

# THE CAUCUS

The F.M.C.S. Retiree Newsletter By Friends of FMCS History Foundation  
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## **Judge orders US into mediation on border patrol treatment of children**

“Recently a U.S. federal judge ordered the government into mediation to resolve serious concerns about the treatment of migrant children at crowded U.S. border patrol facilities in Texas. The judge in U.S. District Court in Los Angeles overseeing a decades-old legal settlement governing the treatment of detained migrant children had been asked by the children's attorneys to issue an emergency order to send public health experts and doctors to the border patrol facilities in the El Paso and Rio Grande sectors.” (Washington Post)

Is this something FMCS could help with?

## **A Question from Scott Blake**

Do you know who was the longest serving mediator and with other government service? Scott has 47 years with FMCS and 4 military for a total 51 years.

Please write if you know of anyone with more years of service.

Thanks to these readers who wrote in response to the Spring Caucus: Scott Blake, Jim Statham, Bonnie Castrey, Dan Judy and Jan Sunoo.

Responses of any length are much appreciated.

## **The Passing of Jewel Myers**

“It is with sadness that we communicate the passing of Jewel Myers. Eileen Hoffman and I spoke with her son, Tony this morning and he let us know that she transitioned last Monday.”  
Denise McKenney July 9, 2019

Jewel Myers had an outstanding career with FMCS in the Arbitration Office. I recorded an oral history interview with Jewel on 8-19-1986. That recording can be listened to on The Friends Website. Also available in the same area of the website are these

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THE CAUCUS 200 N. Maple Ave. No.212 Falls Church, VA. 22046 Email: [winjerwin@aol.com](mailto:winjerwin@aol.com)  
Website: <http://mediationhistory.org> - Published Spring and Fall. Editor: Jerry Barrett (489) Friends  
Founder.

interviews: Nita Niehoff, Peter Nichols, Jim Chandler, Dan Edwards, CK Call, Jack Toner and Lou Towers. Check them out.

### Passing of Bernie O'Keefe



Bernie was Marine who fought in four major WW11 battles in the Pacific, and was recalled to duty during the Korean War. He was a staff rep with the ACW for eight years before joining FMCS, where he rose from a mediator to regional director. When he traveled, he always carried his running gear with him. During his running years, he ran so many Marathons that he couldn't remember how many.

Bernie's family extended an invitation to an evening of remembrance of Bernie, which include this note: "Bernie loved a story, and would be tickled by any story, especially a story at his expense! He always enjoyed laughter, joking, and music."

Bernie was 85 when he died on April 21, 2019 after a long twilight with Alzheimer's disease. His ashes will be mingled with Jane's and distributed by the immediate family privately.

### Passing of Thomas O'Brien

"It is with great sadness I share the news of the passing of our former National Deputy Director, Thomas O'Brien at the age of 85 on September 3. Tom passed away at home in the loving care of his spouse of 29 years, Virginia, and is survived by his son, daughter-in-law, grandson, granddaughter, and two adopted children.

"A native of St. Louis, Missouri, Tom joined FMCS in 1977 where he faithfully served for 23 years until retiring in 2000. Tom's positions at FMCS included service as a mediator in St. Louis and Mobile, Alabama; regional director in Cleveland, Ohio; and as National Deputy Director in Washington, DC.

"Tom was involved in several of the largest and most significant collective bargaining disputes in the country and was recognized internationally when he was assigned to train mediators in a number of Nations. After retiring from FMCS, Tom worked as a Labor Arbitrator practicing out

of Missouri and Arizona for 18 years and teaching Labor-Management Relations as an adjunct faculty member of various universities.

“Family and friends will undoubtedly miss Tom, and remember his commitment to FMCS, his love for the St. Louis Cardinals, and his fondness of golfing, horse racing, literature, and playing poker.

“For those so inclined, Tom’s family requests donations be made to Hospice of the Valley, Attn: Donations, 1510 E. Flower St., Phoenix, AZ 85014 or Jerry Barrett, Attn: Friends of FMCS, 200 N. Maple Ave., #212, Falls Church, VA 22046<sup>1</sup>

“Respectfully, Richard Giacalone Director Nominee”.

### **A fun story about Tom O’Brien as told by Lou Manchise.**

Tom and Lou got the assignment to go to Russia to do training on IBB. In anticipation of using an orange to show how conflicting interests can be accommodated, Lou snuck two large oranges into Russia. Tom had caught a cold during the flight, and that night Tom eat both oranges to get some relief from his cold symptoms. Robbed of props, Lou used a magic marker and stationery to create an orange.

### **America’s First Trade Unions**

The Following is from “Flashbacks” by Patrick M. Reynolds in the Washington Post Sunday Comics. The text is included, but not the drawings from the Labor Day Edition.

Shoemakers<sup>2</sup> in Philadelphia and New York organized the first permanent Labor Union in the U.S. in 1799. The Federal Society of Journeymen Cordwainers.

During the next decade, the shoemakers of New York, Philadelphia, Baltimore, and Pittsburgh staged several strikes. Their Employers fought back by going to court. The court ruled: “The Cordwainer organizations are conspirators in the restraint of trade.”

This resulted in six Cordwainers Conspiracy cases between 1806 and 1815.

The New York trial took place in 1809. In Four cases the judge ruled in favor of the Employer. In these words: “Every action that labor takes to increase wages – strikes, closed shops, insulting scabs – is illegal.”

This setback was worsened by the economic depression of 1819-1822. Thousands of workers lost their jobs.

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<sup>1</sup> I want to acknowledge the thoughtfulness of Tom O’Brien’s remembrance of the Friends of FMCS History Foundation.

<sup>2</sup> Cordwainers were Shoemakers who were very skilled tradesman at that time.

The economy bounced back in 1823 and so did the demand for labor.

Workers in every coastal city and smaller inland town began to organize labor unions.<sup>3</sup>

The first women's union was the United Tailoresses Society of New York, founded in 1825. About 600 of them struck for and won, higher wages in 1831.

## **FMCS Statement on Six-Year Agreement Between the AFGE and the Social Security Administration**

“FMCS News Release: Following a six year agreement affecting more than 45,000 federal employees between the Social Security Administration (SSA) and the American Federation of Government Employees (AFGE) at the Federal Mediation and Conciliation Service (FMCS) headquarters in Washington D.C. on September 27, FMCS Director Nominee Richard Giacalone praised the effort of the parties and the mediator who assisted in the negotiation in the following statement:

“I am very happy to hear the parties were able to reach a fair and mutually beneficial agreement and proud that FMCS was able to assist the parties in reaching this contract. The dedication and commitment of everyone involved in these difficult negotiations helped achieve this reasonable deal. This resolution is a testament to the power of good faith bargaining where both sides are willing to come to the table, put aside their differences and get to work on a mutual agreement that addresses the interests of both sides. I commend the leadership of SSA and AFGE for their commitment to resolving these difficult issues in the spirit of constructive engagement. As always, FMCS is ready and willing to assist in negotiations like these as a mediating third party.”

### **2004 Interview of Jerry Barrett**

In 2004, I wrote [A History of Alternate Dispute Resolution: A Story of a Political, Cultural and Social Movement](#). Shortly after its publication, I was interviewed about the book and mediation in the Falls Church Cable TV Station.

If you'd like to see and hear me talking about my book and mediation fifteen years ago when I was only 71, see my website ([mediationhistory.org](http://mediationhistory.org)). Please write about your Impression.

### **Ron Collotta Retirement Program in Phoenix**

In September, a large retirement program honored the long service of Ron Collotta in Arizona. The University of Arizona and the local IRRA were part of the celebration.

Ron has served on the Friends Board of Directors since the beginning. He has provided more funds to the Foundation than any other individual. He has provided numerous good suggestions, and a generous supply of his inventions that promote FMCS, including buttons, pens, labeled wine bottles, mints, and suckers. I may have forgotten others. He was a regular attendee during the 15 years of the John Popular and Dick Deem's retirees Spring gathering in Florida. One of the very few active mediators who showed up.

And finally, it should be no surprise that Ron provided one of the most interesting and entertaining oral history interviews.

### **“ON TAP by Harold Meyerson JULY 2, 2019<sup>4</sup>**

**“How Centrists Misread Scandinavia When Attacking Bernie and Elizabeth.** Now that a rising American left has made such subjects as economic inequality, social democracy and even democratic socialism as real topics for our chattering classes, one popular argument that the center and right are advancing is that the Nordic countries—the closest the planet comes to democratic socialism—are really bastions of capitalism, albeit with a welfare state.

“In his [column](#) in today's *Times*, *David* Brooks writes that those nations “can afford to have strong welfare policies only because they have dynamic free-market economies. No Nordic country has a minimum wage law.”

“He's right that they don't have minimum wage laws, but why is that? Probably because the vast majority of Scandinavian citizens belong to unions—indeed, the key to Nordic social democracy is that these nations have long been by far the world's most unionized. The rates of unionization in the five Nordic nations are 81 percent, 67 percent in Sweden; 65 percent in Denmark; 65 percent in Finland; and 52 percent in Norway. In the United States today, the rate of unionization today is 10.5 percent with private-sector workers. The share of unionized workers in Scandinavia is more than six times that in the U.S.

“This disparity has huge effects on these countries' comparative rates of economic inequality, for which the best measure is a nation's Gini Coefficient, in which 0 signals complete economic equality. In Denmark and Sweden, the Gini Coefficient is 0.25; in Finland and Norway, it's 0.27; in Iceland, it's 0.28. In the United States, it's 0.47.

“So which is the chicken and which the egg? Yes, the Nordic nations are capitalist social democracies, but the reason they are capitalist is that their Social Democratic parties created unprecedented levels of worker power, social welfare and income equality as far back as the

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<sup>4</sup> Harold Meyerson is a favorite columnist in Washington D.C.

1930s, and had the power to maintain those levels to this very day. It was almost entirely due to those social democratic victories that those nations' citizens allowed the flourishing of the capitalist enterprises that commentators like Brooks extol—because a distribution of those enterprises' revenues and profits that is hugely more equitable than ours was baked into their systems. Brooks has it precisely backwards: It's not, as he writes, that those nations “can afford to have strong welfare policies only because they have dynamic free-market economies.” In reality, those nations have dynamic free-market economics only because they have strong welfare policies—with real worker power.

“So if the fallback position of centrists like Brooks and *The Washington Post*'s Chuck Lane is to extol what they see as the actually capitalist Scandinavian model (as distinct from what they claim is the idealized Scandinavia of Bernie Sanders, et al), they need to get with the actual Scandinavian program. They could start, modestly, by supporting legislation allowing workers to unionize without management interference—the *sine qua non*, if you will, of Scandinavian capitalism.

## **My Arbitration Career**

Many retired mediators tried arbitration. I also gave it a try, and I am glad I did. Here is my Arbitrator story.<sup>5</sup>

During my 37 years of arbitrating (1982 – 2019), I did other activities that kept me from becoming a full-time arbitrator.

In 1982 my employment with FMCS ended, and I began teaching labor relations at Northern Kentucky University. At the same time, I applied for membership on the FMCS and AAA arbitration rosters. During my two years at NKU, I also completed my EdD dissertation on FMCS and graduated from GWU. I also heard and issued awards in my first five arbitration cases.

When I returned to Virginia, I worked for John Steep at the Department of Labor beginning in 1984, I worked there for five years until I could retire, having been denied that opportunity at FMCS. I took annual leave when I had an arbitration hearing. I heard and issued awards in 28 cases. A great benefit of my time with DOL was the opportunity to develop and test an IBB model and training that I called “P.A.S.T. Is the Future.” That model was used to introduce FMCS to IBB.

After retiring from DOL in 1989, I did IBB training, arbitration and overseas work, the latter included IBB training, and evaluations of USAID Grants to the AFL-CIO for their overseas

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<sup>5</sup> My reason for writing this is to encourage other retirees to tell their retirement stories and share them with Caucus readers.

programs in third world countries. In 2019, I decided not to renew my membership in the FMCS Arbitration Roster. I had dropped all other rosters earlier.<sup>6</sup>

During the period of retirement (1989-2019), I handled 155 arbitration cases, for a grand total of 188 during a 37-year career. I have one remaining case scheduled for January 15, 2020.

By using the FMCS option for having a second address, I using my brother's address in Minnesota, and later my son's address in California. That expanded the States where I was assigned cases to 14 States plus Washington D.C., the Virgin Islands and a Montreal, Canada case involving the US Immigration Service.

In 2006, I applied for membership in the National Association of Arbitrators at the urging of a NAA member. In spite of his strong endorsement, I was rejected. He urged me to appeal and ask for a hearing. That resulted in another rejection.

Arbitrating has been an interesting and rewarding experience, which paid well and kept me informed about Labor-Management relations long into my retirement.

### **Federal Employee Unions: More Restrictions**

The Current Administration moved early to enhance agency authority to take disciplinary actions against employees. A Union lawsuit succeeded when a District Court determined that the President had exceeded his authority under civil service law, thus rejecting that Executive action.

However, this summer an appeal court, without ruling on that issue, held that such matters belong before the Federal Labor Relations Authority. The union has the option of appealing to the Supreme Court. But for now, the focus shifts to the collective bargaining table, and then to the FLRA. (Washington Post)

### **Jan Sunoo Update**

Jan Sunoo recently wrote that Masako Miystake will participate in the 9th Asia Pacific Mediation Forum in Korea's Jeju Island on November 1-3, 2019. FMCS Director Richard Giacalone will also attend. Jan is a retired FMCS mediator living in Korea, who I introduced Masako Miystake to. She is Japanese lawyer with a PhD, which she told me she earned by using my book (A History of ADR) to write her dissertation. She visited my FMCS Collection at George Washington University twice, and spent days copying material. She has used my collection more than anyone but me.

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<sup>6</sup> American Arbitration Association, IRS panel, Bureau of Census, CAS, CWA, SSA, Indiana Department of Labor, Falls Church Employee Review Board, Library of Congress, Montgomery County, MD, Arch Coal Panel, NRHA panel.

The Caucus 200 N. Maple Ave. No. 212  
Falls Church, VA. 22046

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