

HEARTLAND MEDIATORS ASSOCIATION

WINTER, 2018 NEWSLETTER

HMA is a not-for-profit organization bringing together people who share a common interest in mediation. HMA advocates for and provides continuing education about mediation and provides a network for information, skill sharing, and referrals.

A NOTE FROM OUR PRESIDENT

In a previous chapter of my life I was a volunteer paramedic and firefighter for a large county department on the East Coast. Paramedics and other first responders are people who run towards the problem rather than seek safety by running the other way. Their goal is to fix the problem, not avoid it. That's what makes them different from other people who would rather ignore a problem and hope that someone else will apply the fix.

As mediators, you and I are motivated to see a problem, identify workable solutions and then guide the parties to an agreement that meets their need to resolve whatever brought them to you. It's intensely gratifying, and I admire all who have decided to assist others in

crisis. But there is more to mediation than helping others, Heartland Mediators Association is more than a collection of individuals with a common outlook we are people who associate with other mediators in order to improve, learn and develop our ability to help others in conflict. HMA provides training opportunities, networking opportunity and gives you a voice with the public and the legislature.

We survive as a group because members of the Association volunteer their time and energy to support the group and advance the programs that have made the association successful. Your Board of Directors give innumerable hours without any remuneration and work with the Executive Director

with day by day issues that all organizations face. A major part of their duties is assuring the programs and meetings of the group are valid, timely, appropriate and reasonable in price. I know their commitment to the Association and the decisions they make on your behalf are what make our association successful and respected. I'm grateful for their support and direction during my term as President.

We are always looking for fresh ideas and if you have the time, we can always make use of your skillset in advancing the programs of HMA. Let us know of your availability and we'll help you satisfy your drive to help others within our talented organization.

- Wayne Olsen

Upcoming Events:

- Overview of Alternative Dispute Resolution in Kansas February 9 @ 1:00 pm - 4:30 pm, Topeka Public Library – **FOR MORE INFORMATION SEE LAST PAGE**
- Heartland Mediators Annual Spring Conference April 26 & 27, 2018 April 26 @ 1:00 pm - April 27 @ 5:00 pm, KU Edwards Campus, Overland Park

Heartland Mediators

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MEET A DIRECTOR JIM DONOVAN

Mediation seems to be a natural fit – perhaps because Jim capitalizes on opportunity.

For example, half way through his third term as a member of his city's governing body Jim recognized and commented that tensions seemed high and that neighbors were not necessarily neighborly. After one prolonged council meeting Jim asked the audience what could be done to lessen tensions. One person approached him after the meeting and introduced him to the formal concept of mediation.

Interactions such as this are not uncommon in Jim's history. In the early 1990's as his family was expanding he "retired" from the traditional work force and opened a business planning/consulting practice. His background included simplifying quantitative data to help decision makers understand the impact of their business options and alternatives.

This led to civic involvement in not-for profits and public boards, including elected office. Along the

way he expanded his business model to include buying, selling and leasing houses, being a state high school athletic association game official, an Amateur Softball Association game official, a state licensed substitute teacher, and as of December a licensed automobile dealer.

Jim is a life-long Shawnee Mission, Kansas resident with a long history of community service and vast experience in the private, public and not-for-profit sectors culminating in opening a full-service mediation practice in 2008.

Jim earned an undergraduate degree from Washburn University of Topeka and a Masters of Public Administration Degree from the University of Missouri at Kansas City. His background includes extensive training and certificates related to public management.

Jim fills his spare time traveling, playing the ukulele, being involved with various historic societies and groups, civic engagements and volunteerism.

HMA Membership is open to any person interested in mediation or interested in pursuing a career in mediation or alternative dispute resolution. Membership goes from June 1 to May 31. If you become a member after January 1 then your membership will go to May 31 of the following year.

A Short History of the Kansas Dispute Resolution Act

Art Thompson

In 1988, with the encouragement of the Kansas Bar Association and a group which eventually became the Heartland Mediators Association, the Supreme Court appointed a Dispute Resolution Committee chaired by Judge Herbert Walton. The committee's task was to study the various methods of dispute resolution, review national examples, survey the needs of Kansas citizens, and make recommendations to the Kansas Supreme Court for implementing new methods of dispute resolution which would be compatible with the current court system. After considering their report, the Supreme Court established a second committee chaired by Appeals Court Judge Joseph G. Pierron in 1992 to expand on the recommendations of the first committee. The Court never acted upon the recommendations so, in 1994, Jerry Beniventi, with Heartland Mediators Association led a group to encourage the legislature to pass the Dispute Resolution Act. The Legislature passed the Dispute Resolution Act and the Supreme Court promulgated the mediation rules in 1996.

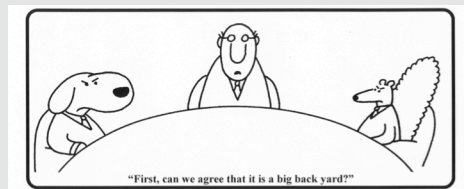
The Kansas Dispute Resolution Act was modeled on the Nebraska Act and at the time it was passed in 1994, was almost a verbatim replica of the Nebraska Act. The Kansas Act mandated the appointment of a director of dispute resolution, appointment of an advisory council on dispute resolution, formulation and implementation of standards and ethics for mediators, creation of a dispute resolution fund and the establishment of an approval system for "centers." The Legislature never provided the funds for the dispute resolution centers.

The Kansas Supreme Court's establishment of a Dispute Resolution Council was another requirement of the Dispute Resolution Act. The first Council was appointed in 1995 with Judge Larry Solomon as the chair. He served six years. Other Chairs were Judge Robert Fairchild, Larry Rute and Judge Kelly Ryan. The current chair is Judge Kevin O'Grady. This Council advises the court and Legislature on issues related to dispute resolution. They have promoted the establishment of specific court rules and legislation on the subject. The Council is appointed by the Chief Justice with consideration to insure a wide range of backgrounds and geographic areas are represented. The Legislature dictated that only six of the nineteen members can be people with Kansas law licenses.



ADR Rules

The Kansas Supreme Court has been developing new dispute resolution guidelines for over three years. The new rules will revise the existing rules and add two new categories; conciliation (non-confidential mediation) and parenting coordination. The Heartland Mediator's Board sent the Supreme Court the enclosed letter indicating appreciation of their work on these rules and an encouragement to continue the process and to send the proposed rules out for comment. That will give you time to read and comment on the rules. There will be changes and additions that some people may wish to support, amend or oppose. But the process of continuing to try to improve dispute resolution processes is important to providing the citizens of Kansas with the most appropriate method of resolving their disputes.



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November 29, 2017

Dear Chief Justice Nuss and fellow Justices:

Since the passage of the Dispute Resolution Act in 1994 the Heartland Mediators Association has been appreciative of the Court's efforts to establish the Office of Dispute Resolution, adopt rules on mediation, and foster a growing and varied list of dispute resolutions in our state courts. We are writing to reaffirm our support for your efforts. Most of our members have become involved in mediation because of the benefits it shows for adults and children who find themselves involved in conflict, often through no fault of their own.

Heartland Mediators Association will continue to foster the use of dispute resolution in Kansas, safeguard the users of the dispute resolution systems, and provide training to make dispute resolution providers more effective in their vocation.

It is our understanding the Advisory Council of Dispute Resolution has proposed new dispute resolution rules. The proposed rules are of great interest to our members and their development has great anticipation for their release for comment. A key reason for supporting the new rules is the benefit for all parties, especially the children involved in court cases. We are particularly interested in the addition of standards for the established process of conciliation which has been used in many Kansas courts for over twenty-five years.

We are also interested in fostering new promising processes such as Parenting Coordination. This is an encouraging process that is used in twenty-two states including most of the states around us. We have observed that it is beginning to be used in Kansas but with differing definitions. It is imperative that there be consistent protocols and provider qualifications from one part of the state to another.

It is our firm belief that the Court is the appropriate venue for developing and vetting dispute resolution rules. For the past eighteen months we have allotted time in our training agenda to discuss the proposed changes; unfortunately, there has been no movement on the changes for us

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Dear Chief Justice Nuss and fellow Justices (continued from previous page)

to relay to our members. There is continued hope that these rules will be released for comment soon.

If judges in Kansas require more and more people to use a dispute resolution process, it is imperative that the Court remain involved in overseeing the rules governing these processes. This insures the quality of the processes required by judges, and the quality of the people serving in this process as neutrals. In a time of growing pro se litigants dispute resolution providers should be all the more qualified. Please let us know how we can continue to assist you in that joint effort.

Sincerely,

Janet Lhuillier
HMA Executive Director

Jim Donovan
HMA President Elect

The HMA Winter training
Overview of Alternative Dispute Resolution in Kansas

3 CLE/CME Hours includes 1 hour of CLE in Ethics

February 9, 1-4:30pm

Topeka and Shawnee County Public Library
1515 SW 10th Ave

The training will review ADR in the State of Kansas with a focus on mediation. The first hour will examine issues that come up in mediation and other forms of ADR that can create conflicts and ethical issues for the neutral party. The second hour will spend the time focused on mediation and ADR alternatives in domestic court. The third hour will be spent in a discussion and an examination of the local practices in the community and courts.

The presenters will discuss the difference between voluntary and court-ordered mediation and the difference between party driven outcomes and third party driven outcomes.

We look forward to seeing you at the HMA Winter training in Topeka.

More information available at <http://www.heartlandmediators.org/event/1793/>