

TAPM

TENNESSEE ASSOCIATION OF PROFESSIONAL MEDIATORS

TAPM NEWS MARCH 2016



LETTER FROM
TAPM PRESIDENT
JACKIE KITTRELL

GOT ANY MEDIATION PET
PEEVES YOU WANT TO
SHARE?

If you have a "Pet Peeve" as a mediator, please share this with us.

Tell us how you have handled this peeve.

Please send it to

Regina Newson

reginanevson@bellsouth.net or

Leland McNabb

lmcnabb@mbb-law.com

Dear TAPM Members,

My greetings this month begin with a joyful and important reminder and request to all members:

Please register early and often for TAPM's Annual Seminar, to be held at Lipscomb in Nashville on Friday, April 8. The day also includes our TAPM annual meeting, election of Officers, and the Annual Luncheon and Award Presentation for the Coalition for Mediation Awareness in Tennessee (CMAT). Tell all your colleagues about this once-in-a-long-long-while event and urge them to attend with you!

Where else can you meet a famous and beloved legend of the mediation field, Forrest "Woody" Mosten, who teaches across the country and abroad but, until now, never in Tennessee? His subject will be "47 Things Mediators Should Know", helping you acquire practical skills, marketing ideas, useful theory, and a how to bring about a higher awareness of dispute resolution. (Read Marietta Shipley's article about Woody in this issue.)

And, where else can you honor one of our own fabulous recipient of the Grayfred Gray Public Service in Mediation Award ("GG" for short), the one and only Marnie Huff---she who has helped bring this very award into being over 9 years ago, and who is now being presented with that same award by a grateful mediation community? (And, yes, the TAPM nomination committee managed to keep the secret until we told her this past month, and no, we are not making Marnie do the preparation work! We will have, in our next issue, a

WHAT'S SO DIFFERENT ABOUT ELDER MEDIATION?

The increasing importance of mediation as a tool for dispute resolution and the rapid "aging" of our population are converging to create a growing need for mediators who are specially trained in elder mediation.

What is this specialty?

The ACR section on Elder Decision-Making and Conflict Resolution has created Training Objectives that help define Elder Mediation. (See: Elder Care and Elder Family Decision-Making Mediation: Training Objectives and Commentary.)

"Elder mediation ... refers to all mediation in which participants address issues that occur as a result of life cycle events, transitions, and/or losses often associated with aging and dying."

The Elder Mediator International Network (EMIN) states in their "Code of Professional Conduct for Mediators Specializing in Issues of Aging" (2015) that *Elder Mediators need to be "informed and qualified both in mediation practices and*

tell-all piece on Marnie.)

For those of you who aren't familiar with the history of the Coalition for Mediation Awareness in Tennessee, it used to be named Tennessee Coalition for Mediation Awareness and, given our predilection for acronyms, was labeled TCMA. But, as fate would have it, that acronym was taken, most notably by Tennessee Country Music Alliance, a clear favorite in our neck of the woods, but also several others (Tooling Component Manufacturing Association, Tunable-Channel Multi-Access, Twin Cities Metropolitan Area, Texas Circulation Management Association, Transcortical Motor Aphasia, and Tertiary Campus Ministry Association, not to mention a baseball card publisher). So it was changed to CMAT and a logo was designed. The important thing to remember: the purpose and mission of the organization is, nothing more and nothing less, to raise the AWARENESS of the practice of all kinds of mediation in Tennessee. As Grayfred Gray once said, there is no other group like it in the whole United States of America.

I know you will enjoy the newsletter's articles this month, and thanks to Regina Newson and Lisa Smith for editing and getting it out to your inbox! Besides Marietta's article on our upcoming speaker, Woody Mosten, we have another valuable article in an ongoing series from Leland McNabb

processes as well as ... knowledgeable of - and sensitized to - age related issues." (Emphasis added.)

Read the entire article by clicking [HERE](#).

*

ANNUAL TAPM DUES

Have you renewed your annual TAPM DUES? Your dues expire on the one year anniversary date of your last payment. You will receive via email a notices one month prior and then two weeks prior to that date reminding you to renew! We hope you will continue to support TAPM and renew today.

TAPM appreciates your being a member and you, as a member, receive benefits in return!

You can renew your dues by logging into your TAPM profile by clicking [LOGIN](#).

If you have forgotten your password, you can REQUEST A NEW PASSWORD by clicking on the tab above your user name. Technical

on Pet Peeves in Mediations (Please send in your thoughts and contributions!), as well as a very informative piece on a relatively new niche in mediation and involving a hybrid of family and civil skills, Elder Mediation, this by a great mediator in East Tennessee, John R. Selser.

I leave you this month with a memory from our very first CMAT award to Professor Gray himself in 2007, by quoting his opening remarks upon receiving it:

Click [HERE](#) to download the entire article.

Jackie Kittrell
TAPM President
2015-2016

TAPM Annual
Advanced Mediation Training
featuring
Woody Mosten

6 Hours General CLE/CME Pending Approval

difficulties???? Email
TAPM Administrator, Lisa
Smith, by clicking [HERE](#).

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(Click on their name to link to their profiles)

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April 8 2016

8:30 a.m. – 4:30 p.m.

TAPM is privileged to have as its 2016 Annual Meeting Forrest (Woody) Mosten from Los Angeles. His topic in this Advanced Mediation Training is

47 THINGS MEDIATORS SHOULD KNOW

including A Conflict is an Opportunity; Baby Steps; Third Way, Mediator Proposals, Positions are Not Evil, Create More Conflict to Prevent Agreements Built on Sand, Boundaries, Boundaries and Boundaries, Use One Text Drafting and Discourage PDF and many more. Woody says “We rarely get to all 47, but discuss most of them. “



Woody is one of the pioneers in mediation and a visionary, who first brought the concept of "unbundled services" mediator training and education and practice in collaborative practice to our conflicted culture. As a mediator he specializes in high conflict mediation ones

Alan Wolfe - Memphis
Board Member

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involving divorcing families, partnerships, employment disputes, probate, real estate, commercial disputes and other complex civil lawsuits. He practices with a collaborative and problem solving model and serves as a negotiation and mediation consultant for other family litigators. He is listed as one of the Super Lawyers . He has been on numerous, ABA, California task forces, even establishing a National Peacemaker Museum.

Woody teaches as a member of the faculty of UCLA, Pepperdine Law schools, Hamline School of Law, SMU, San Diego School of Law and Mercer . He continues to do mediation and collaborative practice training all over the world. You can take his training in London this summer.

Here is why Woody is so respected by colleagues and students alike:

He describes his style and philosophy of mediation thus: "I employ strategic planning and a full toolbox of mediation tactics. I work with parties and counsel to design a process that will resolve their dispute. I prefer low-key and facilitating mediation, but if necessary I can play hard-ball if necessary to resolve the case. I am patient and tireless. I never give up and often my confidence is the single factor that motivates

conflicted parties to reach settlement.

Conflict is pernicious– ending it with dignity and a workable solution frees parties to cut losses and move on with lives. I urge parties to focus on one variable: "Can I live with This Agreement?"

Other colleagues and students report of his style and training:

"The remaining was a transformative experience . Working with Woody at this early point in the development as a peacemaker is in an invaluable opportunity. "

"As with my prior mediation training, I have sought out "The Best in the Field." Woody Mosten falls into this category and I was completely satisfied with this training."

"Woody is a great trainer. I particularly like his ability to bring clarity on different issues."

" This training has shown me a clear path for a legal career with purpose and heart."

" this was hands down the most rewarding professional training course I have ever e peried. Also the most challenging. I'll carry the broad array of skills with me wherever I go.

Woody is a prolific writer. His latest books will be available at the training, [Collaborative Divorce Handbook](#), [Revised Complete guide to Mediation](#), [Revised Unbundling Legal Services](#) and his most popular [Mediation Career Guide](#). His numerous articles are on his website, mostenmediation.com.

Our own Steve Shields reported on a training he had with Woody in 2011. Woody asked the group to list what they learned from the training.

They said :

To get synergy with other professionals

To think about your philosophy of practice. What is your signature?

That early resolution of cases is the trend now.

Always ask permission of the party(ies) to suggest an idea, rather than telling them.

One size does not fit all. There is more than one way to resolve a conflict.

Woody has done **47 Things Mediators Should Know** across the country to great applause. We are lucky to have his insights in Tennessee. We hope you will join us.

We will have the following books by Woody

Mosten available at special rates to TAPM

Members for sale or order:

The Mediation Career Guide

*The Complete Guide to Mediation: the Cutting
Edge Approach to Family Law Practice (2nd
edition ABA 2015)*

*Collaborative Divorce Handbook: Effectively
Helping Divorcing Families Without Going to
Court*

Unbundling Legal Services

There are reviews galore on this

page: <http://www.mostenmediation.com/books>

↓

Early Registration ends April 1

Click [HERE](#) for details and
registration.

PET PEEVES ABOUT MEDIATORS

By

[Leland McNabb](#)

In writing this series of short articles to catalog “pet peeves” about mediators, I have learned that dealing with “pet peeves” resembles a game of Whack-A-Mole because whacking one pet peeve often leads to stumbling into another. I hope by referring to pet peeves as Whack-A-Mole to warn that sidestepping one common criticism may only be the path to a related pitfall.

Number Carriers

During my research, an experienced attorney and advocate identified a pet peeve he considers a major mediation flaw. The peeve: “A mediator who will not tell me when I am wrong and who does little more than carry numbers from room to room.” The attorney explained that he well knows every argument he makes is not the best argument. He has learned to prepare by informing clients of weaknesses and problems before

mediation because he does not want his clients to be surprised by adverse facts or arguments or case law during mediation. He said that having a mediator bring up such adverse points -- presumably those he had already raised with his client -- increased his clients' confidence in him and added weight to his advice.

"But sometimes," he said, "my clients don't listen to me. Sometimes they must hear it from the mediator."

Sources further advise that mediators should not worry that expressing disagreement with an attorney's position might upset him, or his client, or even both. Attorneys likely have advised their clients that certain positions and arguments have adverse case law and also that facts can be undermined or contradicted.

"If I have done my job," he said, "my client has heard it before. It is only when the mediator disagrees with me that I have confidence the mediator on visits to the opposing party's caucus room is pointing out their weaknesses and making our points to the other side. If the mediator has been making the other side's points to us, then I know the mediator is working the other room as well. Sometimes a mediator after a couple of rounds decides he has heard all he wants to hear about facts and law and wants just to talk about

numbers. I put a lot of work into preparing a case for mediation, and in fact often the entire discovery process is geared toward eventual mediation. If I want to talk about the facts or the law during round 17, for example, I want to know the mediator is listening, even in round 17.”

So, attorneys and clients want a mediator’s continuing engagement and want a mediator to explore fully the strengths and weaknesses of all positions.

But if the “peeve” of lack of engagement has been given a sound whack, sometimes the manner of the whack creates a distance between mediator and parties which can become an impediment to resolution.

Click More [PET PEEVES](#) to download entire article.

MEET THE MEDIATOR

[CELIA WOOLVERTON](#)



Ms. Woolverton has 30 years of experience as a psychotherapist. She is a Tennessee Supreme Court

Rule 31 Family Mediator, and received specialized mediation training which satisfies Massachusetts Rule 8 training requirements for family mediators and the confidentiality requirements in Massachusetts General Laws, Chapter 233, Section 23C. She graduated from The Colorado College and went on to receive a Masters in Social Work. She has a post-graduate certification in advanced psychotherapy and psychoanalysis from the Washington School of Psychiatry. She is licensed as a psychotherapist in the states of Tennessee, New Hampshire and Massachusetts and she currently has a private psychotherapy and mediation practice in Nashville, TN and Plymouth, NH.

Ms. Woolverton has done extensive work and lectured in the area of child development. She has worked with numerous victims of childhood sexual abuse, and has lectured nationally on the subject.

Ms. Woolverton served on the board of Prevent Child Abuse Tennessee, and volunteered for the Tennessee Department of Child and Family Services, supervising cases. In addition, she continues to supervise clinicians in the area of psychotherapy. She works extensively with individuals, couples and families, and with adults, adolescents and children in both her psychotherapy and mediation practices. She has been appointed by courts to serve as a Parent Coordinator in divorce cases, and as a psychotherapist for court evaluations. In addition,

she has been an expert witness in many court cases involving divorce and custody. Much of her practice has involved treating professionals in the legal, medical, business and entertainment fields.

Ms. Woolverton also has experience treating substance abuse and dependence. She has worked as the clinical director of two chemical dependence and domestic violence treatment facilities. She continues to lecture in this area, and has taught university courses in substance abuse and child sexual abuse.

Get to Know more about Celia by clicking [HERE](#).

The Case for Restorative Justice



Jennifer Paden
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One Case: An offender was cited for theft by his mother. The youth (16) had gone to work with his mother because he was suspended from school. The mother could not leave her son at home for fear that his stepfather who had substance abuse issues might turn violent. Her solution was to take her son to her place of work at a nursing home and have him watch TV for 8 hours until her shift ended.

During this time, the youth saw where the receptionist stored her cash box. When the receptionist left for lunch, he took advantage of the opportunity to remove all the money from the box and hide it in the lounge area where he waited for his mother. When the receptionist returned, she found the money missing and immediately suspected the youth. He tried to run out the door, and the mother was called to correct the situation. The mother then filed charges against her son even though the nursing home did not wish to press charges. The mother wanted her son to learn that he had placed her employment at risk.

At the mediation, the facility manager confronted the offender and asked why he had wanted the money so badly that he would hurt his mother? He replied that he wanted a special pair of basketball shoes. This led to further conversations that were lengthy and emotional between the mother and her son.

The manager wanted to support the mother in

her attempt to raise the offender with discipline and kindness. After discussing the crime and its consequences, the manager set a restitution, asking that the youth find three “out-door” jobs. She felt it would help the offender if he learned how to approach people and ask for work so that he might earn the cash he needed for his shoes. The restitution was accepted, and the parties left the mediation amicably and in accord with each other. The mother continues to hold her job at the facility.

Although this case is somewhat unusual, it is by no means atypical of the situations that many of our mediators face. Here is a case that to try in Court would be very difficult because it involves so many relationships: the employer/employee, the money was recovered, the domestic situation, the issue with the school, all the many consequences that need to be dealt with but create a tangle to adjudicate.

Restorative justice provides a setting where the offender can be educated, the victim can gain closure, and the community and its many broken relationships can be healed outside the legal/adversarial platform of a courtroom. It is not about Win or Lose, or shaming, or the past---it is about setting the future through restoration not only for the victim, but also for the offender.

VORP surveys contain responses from offenders such as, “she didn’t judge me and that I

greatly appreciate! "...I got a second chance" and her guardian added, "the facilitator was very helpful and the victim was kind and understanding" Another said, "she made me understand why this incident [was] wrong and my consequences. This is what I liked the most and it was very helpful to me". One parent/guardian noted, "everyone was interested in the overall goal of helping my daughter. The program has been wonderful".

Other offenders say things like, "it changed my life around", "I look at a lot of things different now", "instead of just giving me a paper, she actually taught me some stuff about life", "she gave me the opportunity to tell my side of the story, and apologize for my mistakes...more youth need to go through the VORP program it teaches you more than what paying court costs does".

Parents and guardians see the program as beneficial to both the victim and offender and an excellent program for their children. Even beleaguered store managers and loss prevention professional realize that something healing is occurring---one writes, "I received the essay from the last VORP participant you had arranged a meeting with me here at the store. I know I have never told you in the past about how highly I think of you and this program and what a difference in some of these children's lives you are making. Young people like this one make it all

worthwhile and worth every second it takes. I really enjoyed her essay and hope nothing but the best for her and her family in all the years to come. I just wanted to tell you that and THANK YOU for everything you do. Have a blessed day”.

Download the entire article by clicking [HERE](#)

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