

# OHPELRA Update

THE OHIO PUBLIC EMPLOYER LABOR RELATIONS ASSOCIATION NEWSLETTER, FALL, 2000

## Letter From The President

Dear Fellow Members!

YOUR BOARD HAS BEEN VERY ACTIVE SINCE OUR LAST COMMUNICATION. The lunch with the State Employment Relations Board was a success. It was held at GameWorks in Columbus on July 13. It was great to witness the enthusiasm of the attendees (it could have had something to do with the free lunch!) and, also, to see many friends and colleagues again.

You should have received the brochure for the Fall Symposium to be held on November 9, 2000 at the Columbus Athenaeum. The topic is one of interest to all of us, and if you haven't heard the presenters from Curiale Dellaverson Hirschfeld Kelly & Kramer, you're really missing a fantastic message and presentation—the symposium is a great value, too. Please see more details in this newsletter.

The Board has agreed to reconfigure the contributing sponsorship category of membership. As you know, we have had sponsors primarily for our annual conference. As we restructured this category, we identified the benefits a sponsor could derive continually from making a financial contribution to OHPELRA as follows: various types of recognition at OHPELRA functions and through publications; one membership; one annual conference registration; opportunity to distribute literature; and contribute articles for the newsletters. We would appreciate your assistance in supporting this effort by forwarding any leads to us.

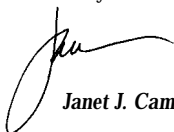
Our membership continues to grow and we welcome our new members! In this newsletter, we have begun to include the names of new members to benefit our membership.

You may also support the organization by contributing articles for the newsletter. Have you just negotiated something unique in a collective bargaining contract? Did you just win (or lose) an arbitration, fact-finding, or conciliation? Hearing the “good, bad and the ugly” from our colleagues is a learning experience for all of us. Please share the news—contact Judith Pepper.

Mark your calendars for the 2001 annual conference which will again be held at Cherry Valley, February 4 – 6, 2001. The program is shaping up to be another great one!

The Board is continuing to make an effort to involve our members on a more regular basis. We are interested in your ideas, so please let us hear from you. See you on November 9!

Sincerely,



Janet J. Campbell, President

## OHPELRA's Fall Program Offers Answers For Dealing With The Problem Employee

Nearly every agency or office has at least one employee who we unaffectionately know as “the employee from hell.” Whether it is because the employee is a consummate manipulator, suffers from emotional disorders, or just plain doesn't “play well with others,” we all know that sometimes 5% of our employees can consume up 80% of our time. We know the problem all too well. What we need are practical suggestions and answers.

On November 9, 2000, in Columbus, OHPELRA tackles that mission in a program called “Dealing with Difficult and Dysfunctional Employees.” We are bringing back our most popular speaker ever, Steve Hirschfeld, with his partner John Baum from the San Francisco firm of Curiale Dellaverson Hirschfeld Kelly & Kraemer, LLP, both of whom are outstanding. The program will pack in a full day of practical, hands-on information on how to deal with problem employees, including strategy tips, information on handling mental disabilities under the Americans with Disabilities Act, and ways to minimize the risk of workplace violence.

*Continues on page 2*



OHPELRA Board of Directors at a planning retreat in Granville, May 2000.

# Employer Liability For Intentional Tort

Safety and health laws are a necessary and reasonable part of business practices, to prevent industrial accidents from severely hurting employees. When employers knowingly take measures that knowingly cause harm to their employees, they are likely liable for the intentional tort.

Recently, the Seventh District Court of Appeals held an employer liable for committing an intentional tort when the employee was injured on the job. In *Jackson v. Astro-Shapes*, Case No. 98 CA 179 (7th App. District, Mahoning County, Feb. 29, 2000), Margaret Jackson was employed as a head saw operator on an aluminum extrusion press for the defendant. She was primarily responsible for instructing the work crew on the saw, feeding stock into the saw, and completing production reports. She was usually assigned with two other employees to assist her in the completion of work orders, but on the day of the alleged incident, she was only assigned a single saw helper.

On August 31, 1995, the pen Jackson was using to complete the completed production orders slipped from her hand, and fell into an opening in the saw's conveyor table, close to the saw itself. When Jackson attempted to retrieve the pen from the opening, her hand was caught in the chain and sprocket drive, and she suffered serious injuries. Jackson complained that her employer was liable for her injuries due to the hectic nature of the work that day compounded with the lack of one additional assistant. More importantly, however, Jackson argued that her employer had removed the guard protecting the saw, and had never replaced it, thus knowingly causing a dangerous situation to any employee coming in contact with the saw.

The employer argued that it had no knowledge that the guard had been removed, and further could not foresee that anyone would *blindly* place their hand in the opening, thereby sustaining injuries. Also, no prior injuries had occurred with this type of *exposure* to the saw. Finally, the employer argued that Ms. Jackson was never instructed to retrieve objects in unguarded openings, and her actions were in no way related to her employment obligations.

This case shows how the word *intentional* can be stretched well beyond what any of us would expect.

Jonathan J. Downes, Esq.  
Downes & Hurst  
Columbus

## "OHPELRA'S FALL PROGRAM", CONTINUED

As those of you who have attended past programs know, these speakers do not dish out dry legal cases. You will leave with practical tips, sample forms, and checklists you can use. Many of us still use their handouts from past programs on a regular basis. This is great stuff—and very practical. These speakers are the best around, and are so in demand that about half of their law practice is now spent offering training programs all over the country.

This program is designed for us labor relations and HR-types, of course, but this training will also benefit any manager or supervisor who may deal with a problem employee.



That includes, unfortunately, just about everyone. If you send five or more people from your jurisdiction in a bundled

packet of registrations, you can receive the member rate for all of those people, whether or not they are OHPELRA members. The cost is \$195 for OHPELRA members (or bundles of five or more) and \$225 for non-members. Because OHPELRA was able to negotiate a good price, this is less than half of the cost that this firm usually charges for their one-day training programs. Please remember, though, that the group discount is only available to those registrants who are submitted together in one bundle of five or more people.

You should have already received registration materials, and if you have not already registered yourself and other managers and supervisors from your jurisdiction, you need to do so quickly. Every time we have brought these speakers in, the program has sold out. When we offered this firm's program called the Investigations Seminar in 1994, several attendees called it "the best training I have ever had on any topic anywhere." Reviews don't get better than that! Make sure you are not closed out by registering today. Don't wait for the check from accounting; OHPELRA can bill you later. See you there!

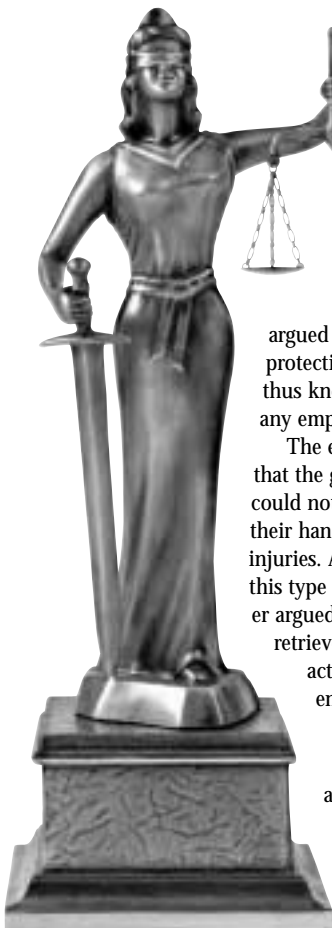
**"the best  
training I  
have ever had  
on any topic  
anywhere."**

## DEALING WITH DIFFICULT AND DYSFUNCTIONAL EMPLOYEES

The Columbus Athenaeum  
32 North Fourth Street (at North Fourth and Gay Streets)  
Columbus, Ohio 43215  
November 9, 2000  
Registration: 8:00–9:00 A.M.  
Program: 9:00 A.M.–3:30 P.M.,  
with lunch provided.

You can mail or fax your registration form to:

Joy Campbell, OHPELRA Treasurer  
Butler County Department of Personnel  
315 High Street, 6th Floor  
Hamilton, OH 45011-6016  
Tel. (513) 887-3595  
Fax (513) 785-5199  
E-Mail: [campbellj@butlercountyohio.org](mailto:campbellj@butlercountyohio.org)



# Meet Your Board Of Directors

Over the next few newsletters, we hope to take the opportunity to introduce you to some of the officers and members of the OHPELRA Board of Directors. Let's start at the top!

**Janet J. Campbell**  
**President**  
**Labor Relations Manager**  
**City of Columbus**

Jan began employment with the City of Columbus in 1973 (at a ripe old age!), in the Finance Department. She became an assistant to the Finance Director, who also served as the City's chief negotiator.

The collective bargaining law had not yet been passed, but the City had established relationships with AFSCME, IAFF, and FOP. The contracts were typically of a three-year duration. Instead of having the City Council accept a contract as a whole, salary ordinances were written and passed by City Council accepting only the economic portions of the bargained contract. Jan soon became the resident salary ordinance writer, and became very interested in the labor area. She has been very fortunate to have both in-house and outside chief negotiators who have nurtured her career in labor relations.

Currently, Jan serves as the Labor Relations Manager for the City of Columbus. She is responsible for the consistent application of contract



provisions, negotiation coordination, and for providing technical assistance to City agencies.

Jan became President of OHPELRA in February 2000, and has been a member for approximately 10 years. "I enjoy the networking, programming and being part of the OHPELRA leadership. I have learned so much from my colleagues in OHPELRA and through attending NPELRA's annual conferences. I have had many doors open to me through my association with OHPELRA—that's priceless!", Jan said.

*We would like to introduce two other board members:*

**Stephanie R. Echols**  
**Board Member**  
**Executive Director**  
**of Human Resources**  
**University of Cincinnati**

Stephanie Echols is the Executive Director of Human Resources at the University of Cincinnati. Her key areas of responsibility include Employee and Labor Relations and Employment Services. Stephanie has been with the University of Cincinnati since 1994.

Before joining the University of Cincinnati, Stephanie spent 12 years

at The Ohio State University where she was Assistant Director of Labor and Employee Relations and held several other human resources positions. Stephanie began her HR career at Copco Papers, Inc. in Columbus, Ohio.

Stephanie's educational background includes a Master's degree in Labor and Human Resources; BA in Social Sciences and Business Administration, both from The Ohio State University, and she has done post graduate studies at the Harvard Law School. Stephanie also holds the Senior Professional Human

Resources Certification through the Society for Human Resources Management.

Stephanie describes her most challenging and rewarding experience in HR as receiving a strike notice from the clerical union with the strike due to begin on the first day of Autumn Quarter classes in 1998 at the University of Cincinnati. Because of the support that management received from the University community and leadership, the strike only lasted one day and caused little disruption to the operation. Secondly, Stephanie was the HR representative on the project team in the privatization of University

Hospital. This was a highly controversial and divisive issue for the city of Cincinnati. Stephanie shared this experience at the 1997 OHPELRA and NPELRA annual conferences.

Stephanie was appointed to the OHPELRA board in February 2000, and currently works on the budget committee. She describes her appointment to the OHPELRA board as an enriching experience, one that brings her great honor. OHPELRA board meetings are not simply "just another meeting." They are fun, focused and very productive.

**Douglas E. Duckett, Esq.**  
**Personnel Director and Labor Counsel**  
**Butler County**

Douglas E. Duckett has served for fifteen years as in-house labor counsel and personnel administrator for Butler County, Ohio, and in that role, has served as chief management negotiator for several labor agreements in each of twelve bargaining units. Doug has also represented Butler County in a large number of arbitration proceedings and civil service appeals before state agencies and the courts.

In March 2000, Doug took office as President of the National Public Employer Labor Relations Association (NPELRA), the first Ohioan elected to this office. He has served on the national organization's Board of Directors since 1994. Doug previously served as President of OHPELRA from 1992 to 1994, and he continues to serve both as an ex-officio member of OHPELRA's Board and as our Legislative Chair. He is also a past president of the Ohio County Personnel Association.

Prior to his appointment with Butler County, Doug practiced law for three years with the Cincinnati firm of Strauss & Troy, where he concentrated in labor and employment discrimination law. Doug received his both his Juris Doctor and Bachelor's degrees from The



Ohio State University.

Doug describes his year as NPELRA's president as "the pinnacle of my professional life so far." He adds, "I love the chance to meet NPELRA members all over the country, and to see our work at opening up the organization and recognizing its diversity pay off. I feel incredibly lucky to have this experience. But I have to say that OHPELRA is not only where it began, it is where a large part of my heart will always be. Without OHPELRA, none of this would have been possible."

We have an active and hard-working Board of Directors, and we'll introduce some others to you in the next issue.

# Welcome New OHPELRA Members!

We just keep growing! Since our last issue of *OHPELRA Update*, the following 18 new members have joined our organization:

**Ursula McDonnell, Esq.**  
*Assistant Law Director*  
City of Middletown

**Paul Allen**  
*Manager of Court Operations*  
Butler County Domestic Relations  
Court

**Janine Sarnowski**  
*Personnel Coordinator*  
Medina County Engineer

**Roger Harris**  
*Human Resources Director*  
Medina County Board of  
Commissioners

**Roger S. Gates, Esq.**  
*General Counsel*  
South West Regional Water

**Brenda Kidd**  
*Human Resources Coordinator*  
Allen County Children Services  
Board

**Narka Gray**  
*Personnel Specialist*  
Butler County Department of Job  
and Family Services

**Nancy Cale**  
*Human Resources Manager*  
Muskingum County Department of  
Job and Family Services

**Mark Stockman**  
*County Engineer*  
Paulding County

**David Swaine**  
*Personnel Manager*  
Butler County Board of MR/DD

**Suzanne Parker**  
*Assistant Administrator*  
Anderson Township

**Libby Smith**  
*Human Resources Officer*  
Hardin County Department of Job  
and Family Services

**Kevin Reynolds**  
*Human Resources Administrator*  
City of Lakewood

**Dennis Sparks**  
*City Manager*  
City of Moraine

**Lois Jernigan**  
*Human Resources Specialist*  
Combined Health District of  
Montgomery County

**Thomas Weghorst**  
*Human Resources Analyst*  
City of Kettering

**Tammy Luther**  
*Administrative Assistant*  
Village of Canal Fulton

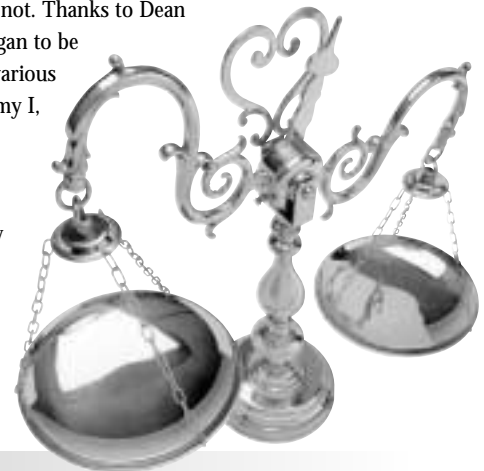
**Ronald Meyer**  
*Senior Administrative Analyst*  
City of Cincinnati Department of  
Public Works

## The NPELRA Labor Relations Academy: Mission Accomplished

**Marsha Jordan-Smart**, Greene County Human Resources Director and a past president of OHPELRA, has achieved certification as a Labor Relations Academy Master—she may be the first in Ohio! Marsha highly recommends the Academy, and she touts the class manuals as “absolutely wonderful” and of practical use back home in the office. Requirements are attendance at each of three full-day academies or courses, which are scheduled at various times and locations, and submission of a final paper on a unique subject specific to labor relations. Check the NPELRA web site ([www.npelra.org](http://www.npelra.org)) for Marsha’s paper.

I began the Labor Relations Academy in March, 1997 following NPELRA’s 26th Annual Training Conference in sunny San Francisco, California. What I didn’t know at the time is the wonderful Dean of the NPELRA Academy, Madge Blakey, started this program initially in The Golden State so the room was full of Californians. All my Buckeye friends had deserted me and I was one of only three students in the class who didn’t live in the sunny land. Academy II, the Arbitration Process, was presented by some excellent speakers. I was convinced at the end of the day that this program was for me. It was excellent.

The most frustrating thing at the time was that the three academies were only offered annually, so I planned accordingly. The 1998 NPELRA Annual Training Conference took us to Phoenix, Arizona, where I signed up for Academy III, the Negotiations Process. I was particularly excited about this conference because I had been blessed with the opportunity to serve on the program committee with then President Trude Elliott, and current President, and my wonderful friend, Doug Duckett. I was also privileged to get to know Dema Harris, Gordon Youngs, Terrence Wood, Matt Iarocci, and Ernestine Gage. What a great time! Unfortunately, my trip was cut short when my parents phoned me at 4:00 A.M., Tuesday morning with the bad news that my best friend and husband Joe had had a heart attack and I needed to get home. (He’s doing great now!) So, my three year academy became a four year venture. Well, maybe not. Thanks to Dean Madge Blakey, the programs began to be offered several times a year in various locations. So, I attended Academy I, The Foundation of Labor Relations, in 1999 after the NPELRA Conference in Miami Beach, Florida. Then in January 2000, I was permitted to go to Orlando, Florida to attend Academy III, the Negotiations Process. That trip was particularly nice because I got to



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# Have You Tried Mediation?

By George M. Albu, Administrator, Bureau of Mediation, State Employment Relations Board

Recently I was in a discussion with a labor-management group. The parties were stating their positions on the case when I asked, "Have you tried mediation?" Interesting that not everyone has tried to resolve a dispute utilizing the fastest growing component of the adjudication system.

Today the Mediation Section of SERB has a variety of programs available to serve both labor and management groups throughout the state. Some of the most frequently utilized programs include:

## Collective Bargaining Mediation

Traditional negotiations mediation services, performed by trained professionals at no charge to the parties, as provided in O.R.C. §4117.14(C)(2).

## Interest-Based Bargaining (IBB)

SERB mediators conduct a two-day training workshop on IBB techniques, and facilitate actual negotiation sessions. Both parties' interests are jointly explored, and consensus decision-making, without vote-taking, is used to find mutually acceptable resolutions for each issue.

## Labor-Management Committee (LMC) Assistance

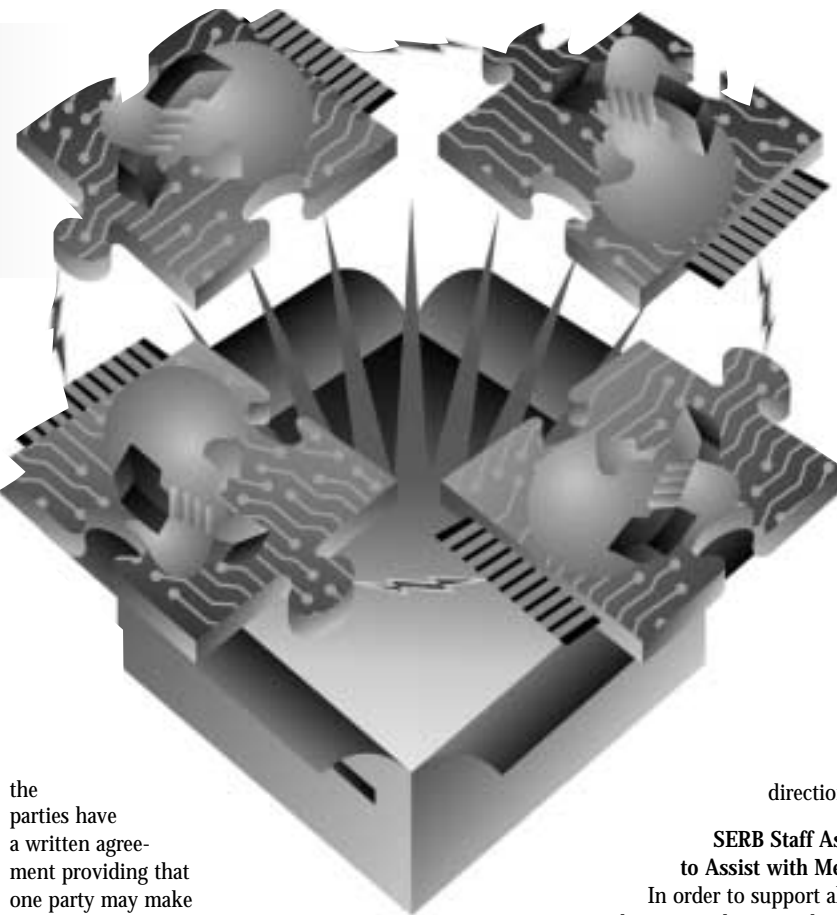
SERB's labor management committee effectiveness program is based on the U.S. Department of Labor model, adjusted for the public sector environment of Ohio. After a one or two-day training workshop, SERB mediators facilitate LMC meetings until the parties are ready to proceed on their own.

## Grievance Mediation

SERB mediators assist the parties by mediating grievance settlements at no charge, subject to the availability of staff. Grievance mediation allows the parties to address and resolve both the grievance and the underlying cause of a grievance after a mediated outcome. In Fiscal Year 2000, mediation has resulted in settlement of more than 60% of the grievances in which mediation was used.

## Grievance Arbitration

SERB offers a free panel service for grievance arbitration. Parties may make a written request for a panel by mail, by fax or by e-mail. Requests for panels must be made by mutual agreement unless



the parties have a written agreement providing that one party may make arbitration requests to SERB. Grievance arbitrators may charge their normal fees for their services. Any and all charges, including cancellation fees, are listed on the biographical profile of the arbitrator. Questions or disputes regarding grievance arbitration awards or invoices are the responsibility of the parties and the arbitrator. The arbitrator is responsible for scheduling hearings, issuing subpoenas, and receiving pre-hearing or post-hearing submissions.

## Unfair Labor Practice Mediation

The settlement rate for unfair labor practice charges where mediation was attempted prior to a completed investigation and finding of probable cause was more than 55%. After a finding of probable cause, better than 80% of the mediation attempts were successful.

## Representation Issue Mediation

SERB staff assist in settlement of representation issues that arise from unit clarifications, amendments of certification, voluntary recognition requests, decertification petitions, representation petitions, disclaimers of interest, fair share fee religious objections, and fair share fee rebate challenges. In Fiscal Year 2000, 92% of representation mediation attempts resulted in settlement prior to a Board direction to hearing, and 100% of mediation attempts were successful in cases after a

direction to hearing.

## SERB Staff Assigned to Assist with Mediation

In order to support all of these dispute resolution and prevention efforts, SERB has involved Administrative Law Judges in grievance and contract mediation, assisting in the formation and facilitation of Labor-Management Committees, and providing training on the principles and implementation of Interest-Based Bargaining. In addition, SERB staff members of several sections mediate ULP cases, and Labor Relations Specialists mediate representation cases.

## Mediation Training Tools

Over the last few years the Bureau of Mediation has continued to evolve and develop new tools for the changing needs of both labor and management. Today the Bureau of Mediation has numerous training segments to assist the parties in areas such as: trust building, communication, problem solving, conflict resolution, effective committees and leadership. These new training segments reflect the ever-changing needs of the labor-management community. Our goal is to recognize the needs of groups throughout Ohio and provide the tools to foster good labor-management relations.

If your group would like to discuss any of our services, please contact Mary Robertson at (614) 644-8716.



## **“MISSION ACCOMPLISHED”, CONTINUED**

spend a long week-end with my snow-bird parents.

The bad news is...upon completion of the third academy, the 120 day deadline begins to submit the Final Paper. I'm kidding...interestingly enough, I knew from day one what

topic I wanted to address, which was the hardest part of the assignment. My final paper is entitled "Peculiar Comparables in Greene County, Ohio," and can be viewed on NPELRA's web site. I'm very pleased to say my NPELRA Masters Certification hangs proudly in my office, thanks to the help of my friends in NPELRA. I encourage all of you to obtain this "tool." Bless your heart, Madge!

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# **OHPELRA Thanks Sponsors Of The 16th Annual Training Conference:**

**Baker & Hostetler, LLP**

**Downes & Hurst**

**Kastner, Westman & Wilkins, LLC**

**McGohan-Brabender, Inc.**

**We appreciate our sponsors' commitment and on-going support!**

## **OHPELRA Update**

c/o Butler County Department of Personnel  
315 High Street, 6th Floor  
Hamilton, OH 45011-6016