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:

I am honored to have the opportunity to serve as President, and I look forward to the two years ahead.

For those of you who do not know me, I am a Mediator and Collaborative Family Law Attorney, but the law was not my first career and my journey as a lawyer did not proceed in a straight line. I grew up in Roslyn, New York, majored in English as an undergraduate and graduate student and taught English as my first career. Law school came later. After graduating New England School of Law I worked as a Family Law Attorney. I was passionate about the work, but I was also deeply unsatisfied. Long after their divorces were final, my clients were inextricably enmeshed in conflict with their ex-spouses. They needed more than I could give them as a lawyer. Mediation was not on my radar then; I wish it had been. I eventually left the practice of law to pursue other interests.

Over a decade later, in 2006, I returned to Family Law. I studied mediation at Harvard's Program on Negotiation for Lawyers, took Advanced Divorce Mediation, training, and trained in the practice of Collaborative Law. I was mentored by an experienced and generous mediator who invited me to co-mediate her family law cases. This work resonated with me, because it allowed me to help those in the midst of family crises lessen the contentiousness and preserve a little peace and dignity. I felt part of the solution. When I was ready, I started my own practice, which today is almost exclusively devoted to resolving family law matters through Mediation or Collaborative Law.

When I reflect on my journey I feel extremely fortunate. I am engaged in work that is not only important and stimulating but gratifying. I am surrounded by wonderful colleagues, both through my mediators' peer group, which provides a vehicle for discussing changes in the law and difficult case issues, and in my work with the talented and dedicated individuals who serve on the MCFM Board of Directors. These associations are richly rewarding.

The year ahead promises to be an exciting one, and board members are already hard at work in anticipation. John Fiske and Steve Nisenbaum are putting in place another year of thought-provoking professional development programming. Justin Kelsey and his marketing committee are identifying ways to generate more public awareness of mediation. I encourage you to contact a Board member or me if you would like to join a committee or if you have questions or comments you would like to relay.

I wish you success in your mediations, and I look forward to meeting many more of you in the year ahead.

My best to all,

Fran@Whymanmediation.com

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ON WHAT LEVEL ARE WE MEDIATING?

By Oran Kaufman, Mediator/Attorney

How do you define success in mediation? The answer depends in part on who is asking the question? Success for the parties may be different than success for the mediator or success for the court. This article explores the question of how to define success in mediation from a variety of angles including what success means for the mediation profession.

Apparently, during the first mediation training I ever took, I asked "On what level are we mediating?" I say "apparently" because while I do not remember asking the question, I am reminded of having asked that question by John Fiske, one of my trainers, at almost every conference and training at which we participate together. While John brings this up to highlight what an insightful question it was, at the time I suspect that I asked it with complete naïveté and out of a sense of being overwhelmed by the process. At the level I was asking it, I was simply asking for some guidance about how to address all of the things coming at me, legal issues, emotions, strategic issues, practical issues etc.

Twenty years later, I still ask the question, but in a slightly different way. I am still trying to figure out at what level I should be mediating, but I have come to conclude that a better question might be "how do I measure success in mediation?" This question itself has many levels, not to mention many answers. Some of the levels include: Success for whom? Success for the parties may not be the same as success for the mediator. Success for the mediator may not be the same as success for the court system. And what about success for the mediation profession?

What does success mean for the mediator?

Let's start with the mediator. In my ideal world, I would measure the success of the mediation in the following way. On one level a successful mediation would include an agreement reached by parties who are fully informed about the law and finances. However, in my ideal successful mediation I would need more. I would want to know that I had done everything I could to help the parties achieve closure on the emotional undercurrents of the divorce. For me therefore, a successful mediation involves not just the agreement they take to court, but resolution, or at least an attempt at resolution, of all that complicated muck under the surface. This includes apology, acknowledgement, and recognition for starters. I would liken it to working on the portion of the iceberg below the water line. Or to use a gardening metaphor, to insure that a vegetable plant is healthy beyond the year you plant it, you want to work on the soil, enrich it, make sure the PH is correct, etc. You might just buy a plant from the garden store, plant it and it will bear fruit that first year but

probably will not survive the following year without your making sure the soil is healthy. An agreement that is reached on a superficial level may get the parties through the court process and approved by the court, but will it serve them well in the future if they still have unresolved issues?

Having recently become a fan (if not an addict) of the television show "Friday Night Lights", I see a parallel with high school sports and mediation (and I distinguish high school from college or professional sports for some important and obvious reasons). On one level, success in high school sports equals winning games. On the surface, that is the goal sought by the kids, coach, parents and the school. But having been involved as a parent of children participating in high school sports, I see a much more fundamental, deep and powerful goal. Much more than winning, high school sports are about developing character, community, confidence, integrity and learning to balance the needs of the team with the player's personal ambitions and goals. If I had my choice I would choose a team for my children that lost every game but where they developed strong character and where they had a coach that molded their character in a positive manner. Similarly, if I had my choice, I would choose a mediation that failed to reach an agreement but that helped the parties reach emotional closure and improved their communication with one another (particularly if they have children together). Obviously my preference is for a mediation where the parties do both: reach an agreement and reach closure.

What are the impediments to this holy grail of mediations?

Cost: For many clients, particularly if they have limited means, cost is a major impediment to an agreement which is multi-layered. Often, such clients may want (or need) to reach an agreement in the quickest and cheapest way possible. For these clients a mediation session might mean that they cannot pay their credit card bill this month or might result in their having to borrow money to mediate. They are looking very closely at the clock and thus any attempt on my part to dig down a bit is met with resistance (and another look at the clock!)

Time: Related to cost (but not always) is the time involved. Clients may not want to take the time involved in addressing the emotional/communication issues (the below-the-surface issues). They often want to finish their agreement as soon as possible and get divorced. Another aspect of time has to do with when the mediation is occurring. If it is close to the time when the decision to divorce was made or close to the occurrence of an event that led to the divorce (for instance, the affair) it may be premature to discuss the emotional aspect of the divorce. On the other hand, for clients who have been separated for some time, they may have already moved on and not feel the need to go back into the emotional morass.
The clients: The clients may be in

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different places on this issue. It is not unusual to see the gender stereotypes played out with women wanting to address the emotional issues and men avoiding it like the plague and simply wanting to "fix the problem." But gender stereotypes aside, sometimes one party just wants out as quickly as possible and is not interested in processing. It could be the party who is motivating the divorce or it could be the party who did not see the divorce coming and is so shattered that he or she is not capable of processing anything.

The mediator: If your profession of origin is law, the idea of helping people work out their emotional issues may be frightening. This is not what they teach us in law school and you may feel ill-equipped to go there. You may in fact be ill-equipped to go there. So, for the mediator and the lawyer/mediator in particular, the safe route is to stick to the facts and help the parties work out the finances and reach an agreement on the substantive issues.

"[I]n the big scheme of things, what is a successful mediation?"

What does success mean for the clients?

For clients engaged in a divorce mediation, ideally, a successful mediation would probably look similar to mine: resolving the issues and having an agreement that can be submitted to court and reaching closure on the underlying emotional issues. For clients however, it is a bit more complicated. First, there are two of them. Their definitions of success (even as to the superficial issues of what is a fair agreement) are often different. They may be in very different places in terms of readiness to move on. A party who is the initiator and who perhaps has been thinking about the divorce for a long time, may be in a very different place than the party who gets hit with the news and did not see it coming. The initiator may be ready to address the underlying issues while the person who is being left may not. Then it becomes an issue of timing for the mediator. Should the mediator encourage the parties to delay the process so that the person being left catches up? This may not be realistic or practical.

Economics also play a significant factor. For many clients, divorce presents a catastrophic financial event. For most low to middle income families, it may have been difficult enough to make it as a united family. Now, having two households is financially devastating. Thus, they are in a financial hole and their economic situation dictates that the mediation be as quick and inexpensive as possible. Many clients have to save up money for the mediation session. Paying the mediation session may mean not paying another bill that month. So, while spending time on the "underlying issues" may be a laudable goal and they may even be interested in doing so, financially, they simply cannot afford it. Their financial interest is to make the mediation as efficient and inexpensive as possible.

What does success mean for the court system?

In answering this question, we encounter another level of inquiry for the mediator and one of the thorniest and most complicated issues faced by mediators. So far we have explored two levels: first the top layer of our iceberg, the actual agreement. We have also explored the layer beneath: the emotional level which includes connection, communication and closure. What about the fairness of the agreement? There are many ways to ask this question, each with a slightly different nuance. Is it the mediator's job to make sure the agreement is fair? Is it the mediator's obligation to insure that the court will find the agreement fair and reasonable? Is it the mediator's obligation/goal to insure that the agreement is fair to the parties? And, is that different from insuring that the court will find that the agreement is fair and reasonable?

So, to bring this back to the original question, is the mediation successful if the parties reach an agreement that you as mediator think is not fair? We all know the various tools we could use to address this issue: insist that clients get advice from their individual lawyers, caucus, tell the clients that there is a chance that a judge may not approve the agreement, ask clients to pretend you are the judge and explain their rationale, or include language in the agreement that explains how they arrived at the agreement. But at the end of the day, what do you do if the clients insist on an agreement that you do not believe is fair? Do you tell your clients that you will not prepare an agreement with your name on it? Do you refuse to proceed? Or do you allow them to proceed?

What is success for the court system when it comes to mediated agreements? Is it to have an agreement which fits within certain parameters and is therefore "fair" as that is defined by the law, by case law and by what the majority of people do? Or is it an agreement reached by two people who are fully informed about the law, the facts, and their legal rights? Obviously there are cases that meet both criteria, probably the majority of cases do. But what about the outliers? What about the case where the parties are fully informed about the law, the facts, and their legal rights but which does not fall within the parameters which most would consider normal. Stated another way, is an agreement in which the parties are fully informed about the law, the facts and their legal rights, and which the parties believe is fair but which the court may not approve as "fair," a successful mediation?

Several of my cases come to mind when I think of this question but one case in particular is worth retelling and exploring. In this case which occurred more than 15 years ago, clients came to me for mediation after protracted litigation. They were disgusted by the litigation process and were almost out of money. The only issue remaining was custody. In our second session, they came up with a solution: they simply did not use the word "custody". The parties

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did not indicate in their agreement who had "physical custody." Instead they simply created a specific parenting schedule. When they went to court, the judge rejected their agreement because it did not specifically indicate who had "custody". Was this a successful mediation? From my standpoint it was one of the most successful mediations I ever participated in. The parties arrived at a creative solution that they were both happy with after months (if not years) of wrangling. The courts have a different perspective. The judge is concerned with the legal complications that may arise from this agreement. Will they be back in court because of the complications from their creative solution? Is it legally appropriate to not designate who has custody? Do the parties understand the legal implications of their agreement? After having grappled with this issue for years, my response to the questions is as follows: If the parties are fully informed and are entering into the agreement with their eyes open, they should be able to enter into this agreement. Is it appropriate for the court to tell them that notwithstanding their agreement, the court does not agree? One of the disconnects may be that the court in its five-minute divorce hearing is not privy to all the discussions the parties had in mediation. Would this help?

The postscript to the case is that back in those days, cases were not assigned to one judge. So, the parties eventually brought their agreement back to court in front of another judge and it was approved in the manner they had agreed to during mediation.

What does success mean for the mediation profession?

From the standpoint of the mediation profession, the question of what does a mediator do with an agreement that he or she believes is unfair is a fundamental question that goes to the heart of what we do. Focusing here on divorce mediation and distinguishing other forms of civil mediation such as personal injury which look very different, what does it say about our profession if we cannot agree on the following question: "What should a mediator do if he believes the agreement being reached by the parties is unfair?" This would never be a question to a divorce litigator. If you, as litigator, felt the agreement was not fair you would strongly discourage your client from signing it. If your client insisted, you would probably write a lengthy CYA letter explaining what you have advised your client and that she is not following your advice and have your client sign it. But in mediation, this question persists. In a recent discussion group on a Linked-In ADR group, a similar question was posed. It generated a long and lively discussion. While most of those submitting comments fell into the "I would let the clients continue with an agreement that I (the mediator felt was unfair) after trying various interventions," a significant number also indicated that they would not agree to write up the agreement and submit it to court under their name.

So, what is the definition of success for the profession of mediation? I believe it is a clear understanding of the role of the mediator or at least a delineation of

different mediation approaches so that clients know what they are buying into. If clients go to one mediator who says I will not put my name on this agreement if it is not "fair" and another mediator says, "I will draft this agreement for you as long as I am sure you understand," this causes confusion. In business-speak, it causes confusion about what is the "product." There is nothing wrong with having choices but perhaps each approach should be designated by a different name.

So in the big scheme of things, what is a successful mediation? It is a mediation where the parties have reached an agreement on finances and parenting and have either reached closure or at least some form of acknowledgment of the emotional issues so that they are able to have a future relationship not hampered by pre-divorce demons. For the overburdened court system this reduces caseloads in the present and hopefully in the future. For the children of divorce, it means their parents will not be distracted by unresolved divorce issues and the children can receive the best care and attention the parents are capable of providing. For the mediation profession, a successful mediation is all of the above and a clear understanding by consumers that the product they received when they signed up for mediation is what they expected.

So what is the answer to the question "How do you define success in mediation?" I would have to answer that with the same question I raised when it all started for me. I would first have to answer the question, "On what level we are mediating?"

Oran Kaufman has been a mediator since 1994 and runs Amherst Mediation Services in Amherst, MA where he concentrates his practice in the area of divorce and family mediation. He is also co-owner of ConflictWorks which provides conflict resolution training for organizations and businesses. He is a former president of the Massachusetts Council on Family Mediation and is and advanced practitioner with the Association of Conflict Resolution and the Academy of Professional Family Mediators and a certified mediator with MCFM. He has lectured extensively and written numerous articles on mediation related topics.

PREVENTING PARENTAL BREAKDOWN – A CASE STUDY

By Tanya Gurevich JD, LICSW

John and Susan separated in 2011 and continued to live close to each other in order to have a shared co-parenting arrangement of their then-12-year-old daughter, Kelly. In 2013 things changed overnight when Kelly, age 14, decided she no longer wanted to speak to her father or have any relationship with him. There were no allegations of abuse or mistreatment - one day on the way to school Kelly and John had a fairly typical "low level" argument, at the end of which Kelly burst into tears, stormed out and refused all further contact.

John was devastated. His little girl, the light of his life, rejected him outright. What was worse, he had virtually no information about her because his relationship with Susan was less than great. He blamed Susan for taking Kelly's side and for "allowing" her to reject him. He was angry and hurt by not seeing his daughter; he was also feeling excluded from her life. He was an outsider and his hope of getting back in was slowly fading.

Susan, confronted with Kelly's unexpected rejection of her father, was confused. While she did not think John had abused or hurt Kelly, Susan felt that Kelly's rejection had to have some explanation. Susan wanted Kelly to have a relationship with her father, but she did not know how to make it happen in light of Kelly's adamant refusal, nor did she want to push her daughter into doing something she was not ready or willing to do. Susan's attempts to get Kelly into counseling were unsuccessful. Susan attempted to talk to Kelly about the situation but she was careful about "rocking" the precarious and mercurial daughter-mother relationship.

Against this backdrop, John and Susan were in the process of negotiating their divorce agreement with the help of a very experienced mediator. When it came to writing the parenting section, it became clear that John and Susan could not work out a plan in light of the current state of Kelly's "rejection." The mediator saw the need for a mechanism by which to develop the parenting plan after the divorce agreement was signed and filed with the court. Even more importantly, the mediator saw the parties' frustration and distrust of each other in light of the situation with Kelly. While these parents still had the ability to address the problem fairly peacefully, it could all unravel to the detriment of everyone involved. So far these parents wanted to continue talking about Kelly and their co-parenting struggles – all they needed was a chance to do so.

John and Susan agreed to work with a neutral mental health professional on an ongoing basis with the goal of eventually developing a parenting plan, and, in the process, addressing each parent's fears and concerns. I was lucky enough to get the call from the mediator to be that mental health professional. Everyone agreed that my role would be

one of a "parenting consultant" without the power to make decisions typically associated with a parent coordinator.

The first meeting was very powerful. It was apparent that John and Susan both loved Kelly very much and they both expressed feeling "stuck" and misunderstood.They were both scared of not being able to repair the rift between Kelly and John and the emotional fallout of this result. Several times John said that he just felt like giving up and walking away from Kelly, as it was simply too painful to be rejected by her.

"[L]awyers and mediators see parents struggling all the time and often need to help them find the right resources for better co-parenting."

Our sessions were the only place where John and Susan could start to peel away their layers of hurt, anger and frustration. When John talked about how much it hurt not to see his daughter, Susan had tears in her eyes. What was even more important was for John to hear Susan talk about her struggles with Kelly, that she did not know how to "fix" the situation and she was feeling just as helpless as John. This realization that they were both in this together, that neither one was intentionally hurting or undermining each other and, most importantly, that Susan was not "turning" Kelly against her father turned this case from one that could have headed toward a legal battle, or, in the alternative, towards the father walking away from his daughter.

Over the next several months John and Susan met every few weeks to talk about Kelly and brainstorm ideas for how to work John back into Kelly's life. These sessions not only helped them work towards a shared goal, they also gave Susan a chance to tell John about their daughter's life, to make him feel connected. But progress was slow and I had to keep encouraging John not to give up, to continue to text Kelly even if he wasn't getting a response, to continue to fight for her. He was skeptical, but seeing that Susan was "on his side" he never gave up; nor did he push the issue and go to court to force visitation. Having me in the room also kept Susan accountable and forced her to gently "rock the boat" with Kelly, and to continue to talk to Kelly about the importance of having her father in her life.

The breakthrough came unexpectedly. A week before Thanksgiving I received an exultant email from John that Kelly replied to his text message and they had agreed to meet for a family dinner. Over the next several months, John and Susan continued to work on slowly rebuilding Kelly's relationship with John through a series of "small steps." When I last met with them in April, they were discussing having Kelly stay with John for a few overnights and integrating John into Kelly's regular schedule. While Kelly has become much more accepting of John, there were still hurdles ahead and the parents continued to plan the next cautious steps. They also planned to have a regular weekly phone call to discuss parenting logistics and to keep John informed about Kelly's life.

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It is impossible to predict what kind of relationship Kelly will ultimately have with John. But I have no doubt that our meetings gave these parents a place to talk, to exchange information, to develop solutions. I also believe that in the absence of mediation and the parent consultation process, the outcome for this family would have been either a legal battle for parenting time or a complete breakdown of the parenting relationship.

Situations like John and Susan's are not unique; lawyers and mediators see parents struggling all the time and often need to help them find the right resources for better co-parenting. Involving a parenting consultant at some stage of the process can be an effective tool for creating and facilitating ongoing dialogue, reducing conflict, offering support and, in more serious cases, avoiding parental breakdown.

Tanya Gurevich JD, LICSW is a mediator and a clinical social worker with experience of working with divorcing couples and families both in the legal and the mental health settings. In addition to providing parent consultation services, Tanya's practice includes mediation and individual, marital and family therapy. She is a certified instructor for the Divorce Center/ Parents Apart parent education program and serves as a guardian ad litem in several counties.

"We can pay off our past and save for the future, as long as we avoid the present."

THE MOST IMPORTANT QUESTION YOU WILL ASK

By John Fiske

If you are a family mediator, you spend your time asking questions. Preferably open questions, since they are more likely to produce information useful to you. "How are you?" communicates at a different and more fertile level than "Are you okay?" When Ken Cloke tells us to mediate dangerously he could be telling us to ask clients how they are, since for many the answer is sort of a downer. "Horrible, thanks for asking," might be what the client is thinking or even saying. "Angry. Nervous. Frustrated. Scared. Confused. Anxious." All those answers give you valuable information about who you are working with. Don't run away from the conflict. Study it and figure how to deal with it, how to help your couple deal with it.

"All those answers give you valuable information about who you are working with."

You have probably developed questions you like to ask, and I welcome your nominations for the most important question you will ask your clients. (Questions you will ask your self I leave for another day.) For example, I like to ask clients early in our first meeting, preferably without looking at either of them (or more recently I find myself looking back and forth at them as if watching a ping pong match), "Are you in agreement about what you want to have happen to your marriage?" Rarely do I see both heads nodding yes, and I tell *those* few couples they are way ahead of the game. Usually the couple stops looking at me and looks at each other and at that instant I often believe husband Bill has no clue what wife Sally will say and vice-versa, or sometime even Bill has no idea what Bill is going to say, etc. The struggles in your office are not between Bill and Sally but between Bill and Bill or Sally and Sally, what Morton Deutsch calls the "intra-psychic conflict." Most spouses arrive in your office in different emotional stages of divorce, and the gap shows when they each answer that question in their own way. One person wants it and the other one doesn't. I am often struck by the courage of my clients, especially the spouse who does not want a divorce and in effect comes to negotiate his or her own doom.

"What do I want?" is probably the most important question the client will ask. Diane Neumann disagrees with me about this question, and believes the most important question the client can ask is "Who am I?" In **Uncoupling** Diane Vaughan writes about this search for an essential identity as a basic step in the divorcing process. Suddenly Sally Johnson is no longer Mrs. Bill Johnson, and she has to figure out who she is. Maybe it's a good thing that the state of Massachusetts allows the spouse filing for divorce to go back to her maiden name without paying a fee to change her name.

I prefer "What do I want?" because the answer gives me something I can work

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with. In A Marital Negotiation Process (on the Useful Documents page of my website at mediate.com/fiske) I describe a four-step process that begins with Bill telling Sally what he wants and Sally listening, and then Sally telling Bill what she wants and Bill listening. When I tell couples married for 30 years they have to tell each other what they want, sometimes they start laughing and tell me "We've been married 30 years and I've never known what (s)he wanted!" For those couples, skillful mediation can be a real eye-opener and a door to a new conversation. Some divorcing couples tell me mediation is better than any therapy they ever had, and they are people who were ready to grapple with that challenging question. Women often tell me, "I can't answer that question. I've been trained to ask everybody else what *they* want, and never to think of myself." So the woman who arrives in my office for our third meeting and announces triumphantly, "I just said 'NO' for the first time in my life. I wrote a big sign saying 'NO' and put it on the wall," the mediation has been successful even if she never reaches an agreement with her husband.

My nomination for the most important question the mediator will ask is "What do you want your relationship to be after the divorce is over?"

I like that question because it invites the clients to think about the future and it shapes how they approach all the decisions they have to make in creating a worthy Separation Agreement. The client who arrives in your office aware of pain, resentment, fear and maybe even relief will have to shift gears and think. The question tells the clients there is life after divorce, and asks them "what do you want it to look like?"

Then the mediator can say the sentence from which we can draw so much comfort, "It's up to you."

John A. Fiske is of counsel at Healy, Fiske, Richmond & Matthew, a Cambridge firm concentrating in family law and mediation. www.mediate.com/fiske

Staying married can have long-term benefits. You can elicit much more sympathy from friends over a bad marriage than you ever can from a good divorce.

P.J. O'Rourke

PRACTICAL TIPS FOR COMPLETING THE MASSACHUSETTS FAMILY COURT FINANCIAL STATEMENT – THINGS EVERY MEDIATOR SHOULD TELL EVERY CLIENT

Justin Kelsey, Esq.

A financial statement is required in every divorce, paternity, and child support action in Massachusetts. The financial statement is one of the most important papers that you will file with the Court. A financial statement will be required every time you appear in Court when there is an issue relating to finances, and you must sign your financial statement under the pains and penalties of perjury that the information contained in the financial statement is complete, true, and accurate.

In a divorce case, Massachusetts Supplemental Probate Court Rule 401 provides that, within 45 days after the date of service of the Summons, each party must serve on the other party a complete and accurate financial statement. Rule 401 also allows the parties to make a request for financial statement as well.

The form of the financial statement which each party must complete is dependent upon his or her income. A party whose income equals or exceeds $75,000.00 must complete the long form financial statement. The long form financial statement should be printed on purple paper (although the Standards for Computer Generated Forms indicate both should be on pink paper, the long form available at the courthouse is on purple paper). A party whose income is less than $75,000.00 must complete the short form financial statement. The short form financial statement should be printed on pink paper. The short form financial statement is also available in Spanish and Portuguese.

Warning: Unless you have Acrobat Standard or Pro you won't be able to save any information you enter on these electronic court forms. If you enter information and save the document in Acrobat Reader (the free adobe program most people have on their computer), all of the entered information will disappear when you reopen it. We therefore recommend that you print the document immediately after you complete it, or simply print the blank document and work on it by hand. Many people find these forms confusing, and the court has provided some basic instructions for both the short form and the long form. In addition to these instructions, we have found that the following tips have been helpful to our clients:

Documents: When completing the financial statement it will be helpful if you have certain documents available to refer to. Collecting all of these documents before you begin drafting will make the process easier:

- most recent (or a representative) paystub;
- your last year's tax return

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with accompanying schedules, W2s and 1099s;

- most recent statements for your bank accounts, retirement accounts, investment accounts, credit cards, loan statements, etc.;
- any appraisals or other valuations for your property; and
- a budget of your average weekly expenses.

Weekly Expenses: Everyone has some weekly expenses that do not fit into the listed categories (e.g. cable, internet, Netflix, etc.). Create a realistic budget for what you are spending regularly or your financial statement will not accurately reflect your financial situation and won›t be as useful.

Assets: List anything of value that you may have interest in, even if there isn›t a listed category for it (e.g. frequent flyer miles, or digital assets, such as the value of your iTunes library). In addition, it is advisable to list your marital interest in your spouse›s property to ensure that you have reserved your rights to that property. This can be indicated by one line in the «Other» category: «Equitable Interest in Marital Property of Spouse - Value Unknown».

Trusts: Any trust interest (as trustee or beneficiary) should be listed with an explanation of the interest. Trusts are often misunderstood or misinterpreted and if you are not 100% clear on what your interest in a trust may be, you should consult an attorney regarding the terms of the trust.

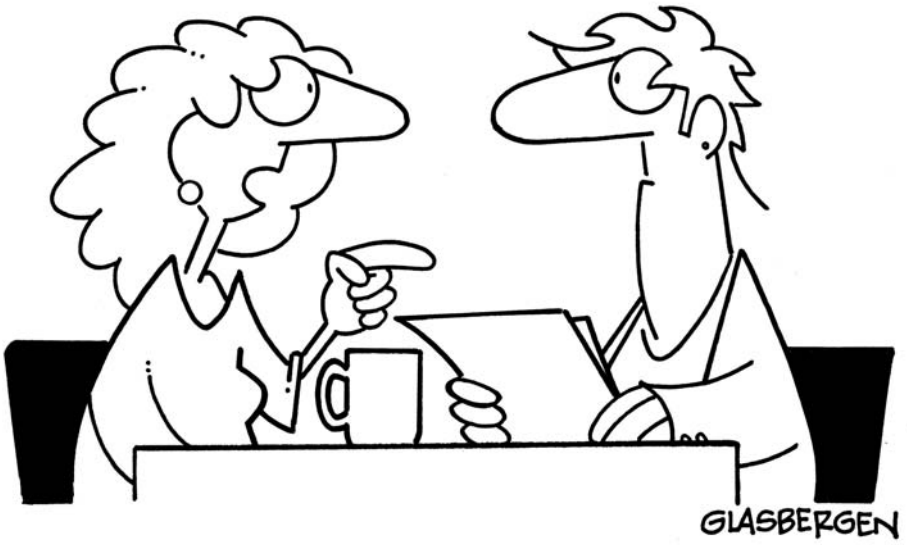
Schedules: If you work for yourself, you must additionally complete Schedule A. If you own any rental property, you must additionally complete Schedule B. If these schedules don't match your most recent tax return, expect questions as to why. Judges are mandated reporters to the IRS and DOR, and you may be required to explain why the income and expenses you are reporting to the court doesn't match what you reported (also under oath) to the IRS and DOR.

How accurate do you have to be? Very Very Very accurate. Remember, you are signing your Financial Statement under the pains and penalties of perjury that its contents are complete, true, and accurate. If there are any inaccuracies or untruths, you may be asked about it in Court, which could hurt your credibility and therefore your case. In addition, any inaccuracies could affect the enforcability or modification of agreements.

Footnotes/Endotes: Sometimes the form doesn't allow the room for you to completely and accurately describe a specific situation. In that case, include a footnote or endnote and write an explanation at the end of the document. This is not a situation where less is more. Anything that is confusing or incomplete could be considered inaccurate or misleading.

Is a Financial Statement confidential? Financial Statements are impounded, which means that they are filed separate from your court file, which is public record. Your Financial Statement is only available to you, your attorney(s), the opposing party, and his or her attorney(s), after showing a proper ID. We recommend that when you file a Financial Statement, you redact all but the last four digits of your Social Security number and account numbers to ensure further privacy.

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



"Your advice is very important to me, so I wrote down exactly what I want you to say."

A SONG OF LOSS FOR DIVORCE MEDIATORS

By Richard Barbieri

I was recently asked to give a presentation in an advanced seminar on Mediating with Families in Transition. I thought at first of the many film scenes that I and others have used, from the opening of *Wedding Crashers* to the moment in *The War of the Roses* when Michael Douglas gloats that he has "won" the negotiation to divide the house where he and Kathleen Turner will remain living until the settlement: "I got more square footage."

But then I realized that most of my artistic experience of lost love comes through music rather than film, and so I prepared a presentation based on a favorite songs about the effects of divorce: "You Can Have the TV," by Craig Carnelia, as sung by Karen Akers on her album "In a Very Unusual Way."

To hear the song, search YouTube for: Robby Pigott sings "You Can Have The TV"

The song, a monologue (or rather the only side of a conversation we hear) by a woman discussing the division of property with her soon-to-be ex, covers a remarkable but realistic range of emotions. The singer begins in a generous, or perhaps just a resigned mood. "You can have the TV, I'll take the radio." She repeats her offer, with "no, just the radio." She also cedes the stereo, "cause it's your stereo," and logically observes "I won't need the records, without a stereo." She asks if she can have a particular chair "if you don't want it," and offers a "thank you" for everything she is given. She offers him the couch, because "you'll need a couch." (Won't she?)

But her self-denial begins to break down after offering him the bed, with the words "I'll buy a bed," and all the history behind that offer. When they come to items that can be divided, she goes through the books, pots and pans, pictures, cash in the bank, using the phrase "we can split in half," then says "Our friends, we can split in half/And we can both have half the blame." The one thing she firmly announces she will take is "my single name." Akers' rising bitterness is perfectly articulated in tone and volume, but then fades back to the sense of hopelessness while repeating the past lines about tvs, radios, and couches.

"I think everyone who wants to work with couples needs to understand the depth and range of losses that the parties experience."

Finally, her voice drops as she says "the dog," pauses for the longest time in the song, and ends on a dying note, "you keep the dog/I'll come around and see him now and then."

My goal in using this song is to open a discussion of the many losses involved in any divorce or breakup. People lose, of course, a relationship, perhaps the central relationship of their adult lives. But they lose so much else. Objects with a long history for them, some of them perhaps irreparably tarnished and so better jettisoned than shouldered.

Friends, even relatives or inlaws who may take surprising sides or simply disappear from both their lives. As the singer's tone suggests at times, some people lose, at least for a time, their sense of self, their right to claim any of the past.

They also lose, in a real sense, their own past. What divorced person is eager to revisit, in person, in photographs, or even in memory, places that once defined who they saw themselves to be, when being there meant being two? How many funny, touching, or meaningful stories won't be told again, because they belong to a life they don't want to recall? Compare the comforting memories of a life spent together when death divides a couple, with the silence that buries the years lost to divorce.

Finally, the dog, to me, stands for the last, meager effort to save something from the past, while simultaneously acknowledging that the effort is futile, and will inevitably fade. (I know some will say "It's just a dog," but may I remind them that, though *The War of the Roses* ends in terrible catastrophe, the one survivor is the dog.)

Quite a downer, I know, and I asked that the presentation be given at the beginning of the class, so the group's mood might recover before dismissal. But I think everyone who wants to work with couples needs to understand the depth and range of losses that the parties experience. For all our focus on the future, we need to acknowledge, whether with words, gestures, or silence, that we stand with them in their pain even as we are helping them move beyond it.

Dr. Richard Barbieri is President of the New England Chapter of ACR, and a member of the Executive Committee of the Martha's Vineyard Mediation Program. He is also founder and principal of Singular Resolutions, LLC, which focuses on training, mediation, and faciitation for independent schools and other mission-driven organizations.

Relationships are a lot like alegbra; have you ever looked at your x and wondered y?

Anonymous

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

What do you say if a client asks if you are married, if you have kids, if you have been divorced, etc.? Is it appropriate to share personal information? Will refusing to answer affect rapport with clients?

As with many aspects of mediation practice, I've found opinions on this question vary. And as with so many aspects of practice this issue will best be guided by each mediator's personal style and comfort level.

I believe there is both an opportunity and a liability to answering personal questions – the opportunity is to learn important information about your clients and their concerns, and to connect with the clients, and the liability might be missing that information, or the mediator being uncomfortable answering the question, and an awkwardness arising from refusing to do so.

My personal approach is always to respond first by asking about why the client wants to know whatever they are asking about. I usually say something like, "I'd like to find out more about what concerns you may have that are prompting you to ask." Since I am comfortable sharing basic responses to the questions listed, I might also start my response with "I'm going to answer your question, but first (I'd like to find out….)"

If you are not comfortable sharing personal information, you might respond instead with something like "It's not my practice to share personal information with my clients, but I am very interested in addressing any concerns or questions you may have about my professional experience, my knowledge about all aspects of divorce, or my ability to be unbiased in your case. Can you tell me if you have any questions or concerns about any of those things?" Again, showing that you are open and responsive to their needs, if not their simple curiosity, is likely to encourage rapport and confidence even when you are declining to share particular information.

Additionally, I believe this is an opportunity to model the kind of communication you'd like the parties to engage in at the mediation table: in other words, to get them thinking about how they can explain their interests, rather than simply exchanging demands or positions.

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

Bonus Based on Company-Wide Performance not "Earned Bonus." Wife appealed the trial judge's construction of an agreement that Husband, a Fidelity employee, pay wife 30% percent of "any gross bonuses or commissions earned by him through his employment." Puzzlingly, the Appeals Court affirmed the judge's conclusion that the husband's obligation "should be measured only on the bonuses over which his performance (and that of his managed employees) is implicated, and did not include various incentive payments that were tied to the overall performance of Fidelity Company." If there's a lesson here, it might be to start including language in our agreements explicitly including compensation based on company-wide performance. *Greeley v. Greeley,* 85 Mass. App. Ct. 1116 (April 25, 2014) (Unpublished)

Appeals Court Overturns Rehabilitative Alimony Order. As with *Green v. Green, 84 Mass.App.Ct. 1109,* discussed in this space about a year ago, this latest decision is another sign of close appellate scrutiny of alimony orders. Here, the parties were married for 21 years. The husband was a sheet metal worker with a fluctuating annual income and a high in the $74,000 range. The wife, 58 at the time of the trial and 60 at the time of the appeal, had been in pharmaceutical sales earning an annual income of $80,000 before she was laid off a few years before the divorce. She had been offered a commission-based job for a drug company located in Boston and declined to take it because it would have required her to relocate from East Longmeadow. At the time of the trial, she was unemployed and was working as a teacher at the time of the nisi judgment earning $11.00 an hour. The trial judge awarded her six months of rehabilitative alimony and the Wife appealed. The Appeals Court expressed serious concern about the wife's likely reemployment in drug sales and pessimism about her earning capacity. They vacated the order and sent it back down to the Probate Court for additional and updated findings on the wife's earning capacity at the present time and for a resulting appropriate order for alimony based on the updated findings. *Nystrom v. Nystrom*, 85 Mass. App. Ct. 1121 (May 22, 2014) (Unpublished)

Hassey v. Hassey, 85 Mass.App.Ct. 518 (June 25, 2014). This case is discussed in a separate article in this issue.

HASSEY v. HASSEY: APPEALS COURT PROVIDES MORE GUIDANCE ON THE ALIMONY REFORM ACT

Hassey v. Hassey, 85 Mass.App.Ct. 518 (June 25, 2014) is the most significant appellate treatment of the Alimony Reform Act to date. Here, I provide some highlights of this case.

The couple was married over twenty-one years and at the time of the divorce

Continued on next page

trial, they had two sons who were college age. Husband owned a dental practice and Wife was a homemaker and primary caretaker. The Probate and Family Court found the Husband's annual income to be $250,000.

The Probate and Family Court ordered the Husband to pay $8,500 per month on his annual income of $250,000 plus additional alimony equal to 30% of gross income over $250,000 until the first to occur of the wife's remarriage or cohabitation, the Wife's death, the Husband's death, or the Husband's retirement.

The Husband appealed and the Appeals Court vacated the trial court's "self-modifying" alimony order.

At the outset, the Appeals Court reminds us, even with the new law, alimony is still about need – the dependent spouse's need for support in relation to the parties' respective financial circumstances.

The trial court's $8,500 order was 41% of the Husband's $250,000 base, exceeding the 30% to 35% range set forth in § 53(b) of the law. The Appeals Court went on to explain that an order within the statutory range "will be deemed reasonable and lawful" and that a judge who makes an award outside of the range must make specific findings that deviation is necessary. Specifically, in this case, the Court stated, the 41% order might be sustainable if the trial court had made a determination of the recipient's need and if it had explicitly considered the ability of each party to maintain the marital lifestyle. Since it did not, the Appeals Court vacated the order.

Additionally, the Appeals Court stated that the requirement to pay additional alimony to the extent that the Husband's income exceeds $250,000 made it an unsustainable "self-modifying" order. In other words, under the order, an increase in Husband's income entitles the Wife automatically to an increase in support. But – and this is the critical part – the Wife gets the increase without the trial court having to find a material change in circumstances and without a determination of the parties' respective needs and incomes at the time the order is issued. This is further reason, according to the Appeals Court, that the order must be vacated.

To be clear, this case does not mean the end of formulas that are self-modifying" or "self-executing." A footnote in *Hassey* provides that if all required findings are made, courts can still make fixed-percentage-of-income support orders in certain circumstances – where there is fluctuating income, for example (See *Wooters v. Wooters,* 42 Mass.App.Ct. 929 (1997)). Similarly, courts can make support orders that modify according to the Consumer Price Index in a "special case" (See *Stanton-Abbott v. Stanton-Abbott,* 372 Mass. 814 (1977), where one party lived in the United States and the other party lived in the United Kingdom.)

More to the point for mediators – if the parties agree to a formula, none of these restrictions matter. The Act is clear, in § 49(e): "*Unless the payor and recipient agree* otherwise, general term alimony may be modified in duration upon

a material change or circumstances warranting modification."

A final issue relating to the termination of alimony: here, the trial court had provided that alimony would terminate on the "retirement" of the Husband. The Act provides that the default duration of alimony is the "retirement age" of the payor as defined by the Social Security Act. To deviate from that, the Court would have needed to write findings – which it did not.

Hassey's relevance is not limited the Alimony Reform Act. The case also involved inherited property – the treatment of which is worthy of discussion.

During the marriage, the Wife inherited a one-third interest in a real estate trust that held a vacation property in Chatham. The family enjoyed the property for many years, spending at least two weeks there every summer. Although the property was rented out during part of the year, the Wife did not realize any net income from those rentals.

The Probate and Family Court found that since the family never relied upon the Cape house as a financial resource, and since the house resulted only in a minimal tax burden to the family, the Wife's interest in the house should not be included in the divisible marital estate. The Wife got to keep her interest in the house.

The Appeals Court vacated that portion of the judgment – emphasizing that, "in view of the family's enjoyment" of the Cape house during the marriage, this was an improper result. If the family did not have the use of the house, the Appeals Court explained further, they would have incurred significant costs to rent out a similar house. The focus on the family's enjoyment of the inherited asset is notable for future inheritance cases. (Although the Appeals Court did not underscore the issue, it was arguably more notable that the Wife effectively received half the value of Husband's dental practice, a portion of which was gifted to the Husband by his father while she got to keep her interest in the inherited Cape house.)

Finally, the Chatham Chamber of Commerce may be pleased to note that, in its opinion, the Appeals Court took judicial notice "of the fact that Chatham is a popular tourist destination on Cape Cod with many attractive recreational venues." That might really look great on a brochure.

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WHAT'S NEWS?
NATIONAL & INTERNATIONAL FAMILY NEWS

Chronologically Compiled & Edited by Les Wallerstein

Infertility Endured Through a Prism of Race American women who have used fertility services are likely to be married, white and older, with higher levels of income and education. Fifteen percent of white women ages 25 to 44 in the United States have sought medical help to get pregnant, compared with 7.6 percent of Hispanic women and 8 percent of black women, according to data from the Department of Health and Human Services and from the National Center for Health Statistics, part of the Centers for Disease Control and Prevention. This is despite the fact that married black women had almost twice the odds of infertility. (Tanzina Vega, NY Times 4/25/2014)

Life of the Poor: Better Off, but Far Behind Americans — even many of the poorest — enjoy a level of material abundance unthinkable just a generation or two ago. Yet despite improved living standards, the poor have fallen further behind the middle class and the affluent in both income and consumption. The same global economic trends that have helped drive down the price of most goods also have limited the well-paying industrial jobs once available to a huge swath of working Americans. And the cost of many services crucial to escaping poverty — including education, health care and child care — has soared. (Annie Lowrey, NY Times 4/30/2014)

Graying of America is Speeding The number of Americans 65 and older is expected to nearly double by the middle of the century when they will make up more than a fifth of the nation's population, according to a Census Bureau report. By 2050, 83.7 million Americans will be 65 or older, compared with 43.1 million in 2012, the report said. Fewer than 10 percent were older than 65 in 1970. While demographers have long projected a significantly older country later this century, declines in fertility and mortality rates are hastening the shift, leading to what are expected to be profound changes for issues ranging from Social Security and health care to education. (Timothy Williams, NY Times 5/6/2014)

Step Forward into Past for British Gay Couples: Coats of Arms First, same-sex couples in Britain won the right to civil partnerships, then to full marriage. Now, they can have their own coats of arms. The College of Arms, guardian of noble titles and insignia here since the 15th century, has issued a ruling that married same-sex couples may combine their heraldic symbols on a single shield as generations of heterosexual aristocracy have done before them. Today, only about 1 percent of Britons have a coat of arms, a privilege traditionally reserved for nobility and gentry, although anyone can apply for one. If the College of Arms accepts an application, its heralds will design the arms with the guidance of the bearer at a cost of 5,250 pounds, or about $8,850. (Katrin Bennhold, NY Times 5/10/2014)

Judge Strikes Down Oregon Gay Marriage Ban In addition to Oregon, judges in seven states — Arkansas,

Idaho, Michigan, Oklahoma, Texas, Utah and Virginia — have had their laws or constitutional amendments banning same-sex marriage struck down in recent months. But the challenges to those decisions have continued. The National Organization for Marriage, a conservative group that had sought to defend Oregon's law, asked for an emergency stay of the judge's ruling with the US Court of Appeals for the Ninth Circuit even before the order was filed. (Kirk Johnson, NY Times, 5/19/2014)

Pennsylvania's Same-Sex Marriage Ban Overturned Continuing a rush of rulings that have struck down marriage limits across the country, a federal judge in Pennsylvania declared the state's ban on same-sex marriage to be unconstitutional, stating that "We are a better people than what these laws represent, and it is time to discard them into the ash heap of history." Pennsylvania was the last of the Northeast states with a ban on same-sex marriage and, if the ruling is not successfully challenged, it will become the 19th state to permit gay and lesbian couples to marry. (Erik Eckholm, NY Times, 5/20/2014)

Wisconsin: Another Same-Sex Marriage Ban Falls A federal judge has struck down Wisconsin's ban on same-sex marriage, ruling it unconstitutional. Wisconsin becomes the 27th state where same-sex couples can marry under law or where a judge has ruled they ought to be allowed to wed. Voters amended the Wisconsin Constitution in 2006 to outlaw same-sex marriage. The state attorney general said he would appeal the ruling. On the same day, seven couples filed a federal lawsuit challenging the constitutional ban on same-sex marriage in North Dakota. (Associated Press, NY Times, 6/6/2014)

Utah's Ban on Same-Sex Marriage Overturned Expanding a streak of legal victories for same-sex marriage, a federal appeals court ruled that states may not deny same-sex couples their "fundamental right" to marry. Legal observers said the Utah ruling was significant because it was the first time a federal appeals panel had found that same-sex couples have a constitutional right to marry. "In less than a year, every Federal District Court to consider the issue has reached the same conclusion in thoughtful and thorough opinions — laws prohibiting the celebration and recognition of same-sex marriages are unconstitutional," Judge Young wrote. "It is clear that the fundamental right to marry shall not be deprived to some individuals based solely on the person they choose to love. In time, Americans will look at the marriage of couples such as plaintiffs, and refer to it simply as a marriage — not a same-sex marriage." (Jack Healy, NY Times, 6/26/2014)

Foreign Couples Heading to America for Surrogate Pregnancies Other than the United States, only a few countries — among them India, Thailand, Ukraine and Mexico — allow paid surrogacy. Surrogacy began in the United States more than 30 years ago, soon after the first baby was born through in vitro fertilization in England. At the time, most surrogates were also the genetic mothers, becoming pregnant through artificial insemination with the sperm of the intended father. But that changed after the Baby M case in 1986, in which the surrogate, Mary Beth

Continued on next page

Whitehead, refused to give the baby to the biological father and his wife. In the wake of the spectacle of two families fighting over a baby who belonged to both of them, traditional surrogacy gave way to gestational surrogacy, in which an embryo is created in the laboratory — sometimes using eggs and sperm from the parents, sometimes from donors — and transferred to a surrogate who has no genetic link to the baby. International would-be parents often pay $150,000 or more, an amount that rises rapidly for those who do not get a viable pregnancy on their first try. Prices vary by region, but surrogates usually receive $20,000 to $30,000, egg donors $5,000 to $10,000 (more for the Ivy League student-athlete, or model), the fertility clinic and doctor $30,000, the surrogacy agency $20,000 and the lawyers $10,000. In addition, the intended parents pay for insurance, fertility medication, and incidentals like the surrogate's travel and maternity clothes. While many states, including New York, ban surrogacy, others, like California, welcome it as a legitimate business. Together, domestic and international couples will have more than 2,000 babies through gestational surrogacy in the United States this year, almost three times as many as a decade ago. But thorny questions remain: How much extra will the surrogate be paid for a cesarean section, multiple births — or loss of her uterus? What if the intended parents die during the pregnancy? How long will the surrogate abstain from sex? If she needs bed rest, how much will the intended parents pay to replace her paycheck, and cover child care and housekeeping? (Tamar Lewin, NY Times, 7/6/2014)

Looking For Free Sperm, Women May Turn To Online Forums
Commercial sperm banks have operated in the U.S. since the early 1970s. Today, women who can afford to use them tend do so without stigma. But banks are no longer the only source for women hoping to get pregnant. There are informal, unregulated websites popping up where men who are willing to donate their sperm for free can meet women who are hoping to have a baby. The most established sperm donation website in the U.S., the Known Donor Registry, launched in 2010. Since then, it has grown to more than 16,000 members. Predatory men are not the only risk for women looking for sperm online. Commercial sperm banks freeze sperm and require donors to get tested for disease. Possible legal complications include custody battles and child-support suits over children conceived with donated sperm. Family laws differ from state to state, but nationwide there is little or no legal protection for men who donate sperm, or women who receive it, outside a sperm bank. (Rebecca Hersher, National Public Radio, 7/12/42014)

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

MCFM NEWS

SAVE THE DATE!

MCFM'S 13TH ANNUAL FAMILY MEDIATION INSTITUTE

FRIDAY NOVEMBER 14, 2014
8:30 AM – 5:00 PM
Wellesley Community Center
219 Washington Street, Wellesley MA
go to: www.mcfm.org for updated information

SAVE THE DATE!

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, CDFA, CFP, Diane Pappas, CDFA, and group members. Morning Meetings are usually from from 10:00 am – noon at Cambridge Savings Bank, Arlington Center, 626 Mass Avenue – upstairs conference room. **Seating is limited. Please contact Diane @ (978-833-6144), diane.pappas@insightfinancialstrategists.com or Chris @ (781-489-3994), chris.chen@insightfinancialstrategists.com**

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.**

Continued on next page

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: **[1-20 @ 50¢ each, 21-50 @ 40¢ each & 51+ @ 30¢ each]** plus shipping, (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
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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.**

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.

* *

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Wednesday, November 5 @ 4:30pm–7:30pm
Thursday, November 6 @ 9:30am–5:00pm
Friday, November 7 @ 9:30am–5:00pm

Continued on next page

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DATE: Friday November 7, 2014
TIME: 8:30 – 4:30
LOCATION: to be announced

For updates on the event, please send us an email or call
Marilyn at 617-694-4067
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or
Chris at 781-489-3994
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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.**

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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

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