansas City Mar 2009 – 1 credit hour)
Techniques to Resolve International Conflict (St. Louis Mar 2009 – 1 credit hour)

Check the training calendar at www.mediate.com/amm for upcoming events

Professional Opportunities

Mediate.com upgrades Mediator Directory Service

A new interface for the Mediate.com mediator directory system "benefits every single member" according to Jim Melamed, mediation training and website founder. Mediate.com is the most visited mediation website on the internet with four million visits to the site anticipated in 2009. MediatorDirect, a service to contact users with mediators by area code and practice type, now provides a "mouseover" system that is more user friendly. Mediators subscribing to MediatorDirect have their contact information posted at the top of each page of the website for visitors from their area code. Mediate.com is the host of the Association website and provides easy to use templates for mediators to create their individual webpages.

Tips for Getting Mediation News in Print

From "Mediation Mensch" by Dina Beach Lynch

"Part of the trouble with growing the profession is that we have a very low media profile. Here are some tips from editors of Fortune Small Business and Harvard Business Review... One email, letter or call is not likely to result in coverage. Consistent interaction, in a respectful way, wins the marathon. Focus on publications that will really benefit your business and focus exclusively on them. Read many issues of the publication and learn to distinguish the purposes of each section of the publication. Each publication has a personality and self-image that you want to understand before pitching a story. Editors look for interesting stories, and sometimes that means what drives you to create your business instead of the business itself. Don't hesitate to include in your pitch what the business means to you or whether it has some special meaning or purpose. Ask for their advertising packages to find out who reads the publication and for what purpose. Get the editorial calendar that lays out a years' worth of coverage. You'll be able to pitch your story months ahead. "