

# THE CAUCUS

The F.M.C.S. Retiree Newsletter

Volume 6, Issue 2

October 2006

## News about the Friends of FMCS History

Two events occurred since the last **Caucus** that impacted the Friends. The happy one first:

**Website:** As of earlier this month, the Friends have a website. Check it out at: [Mediationhistory.org](http://Mediationhistory.org) --- Your comments and suggestion are most welcome. They can be sent by the email address on CONTACT US, or sent by U.S. mail to the P.O. Box listed on the same page.

The website took six weeks to finish given all the choices in selecting what to put on the site and how to present it. Never having worked on one before, that slowed the process. The website is a work-in-progress, so your comments, questions and suggestion are needed to help fashion the site to make it useful and interesting. Future additions to the site might include: videos and more photos, oral history taped voices, and many more articles, papers and documents. Back issues of the **Caucus** are already on the site. Future issues might be posted on the site depending on how many readers have access to internet. Those of you who have internet might send your email address to the email address referred to above so a **Caucus** email list can be developed for the Spring 2007 issue. That would save postage.

A big thank you goes to Norm Lee for his generous check covering the cost of the webmaster. It would not have been possible without Norm's generosity, and this type of generosity is not the first time for Norm.

**Foundation Problems:** The Friends of FMCS History Foundation has had its non profit 501 (c) (3) status from the beginning under an umbrella foundation, the National Heritage Foundation. Under that arrangement, NHF kept the Friends money, wrote checks for the archive rent, and kept the Friends out of legal trouble. Last August, that all changed when the new retirement

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reform act became law. The law restricted foundations like NHF from writing checks to any organization that does not have its own 501 (c)(3) status. As a result the Friends

needed to get incorporated, get 501 (c)(3) approval from IRS, and get its own bank account. All of that will be accomplished within the next month. Between now and December 31, the new law allows the Friends non profit status to continue under NHF, and for NHF to pay the rent from the Friends account. But Friends funds held by NHF cannot be transferred to the Friends until the Friends has its own 501 (c)(3) status. For now, the lawyer and other costs of this transition will be covered by your editor's personal checks. Any help from the **Caucus** readers will be greatly appreciated, and will be tax deductible.

## Have You Heard or Did You Know?

Retiree **Gil McCutchen** became 90 years old last summer. He claims he is not getting around as much as he once did.

**Dorothy Christianson** died in August at age 89. She spent many years in B and F in the national office. She was a skilled artist and photographer. For a number of years she had been living in Harrisonberg, Virginia near her son.

**Pearl Smith**, long-time secretary to many FMCS Directors, is now 98 years old. She and her sister are the two oldest inhabitants in their county in Kentucky. Congratulations!

Retiree **Hez Brown** was awarded an honorary PhD. You can ask Dr. Brown about it in Elizbeth City, N.C. at: 252-335-2439.

**Maureen Labenski** wrote saying she enjoyed the article in the Spring **Caucus** on the War of 1812. She offered this historic information: "Macdonough's victory on Lake Champlain on September 11, 1814 provided the impetus needed for a negotiated settlement in the War of 1812. The only naval victory in history by ships at anchor – a little Vermont history." Maureen lives in Vermont, when she is not wintering in the Caribbean.

Retiree **John Tucker** (Former DMS in St. Louis) was inducted into the Labor-Management Hall of Fame by the Leadership Council Committee of Southwestern Illinois in September. Way to go, John.

Retiree **Jim Parman** is doing some writing for Outlook Magazine and a monthly newsletter on shooting, hunting and reloading. You can check-out his work at [www.oldmissourihillbilly.com](http://www.oldmissourihillbilly.com) --.. Jim, could you write something for the **Caucus**?

**Wilma Liebman**, (a National Office FMCSer during the Well's era) was given a second term as a Board Member of the NLRB this year. She is a Democrat and minority Member. Tough, tough job. Certainly, Board decisions would be much worse without her.

Soon to be retired, DMS **Lou Manchise** received the Abner Award in August at the FMCS Labor-Management Conference in Chicago. The Abner Award, created 20 some years ago to honor former FMCS mediator **Willoughby Abner**, was given for the first

time this year to an FMCS employee. Lou earned the Award by his strong promotion of IBN in the public sector. The Award, first handled by SPIDR and then ACR, is now handled by the Friends of FMCS History. FMCS has agreed to have the Award given at its Labor-management Conference. Your editor has been Chair of the Abner Award Committee from the beginning. With the death last year of Hugh Jascourt, the Award founder, the Award fund has been moved to the Friends for administering.

**Ken Moffett** reported on a wise decision by the current Director. Using his prior connection to the NLRB, Director **Arthur Rosenfeld** solicited an invitation for FMCSer's to the annual NLRB summer golf outing last summer. The four men best ball scramble was won by two FMCS pros (**Dan Funkhouser** and **Sergio Delgado**) aided by two "ringers" (Dan's son Ryan and Ken's son Ken).

A by-invitation-only conference, called Consolidating Our Collective Wisdom, assembled 150 ADR 'experts' at Key Stone, Colorado, in early October. The purpose was to consider what advice to offer the next generation of ADR practitioners. The result was inconclusive since the group of process experts got tangled-up in process second-guessing and too many long spontaneous speeches. They decided to continue the process on line at Mediation.com --- check it out.

**Maggie Jacobsen**, who worked in California, left FMCS in 1993 to accept a Presidential appointment to the National Mediation Board, where she served three terms. She is now consulting and arbitrating in Camas, Washington.

The Usery Center for Workplace, founded by **Bill Usery** in 1997 at Georgia State University, is now part of the Andrew Young School of Policy Studies at Georgia State. Check it out on the web.

**Eileen Hoffman** is the President-Elect of LERA (formerly the IRRA). She will become President at the January 2007 annual conference in Chicago. She started at FMCS as a mediator intern in the early 70s, served as mediator, District Director, General Counsel, and is currently doing ADR and overseas work.

Who else from those 1970s intern groups is still at FMCS? **Pam Desimone, Gerry Gomez, Julia Greer, Mike Nowakowski, Jim Schepker, and Ron Sweet**. Anyone else? Where have all the others gone?

The father and son FMCS mediator pairs were identified in the Friends History Calendar in 2002. Can anyone name the three pairs? Did you know the father-in-law and son-in-law mediator pair? They are **Bill Hobgood** and **Jack George**.

**Kevin Powers** has a knack for finding entertaining materials on the web. If you want to brighten your day, try getting on his email list at: [Kpowers@localnet.com](mailto:Kpowers@localnet.com) ..... Here are a few short examples of what Kevin will send:

"Santa Claus has the right idea. Visit people only once a year."

Victor Borge

"I was married by a judge. I should have asked for a jury."

Groucho Marx

"Be careful about reading health books. You might die of a misprint."

Mark Twain

"By all means, marry. If you get a good wife, you'll be happy; if you get a bad one, you'll become a philosopher."

Socrates

As reported in the last **Caucus**, next year's gathering of Retirees will return to Florida's west coast (Clearwater Beach/St. Petersburg) in the first week in May 2007. Rates are lower then. Watch your mail for the specific details. Or get in touch with **John Popular** (727-596-9924) or **Dick Deem** (813-994-1531).

**Bernie DeLury** was the first mediator to write expressing his strong favorable opinion on the Friends website. Thanks Bernie.

### **Joe Glazer: Union Song Writer/Performer**

Known as the troubadour of the labor movement, Joe Glazer died in September at age 88. For 60 year, Mr. Glazer wrote, performed and collected songs on work and protests around the globe. He preformed at union rallies and strikes while working "his day job" as labor educator with the Textile Workers and Rubber Workers. A great guitarist, he record 30 albums including three songs that have become labor classics: "Automation," "The Mill was Made of Marble," and "Too Old to Work." In the Smithsonian's Center for Folklife and Cultural Heritage, Glazer's recordings stand beside those of Pete Seeger and Woody Guthrie.

Some retirees will remember that during Bill Usery's tenure, Glazer performed a number of his songs at a national seminar, including one he had written about Bill Usery. Does anyone have the words for the archive?

### **Harold Newman: A Great Public Sector Mediator**

This year marked the passing of Harold Newman, a New York State mediator who many FMCS retirees will remember for the wit and humor he displayed as a speaker at several FMCS national seminars. A measure of Harold's skill and acceptability is the fact that he was invited to an FMCS staff development event to talk about mediation.

*"Be kinder than necessary, for everyone you meet is fighting some kind of battle."*

### **Who is a Supervisor Anyway?**

On October 3, 2006, the NLRB issued opinions in three cases distinguishing supervisors from other employees. These long-awaited decisions were immediately met with enthusiasm from management, while union representatives saw the decisions as a further limitation on the number of workers who can enjoy Taft-Hartley protection including the right to join and be represented by a union.

The issue before the Board was the NLRA definition which provides that a worker who "assigns" or "responsibly directs," while using "independent judgment," is a supervisor and not a protected employee. In the three cases, the Board further refined those three parts of the definition using the specific case facts. How this will play-out on future cases remains to be seen, but it is not likely to help unions.

### **Ira Lobel: The Ted Kheel of Vermont**

From the Burlington Free Press, 6-24-06

Headline: The 'strike-stopper' settles Vt. teacher disputes

By Molly Walsh

“Chalk up another victory for Ira Lobel.. Last week, the well-traveled lawyer from Albany, N.Y., cemented his reputation as a strike-stopper when he helped resolve the deep disagreement between 300 public school teachers in Bolton, Huntington, Jericho, Richmond and Underhill and the school boards of the Chittenden East Supervisory Union.. The six-day strike was the fourth teachers strike to erupt in Vermont in 12 months and the fourth to end only after Lobel was called in to help.”

Ira: Those of us who know you well are impressed, but certainly not surprised. Congratulations!!

### **From the 2005 FMCS Annual Report**

Since most retirees probably don't go to the FMCS website to read each year's annual report, the information from the 2005 Annual Report is summarized here. The Report is only 14 pages long including a lot of blank space, and four pages are devoted to arbitration. Mediator cases are listed under five categories: collective bargaining mediation, grievance mediation, relationship-development/training, employment, outreach. Total active collective bargaining cases (private, public and federal) were 5,215. Total active grievance mediation cases (private, public and federal) were 1,675. Since many retirees may not understand the category Employment Mediation, the explanation paragraph is quoted below:

“Outside the collective bargaining arena, FMCS provides employment mediation services to the federal sector and to state and local governments. These mediation services include resolution of employment related disputes. The Administrative Dispute Act of 1990, the Negotiated Rulemaking Act of 1990, and the Administrative Dispute Resolution Act of 1996 expanded FMCS's role as a provider of these services. The legislative design was to expand the use of alternative dispute resolution throughout the federal government, reduce litigation costs and promote better government decision-making. FMCS provides consultation, training, dispute resolutions systems design and facilitation services to many federal, state and local agencies. Employment mediation is also provided to the private sector to resolve workplace disputes falling outside of the traditional collective bargaining context. i.e. equal employment opportunity disputes. In FY 2005, FMCS mediated 1446 employment cases.”

The most significant fact reported in the entire document is this: the 273 work stoppages in 2004 represent a 90% reduction from the number of work stoppages in 1970.

## About FMCS Directors

- \*Sixteen individuals, all white males, have served as FMCS Director.
- \*Thirteen Directors were appointed by a President and confirmed by the Senate (Ching, McCoy, Finnegan, Simkin, Counts, Usery, Searce, Horvitz, McMurray, Delury, Wells, Barnes, Hurtgen).
- \*Three Directors were appointed by a President but not confirmed by the senate. (Cole, Moffett and Rosenfeld)
- \*Five were Democrats (Simkin, Horvitz, Moffett, Wells and Barnes).
- \*Eleven were Republicans (Ching, Cole, McCoy, Finnegan, Counts, Usery, Searce, McMurray, DeLury, Hurtgen, and Rosenfeld).
- \*Eight had a predominately management background (Ching, Finnegan, Counts, Searce, Horvitz, DeLury, Hurtgen and Rosenfeld).
- \*Three had a predominately union background (Usery, Moffett and Barnes)
- \*Five had a predominately neutral background (Cole, McCoy, Simkin, McMurray, Wells).
- \*Longest in service was seven years and ten months (Simkin)
- \*Shortest in service: six months (Cole), one year (Searce).
- \*Seven individuals served as Acting Director (Cole, Mills, Moffett, Baker, Flores, Barnes, Buckenbaugh) (Mills served on two occasions).
- \*All but one of the Acting Directors were career mediators. (Cole)
- \*Longest service as Acting Director was 18 months (Moffett).
- \*Shortest as acting Director was 2 months (Flores).
- \*All lawyers before Simkin, just two since. (Hurtgen, Rosenfeld )
- \*Five had other Presidential appointments. (Ching WLB; Usery DOL; McMurray NMB; Hurtgen and Rosefeld NLRB.

*We could certainly slow the aging process down if it had to work its way through Congress.*

*-- Will Rogers*

*Sometimes, when I look at my children, I say to myself "Lillian, you should have remained a virgin."*

*-- Lillian Carter (mother of Jimmy Carter)*

## From the Editor

If you are wondering about the current location of some retiree, write or email and I will send you an address if I have one. The last, and only, Retiree Directory I compiled was in 2001.

Next year is the FMCS 60<sup>th</sup> Anniversary. On August 22, 1947, Congress overrode President Truman's veto of the Taft-Hartley Act, as a result, USCS ended and FMCS began. It would be good if the May 2007 gathering of FMCS retirees made note of that anniversary in some appropriate way.

Copies of my book, [A History of ADR](#), are available at a reduced price on line at Amazon.com --- check it out.

Don't forget to vote on Tuesday November 7.

## **Finding a Home for the Archive**

While there is no rush, your editor continues to look for a suitable future home for the Friends Archive. Early this month, I spent two days at the ILR School at Cornell University, giving a talk on my ADR history book and visiting the ILR facilities. The ILR is home to the largest industrial and labor relations library in the world. As a result of Ted Kheel's very generous donation to the ILR, a huge expansion of the library was added called the Kheel Archive. It contains Mr. Kheel's papers including many of his arbitration awards. Kheel has been encouraging other arbitrators to place their arbitration files in his archive. What this means for the Friends Archive is that moving there would fill an obvious gap in the Cornell collection.

In the spring of 2005, the ILR archivist spent a day at the Friends archive, expressing interest in get it for Cornell. Similar visitors have come from the Walter Reuther Library at Wayne State, the Catholic University Labor Archive, ICAR at George Mason University, and the Southern Labor Archive at Georgia State University. While each visiting archivist has expressed interest, the size of the Friends Archive is a space problem to some. If anyone knows of another university archive that might be interested in the Friends collective, please let me know. Thanks to David Tanzman for alerting me to the Reuther Library.

## **Contributors Since the Last Issue**

The following individuals made contributions to the Friends since the Spring issue of the Caucus: Norm Lee, Dave Hannan, Frank Fiore, Bob Householder, Lou Manchise, Bob Klinshaw, Herb Haber, Dick Deem, Bernie DeLury, Mareen Labenski, Chris Merchant, Jim Power, Jim Mackraz, Dick Williams, Jim Hermans, Kevin Powers, Leroy Smith, Pat Hart, Hez Brown, Jim Williams, John Knight, Sally Swerbilov, Bob Ditillo, Cliff Suggs, Mery Skolochenko, Jerry Finley, Tom Montgomery, Bob Robb, Beverly Sanders, Joanne Simsalek, Gayl Wineriter, Leon Groves, Rick Horn, Harrell Mays, Fred Reebals, Ira Lobel, Dale Cline, Schwab Fund (Dr. Jonathan Grossman), and Jerry Arnold. Sincere thanks to each of you.

Thanks also to these current staff who regularly designate a portion of their travel reimbursement to the Friends: Scot Blake, Jack Buettner, Paul Chabot, Pete Cinquemani, Ron Collota, Gary Eder, Josh Flax, Bill Gill, Gary Hattal, Roger Hendrix, Mike Johaneson, Dale Johnson, Chris Jorgensen, Lou Manchise, John Pinto, Sharon Rafferty, Kurt Saunders, Joel Schaffer, Tom Summers and Connie Weimer.

## **Oral History Release Forms**

In the Spring 2006 issue, an oral history interviewee list appeared with a request to provide addresses or contact information so a release form could be gotten from the interviewee or next of kin. Norm Lee and Cliff Suggs helped with Hez Brown, Maggie Jacobsen, Jim Parman, Leroy Smith, Jim Williams and D.J. Yount. Many thanks for that help. Please take a look at the earlier list and let me know if you have any ideas for contacting anyone on the list.

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