

MCFM

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The Massachusetts Council On Family Mediation is a nonprofit corporation established in 1982 by family mediators interested in sharing knowledge and setting guidelines for mediation. MCFM is the oldest professional organization in Massachusetts devoted exclusively to family mediation.



PRESIDENT'S PAGE: FRAN WHYMAN

Dear Mediators:

Happy New Year!

As the new year affords a special opportunity for organizations and individuals to reflect on their accomplishments over the past year, I thought I would use the President's Page of the FMQ this quarter to tell you about an exciting new initiative piloted by the MCFM during 2014.

It all started with MCFM members David Kellem, Jonathan Fields and Rachel Goldman earlier in 2014 as they worked with Christine Yurgelun, Manager of Administrative Services of the Probate and Family Court Administrative Office to put together a pilot on-site volunteer mediation program for the Marlborough Session of the Middlesex Probate Court. These efforts came to fruition during November, when the pilot program began. MCFM Certified mediators, John Fiske, Barbara Kellman, Mindy Milberg, David Kellem, Laurie Udell, Tracy Fischer, David Hoffman and Karen Levitt were the first to volunteer to mediate cases in the program, and a schedule was created. While not all of the mediators had cases during their scheduled time in court, all of the scheduled cases had successful outcomes.

Mindy Milberg, a mediator of 20 years, shared her thoughts about her experience mediating a case in Marlborough: "While challenging in terms of the communication issues in the case, the case I mediated in Marlborough was one of the most moving cases that I have been privileged to mediate. This was due to the profound impact the mediation had on the parties' ability to have an honest and heartfelt exchange for the first time in years. I have always done pro bono or volunteer work in my practice, which has allowed me to help individuals who might otherwise not have the chance to experience mediation. Thank you to those responsible for the hard work and effort to make this program a reality!" Mediator and program co-chair David Kellem reported about the "warm welcome and enthusiastic support our MCFM mediators received in Marlborough from court officers, the probation department, session clerks, assistant judicial case managers and judges." David explained that, "volunteering to mediate in Marlborough was eminently rewarding, that being able to help clients and the court system at the same time felt like doing justice."

As the last cases of the pilot program were mediated on January 13th, the MCFM Board voted to continue the on-site mediation program in Marlborough in the hope that a long-term partnership between the MCFM and the Marlborough Court will emerge and allow litigants otherwise unable to afford private mediation the opportunity to reap the benefits of access to ADR on-site in Marlborough.

While there is still more work to be done to assure the program's future success, this pilot moved Massachusetts one step further in the direction of making on-site mediation available to litigants who would otherwise not have access to an experienced mediator and an alternative, more peaceful, self-determined way to resolve their disputes.

Thank you to those of you who led this effort for the MCFM, mediated cases, and welcomed MCFM mediators to on-site mediation in Marlborough. You made a difference. Here's to continuing this important partnership in 2015!

My best to all for a healthy and most fulfilling 2015.





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THE CONFLICT PIVOT: TURNING CONFLICT INTO PEACE OF MIND

By Tammi Lenski
Interview by Amy Martell

A mediator in our field for over 28 years, Dr. Tammy Lenski is well known for her invaluable book, Making Mediation Your Day Job, and for her resource-rich blog, Conflict Zen. In November 2014 she published her second book, The Conflict Pivot: Turning Conflict Into Peace of Mind. Entertaining to read and impressively clear, The Conflict Pivot offers a simple, memorable, and instantly usable framework for transforming conflict. Tammy uses rich personal stories and targeted examples to vividly illustrate her ideas, and offers both an accompanying worksheet as well as a one-page visual overview of the model that make the framework even more accessible. After reading the book once, I felt that I could put the concepts Tammy offered into practice immediately. This book and framework is a welcome and much-needed addition to the conflict resolution canon, and has already become one of my go-to resources both in my own life and when working with clients.

I had the very good fortune to sit down and interview Tammy about her practice, the framework, and pivoting.

What was your motivation for writing this book, and how did you develop the The Conflict Pivot concept?

I had three primary reasons for writing the book. The first is that, in all the time

that I've been a mediator since 1997, I've seen clients make these same three common mistakes when they were stuck in conflict. These are:

- 1) equating our version of what happened with "The Truth"
- 2) blaming the other person for the discomfort we are experiencing in the conflict; and
- 3) spending too much time on what happened in the past and not enough time looking toward the future,

This book is an attempt to help people avoid or get past those three common pitfalls.

The second motivation is that I wanted to take what is a very complex human behavior (conflict) and a very complex response (conflict resolution), and simplify it without being simplistic. In the book I tell the story of Gregg, my graduate student, who turned to me in class one day and said, "you know, I love this conflict resolution book [holding up a very well-known book on mediation], but I can't remember all of this when I'm stuck. I need something simple." So I thought, he's absolutely right – when we are stuck in conflict, we can't do much. However, if we can do just a few things well, we might be better at getting unstuck. So I started testing my ideas to identify– what are these three things that people could



easily and consistently do when they are stuck in conflict?

The third motivator (and this is somewhat related to the first) is that I kept seeing people handing over all of their power to resolve conflict to the other person in the form of blame, making the other person the cause of the problem that couldn't be fixed without the other person changing as well. And while, as a conflict resolver, I do buy the idea that we all contribute to a problem, it didn't necessarily make logical sense that if you contributed to the conflict you needed to have a role in resolving it. I wanted to help people recognize the things that they could change so that they could effectively take their power back and change the way they resolve conflict.

Readers can, of course, go to your website to read the first chapter of the book and get a one-page snapshot of the model, but can you highlight briefly here, what is the "Conflict Pivot" framework?

As noted previously, I found that we tend to get stuck in conflict in one of three ways. These three truths comprise "stuck stories"-stories about the conflict that we tell ourselves, to polish the story, make it pretty, and make it the truth.

Conflict pivots invite you to change the direction you're focusing, so instead of focusing on the stuck stories, you purposefully change direction to achieve a better outcome. This is not unlike pivoting in basketball, you know,

looking to find the best direction to focus before you send the ball. If you change your focus, you have a better chance of success.

In the book, I identify three primary pivots:

The **first pivot** is pivoting away from the stuck story and toward its message. Move away from the story you've created and to what the story is trying to tell you. In the book I lead the reader through how to do this.

The **second pivot** is away from the other person's behavior and toward your own hooks. By focusing on the other person's behavior we are ignoring that the conflict hooked some part of your identity. If we reflect instead on the hook, on our own frailties, our own desires for people to see us in a certain way, we can learn how we have contributed to the conflict and not remain as stuck. We also understand that our hooks often have nothing to do with their hooks, they just got intertwined, and sometimes that is enough to reduce the conflict.

The **third pivot** is away from the past and toward the now. As a mediator, you understand that this is often what happens in conflict and the place where many people get stuck - arguing about what happened and who's at fault and who did what to whom. Conflict resolution is about identifying what you are going to do from here forward.

I want to emphasize that all of these

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actions are things that people can do on their own without having to rely on what the other person or people will or won't do.

What do you mean by “books”?

Essentially what I think of as hooks are similar to really, really deep interests – these interests are intrinsically connected to our identity, to the way we see ourselves in the world and the way we want others to see us in the world. In this way, they become a form of interests. However, because they are so deep, they are not easily dealt with in the typical conflict conversation. These are parts of your identity that get snagged either by a real or perceived insult or threat in the way you see yourself. In the book I speak about six classic categories of hooks – such as a “competence hook” (our need to be recognized as capable, skilled, etc.). When we start paying attention to the hooks we can see the role that they play in getting us “snagged,” and where we can turn our attention to get unsnagged.

Who is your target audience for the book?

My work has always straddled two audiences, both public “consumers of conflict resolution content” and also professionals. Here, I am specifically targeting people who are in ongoing relationships, including business, family relationships, friends – where maintaining the relationship is important. In addition, the book is

for conflict resolution professionals – mediators, conflict coaches, conflict resolution trainers – because when we are working with our clients, if we can do a better job of helping them bring their best selves to the table, then we can do our work more effectively.

So, what's next – if a professional reads your book and gets excited, and wants to put it into practice, what is their next step?

I think that some folks will find relative ease with just the content in the book, and that's great – I set out to create something practical. However, for those who want to fine-tune their fluency, I will be putting together some in-person and online workshops that people can use to master using the approach with clients.

To learn more, go to Tammy's website at www.lenski.com/conflictpivot/. There you will find the first chapter of her book, ideas for how to use pivots at work, at home, and with your clients, the worksheet, and a 1-page visual of the framework.



Amy Martell is a family mediator and collaborative lawyer in Marshfield, Massachusetts. Her practice, Whole Family Law and Mediation, focuses exclusively on out-of-court resolution of family law matters and collaborative family formation. For more information about her practice, visit www.wholefamilylaw.com or contact her at amy@wholefamilylaw.com.



WHO SAYS THAT MEDIATION NEEDS RECLAIMING?

By William M. Levine and Hon. E. Chouteau Levine (Ret.)

Maybe we are the victims of poor training, but we don't think so. In fact, we think our training was pretty good.¹ At core, we learned that divorce mediation is:

A confidential...form of structured negotiation designed to help clients reach an informed agreement with the assistance of one impartial mediator... the goal of mediation is to reach a fair and lasting agreement, one which will be approved by the appropriate court and allow the clients to divorce.²

That sounded right to us then, when we were devoting most of our professional lives to traditional lawyering and trial of family law matters; and it rings just as true today as full time private dispute resolution providers. Yet, some in the mediation world, as indicated by recent writings in the excellent Mediate.com newsletter, seem preoccupied by what they see as the troubled state of the practice today. Mediation, they lament, has failed to deliver on the promises that someone made, somewhere in time. Based on our experience here, in Massachusetts, we ask ourselves, "where's the problem?"

An example of mediator teeth-gnashing is the December 3, 2014 (newsletter #558) piece "Reclaiming Mediation's Future: Getting Over the Intoxication of Expertise, Refocusing on Party Self-Determination", by Robert A. Baruch Bush and Joseph P. Folger. The authors claim that the "first premise" and "central value" of mediation is self-determination

(a/k/a empowerment), a value now lost to the field's "capture" by courts "and other authoritative agencies". As a result, Bush and Folger see a practice surrendered to "... the case-settlement goals and practices favored by their 'hosts'..." Mediators, they argue, have become:

... intoxicated by - and ultimately addicted to - the drug of the problem-solving culture, the culture of expert fixers, protectors and problem-solvers, who offer to take away the pain and frustration of unmet needs and tangled problems, applying their well-trained skill sets to accomplish wonders for eager clients who would otherwise suffer.

Further, the authors assert that mediation cannot succeed in an environment that does not include compulsion by the courts (mandatory mediation), because the field has lost touch with self-determination, sacrificed at the altar of egoists who patronize their clients with received wisdom instead of pure self-determination.

Bush and Folger self-describe as transformative mediators. This explains their instinctive recoil from problem solving. Mediation is a large enough tent to include their priorities, but from our seat, Bush and Folger are wrong on nearly all counts. Every day, and every way, we seek to empower our clients by advancing three principles that our trainers espoused: voluntariness,

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informed understanding and mediator impartiality. To that, we add the rule of reason, promoting effective agreements that judges will approve. To our lights, if we fail on any one of these, we have fallen short. As we remind clients from time to time, we can guide a fair, amicable and efficient process; but, if the end result eludes the range of reason that the law demands for the grant of divorce, we have materially failed.

Must we be vigilant at all times against substituting our own judgment for those of the parties, even subtly? Absolutely. Do we need consistent focus on client-generated options? No question. Are we obliged to jealously safeguard our impartiality? Certainly. But, does this make us a help-free zone? We don't think so.

In Massachusetts, mediators span the process spectrum. We lawyers, psychologists, social workers, and others. Do any of us check our expertise at the door? We hope not; and, more importantly, we firmly believe that few clients would want that. We are a large, diverse and welcoming community. Some of us "intervene" more than others in session. We use differing levels of evaluation. Clients and lawyers tell us what they need; and when we are self-aware and honest with people, we let them know in advance where we stand on these various spectra. If we feel that our core principles are inconsistent with the requested service, we decline the engagement. Otherwise, the public defines its needs, not theorists who eschew problem solving.

John Fiske has always taught that the more people mediate, the more people will mediate. We are all busy. Just look at the attendance and participation in MCFM programs; and, Massachusetts has no mandatory mediation. Mediation has not grown here by compulsion, but by a maturing appreciation for options, and encouraged, for sure, by serial court crises. In the end, options are what create empowerment and self-determination for people. Transformative mediation may serve a few with a of purity of spirit, but certainly not the many who need to get on with the business of life as best they can when their family structure comes crashing down. Think psychoanalysis versus time-limited psychotherapy, and you begin to get the drift. If mediation is arbitrarily limited to the transformative, neither compulsion nor market forces will cause critical mass in demand.

So, no thank you to reclamation. We are not lost; and if we are, we are happy not to be found.



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¹ We both trained with John Fiske, Diane Neumann and Philip Woodbury in their Divorce Mediation Training Associates' (DMTA) 40-hour program.

² Day 1, Page 1 of DMTA's March 1999 training materials notebook.

³ Even if obtaining that approval may take some convincing because the parties knowingly, willingly and mutually see benefit to their family at or even outside the outskirts of Probate and Family Court norms and expectations.



WHEN SILENCE IS GOLDEN

By Marcia Tannenbaum

Some years ago, our esteemed colleague John Fiske opened an MCLE mediation training thus:

“Listen, my colleagues, and you shall hear.”

Among the most valuable tools in our mediation toolkit is the skill of **L I S T E N I N G** - really, really listening. When we listen, we learn from our clients and, not less importantly, we model behavior for everyone at the table, clients and colleagues alike. So it is not only we who benefit from honing our listening skills, but our clients who may learn something new or hear something in a new way which brings an otherwise unreachable insight.

“Backing away while leaning in to listen, we mediators can provide room for our clients’ voices to be heard.”

As an attorney, I was trained to be in charge. To talk, to share knowledge, to let everyone know how much I know. But as a mediator, I was trained to listen, to bring an openness to the table, a willingness to hear. As mediators from every background, we bring ourselves to the table. We want so much to help our clients that we can often get in their way. More often than may be obvious to any one of us at any given time is that we can sometimes benefit our clients most by getting out of their way and fostering their dialogue with our silence

giving them room to speak to us and more importantly, to each other.

Backing away while leaning in to listen, we mediators can provide room for our clients’ voices to be heard. Letting them know by your body language and your mindful presence that you are lending your ear and your acceptance; that you are listening with your silent presence for each to say what is on their mind and in their heart.

In the same way that a box of tissues on the table in your conference room gives your clients permission to cry, the emotional space that you create by silence gives that same client permission to express those thoughts which are not easily accessed, and to hear those statements – often unexpected – an opportunity to hear the other speak and to be heard. Ironically, it is sometimes in the process of divorce or marital mediation that the other spouse is finally known.

Joe Biden, a man not always known for his discretion, has said, “A silent mouth is sweet to hear.” Our clients need our chosen silences to allow them to articulate their own thoughts and feelings. Allowing each to “speak her/his truth” is a gift we bring to our work when we are intentional with our words and our silences. Often we don’t know our own thoughts or feelings until we articulate them in writing or in speech. This is even more true when we are

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in an emotionally charged conflict; for our divorce clients or others in difficult and intense circumstances, the quiet is essential to come to terms with their own feelings and thoughts.

Nothing moves the parties in a marital or divorce mediation toward healing better than hearing the other spouse say "You are such a great Mom." "You are such a good man." "I couldn't have done it [build my practice, succeed in graduate school, deal with my mother's illness] without you."

With our mindfulness, our presence, our willingness to listen we invite the possibility for healing.

A recent highlight of my mediation career was attending the anniversary event of a non-profit for which I had mediated a workplace conflict. During that mediation, I discovered that the parties had never shared with each other their high level of respect for the other's dedication and expertise. The

mediation provided the opportunity and quiet to do so and resulted in the parties becoming co-directors of the organization. Years later, I was honored to celebrate the success of the team which was re-created in mediation.

So, Listen up!

Lend your ears, your hearts, your minds and souls. There's lot of work to do in the open silence(s) which only you can create.

Du Herst?

(Du Herst is Yiddish for "Do you hear me?" – it really means "Do you get it?")



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**The gifts of divorce may
take some time to reveal themselves,
but there are gifts.**

– Abby Rodman



BEYOND EMAIL

By Justin L. Kelsey, Rackham Karlsson
Jonathon R. Eaton, Dave Mitchell

We're Here to Help!

In this new regular column, we will examine various ways that technology can improve the practice of mediation, in a manner that we hope you will find "user-friendly." Topics will span a range of new technologies, including video conferencing in mediation, use of tablets and monitors in the conference room, new payment methods, and more. The inaugural column, below, addresses how to share files (in the digital sense of the word) securely with clients and colleagues.

It is our hope that this regular column will be an effective resource for improving your practice. To that end, you are encouraged to contact any of the contributors with questions or suggestions for articles. Our contact information can be found at the end of this column.

"Life moves pretty fast. If you don't stop and look around once in a while, you could miss it." - Ferris Bueller

Technology is constantly changing, faster than most of us can keep up with. Still, you have to stop and look around once in a while because technology is necessary for the future of mediation for several reasons:

1. Being a better, more efficient mediator!

Many recent improvements in technology have been designed to improve communication, and effective communication is of particular importance in mediation. There also have been significant improvements in practice management software, which can help us focus on the substance of our work rather than its administration.

2. Clients expect you to keep pace with technology.

Email was once optional in professional practice. Can you imagine telling a client today that you don't use email? The same will one day be true of many of these newer tools.

3. Professionals have an obligation to stay current.

For example, those of us who are also attorneys may have a professional obligation to stay educated about emerging technologies. In 2013, the American Bar Association introduced Comment 8 to Model Rule of Professional Conduct 1.1, stating:

To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including

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the benefits and risks associated with relevant technology....

In short, staying educated about new technologies is no longer merely de rigueur, but an important part of our professional responsibility. The decision to forego using a particular technology must be an informed one, not merely due to inertia.

Sharing Files Securely

In family mediation, we often deal with sensitive information, including clients' private financial information. We all know that files containing this information should be handled with the utmost respect for privacy and confidentiality — but how?

Encryption

The most basic option is to encrypt the file so that it can only be opened with a specific password, and then send the encrypted file by email. While this option protects the file from prying eyes, it is essential that the password be shared in a secure manner. At some point, we have all received an email containing an encrypted PDF along with a note stating, "The password is..." Sending a password in this manner undermines its intention, because anybody with access to the email will find both the file and password in a single location. Sending the password in a separate email is only marginally better, because the password is still being sent in plain text and in close proximity to the file itself.

When sending password-protected files, it is far better to share the password

through another channel, preferably one that does not require ever putting it in writing, such as in person or by telephone. In doing so, it is also important to ensure that you are not reusing passwords. While it might be appropriate to reuse the same password within a single matter, it is certainly poor practice to reuse the same password across multiple matters, or even to use different passwords with a predictable structure. For example, it is not a good idea to encrypt all of your files with the password "Firm Name 123" or "Client Name 123."

File Sharing Services

You can avoid the password-sharing problem entirely by using one of the many online file-sharing tools that don't require both users to know the same password. Dropbox, Google Drive, and other similar services allow you to share both individual files and entire folders of files without ever sharing a password. Both the sender and the recipient have their own accounts, and they never need to disclose the passwords to those accounts. Of course, it is then incumbent on both parties to employ best practices with their respective accounts, including strong passwords and two-factor authentication whenever possible.

Two-Factor Authentication

Two-factor authentication has become a standard offering for many online services, including Dropbox, Gmail, Evernote, and more. It adds a second layer of protection to the account, typically by sending a randomly generated



numerical code to the account holder's mobile phone whenever somebody attempts to access the account from an unrecognized device. The would-be user then must enter both the password and the numerical code to gain access to the files. This added protection is powerful — for example, two-factor authentication would easily have prevented last year's much publicized celebrity photo leaks. Mediators should strongly consider enabling two-factor authentication whenever given the option.

Built-In File Sharing Services

In addition to dedicated file sharing services like Dropbox or Google Drive, many practice management services now include file-sharing tools. Among others, Clio (used by two of this column's contributors), Rocket Matter, MyCase, and Amicus Cloud all offer web-based portals (i.e., dedicated web pages) through which practitioners can share documents. As with file sharing services, each user has their own password to the portal; there is no need to share passwords between users. When evaluating practice management options, consider making two-factor authentication a non-negotiable requirement.

As you can see, there are multiple ways to share documents securely with clients and colleagues, thus getting work done efficiently without exposing their private information. Do you have another suggestion, or thoughts on the options discussed here? Let us know!



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It takes two to destroy a marriage.

– Margaret Trudeau



EINSTEIN'S DIVORCE AGREEMENT

Editor's Note: English translations of thousands of Albert Einstein documents are now available online at <http://einsteinpapers.press.princeton.edu>. Below is a copy of his divorce agreement, contained in Volume 8: The Berlin Years: Correspondence, 1914-1918 (English translation supplement) Page 584.

584

DOC. 562 JUNE 1918

562. Divorce Agreement

Berlin, 12 June 1918

Agreement.

1) Prof. Einstein in Berlin shall deposit in trust at a Swiss bank Forty Thousand Marks in securities,^[1] with the stipulation that, in the case of a divorce of the spouses, this sum become the property of Mrs. Mileva Einstein née Marić.

2) From the moment of the opening of the trust account, Mrs. Mileva Einstein shall draw the interest. She shall not exercise power over the capital without the consent of Prof. Einstein (i.e., the securities shall neither be sold, nor mortgaged, nor exchanged without his approval).

3) Prof. Einstein shall send in quarterly installments to Mrs. Mileva Einstein an alimony sum which, including the interest from the gift sum just mentioned and including the interest from the Nobel Prize to be named under No. 4 of this contract, annually amounts to a total of Eight Thousand Francs,^[2] about the disbursal of which Mrs. M. Einstein shall render no account.

4) Prof. Einstein shall instruct, in the event of a divorce and in case he receives the Nobel Prize, the principal of the above less Forty Thousand Marks, to become the property of Mrs. Mileva Einstein and shall deposit this capital in trust at a Swiss bank. Regarding this sum the following shall apply:

a) Mrs. M. Einstein shall have no authority over the capital without the consent of Prof. Einstein. She shall dispose freely of the interest, however.

b) In the case of the remarriage or death of Mrs. Einstein, the above-mentioned 40,000 Marks, or the above-mentioned 40,000 Marks along with the Nobel Prize ceded to Mrs. Einstein, less 40,000 Marks, shall go to the children, Albert and Eduard Einstein.

5) Prof. Einstein shall provide that Twenty Thousand Marks be deposited at a German bank,^[3] the interest of which shall be paid out to Mrs. M. Einstein after his death, in the event that Prof. Einstein is not awarded the Nobel Prize.

6) Mrs. Mileva Einstein shall assume the care of the children and shall exercise all aspects of parental authority—obviously within the constraints of the legal regulations. She shall obligate herself to entrust the children to their father while he is sojourning in Switzerland during the school holidays.



CAN I MODIFY MY ALIMONY UNDER THE ALIMONY REFORM ACT? THE SJC WEIGHS IN...

By Justin Kelsey

The SJC reached a decision on January 30, 2015 on three cases that interpreted the modification provisions of the Alimony Reform Act (Chin v. Merriot, Rodman v. Rodman, and Doktor v. Doktor). The SJC disagreed with a portion of my prior interpretation (summarized in the 2012 Winter FMQ), deciding that the provisions on retirement age and cohabitation can not be read retroactively.

On March 1, 2012, the Alimony Reform Act took effect, and it included limits on the amount and duration of alimony orders going forward. It was the law before the Act, and still is after its enactment, that alimony orders which are merged into the Judgment are modifiable if there has been a material and significant change in circumstances. The Act also provides that the duration of old orders can be modified based (solely) on the “durational limits” in the new Act, even if there hasn’t been a material and significant change in circumstances.

The question that the SJC faced in these three cases is: **Can the duration of alimony be modified on pre-Act cases for any limitation in section 49 of the statute, or only based on the specific duration limits that apply to marriages that were less than 20 years in length?** (Section

(b) only.) This is a significant issue because for post-Act cases alimony can be terminated either upon the payor reaching full Social Security retirement age, or if the recipient shares a common household with someone new. If these provisions don’t apply to pre-Act cases, “lifetime alimony” will continue for any pre-Act alimony payors and recipients who were married for more than 20 years.

In Chin v. Merriot the SJC determined that “both the retirement provision and the cohabitation provision apply prospectively” only. The Court bases its decision on the principles of statutory construction which require that each word be given its plain meaning unless otherwise defined. The Act in Section 4 makes an exception for retroactive application only for “existing alimony judgments that exceed the durational limits under [G. L. c. 208, § 49,].” But the Act fails to define “durational limits” beyond its plain meaning, which according to the SJC in both Chin and Rodman, means that the prospective exception can only be referring to section 49(b).

Prior to these decisions, the prevailing belief was that all the duration provisions in section 49 applied retroactively, including the retirement and cohabitation provisions. Some believed this was unfair to recipients

Continued on next page



who depended on these funds, but many believed the Act allowed for this modification because of the language in section 6 of the act which allows modification to be sought on or after March 1, 2013 by “...any payor who has reached full retirement age, as defined in [G. L. c. 208, § 48,] or who will reach full retirement age on or before March 1, 2015.” This section seems superfluous if retirement is not included as a “durational limit.”

While this is not addressed in Chin, the point was raised in the oral argument in Doktor v. Doktor and the SJC explains in its Doktor decision that Section 6 has to be read in conjunction with Section 5 and therefore: “Read together, uncodified §§ 5 and 6 establish that, where a payor who had been married to a recipient for fewer than twenty years seeks to modify an alimony obligation based on the durational limits of G. L. c. 208, § 49, and the payor also will “reach full retirement age on or before March 1, 2015,” the payor may file a complaint for modification on or after March 1, 2013, ‘[n]otwithstanding clauses (1) to (4) of [§] 5’.”

Essentially the SJC has decided that Section 6 is merely a very narrow exception to the filing dates in Section 5. While I personally believe that it is very unlikely that this was the intention of the legislature or drafters, the fact remains that there was an ambiguity in the Act which left room for this interpretation. If Section 4 referred directly to each of the portions of section 49 by letter, there would be no ambiguity. However, it did not. Unless the legislature makes a future change to this, there is no longer an ambiguity on how the Act will be applied now that the high court has ruled.

If your clients have a post- March 1, 2012 case then all of the Act’s provisions apply to them and their alimony would be modifiable pursuant to the terms of their agreement read in conjunction with all provisions of the Act. However, if your clients original divorce was completed prior to March 1, 2012 the following UPDATED flow-chart depicts the decision tree for determining whether they qualify for a modification of a Massachusetts alimony order under The Alimony Reform Act of 2011.



Justin L. Kelsey is a collaborative divorce attorney and mediator. His firm, Kelsey & Trask, P.C. is located in Framingham, MA and concentrates on Family Law, Bankruptcy and Firearms Law. Learn more at www.KelseyTrask.com.

pursuant to THE ALIMONY REFORM ACT OF 2011





MCFM'S 13TH ANNUAL FAMILY MEDIATION INSTITUTE & 10TH ANNUAL FISKE AWARD HONORING ORAN KAUFMAN

Oran Kaufman and Mediation Excellence

"At what level are we doing this?" Oran asked. The first question in our Divorce Mediation Training Associates October 1993 class, and I have been trying to answer it ever since. The question is creative, relevant and thoughtful: so is Oran, who has established his own unique mediation practice in Amherst for many years and is thriving in good Western Massachusetts fashion.

He writes often about mediation and various aspects, expounding on the mediation lessons taught by Frisbee Ultima and the challenges of listening to a child who may disagree with him and ask him in her own disbelief, "So you call yourself a mediator?" Each of these articles is worth reading for their own relevance to your practice: when do you delve more deeply into the implications of what a spouse says to the other, or does not say. Do you wonder and not pursue? Do you accept and go on to the next issue? How many times to you ask a client why, if at all? If you do not, why not? Oran wrestles with these questions and writes about them. For example, in wondering when and whether to caucus: "One of the beautiful (and challenging) things about mediation is that no matter how long you have been mediating, it is always fascinating and complex. I continue to be fascinated by the different "activities" that are going on on so many different levels. I liken it to a major intersection where

superhighways and turn off ramps converge and intersect on different levels."

Or he calls me to see what I think. When I have a question, or think I have screwed up, he is usually the first mediator I call. He listens, he empathizes, he understands or at least pretends to very convincingly, and he helps me come to a comfortable conclusion that works for me.



When he opened his mediation practice he had a party, and someone said, "I'm so glad you have decided to be a mediator." Oran asked him why he said that and the answer was because that's what his new sign said. So they went out to check on the new sign, which said on one side, "Oran Kaufman Mediator" and on the other side "Oran Kaufman Meditator." I'm not sure if he ever changed one side, and if so which side:



he is both, after all. He thinks carefully and deeply about questions inevitably arising in our practices, and shares with us his own creative conclusions. "Why not mediate my best friend's divorce?" he asked me and a number of other colleagues. He could not come up with a good reason not to so he did, and lived to tell the tale. "One night I was sitting in my hot tub with the husband...." Not many mediators could succeed in such a venture, and his own adventurous versions of excellence give us more models to inspire us all.

ACCEPTED BY ORAN KAUFMAN

First- thank you for this incredible honor.

I have two simultaneous emotions swirling around in my head. First is that I am filled with gratitude to be getting this award from an organization I care about so deeply. But in addition, I have to admit that I am still quite shocked, flabbergasted and at a loss as to why me? And I mean that with all sincerity.

This is particularly so when I think about the luminaries in the field that have preceded me- John Fiske, David Hoffman, Gail Perlman, Michael Leshin, Jerry Weinstein, Diane Neumann to name a few. These are the people I look up to, whom I call when I have a question. For me to be in the same company is an honor, but really? How did that happen?

So, it got me thinking- how did this happen?

As mediators we are trained to look for conflicts of interest and as I thought about it more- it hit me!

So- I have to make a disclosure and fess up, because maybe this is at least in part the reason.



You see in 1997 when the Academy of Family Mediators conference was on the Cape, John Fiske called me and asked me if I wanted to share a room. I thought, how cool is that?! Here is this guy I look up to as a giant in the field and he is asking me to share a room. So I said yes. Well, John being John it turns out he had asked or agreed to have a third person share the room with us. In any event there we were, three people two beds- so John and I shared a bed. So that's my confession, John and I slept together!

Now as I think about it a little more closely, with my moving around at night a lot, that probably in fact did not help me when it came to this particular award. But I had to get that off my chest.

Continued on next page



So in thinking what I wanted to say today, my mind kept taking me to one particular event. I could not really understand why but here it is. I believe it was at that same conference that Paul Charbonneau, a wonderful mediator from Maine, led a workshop.

It was a guided meditation. When I first saw the sign for it on the door to the workshop room I thought it was a typo- maybe it was supposed to say guided mediation?

In any event, Paul took us on a meditation journey. He guided us to a place we felt comfortable and safe. For me it was a place that is just 1/8 of a mile from my house, called the Peace Pagoda. Paul took us on this walk with our eyes closed. We were relaxed, walking, thinking. I remember this vividly. And as we turn the corner, he tells us that there is a child standing before us. As you approach the child, you realize that the child is you at age 9. Paul then guided us in a conversation with the child. The idea was for you as an adult to tell your 9 year old self where you were at this stage in life and give your younger self some advice.

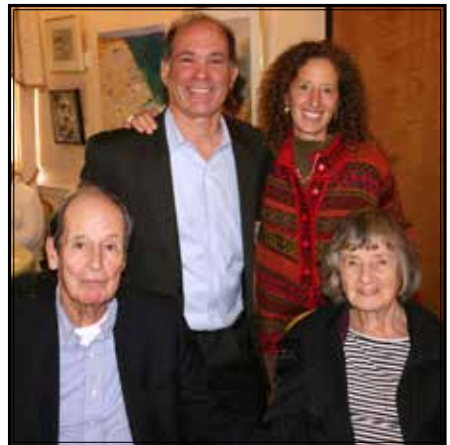
Well for me it did not quite start out that way- the first thing that happened after I introduced my adult self to my 9 year old self was my 9 year old self saying "what the heck happened to my hair?" "I don't talk about hair," I said.

But then, I said to my young self- "I have arrived! I have found my people!" At that point I had been mediating for three years and I could wholeheartedly without hesitation tell my young self

that I had found what I loved to do. And while I could not help with the hair thing and the various trials and tribulations I/he would go through- I could tell my 9 year old self that he could rest assured that "we" eventually get there and it is good.

And it is still good! And that is why this award is more meaningful to me than anything I can imagine. First I am getting an award named after John Fiske, someone I look up to and respect tremendously. Second, it is coming from MCFM, an organization which has been formative in my becoming a mediator. And finally, having recognition in a profession which is filled with people I adore doing great work and on a great mission is more meaningful to me than anything I can imagine.

So from the bottom of my 9 year old heart - thank you.



Edward Barshak, Oran Kaufman,
Danielle Barshak, Regina Barshak



Fran Whyman, Ellen Waldorf



Barbara Kellman, Les Wallerstein, David Hoffman



Robert Doyle, Ranna Parekh



Michael Leshin, Oran Kaufman, John Fiske, David Hoffman



Jon Fields, Cate Blake



James McCusker, Mary Socha



Debra Smith



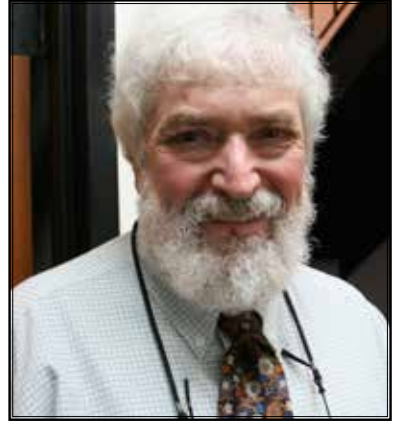
Michael Leshin



Barbara Nason, Jeffrey Fink



Mary Sheridan, Howard Goldstein



Steve Neisenbaum



Linda Sternberg, Carolan Hardy



Victoria Spetter, Lynn Cooper



WHEN THINGS FALL APART: HEART ADVICE FOR DIFFICULT TIMES

by Pema Chödrön: Book Review by Alan Albert, Psy.D., CGP

Have you ever read a book that you wanted everyone else to read, too? Pema Chödrön's book, *When Things Fall Apart: Heart Advice For Difficult Times*, is one that I recommend all the time, and to everyone—for almost everything. Now, I am recommending it to you, for the valuable insight it can bring to your mediation practice.

First, a note about the author. Pema Chödrön is a bestselling Buddhist nun who lives and teaches at Gampo Abbey in Cape Breton, Nova Scotia, Canada. She presents widely in the United States at places like the Omega Institute and Kripalu. While *Heart Advice* is perhaps her best-known work, many of her other books also have been acclaimed by critics and readers alike.

At its core, *Heart Advice* is an exploration of life's uncertainty. The book starts with uncertainty, focuses on uncertainty, and invites us all to think of uncertainty as the essential ground of being. Even as we walk around in life thinking that the world is firm, and as we yearn for an unchanging reality, Chödrön suggests that life is fundamentally uncertain. She then takes this exploration of uncertainty further, seeking to help us truly understand this ground of uncertainty and to accept it as our fate, along with the condition of being alive and mortal. Instead of running away from our fears and anxieties about the future, we do our best to accept them,

or "lean into them," as we might now say. In doing so, we increase our own self worth and gain insight into our various methods of self-protection that have been with us our whole lives. To Chödrön, there is no other way to truly gain mastery over our fears and self-doubts. There is only acceptance, moving through, and more acceptance.

Think of how this uncertainty impacts our work with couples in dispute, in the most heated and distressing times of their lives. Their lives are being changed forever and they often are deeply worried about being cheated or "ripped off." Fears of deception and deceit run rampant. Even when things seem relatively fair on paper, it never really feels that way to them. Consider, for example, that one client is usually "the leaver" and the other the "leavee"—a situation that never feels fair. Chaos, uncertainty, and disorientation all are part of the process of divorcing, as is the desire to feel that "everything will be all right" at some point. Of course this cannot be guaranteed. The only guarantee is that all of our clients' lives will change, and the whole process will feel devastating to many of them. And this too will change.

Notwithstanding the difficult subject matter Chödrön addresses, her tone of both sweetness and firmness is apparent throughout *Heart Advice*. Loneliness, chaos in feelings and thinking, and



samsara (the Buddhist concept of the inevitability of being on the wheel of suffering in our lives) are covered most appealingly in this sweetly written, easily read book. Chödrön knows how to talk to us quietly, without calling attention to herself, other than to offer instances of her own shortcomings and struggles.

out in any case. Still, this is a book from which anyone can benefit, no matter what you do, who you are, and how “different” you feel. I recommend it not only to all mediators, but to anyone who wants to feel more alive in our complex social environment.

Given that anyone working with disagreeing couples seeks to help their clients find some kind of grounding during a time of inherent groundlessness, I recommend this book to all mediators. Of course, even as we ask couples to work together collaboratively in their divorce deliberations, many could not live together collaboratively in their marriages. It is useful to be realistic about how things may or may not work



Alan Albert, Psy.D., CGP, is a clinical psychologist in private practice in Newton Centre, Massachusetts. He has 30 years' experience working with individuals, couples, and groups. He currently serves on the Board of the Northeastern Society For Group Psychotherapy. Albert is also a publishing poet. His first book, *Fragments of the Natural*, will be published in late 2015.



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**“I tried to write a poem to tell you how I feel about our relationship, but I couldn’t find a word that rhymes with
AAAAAAAAAAAAUUUUUUURRRRRRGGGGGHHHHH!”**



HOW CAN YOU SAY THAT

By Kate Fanger

Words can float boats or sink good will. Choosing words carefully is not the small stuff, in work or life, but is particularly important in conflict conversations like divorce mediation. Have questions about what phrasing to use with clients (or other professionals) in those tricky and sticky situations? Please send me your challenges: KF@katefangermediation.com

- Please write to me if you have a question or comment - especially if you see things differently!

"I'm on the phone with a potential divorce mediation client and after we've spoken for a while, she asks 'Ok, so how do I get my spouse to come to mediation/agree to meet with you?' "

This is a very common question! When I answer, I try to cover three concepts: sequence, source, and substance. (That's my own mnemonic device; I don't list them to the caller.) Sequence has to do both with where the parties are in their separation/divorce conversation, as well as what I see as the sequence of convincing someone to try mediation. Source has to do with how information can sound very different depending on whom you are hearing it from. Substance is content.

Before I get to all those "s" things, a little preface: I answer my own phone, so for me, this request usually comes after we've been talking for a bit about how mediation works, how I work, and I've probably answered a bunch of administrative questions. The potential client tells me she wants to work- or at least meet- with me, but isn't sure how to convince her spouse to do so. Can I advise her? [note: I've learned to ask whether the spouse knows the client is calling me, or calling any mediators, and also whether the spouse is already open to mediation. Sometimes the answer I get is that the spouse is not yet aware of the impending divorce(!), which takes the conversation in a different direction...] Once I hear that the spouse knows or is open, I talk about the following things:

Sequence

Start at the beginning. To me, the beginning is **information**—that each party needs it. So I encourage the caller to have her goal be that her spouse gets the same information she's gotten, rather than have the goal be getting the spouse to agree to start mediation with me. (If the caller wasn't sure about the whole



mediation thing before talking to me, and has in fact been encouraged by our conversation, she may understand the same thing could occur for her spouse if she/he talks to me too...) In other words, the initial goal is to get the other party simply to call me. I sometimes point out it may be easier to get the spouse to agree to a small thing, making a phone call, rather than the larger commitment of agreeing to a meeting, or even a process.

Source

I always suggest that the potential client tell the spouse that she has spoken with me, but really try not to share any of the specific things I told her. Instead, I explain that in my experience **who** one hears something from can greatly affect **what** and **how** it is heard, and that this is often magnified in divorce conversations where conflict and emotions may be running high. So it's better if the spouse hears the information directly from me, because it will get heard more clearly. In addition, I'm motivated by the feeling that it's unlikely the potential client will repeat what I said using the same language I used, language I've worked hard to make professional, helpful and encouraging, without sounding like I'm empathizing to the point of taking sides.

Substance

The dangers of a client either characterizing what I've said, or even simply saying what a good conversation occurred, are best avoided if possible, as they may be impossible to remedy. Even (especially!) with the best intentions, the potential client may bias their spouse against me: enthusiasm for how I described the pluses of using mediation in general, or any other positive report, may be received as evidence I'm already on the first caller's side. Even outside of the stresses of divorce, I think it's human nature for the other party to fear I've been swayed in that direction,. If a spouse you have never spoken with feels even a hint that you might be predisposed towards the initial caller, you may never be able to effectively establish your neutrality in their eyes (or gut). That can doom the mediation to failure before it begins.

Lastly, in my experience, it is often the spouse who is either requesting the divorce, or more ready to proceed towards it, who makes the initial call to inquire about mediation. To give this person, and the mediation, the best chance of succeeding, encourage her to think about all these ideas as a way to consider her spouse's perspective on things beginning with this early stage of the process.



Kate Fanger is the face and voice of Kate Fanger Mediation in Somerville MA, where she offers divorce mediation, marriage mediation, conflict coaching, parent/teen communication coaching and professional supervision. She can be reached at KF@katefangermediation.com



MASSACHUSETTS FAMILY LAW: A PERIODIC REVIEW

By Jonathan E. Fields

Changed Circumstances Not Measured from Most Recent Judgment but from Divorce Judgment. The divorce judgment provided that the husband pay child support to the wife. Both parties were employed. The parties reserved rights to future alimony. Subsequently, husband brought a modification action seeking a termination of his child support obligation. As a basis for the modification, he cited his job loss, psychiatric disability, and the availability of SSDI dependent benefits. The modification was allowed; his child support obligation was terminated.

About a year later, the husband brought a second modification seeking alimony. The second modification was allowed; the wife was ordered to pay to the husband rehabilitative alimony. The wife, at the trial level and on appeal, argued that the modification should have been dismissed because of a change in circumstances. She argued that the changed circumstances should be measured from the time of the first modification; since, at that time, he was unemployed and receiving disability, she argued, there is no changed circumstance.

The Appeals Court disagreed; it held that the changed circumstances should not be measured from the first modification because that judgment did not address the issue of alimony. Changed circumstances, the Appeals Court held, must be measured from the divorce judgment which addressed the issue of alimony.

Although not raised in the decision, query whether a modification would lie on the theory that the husband's *continued* unemployment and disability constituted a material change in circumstances. *Vedensky v. Vedensky*, 86 Mass.App.Ct. 768 (December 30, 2014)

Second Job Income not Factored in Support. The other issue in *Vedensky*, above, concerned income from the wife's second job. Because she took it after the divorce judgment entered, income from that job was presumed to be immaterial for support purposes, pursuant to s.54(b) – an issue not raised by the parties below. The Appeals Court, in vacating the alimony award, remanded the issue so that the trial court could consider the wife's second job income in light of the s.54(b) presumption.

Alimony Reform Act No Relief with Survived Obligation. The 1992 divorce agreement of the parties contained a survived provision requiring the husband to pay the wife alimony until either of them dies or the wife remarries. The husband brought a modification action under the Alimony Reform Act, arguing that because he had reached retirement age, alimony should terminate. The Appeals Court held that the new act could not be used to modify survived obligations. *Lalchandanni v. Roddy*, 86 Mass.App.Ct 819 (January 5, 2015)



Jonathan E. Fields, Esq. is a partner at Fields and Dennis, LLP in Wellesley. Jon can be contacted at 781-489-6776, or at jfields@fieldsdennis.com



WHAT'S NEWS? NATIONAL & INTERNATIONAL FAMILY NEWS

Chronologically Compiled & Edited by Les Wallerstein

Court Overturns Alaska's Same-Sex Marriage Ban A federal judge struck down Alaska's first-in-the-nation ban on same-sex marriages. Five gay couples sued to overturn a constitutional amendment approved by voters in 1998 that defined marriage as being between one man and one woman. Their lawsuit also called for barring enforcement of any state laws that refuse to recognize same-sex marriages legally performed in other states or countries, or that prevent unmarried gay couples from marrying. (Associated Press, NY Times, 10/13/2014)

The Ethical Will, an Ancient Concept, Is Revamped for the Tech Age Originally an oral tradition, ethical wills have been used by people for centuries to pass on life lessons and ethics, such as the importance of charity. In the 11th century, ethical wills began to be written down, and some still exist in archives. This 3,500-year-old concept is getting a high-technology makeover as a nonbinding document with legacy-building ingredients that can convey a person's deep inner values and beliefs. Technology aficionados are turning to videos, DVDs, digital scrapbooks, iPhones and even Facebook pages to put a human touch on their legacies. And some legal advisers, who have found that ethical wills help avoid nasty family conflicts that can chew up assets, are adding the video wills to their estate planning toolbox to deliver even

stronger personal messages. (Constance Gustke, NY Times, 10/31/2014)

Court Upholds Same-Sex Marriage Bans in Four States A federal appeals court in Ohio has upheld the right of four states to ban same-sex marriage, contradicting rulings by four similar courts and almost certainly sending the issue on a rapid trajectory to the Supreme Court. The much-anticipated decision overturned lower court rulings in Kentucky, Michigan, Ohio and Tennessee that were in favor of same-sex marriage. To date, 32 states and the District of Columbia allow same-sex marriage and 18 do not. (Erik Eckholm, NY Times, 11/6/2014)

Court Overturns Montana's Same-Sex Marriage Ban A Federal District Court judge has ruled that Montana's constitutional amendment limiting marriage to unions of a man and a woman violates the 14th Amendment's Equal Protection Clause. "This court recognizes that not everyone will celebrate this outcome," ... "Yet the United States Constitution exists to protect disfavored minorities from the will of the majority." In September, the United States Court of Appeals for the Ninth Circuit ruled that Idaho and Nevada's bans were unconstitutional. Montana is part of the Ninth Circuit, and the judge cited the appeals court's opinion in his ruling. (Associated Press, NY Times, 11/20/2014)

Continued on next page



V.F.W. Goes Gender-Neutral, Recognizing Female Veterans When the Veterans of Foreign Wars of the United States secured its congressional charter in 1936, “veterans” were usually men, and the spouses of those who fell in battle were “widows,” even though during World War II several hundred thousand women served in the United States military, including nurses and members of the Women’s Army Corps. Now, more than 15 percent of active-duty US service members are female, and the V.F.W. has won congressional approval to alter its charter. No longer is it “a national association of men” who served in wartime; it is one of “veterans.” And it is no longer to assist “widows” — rather, “surviving spouses.” (Richard A. Opel Jr., NYTimes, 11/22/2014)

Supreme Court Allows Same-Sex Marriage in Florida The U.S. Supreme Court cleared same-sex weddings to start in Florida in January 2015, potentially increasing the number of gay-marriage states to 36 as the justices consider whether to rule on the issue nationwide. The court gave no explanation, issuing a one-sentence order. Justices Antonin Scalia and Clarence Thomas dissented. (Greg Stohr, Bloomberg, 12/19/2014)

Study Finds More Reasons to Get and Stay Married A new economics paper has some old-fashioned advice for people navigating the stresses of life: Find a spouse who is also your best friend. Social scientists have long known that married people tend to be happier, but they debate whether that is because marriage causes happiness or simply

because happier people are more likely to get married. The new paper, published by the National Bureau of Economic Research, controlled for pre-marriage happiness levels. It concluded that being married makes people happier and more satisfied with their lives than those who remain single — particularly during the most stressful periods, like midlife crises. A quarter of today’s young adults will have never married by 2030, which would be the highest share in modern history, according to the Pew Research Center. Yet both remaining unmarried and divorcing are more common among less-educated, lower-income people. Educated, high-income people still marry at high rates and are less likely to divorce. (Claire Cain Miller, NYTimes, 1/8/2015)

Gender Inequality Pervades Worldwide Workplaces According to a report by the International Labor Organization, a United Nations agency based in Geneva, women own or manage more than 30 percent of all businesses but 5 percent or less of the biggest enterprises. The report estimated that without new actions to promote women’s equality in management, it would take 100 to 200 years to achieve gender parity in business leadership positions. The I.L.O. report was done by the organization’s Bureau for Employers’ Activities. It was based on information from 108 countries where I.L.O. data is available, as well as the findings of the organization’s survey of more than 1,200 companies in Africa, the Asia-Pacific region, Eastern and Central Europe and the Latin America-Caribbean regions.



According to the report, Jamaica has the highest proportion of women who are managers, at 59.3 percent, while Yemen has the least, at 2.1 percent. The United States is ranked 15th, at 42.7 percent, well behind some countries in less developed areas. In Asia, the highest-ranking country is the Philippines, at 47.6 percent, making it ranked fourth globally. In Latin America, Colombia is the highest, at 53.1 percent, making it ranked second globally. (Rick Gladstone, NY Times, 1/12/2015)

Federal Court Rules South Dakota's Same-Sex Marriage Ban Unconstitutional A federal judge has struck down South Dakota's same-sex marriage ban as unconstitutional, but marriage licenses won't be immediately issued because the ruling was put on hold pending a potential appeal. The lawsuit that brought the case

prevailed over a 1996 state law and a voter-approved 2006 constitutional amendment that banned gay marriage. The state's Attorney General said he will appeal the case to the 8th U.S. Circuit Court of Appeals, a conservative-leaning federal appeals court that in 2006 affirmed Nebraska's right to ban same-sex marriages. The U.S. Supreme Court again is considering whether to hear a gay marriage case, and more appeals court rulings — especially if they conflict — could increase the likelihood the justices will do so. (The Associated Press, NY Times, 1/12/2015)



Les Wallerstein is a family mediator, collaborative lawyer, and the founding editor of the FMQ. He can be contacted at 781-862-1099, or at wallerstein@socialaw.com



**Some people think that it's holding
on that makes one strong;
sometimes it's letting go.**

– Unknown



MC FM NEWS

MEDIATION PEER GROUP MEETINGS

Peer Group Focused on Financial Issues in Divorce: Open to all divorce professionals, the purpose of the group is to focus awareness on the financial intricacies of divorce in an open forum that promotes discussion of a wide range of issues. Discussions will be led by Chris Chen, CFP®, CDFA™, Thomas E. Seder, CDFA™ and group members.

Morning Meetings are usually from 10:00 am to 12:00 pm at the offices of Insight Financial Strategists, 271 Waverly Oaks Road, Suite 2, Waltham. Seating is limited. **Please contact Chris at 781-489-3014, chris.chen@insightfinancialstrategists.com or Tom at 781-489-3014, to m.seder@insightfinancialstrategists.com for more information.**

Central Massachusetts Mediators Group: We serve mediators in Central Mass and towns along Rt. 2 West of Rt. 128. We meet to discuss topics and/or cases, sometimes with guest speakers, in the offices of Interpeople Inc. in Littleton. Interpeople is located about 1/2 a mile off Rt. 495, at Exit 31. Meetings begin at 8:30 AM on the last Thursday of every month, except December, July and August. If you are a family and divorce mediator — attorney or non-attorney — you are welcome to join us. **New members are asked to please call ahead of time: 978-486-3338, or email Shuneet at drthomson@interpeople-inc.com.**

North Suburban Mediators Group: Join fellow mediators meeting to learn and share and network. Meetings are held at 8:30 a.m. on the second Tuesday of the month from January to June and from September to November at the offices of Lynda Robbins and Susan DeMatteo, 34 Salem Street, Suite 202, Reading. **Please call Lynda at 781-944-0156 for information and directions. All MCFM members are welcome.**

Pioneer-Valley Mediators Group: This Western Mass group will be meeting monthly in December on the first Wednesday of every month at the end of the day, from 4 to 6 pm or 6 to 8 pm (depending on the interest) in Northampton at a location to be announced. **Please email Kathy Townsend for further info at Kathleen@divmedgroup.com.**

Mediators in Search of a Group? As mediators we almost always work alone with our clients. Peer supervision offers mediators an opportunity to share their experiences of that process, and to learn from each other in a relaxed, safe setting. Most MCFM directors are members of peer supervision groups. All it takes to start a new group is the interest of a few, like-minded mediators and a willingness to get together on a semi-regular, informal basis. In the hope of promoting peer supervision groups a board member will volunteer to help facilitate your initial meetings. **Please contact Kathy Townsend at Kathleen@divmedgroup.com, as she will coordinate this outreach, and put mediators in touch with like-minded mediators.**



OFFER MCFM's BROCHURES TO PROSPECTIVE CLIENTS

Copies of MCFM's brochure are available for members only. Brochure costs are: [10 brochures – \$10, 100 brochures – \$50. Postage included.], unless you pre-arrange to pick them up at a professional development meeting or other MCFM event. A blank area on the back is provided for members to personalize their brochures, or to address for mailing. **Remember: when you buy 21 or more brochures the “per copy” price is less than the cost to print!**

**TO OBTAIN COPIES MEMBERS MAY
call Ramona Goutiere: 781-449-4430
or email: masscouncil@mcfm.org**



AN INVITATION FOR MCFM MEMBERS ONLY

All MCFM members are invited to fill out the Member Profile Questionnaire posted on the MEMBERS ONLY page of mcfm.org and submit it for publication in the FMQ. Please email your questionnaire with a personal photo (head shot) and an optional photo of your primary mediation space (or office) to KF@katefangermediation.com. Since the questionnaire is intended to help others learn about you, feel free to customize it by omitting questions listed, or adding questions you prefer. Only questions answered will be published, and all submissions may be edited for clarity and length. **Please help us get to know you.**



THE FMQ WANTS YOU!

The Family Mediation Quarterly is always open to submissions, especially from new authors. Every mediator has stories to tell and skills to share.



To submit articles or discuss proposed articles
**call Kate Fanger 617-599-6412
or email KF@katefangermediation.com**

NOW'S THE TIME TO SHARE YOUR STORY!



HELP BUILD AN ARCHIVE!

In the spring of 2006, MCFM entered into an agreement with the Department of Dispute Resolution at the University of Massachusetts to create an archive of Massachusetts family-related mediation materials. The two key goals are to preserve our history and make it available for research purposes.

We're looking for anything and everything related to family mediation in Massachusetts — both originals and copies — including: meeting agendas and minutes, budgets, treasurer's reports, committee reports, correspondence, publications, fliers, posters, photographs, advertisements and announcements.

We need your help to maximize this opportunity to preserve the history of mediation in Massachusetts. **Please rummage through your office files, attics, basements and garages. If you discover materials that you are willing to donate please contact Les Wallerstein at wallerstein@socialaw.com.**



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ANNOUNCEMENTS

* * * * *

All mediators and friends of mediation are invited to submit announcements of interest to the mediation community to KF@katefangermediation.com, for free publication.

* * * * *

DIVORCE IN MASSACHUSETTS: Alternatives to Litigation Some 23,000 Massachusetts couples divorce every year. Before 1975, all divorces were adversarial. Today, uncontested divorces are increasingly common, and many spouses represent themselves in court without lawyers. Separation agreements can be used to resolve contested and uncontested divorces... and there is now a “generic” joint petition, which allows ex-spouses to modify their judgments by agreement after a divorce. Come explore mediation, collaborative law and other alternatives to litigation. Bring your questions. Extensive written materials provided.

Cambridge Center For Adult Education
March 7, 2015, From 9:30 - 11:30 AM
Presenter: Les Wallerstein

Online Registration: <http://www.ccae.org>
Phone Registration: 617-547-6789
Cost: \$45 Limited to 8



32- or 40-HOUR BASIC MEDIATION TRAINING **The Mediation & Training Collaborative (TMTC)**

Greenfield, MA
March 13, 14, 20 and 21, 2015 (March 28 optional)
8:30 am to 5:30 pm each day

This highly interactive, practice-based training is open to anyone who wishes to increase their skill in helping others deal with conflict, whether through formal mediation or informal third-party intervention processes in other professional settings. TMTC is a court-approved mediation program, and this training meets SJC Rule 8 and Guidelines training requirements for those who wish to become court-qualified mediators. Social work CECs and attorney CLEs (MA TAFL, VT) available upon request. For more details or brochure, contact Debbie Lynangale at mediation@communityaction.us or 413-475-1505. Or see www.communityaction.us/upcoming-trainings-events.html.



Elder Decisions® - Elder (Adult Family) Mediation Training
April 13-15, 2015
Newton, MA

This training provides mediators with tools and strategies for successfully mediating adult family conversations around issues such as living arrangements, caregiving, financial planning, inheritance/estate disputes, medical decisions, family communication, and driving.

Join trainers Arline Kardasis and Crystal Thorpe, with guest experts from the fields of elder law and gerontology, for three days packed with content, skill-building, role plays, and opportunities to interact with fellow participants (who often travel from around the world to attend).

Cost: \$925 (or \$795 if registered by March 5th).
Includes lunches, snacks, and course materials.

Held at The Walker Center in Newton, MA.
Presented by Elder Decisions®, a division of Agreement Resources, LLC.

**For more info, visit: www.elderdecisions.com/pg19.cfm,
email training@ElderDecisions.com,
or call: 617-621-7009 x29.**

This training is approved under Part 146 by the New York State Unified Court System's Office of ADR Programs for 16 hours of Additional Mediation Training. Please note that final placement on any court roster is at the discretion of the local Administrative Judge and participation in a course that is either approved or pending approval does not guarantee placement on a local court roster.

Social Work Continuing Education Credits: This program has been approved for Continuing Education Credits for relicensure in the period of October 1, 2014 - September 30, 2016, in accordance with 258 CMR, as follows: 21.25 hours for all 3 days. Boston University School of Social Work Authorization Number B-16-067.





JOIN US

MEMBERSHIP

MCFM membership is open to all practitioners and friends of family mediation. MCFM invites guest speakers to present topics of interest at four, free, professional development meetings annually. These educational meetings often satisfy certification requirements. Members are encouraged to bring guests. MCFM members also receive the Family Mediation Quarterly and are welcome to serve on any MCFM Committee. Annual membership dues are \$90, or \$50 for fulltime students. Please direct all membership inquiries to **Ramona Goutiere at masscouncil@mcfm.org.**

REFERRAL DIRECTORY

Every MCFM member with an active mediation practice who adheres to the Practice Standards for mediators in Massachusetts is eligible to be listed in MCFM's Referral Directory. Each listing in the Referral Directory allows a member to share detailed information explaining her/his mediation practice and philosophy with prospective clients. The most current directory is always available online at www.mcfm.org. The annual Referral Directory listing fee is \$60. Please direct all referral directory inquiries to **Ramona Goutiere at masscouncil@mcfm.org.**

PRACTICE STANDARDS

MCFM was the first organization to issue Practice Standards for mediators in Massachusetts. To be listed in the MCFM Referral Directory each member must agree to uphold the MCFM Standards of Practice. MCFM's Practice Standards are available online at www.mcfm.org.

CERTIFICATION & RECERTIFICATION

MCFM was the first organization to certify family mediators in Massachusetts. Certification is reserved for mediators with significant mediation experience, advanced training and education. Extensive mediation experience may be substituted for an advanced academic degree.

MCFM's certification & recertification requirements are available online at www.mcfm.org. Every MCFM certified mediator is designated as such in the Referral Directory. Certified mediators must have malpractice insurance, and certification must be renewed every two years. Only certified mediators are eligible to receive referrals from the Massachusetts Probate & Family Court through MCFM.

Certification applications cost \$150 and re-certification applications cost \$50. For more information contact **S. Tracy Fischer at tracy@tracyfischermediation.com.** For certification or re-certification applications contact **Ramona Goutiere at masscouncil@mcfm.org.**



DIRECTORATE

MASSACHUSETTS COUNCIL ON FAMILY MEDIATION, INC.

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EDITOR'S NOTICE

MCFM **Family Mediation Quarterly**

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The FMQ is dedicated to family mediators working with traditional and non-traditional families. All family mediators share common interests and concerns. The FMQ will provide a forum to explore that common ground.

The FMQ intends to be a journal of practical use to family mediators. As mediation is designed to resolve conflicts, the FMQ will not shy away from controversy. The FMQ welcomes the broadest spectrum of diverse opinions that affect the practice of family mediation.

The contents of the FMQ are published at the discretion of the editor, in consultation with the MCFM Board of Directors. The FMQ does not necessarily express the views of the MCFM unless specifically stated.

The FMQ is mailed and emailed to all MCFM members. The FMQ is mailed to all Probate & Family Court Judges, all local Dispute Resolution Coordinators, all Family Service Officers and all law school libraries in Massachusetts. An archive of all previous editions of the FMQ are available online in PDF at <www.mcfm.org>, accompanied by a cumulative index of articles to facilitate data retrieval.

MCFM members may submit notices of mediation-related events for free publication. Complimentary publication of notices from mediation-related organizations is available on a reciprocal basis. Commercial advertising is also available.

Please submit all contributions for the FMQ to the editor, either by email or computer disk. Submissions may be edited for clarity and length, and must scrupulously safeguard client confidentiality. The following deadlines for all submissions will be observed:

Summer: July 15th Fall: October 15th
Winter: January 15th Spring: April 15th

All MCFM members and friends of family mediation are encouraged to contribute to the FMQ. Every mediator has stories to tell and skills to teach. Please share yours.



Massachusetts
Council on
Family Mediation



The Family Mediation Quarterly is printed on paper stock manufactured with non-polluting wind-generated energy, 100% recycled (with 100% post consumer recycled fiber), processed chlorine free & FSC (Forest Stewardship Council) certified.