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Resolution Washington, Dispute Resolution Centers

Mediate.Com, news and mediation services

Association for Conflict Resolution
Federal Mediation

President's Message by Kevin Cornwell

Dear Colleagues:

We're coming up on a busy season for WMA: board elections, the annual meeting, the annual conference and other things.

In February, the WMA board endorsed the revised Standards of Conduct for Mediators in Washington. The full text of the document is available on-line at: <http://www.acrnet.org/about/initiatives/QualityAssurance/JCMSCM.htm>

The board is also proceeding along other fronts, which we will share with you soon.

The WMA Annual Meeting will be held on Friday, April, 28th from 10 AM to Noon immediately preceding the Washington Dispute Resolution Conference at the University of Washington in Seattle. Our Annual Meeting will be held in the Room 115 in Gates Hall on Campus. You do not have to be signed up for the conference to attend this meeting. See you there!

NW ADR Conference - Mark Your Calendars!



The 14th Annual Pacific Northwest Alternative Dispute Resolution Conference sponsored by the University of Washington Law School is set for April 28 and 29, 2006.

Thirty-seven breakout sessions are currently scheduled. ADR luminary Kenneth Cloke, author of *Mediating Dangerously* (San Francisco: Jossey-Bass, 2001) and *Resolving Personal and Organizational Conflict* (San Francisco: Jossey-Bass, 2000), will be the keynote speaker at the Saturday luncheon, where his topic will be

"Mediators Without Borders."



Myer Sankary

California attorney Myer Sankary, is co-chair of the Middle East Peace Network, focused on cross-cultural relationships and identity development among Arabs, Jews and Jews from Arab countries both in the United States and in the Middle East. Sankary will speak from 1:00-2:30 Friday afternoon on persuasion and mediation.

Several WMA members are slated to share their knowledge and expertise during the 1 ½ day conference.

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Editor: Darrell Puls

The conference will be held at Gates Hall at the UW Law School. Registration materials should be available soon. Don't miss it! Full details will be available soon on the conference website at: www.mediate.com/nwadr or by contacting:

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We encourage you all to attend and work with your local DRC to try to get group enrollments which can reduce your individual costs.

Apology Protected in Medical Mistake Cases

Governor Christine Gregoire signed into law a bill that protects apologies made in the context of medical mistake cases from being used as evidence of negligence or wrongdoing. Agreement was reached in lengthy negotiations to allow physicians to freely apologize to families and victims in medical mistake cases without then having that same apology used against them as an admission of error or wrongdoing in court.

Washington joins six other states in protecting apologies from use as evidence in the context of medical mistake cases, including Oregon.

The experience of apology, whether protected or not, in medical error cases is strongly positive. According to one study, The University of Michigan health Systems, which operates several teaching hospitals, saw tremendous benefit from a policy of transparency and apology. Under that policy, physicians and administrators together make immediate admissions of error, apologize, and offer to do everything to make things right without further cost to the patient. That policy resulted in a precipitous drop in lawsuits and a 2/3 budget reduction for legal costs over an 18-month period.

The NW ADR conference has an apology seminar on Friday afternoon, April 28.



Should Parties Tell Mediators Their “Bottom Line”

by Peter Contuzzi

As lawyers increasingly make mediation the forum of choice to attempt negotiating settlements for their cases, they also increasingly confront the thorny issue of what to say when a mediator asks them what their bottom line is. When a speaker at the 1999 American Bar Association Section of Dispute Resolution Annual Meeting in Boston was asked if he advised candor, his response was immediate and forceful: "Don't do it! I tried it once and got burned by the mediator. All he used it for was to try to leverage me further. Never again!" He was vigorously challenged by a mediator who lamented that if the parties hide their true positions not only from each other but also from the mediator, they dramatically lessen the chances of settlement.



The intensity of the sparks generated by this topic indicated a glaring need for better understanding between the two types of lawyers caught up in this dilemma - the mediator who finds the question useful, and the negotiator who believes an honest response to be dangerously risky. Before going any further, we should note that a debate has developed over whether it is even appropriate for a mediator to ask the bottom line question. In the typical civil litigation negotiation where money is the primary (if not only) issue, some negotiators may resent a question, even within the protected confines of a separate meeting, which so bluntly zeroes in on their ultimate piece of confidential information.

Others will share the above negotiator's concern about being manipulated by the mediator. And mediators, mindful that they cannot really know if the parties will be equally candid, may worry about having their process manipulated to the disadvantage of the party that is more honest in responding to the question... [Click here](#) to read the rest of the article.

Published by the [National Institute for Advanced Conflict Resolution](#).

Once Again, With Violins

Source: [Time Online](#), February 24, 2006

After an impasse that lasted nearly eight weeks, musicians of the St. Louis Symphony have reached agreement with the orchestra's management to resume their concert season. The agreement was reached with the assistance of federal mediator Charles Fuchs, after the cancellation of 18 concerts drew national attention to the orchestra's first strike since 1979. Founded in 1880, the orchestra is one of the oldest symphonies in the country and has won six Grammy awards.

Earlier in the day, the National Labor Relations Board ruled the musicians were striking illegally. The musicians had argued that since January 3rd, they had been locked out, having refused to continue playing under an expired agreement. Rather than taking the case to federal courts, both sides attended negotiations aided on Thursday by St. Louis mayor Francis Slay and Bob Soutier, President of the Greater St. Louis Labor Council. Neither side would release details of the agreement.

Money was at the heart of the dispute; while musicians at many other top orchestras earn more than \$100,000 in base salary, the St. Louis musicians had earned \$73,180 in base pay prior to the new agreement.

Family Counsel: Forgiveness

Source: Rochester Democrat and Chronicle, March 9, 2006, by Estalyn Walcoff.

Human beings have a remarkable ability to forgive. Peter and Linda Biehl, for example, were able to forgive the South African teens who murdered their daughter in 1993, and even give them jobs with the Amy Biehl Foundation Trust in an act of reconciliation.

Vicktor Frankl writes of the concentration camp survivor who stayed in Auschwitz two extra days in order to come to a place of forgiveness so she would not be a slave to hatred of the Nazis for the rest of her life.

These people are extraordinary. What about us "average Joes"? Can we forgive a cheating spouse, the boss who fires us without warning, the drunk driver who injures our child? Perhaps more importantly, why should we?

For one thing, it's healthy. Medical researchers used to think that people with type A personalities, those driven to success, were most prone to heart disease. More recently, scientists see a higher risk for type D personalities, who have traits such as marked hostility and bitterness. (To assess whether you have this personality type, take a test at Harvard by clicking [here](#).)

According to Dutch researchers, high hostility puts us at an even greater risk of heart attack risk than having high blood pressure, high cholesterol or smoking. Hostility also can cause depression, which can lower our immune response and bring on a plethora of illnesses. In other words, *not* forgiving is bad for our health.

There also are psychological reasons to forgive. When we let go of bitterness, contempt, vindictiveness and the desire for revenge, mental and emotional energy is released for use in productive ways.

Forgiving someone does not mean condoning what he did. It does not mean that what happened to us was fair or just. It does not mean that we must reconcile with that person, although that may be a result. It does not mean that we have to tell the person we've forgiven.

Although the process of forgiving is very personal, here are guidelines for getting started:

- Decide that you want to work on forgiving someone.
- Decide that you no longer want to define yourself as a powerless victim.
- If you've avoided feelings of hurt or anger around the episode, allow yourself to feel these emotions. Then decide to stop ruminating about the event.
- When the story of what happened to you comes to mind, replace it with thoughts about successes in your life.
- Be patient with yourself.
- If you choose, seek out a spiritual guide or psychotherapist to help with letting go.

Estalyn Walcoff, RNP, is a psychotherapist in private practice in Brighton, NY.