

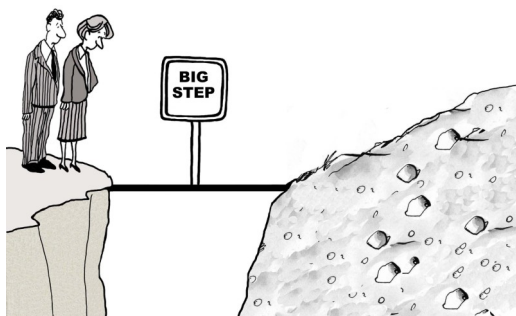


# Mediate Ohio

FALL

2017

## Mediator Credentialing Update



The mediator credentialing proposal became a controversial issue among members last spring. Through our efforts to garner feedback about the proposal and a number of direct communications to members about the proposal with opportunities to read and review the credentialing proposal progressed through nine separate drafts. However, further concerns were raised at our annual meeting.

In response, the Credentialing Committee met to discuss the feedback, distributed an opinion survey, and has actively worked to resolve the concerns that were raised. As a result, President Nathan Witkin embarked on an ambitious process of disseminating one monthly email update

to members about each major issue, inviting member feedback/discussion the following Friday at a member conference call. So far, two segments have been completed addressing *Liability Issues* and the *Financials of the Proposal*. Hopefully, these have been successful in allaying concerns that mediator credentialing would not place OMA in jeopardy and would not also lose money in the process. See sidebar for remaining topics and the dates. All members are encouraged to read the emails and participate in the conference call the following Friday. Many members are hoping that it will become apparent that there are many positive aspects to implementing our proposal. If it is ratified at the next vote, OMA will join Washington and Texas in establishing an independent and affordable credentialing program for mediators.

## OMA Board Updates

The OMA Board meets every month, either before the general meeting every other month or in a phone conference every other month. As might be expected a major Board concern is debriefing from and preparing for our annual meetings. But, other discussions occur and decisions get made as well. Among these have been

the issue of increasing OMA membership and the marketing of ADR to other professionals and to the public. We are currently developing plans for a membership drive, taking our message to the public and strengthening our efforts to engage more members in our mission. We'd like to establish a Membership Committee of at

least six members who can help plan and oversee this activity. Anyone who would like to join this committee should contact Teresa Cusma or Linda Norris, co-chairs of the committee. So, Stay tuned. We hope to unveil some major plans soon.

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### DATES TO REMEMBER

Week of November 17—Credentialing Committee e-mail and noon call-in discussion on Sustainability.

December 1, 2017—Member meeting, noon—1:00 p.m., MCL Cafeteria, Westerville.

Week of December 15, 2017—Credentialing Committee email and noon call-in on the topic of Summary of Modifications to the Credentialing Proposal.

Week of January 19, 2018—Credentialing Committee email and noon call-in on topic of Mediation as a Profession.

February 2, 2018—noon—1:00 p.m., MCL Cafeteria.

Week of February 16, 2018—Credentialing Committee email and noon call-in for topic of Why Credentialing is Important.

March 13, 2018—Ohio Supreme Court Dispute Resolution Conference, Ohio Union, OSU.

Week of March 23, 2018—Credentialing Committee email and call-in, topic to be determined.

Week of April 6, 2018—distribute revised Credentialing Proposal to membership and last noon call-in on April 13.

April 27, 2018—OMA Annual Conference.

Don't forget

### KNOW YOUR BOARD

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LEADERSHIP

ADVOCACY

PROFESSIONALISM

EDUCATION

## Spotlight on OMA member Cathie Kuhl

*Hats off!*



OMA owes a debt of gratitude to those pioneer members who have helped move us forward since its infancy in 1989. One such pioneer is Cathie Kuhl who joined OMA in the 1990 and who has remained an active member since. Maybe some of you have attended one or more of her trainings at the Ohio Supreme Court Dispute Resolution Section, or have sat with her at other trainings, or worked with her in her home county of Hamilton where, for many years she served as the department head for the Hamilton County Municipal Court's mediation service. Also, you may have attended the annual meeting a few years ago when Cathie received OMA's Better World Award. In all, you have probably benefited, and aren't even aware of it, from Cathie's tireless dedication to increasing the use of mediation in Ohio courts and in private practices.

Truly, Cathie would belong in our "Mediator Hall of Fame" if we had one. Not just for all of her tireless work but also because of a landmark litigation that occurred before Ohio's UMA was enacted to replace the previous mediation statute. The case was *Schneider vs Kreiner* (Kreiner was her previ-

ous name) and involved invoking the confidentiality of mediation communications in 1998. Cathie was sued by an attorney for refusing to divulge information from mediation. A motion was made to subpoena the mediation communications, and the Hamilton County Prosecutor defended Cathie's actions in this case. It went all the way to the Supreme Court of Ohio which ruled that "Accordingly, there is no authority to overcome the confidentiality requirement of R.C. 2317.023 (B)." This was a landmark case and the first test of mediation confidentiality. It is still a case that is taught in law schools and stands as a precedent for protecting the confidentiality of mediation. And, it is an unwavering reminder of Cathie's refusal to be intimidated by powerful interests attempting to undermine the integrity of the mediation process.

Aside from these highlights in the public realm, Cathie's everyday activities have included a lot of volunteering, networking, mentoring, program development and dedication to issues she considers critical. She was a founding member of the Mediation Council of Greater Cincinnati and the Domestic Violence Coordinating Council of Ham-

ilton County. She served on three Ohio Supreme Court Committees - The Advisory Committee on Dispute Resolution, the Court Personnel Education and Training Committee, and the Domestic Abuse Issues for Mediators Trainer's Committee. Her mediation experiences are broad, having worked across the board in the various types of mediation from neighborhood disputes to custody conflicts to small claims and other civil cases. She retired from the county recently but is still active in private practice and as a volunteer and trainer here and there. She feels all of these experiences have been rewarding and have given her ample opportunities to work with a wide variety of organizations, agencies and different groups. She can't overemphasize the importance of inter-agency cooperation, sharing information, taking risks to be innovative, and building a strong ADR community.

Cathie's ADR training includes work with Bernie Meyer at CDR Associates in Boulder, Colorado, working with Michael Lang at Antioch's graduate program in Conflict Resolution, and attending the esteemed

Harvard Program on Negotiation. She holds a Bachelor of Science in Psychology from Wright State University. When asked about some of those in the field who have influenced her the most she cited, in addition to the previously mentioned scholars and practitioners, Nina Meierding, Tami Lenski (the "Mentor she's never meant"), and Robert Benjamin. She reads Tami's blogs regularly and keeps up on current publications in the field. She feels that mediation is a continuous learning process and is still excited by going through the doors and looking through the windows opened by other professionals in the field.

Beyond being what is often called an "early adapter," committed volunteer, and self-starter, Cathie's work has also helped her form some solid opinions about where the field is headed and what needs to be done to move forward. While serving with the Supreme Court Advisory Committee, she had an opportunity to talk to Chief Justice Thomas Moyer, who most of us know was a strong supporter of ADR. She asked Chief Justice Moyer if the Court would consider supporting legislation that would mandate mediation. He agreed that this was an idea whose time had come

*(Continued on pg. 4)*

PUTTING  
STORIES  
TO  
WORK

The Ohio Supreme Court Section on Dispute Resolution has begun an Oral History Project. This amazing venture is gathering as much information as possible about the evolution of ADR in Ohio. They are gathering pictures, articles, videos, stories, and any information that will help give all of us and the public a picture of where we began and how we got to where we are today. A documentary will also be prepared and shown at the

Dispute Resolution's Spring Conference on March 13, 2018. Even if all you have is an interesting anecdote, you are encouraged to write it up and submit it. Submissions will be accepted through Dec. 31, 2017 and can be completed using the forms available at <http://www.supremecourt.ohio.gov/JCS/disputeResolution/history/>. The site also states that "Understanding the historical development of dispute resolution in Ohio is essential to sustaining its success." We're all in favor of sustaining success so we hope you share your stories!

Join the conversations (see side bar on pg. 1) 712-432-3900, X279300# to participate in bi-monthly meetings



# Book Review by Nathan Witkin - Never Split the Difference: Negotiating as if Your Life Depended on it



As prelude to OMA's 2018 Annual Conference's morning session

"Negotiating with People in Crisis," this book review focuses on an informative book on negotiation written by a former lead hostage negotiator for the FBI. Chris Voss's Never Split the Difference (Harper Business, 2016) is an examination of the art of negotiation through an interesting and unique perspective. While many contemporary books on effective negotiation behaviors are written by social scientists or business/law school professors, Chris Voss describes how through trial-and-error the FBI constructed a system of high-stakes crises negotiation.

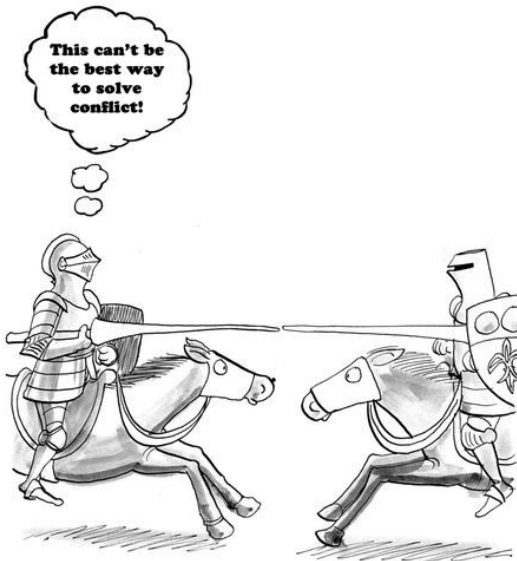
Despite the expectation that a command and control, power-based system of law enforcement would produce hard bargaining strategies, the FBI discovered that soft negotiating tactics are more effective. Anyone who still romanticizes any aspect of tough haggling methods will be dispossessed of those feelings by reading this book. Conversely, mediators who feel that their soft style is not assertive enough could benefit from the book's useful frameworks for strategic application of an unassuming

negotiation style. Using terms such as "strategic empathy" and "the illusion of control," Voss describes effective negotiation tactics through the language of strength and strategic, tactical responses.

Interspersed with instructive stories of actual hostage ne-

gotiations—from bank robberies to international kidnapping—Voss illustrates the effective use of negotiation tools common to mediators, such as active listening, mirroring, and using labels. In contrast, though, Voss departs from "Getting to Yes" orthodoxy with chapters on the challenge and tactical advantage of getting the opponent to say "no" and "that's right" which are signals that the adversary feels in control and is ready to stop fighting and start negotiating. However, the most applicable advice for mediators is the description of calibrated questions—open-ended questions that ironically direct the other side to solve the negotiator's challenges. Instead of telling, directing and making demands, the expert hostage negotiator subtly manipulates the antagonist to create solutions as though it were his/her idea to develop a resolution. These questioning methods are tools mediators can effectively implement with clients. For example, Voss's favorite, "How am I supposed to do that?" could be tweaked by mediators into "How is the other side supposed to do that?"

On the other hand, there are aspects of the book that aren't applicable to the mediation setting. Voss is contemptuous of compromise and encourages his students to gently push for concession after concession. Mediators who cherish even-handed deals will cringe at descriptions of negotiators who reach well past their original goals to the detriment of negotiation opponents. Realistically, mediation and hostage negotiation are very different situations. Yet, Never Split the Difference describes an intriguing and useful style of bargaining developed by FBI experts to diffuse crises and resolve conflict.



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## Professional Development

For a list of **trainings** sponsored by the **Supreme Court Dispute Resolution Section** and for their list of approved outside trainings, go to:  
<http://www.supremecourt.ohio.gov/JCS/disputeResolution/training>.

## Upcoming

**Advanced Mediation Training**  
Dec. 1, 2017  
**Mediator Roundtable Meeting**  
Nov. 15, 2017

**Mediation Conference**  
Sponsored by the Ohio Supreme Court Dispute Resolution Section  
Tuesday, March 13, 2018  
The Ohio Union

**Institute for Brain Potential at OSU** <http://www.ibpceu.com>

**Community Mediation Center**  
[www.communitymediation.com/](http://www.communitymediation.com/)

**Capital University Center for Dispute Resolution Training**  
2018 CDR Training Calendar PDF  
<http://law.capital.edu/DisputeResolution/>

<http://www.trainup.com/Conflict-Management-Training>

**Compassionate Communication Center of Ohio**  
<https://www.speakingpeace.org/>

**Ohio Mediation Association**  
Annual Conference  
Morning and Afternoon Sessions  
April 27, 2018  
[www.mediateohio.org](http://www.mediateohio.org)



*We are one. Meaning we share a common mission and vision for ADR in Ohio. To increase the power of our voice, to spread the word about ADR opportunities and merits, we need to join forces, roll up our sleeves and do some heavy lifting. There is strength in numbers, and we need more members and more members volunteering to help carry the message, participating on committees, helping with the newsletter, posting blogs, and working to make OMA not just good but great. Think what we could accomplish if every member committed just one or two hours a month to helping with OMA activities! Please consider becoming more active and attending your bi-monthly meetings either for lunch at the MCL cafeteria or by phone call-in. You have great skills and expertise. Please share them and get involved.*





OMA is a professional organization of mediators and Alternative Dispute Resolution practitioners throughout Ohio, dedicated to giving a collective voice to the diverse business and professional needs of its individual members. Founded in 1989, OMA provides leadership, training, professional development, networking opportunities, business advertising, a mediator registry, advocacy, and information for its members. Through regular meetings, conferences, newsletters, email blasts, committee activity, regular blogs, and reciprocity with other organizations, OMA is constantly working to increase the use of ADR in both the public and private sectors. As an information clearing house, OMA provides information about employment and training opportunities as well as links to other ADR organizations and activities.

**OMA Member Spotlight, Cont'd. from pg. 2**

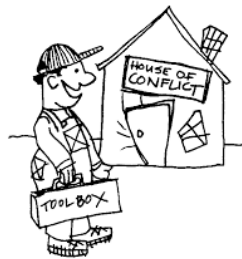
and merited further consideration. Cathie's experience has been that when the courts lead the way, the populace follows. She gives the example of the 1993 change to the revised code that allowed courts to order parents to mediate their differences when they do not agree about the allocation of parental rights and responsibilities. Since that time, courts across Ohio have utilized mediation in these cases in ever-increasing numbers, which created the demand for more mediators to fill the need and more work for mediators. As OMA explores how to be stronger advocates for our profession and of all the various avenues to take, Cathie's view is to advocate for stronger legislation. She feels that as the courts go, so goes the profession.

Cathie had a few other insights to share with OMA members as well. Her advice for new mediators is to "volunteer, volunteer, volunteer", and to get as much experience as possible and to get your name out there. That means networking, too. In a sense Cathie filled the role of "torch bearer" for the profession when she helped found a local group, Mediation Council of Greater Cincinnati. A group of mediators met every other month, hosting speakers, giving book reports, sharing information, promoting "lunch and learn" trainings, and also kicking back for a cocktail hour meet-up here and there. She said it was a great opportunity to learn from others, network, and unite their individual efforts to promote ADR in their community. (In fact, OMA is considering just such a similar project and will possibly be using this as a prototype for similar initiatives). She acknowledged that often volunteers do get burned out, and, regrettably, that organization did fade away. But, she feels it was a great idea and would like to see OMA encourage similar local efforts to function sort of like OMA outposts to improve networking, strengthen the organization, engage more people, possibly increase membership, and improve communication about ADR within the professional community. In summary, Cathie's achievements demonstrate for all of us that there is still a lot for all of us to be doing both personally and publically for our profession. In every sense of the word, she is a role model for many of us. ADR is about voice and choice. As a Conflict Resolution Professional Cathie talks the talk and walks the walk. She has made courageous and praiseworthy choices in a profession not full of a lot of opportunities, and she has made them pay off. She has also given voice to her opinions and has been heard at a variety of different levels in the field. We are pleased to acknowledge Cathie's contributions and achievements and hope she sticks around to continue to build on the solid foundation she has built as a valuable OMA member, a credit to our profession, and a successful woman continuing to take on the challenge of giving us all greater voice and more choice.

**(OMA Updates Cont'd. from pg. 1)**

Also, the Board has had major discussions about the credentialing proposal, has approved expenditures for fixes to our website problems and the purchase of an OMA banner to be used when setting up an information table at other professional events.

We expect to be soon filing for an IRS nonprofit approval, offering a webinar option for attending bi-monthly meetings, and publicizing our upcoming conference. As a footnote, our bi-monthly



meetings now offer a call-in option so any member, anywhere can participate in a meeting. At our last meeting we had eight call-in members for an interesting discussion on "Tools of the Trade." This isn't the first meeting where this has been a topic, and members seem to value the opportunity to discuss practice techniques with each other.

Learning from each other is one way to enrich the profession. Sure, we go to trainings from big-name professionals and those are also valuable, but those little gems and nuggets of wisdom tucked away in every practitioner's tool box can, collectively, be a gold mine for improving practice.

And, to improve the remote participation of members, we hope to soon implement a webcam option so members can join OMA meetings on their computers. If you have issues you would like the Board to consider,

## Gone but Not Forgotten: Joe Palmer (1931-2017)



OMA sadly acknowledges the passing of long-time member Joe Palmer. Joe had a long career that included serving active duty in the U.S. Navy, retiring as a Lieutenant Colonel from the U.S. Air Force Reserves, Parole Officer, Member and Chair of the Ohio Parole Board, Deputy Director of Ohio Department of Rehabilitation and Corrections, Deputy Director of Ohio Youth Services, and an OSU Social Work Hall of Fame inductee in 2012. He worked as a private Mediator from 1992-2015 and was a court contract mediator for the Franklin County Court of Domestic and Juvenile Relations. On the personal side, he was a father of four, married to his great love Patty to whom he was married for 60 years until her passing in 2015, active in his church, a Bexley, Ohio, resident, and loved people and golf. He had a long line of achievements, the greatest of which was his 60-year marriage. He was a truly wonderful person, an inspiration to aspiring mediators, and a role model for all of us.