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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: Jonathan E. Fields

Dear Mediators:

Our 2012 Institute in November was another resounding success.

The opening presentation explored the role of substantive law in mediation that allowed me to take a kind of inventory of mediator practices from the audience of experienced mediators. What kind of mediators are we? Evaluative? Facilitative? Transformative? Where are we on the continuum?

Not surprisingly, from the comments made at the Institute, we are all over the spectrum. A hundred of us are probably on a hundred different parts of the range. Some of us lean heavily toward the facilitative and are reluctant to weigh in on the merits of a particular legal issue. Others are more evaluative and inclined toward informing the clients how a court may view their situation. (I know there are transformative mediators in our community but they weren't vocal in the audience so I can't say much about them.)

The new alimony statute presents particular challenges to mediators regarding the role of substantive law and was the source of some debate. Do we inform clients that an important anniversary is coming up? Or is that outside the scope of our role as mediators? Bill and Chouteau Levine have written a thoughtful article about these and related issues to be published in the next edition of FMQ that I hope you will read. I am sure we will be talking about the impact of the alimony law on our practices for the months and years to come.

Wishing you all the best in the coming year,

Yours,

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CONTENTS

BECOMING AN EXCELLENT MEDIATOR:
When Facing Opposite Choices, It's All a Question of Balance

By Heather Allen

The excellent mediator must answer the challenges posed throughout by the participants' behaviours and the content of the mediation, and it is the extent to which balance is achieved at every moment through the exercise of good judgement that determines effectiveness. The mediator's focus and approach must change frequently throughout the mediation – sometimes planned and sometimes intuitive.

The following headlines seek to describe and define in summary some of the areas where the mediator must make choices to create the appropriate balance, which can make all the difference to the outcome for the parties. The word 'balance' in no way implies that the answer lies in the middle with the scales gently poised in equilibrium; in mediation, the need for a particular focus may be extreme in one situation and at another be absent entirely. The really effective mediator does not fall into one category or another but uses the full panoply of techniques, skills and approaches to meet the changing demands of each case, each situation and each person involved.

Each of us, depending on our experience, expertise, emotional and practical preferences, will feel more or less comfortable at different points on the spectrum for each of the aspects listed – the skill lies in the ability to be flexible, even to the extremes which lie far outside our own zones of comfort, and helping the parties to be flexible, too.

Task – Process – Relationship The management concept that a balance is needed between task and relationship is relevant to the mediator, with the added dimension of process being critical, too.

People – Issues The temptation for some whose professional experience is in the content of the mediation, or conversely where their training is in psychology, for example, must be particularly alert to the need to leave for a while the understanding of the issues – or the understanding of the people - and move as needed along the people / issues spectrum.

Detail – Big Picture Jungian theory of type suggests that each of us has a preference for detail or big picture – awareness of this as a starting point, as with other aspects, helps to move us appropriately between specific and global viewpoints, and t help the parties to do so.

Widening / Opening Up – Narrowing / Closing Down Thinking of a mediation as being in the shape of a kite, starting at a point and opening up, then turning the corners and converging at a final point of agreement, the mediator helps the parties to open up the picture, and then guides again in order to leave the wider discussion and move to ideas for

settlement and agreement. The exact shape of the kite will vary mediation to mediation, as more or less time is needed for exploration, explanation and discussion before the parties finalise an outcome they can all live with.

Support – Challenge Another useful management concept is the balance between supporting and challenging an individual or team on their journey – at any moment, too much support and the parties stand still, comfortable but making little progress; too much challenge and they lose hope and give up trying, or fight the mediator rather than attacking the problem.

Comfort – Discomfort The comfort of the mediator may need to be sacrificed for the comfort, or necessary discomfort, of the parties. The balance between support and challenge has relevance here, too.

Exercising Control – Letting Go In relation to managing the process, working with the views of the parties, and enabling change to take place, the mediator treads a fine line between being accepting and exerting control. The excellent mediator needs to be a figure of authority and at other times the humble servant of the parties.

Past – Present – Future The mediator must act as a guide through time. Anger or despair can leave parties stuck in the past, yet there is usually some need to talk about what has happened to bring parties to this point; frustration or anxiety can lead parties to rush to seeking agreement before it has been established what else needs to be resolved beyond the obvious, as a basis for detailed negotiation. With so much to think about it can be a challenge for a mediator to take seriously the maxim that 'what is happening right here and now in the room is the only thing that matters', and that the focus should be on the present and staying in the moment with a party.

Measured / Slower – Momentum / Faster Part of the task of the mediator is to create momentum to help parties see and use the opportunity that mediation affords to reach settlement. However, momentum is different from speed, it does not mean one-paced, and not just fast. This is an aspect more likely than some others to be affected by the emotional state of the mediator, who is also subject to anxiety and pressure; the mediator has an important role in assisting the parties to move through the mediation at a pace consistent with sustaining progress. The pace needs also to be consistent with the needs of all parties – and where one party is ready to move forward much sooner than another, the mediator must help all parties to cope, even with boredom, and to keep in view a horizon of settlement.

Driving – Pulling Back This idea is similar to creating or controlling momentum, above, but with an emphasis on the outcome. There are occasions where the job of the mediator is to drive the process forward, to encourage the parties to develop ideas into agreements, and there are other times when such activity would be premature and risk any progress made being stalled or even reversed. A mediation does not succeed on

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the basis of what the mediator wants but what the parties need. Similarly, acknowledging or confronting a situation or bypassing a difficulty by ignoring or changing the subject, both have their place in an effective process.

Focussed – Fuzzy The use of these words will have a different resonance for different people. Clarity, precision and getting to the point are characteristics highly valued in some professional cultures and in some parts of the world more than others. There are moments in a mediation where honing an idea, taking time to work in depth on an aspect or finalising wording are vital to progress; and there are other moments where leaving things vague, shading the edges of an idea or generalising to avoid commitment can create freedom, scope and possibility. We sometimes need to abandon our own urges for the definitive to allow the best to emerge from mediation.

Content – Process The mediator will, of course, talk with the parties about the content of the dispute, in order to clarify what really matters to them and what they need from any settlement, as well as discussing in more detail the risks and opportunities, the options for resolution and the practicalities and technicalities of any agreement. The mediator, as the primary manager of the process, must also discuss process issues with the parties, to keep them informed about what is happening, to consult and discuss the use of time consistent with progress and to check and confront any possible challenges to the safety of the process, in terms of confidentiality, conflict of interest, authority to settle and the preservation of the mediator's impartiality. A mediator should keep content and process both fully in view and not get sucked into the content or hide-bound by using the process rigidly.

Legal – Commercial – Personal There are at least these three dimensions in every mediation – there are other Models, too, which alert us to the need to move the conversation around, in this model around a triangle of topics – the balance in any mediation will be different from that in another. In every mediation there should be opportunities through questions, silence or other expressions of interest, for the party to open up the legal, the commercial and the personal aspects, in order to find new areas for negotiation that might hold the key to settlement.

Coaching – Directive The choice here is between helping the party to decide for themselves and telling them what to do; offering flexibility and certainty in appropriate measure. When a mediator is directive s/he wants the party to comply, when coaching s/he wants to enable and empower the party to make their own decisions and or take their own action. There is often a distinction, too, in style and tone of voice, assertive or gentle. Mediator motivation, however, must be the same for each – from a perspective of non-bias, and with the best interests of the parties and the integrity of the process paramount.

Calm – Energised The mediator can and should affect the tone of the mediation.

The mediator models the desired tone as a starting point for influencing the level of energy, relaxation or calmness at any stage. Tenacious or relaxed mediator, both are valuable. More direct techniques may sometimes be needed to affect significant change; holding up a mirror to the party to describe and challenge the current approach, thus coaching towards a change in attitude or style or offering a break for reflection or refreshment.

Together – Separate This is a process choice for the mediator – to put or keep parties together, to meet privately with one or more members of a team, or to leave parties to meet on their own. There are judgements to be made at every turn about the purpose of meetings and the likely dynamic created by mixing teams and varying the personnel in meetings.

Pastoral – Practical There are occasions when the mediator needs to be nurturing, to provide the necessary comfort and security to allow the parties to participate effectively. On other occasions the primary task will be to help the parties to focus on the practicalities of settlement rather than on their emotions. Get that balance wrong and the mediator will get in the way of resolution, either by slowing down the process with an overemphasis on the past and the emotions associated with what has happened, or will miss the point about the need for restorative processes to be part of any settlement. Linked to this idea is the balance between being passionate, compassionate or dispassionate – all appropriate at times.

Confidentiality & Using Information The importance of honouring promises and keeping the process safe is paramount for a mediator. However, the effective mediator knows when to encourage parties to give up their information and to use it to create momentum and progress. In this and in other contexts, the mediator needs to be both a safe pair of hands and a risk taker.

Facts & Figures – Feelings Each mediator is likely to have a preference for working with either the facts or the feelings, and every mediator needs the flexibility to work outside their preferred zone in order to meet the needs of the parties and the particulars of the dispute.

Patterns – Inconsistencies Many mediators come from professional backgrounds where challenging apparent inconsistencies and contradictions is a daily activity, and this, used sensitively, contributes to their effectiveness. However, spending too much time searching for lies and deception will divert from progress; whereas looking for patterns in behaviour and conversation can lead to greater understanding about what really matters and what might lead to settlement.

Seriousness – Humour The mediator who can bring humour and a lightness of touch to the job will offer the parties a chance to relax for a while, putting things into perspective. A change of atmosphere can help the parties tolerate each other's presence and can improve the prospects for successful negotiations. Inappropriate

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light-heartedness in the face of anger, worry or despair will alienate the parties and create distrust of the mediator.

Personal / Self-disclosure / Sentient – Professional / Detached / Objective The mediator is there to talk about the parties and their perspectives; "don't talk about yourself" is generally good advice, especially for the new mediator. However, the mediator who knows how to pick the right moment to disclose something of themselves, authentically – perhaps feelings, hopes, frustration, experience - can add a new and powerful dimension to the role.

Good Judgement – Through Analysis & Intuition Excellence requires good judgement, a mixture of well-informed analysis and powerful intuition. Intuition, although less easy to define and to teach, is not random or haphazard; it is the culmination of confidence and competence developed through experience. The mediator needs to be relaxed and attending to the 'here and now' in order to drawn on and trust their intuition. Judgement is built in similar ways, through learning and experience, although using analytical skills to decide on action. Good judgement also demands courage and a letting go of ego.

The excellent mediator exercises good judgement throughout, for the benefit of the parties and the process over any benefit for self.

The simple and familiar choices about whether the mediator is present or absent, or is silent or speaking have an impact on progress, and neither is always wrong or right. In reflecting on your own practice, a number of further demands might occur to you, requiring a different balance, in different circumstances with different parties, at different times. The old distinction between a facilitative or evaluative mediation fails to grasp the subtlety demanded of and used by the excellent mediator.

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"The best fighter is never angry."

Lao Tzu

IN WHOSE BEST INTERESTS?

By Ruth Bettelheim

In divorced families, whose needs count for more: those of parents or those of children?

When parents divorce, their child custody plans are supposed to place the "best interests of the child" first. We know children's needs change as they grow. Unfortunately, the way we develop and maintain custody schedules ignores that, and often makes children feel helpless by denying them any influence over the arrangements that govern their lives.

Today, most divorces involving children include a parenting plan that dictates where children will live and which days they will spend with each parent. The process of agreeing on a custody arrangement is often very difficult for parents, who naturally have little desire to revisit the divorce experience. As a result, the legal agreement they reach typically will govern the daily rhythm and schedule of children without change until they turn 18.

In reality, a custody agreement that meets the needs of a toddler is unlikely to be right for a teenager. Imagine yourself as a 13-year-old who wants to spend more time with your friends over the weekends. Unfortunately, your parents are divorced, and you spend weekends with a parent who lives two hours away. You would be unlikely to request a change in custody because it would mean altering a longstanding agreement and plunging into a morass of conflicting loyalties and guilt over betraying whichever parent would lose out. Faced with such dilemmas, children in divorced families frequently end up suppressing their own needs to reduce conflict with, or between, their parents. Even when children are driven to speak up and request custody modifications, their voices carry little, if any, legal weight.

Rendering children voiceless and powerless to meet their own changing needs, or burdening them with guilt if they try to do so, is in no one's best interest. It either creates hardship for children who grin and bear it or instigates a string of provocative and damaging behaviors in those who embark on increasingly desperate attempts to make someone notice that something is wrong.

Although the United Nations Convention on the Rights of the Child states that children have a right to meaningful participation in decisions affecting them, adults, from some misguided notion of protection, often seek to keep children from making choices in custody matters. But accepting certain kinds of responsibility for their own lives and learning from the consequences of

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their decisions, even poor ones, is vital for the growth and well-being of all children.

Once children have reached the age of reason — generally agreed to be about 7 — they should be recognized as the ultimate experts on their own lives. We all resent it when others say that they know better than we do how we feel and what is good for us. Nevertheless, we subject children to this when we call in experts to evaluate their lives over a period of days or weeks, as part of the custody process, instead of just listening to them.

Rendering children voiceless and powerless to meet their own changing needs, or burdening them with guilt if they try to do so, is in no one's best interest.

To remedy this, all parenting plans should be subjected to mandatory binding review every two years. The review should include a forum for children to speak privately with a mediation-trained lawyer. The conversation should be recorded to ensure that the child was not pressured or asked leading questions. Children should not be forced to state preferences but invited to speak if they choose. Many children will decline, as they are deeply reluctant to hurt a parent. But occasionally, the need to advocate for themselves outweighs these fears. When they do speak up, their wishes should be honored as stated, not as interpreted by an expert or lawyer.

The lawyer should meet with all family members, individually and as a group, to ensure that the child's wishes are respected in the next two-year parenting plan. Children's wishes should be decisive, in place of those of experts and judges, as long as at least one parent agrees with them.

Some may fear this system would result in young children being manipulated by their parents. But my almost 40 years of practice as a family and child therapist have taught me several things that suggest otherwise. First, that children can tell the difference between being bribed and manipulated, and being respected, understood and having their needs (including those for discipline) met. Second, that children consistently choose the latter over the former, if given the chance. And finally, that children have a clear understanding of their own needs — even if they are unable to articulate justifications or reasons for their wishes.

Of course, even after listening to children, the success of custody plans must still be evaluated. A proper

assessment of children includes their functioning at home, at school and in having age-appropriate peer relationships. If, after following a modified custody plan for two years, a child is failing in two of the three areas, then it is time to consider whether a different plan is needed.

In 1970, no-fault divorce made its first appearance in the United States, in California, bringing recognition that both parents have an equal right to have access to their children. Forty years later, in 2010, New York became the last state to adopt no-fault divorce. But children's rights are still routinely ignored. Will it take another 40 years for children to be heard?

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"I do not feel obliged to believe that the same God who has endowed us with sense, reason and intellect has intended us to forget their use."

Galileo Galilei

AN ARGUMENT FOR THE ESTABLISHMENT OFPROFESSIONAL STANDARDS AND INCREASED REGULATION OF THE PRACTICE OF MEDIATION

By James Grifo

As various forms of alternative dispute resolution (ADR) become increasingly available and generally a more acceptable means of resolving disputes, more questions about the practice of these alternatives are starting to be raised. While it is generally accepted that ADR techniques can, and should, have a role in conflict resolution, there is less consensus on what kind of regulation or oversight there should be for this emerging profession. What follows is an exploration into the risks and advantages of mandatory certification requirements, some of the arguments for and against, and the conclusion that there is a distinct need for increased regulation of mediators and the practice of mediation.

Mediation, as with other forms of ADR, is often thought of as being a recent innovation to provide an alternative forum within which to resolve conflicts. While somewhat true, mediation has deep roots and has been used in communities and cultures throughout the world for centuries.[1] Mediation is now offered in courts, nation-wide, as a means of docket-management,[2] and even attorneys are beginning to realize that engaging on collaborative and competitive levels simultaneously, is both possible and in the best interest of their clients.[3]

Currently the practice of mediation is largely unlicensed and unregulated, lacks any universal qualifications, and is left to each program or organization offering mediation services to establish its own requirements.[4] The debate over whether or not mediators should be subject to certain qualifications and/or standards, to become a regulated profession like doctors or lawyers, is fiercely contested.

Perhaps the difficulty of establishing and adopting nation-wide mediator qualifications is that there is no genuine consensus on the skills or characteristics that a mediator must possess to be effective in his/her role. There is however ample evidence that a majority of people acknowledge that there should be some kind of mediator qualifications and skills training.[5]

Having had an opportunity work alongside mediators trained at non-legal institutions[6] it quickly became clear to me just how varied mediation styles could be. Many of the mediators that I have worked with prefer to address the parties' emotions, to approach the discussion as though they were therapists guiding them along an emotional journey to reach a settled end. Others prefer to break into caucuses just after the exchange has begun to ask each party what the lowest/highest dollar amount they will be satisfied with leaving with on that day, in an attempt to "cut to the chase". I do not mean to imply that one approach is better than another, or that

there is a right or wrong way to mediate disputes. In fact, I think that a large part of the qualifications requirement debate stems from this very reality; there are so many possible ways to effectively mediate a dispute that makes whole-hearted categorization of one kind or another, not only senseless but impossible.

Yet, even if we are to accept that styles, approaches, and personalities of mediators will vary as widely as the disputes they entertain, is it fair to require each of them to undergo prescribed training regimens? Is it fair, not to do so?

One important aspect of mandatory training requirements[7] is to consider the ultimate purpose; that the certification provides to the public (or parties) that they can trust the competency of the mediator and his/her services, even if they were otherwise unable to make such informed decisions.[8] In fact, this purpose dovetails quite nicely with one of the most fundamental pillars of the entire mediation practice: party self-determination. How are parties to select the mediator of their choosing if they are unfamiliar with the practice, individual mediators, etc.? The certification of mediators advances the very idea that parties should be free to select their mediator as they desire, and that they would be able to make informed decisions regarding their selection of a qualified, third-party neutral.

Some opposed to mediator certification are concerned that certification schema and the resulting quality of mediators have no direct relationship.[9] Even if there is no direct relationship between certification requirements and quality of mediators, the public should be assured that their third-party neutral has at least had an opportunity to acquire the most essential skills required for the practice of mediation. If we consider volunteer community mediators in the small claims court context, I am sure that we can all agree that their willingness to assist in conflict resolution and provide an alternative forum for dispute resolution is both noble and appreciated. However, there are certain legal rights and obligations that our communities have decided upon and expressed in the law. While both volunteer, non-legally trained mediators and lawyer-mediators alike are not to offer legal advice during a mediation session, certainly there is the likelihood that mediators with legal experience are somewhat more equipped to ask the parties more informed

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questions and assist them in finding an equitable resolution that is rooted in their respective legal rights. Equity demands that we, as mediators, understand the legal rights and obligations of the parties as we assist in the equitable resolution of disputes.

The most reasonable solution at this time would be to establish a national Alternative Dispute Resolution Board.

I do not intend to imply that all mediators should be legally trained. In fact, I believe that non-legally trained mediators offer a unique and meaningful perspective. However, requiring non-legally trained mediators to have an opportunity to become familiar with basic aspects of family law, landlord-tenant law, contract law, etc. would at least provide an opportunity for many mediators to at least be aware of the relevant law when assisting parties resolve their disputes.

It is unfortunate that mediators and mediation are not professionalized in our society. In fact the ideal mediator would likely be a licensed attorney, an accountant, a behavioral psychologist, a psychotherapist, an engineer, a contractor ... The expectations of a mediator can vary so widely from mediation to mediation that some are concerned that mandatory certification requirements might act as a bar to entry into the field. If the certification requirements were broad enough so as to only encompass the most essential aspects of mediation, a training rooted mostly in apprentice-mentor relationships, and actual mediation experience followed by an extensive review of the session afterwards, such requirements would really only serve to ensure that the individuals that we trust and expect to help feuding parties resolve conflicts are up to the challenge.

Another element that misdirects the certification requirements discussion is the idea that effective mediators are those that produce settlements. High settlement rates have come to mean high-quality mediation. Any practitioner can attest to the fact that settlement is dependant on so many variables, not solely the quality of the mediator. Measuring the effectiveness of mediators is another challenging and, in all likelihood, impossible feat. Some data indicates that mediator effectiveness is based on training, personal experience, and individual characteristics.[10] This siren song of statistical evidence used to validate one's efficacy as a mediator needs to be avoided entirely.

Measuring the effectiveness of a mediator is not necessary to ensure that said mediator has had an opportunity to develop the essential skills needed to conduct a meaningful and productive mediation. In fact, mediator effectiveness should not even be relevant to the certification requirements discussion because it is in the interest of the industry (and the parties) as a whole to ensure that the best, most competent, and experienced mediators as well as those markedly less effective have all had an

opportunity to learn the essentials and develop their skills as mediators.

Like many other professions, one's effectiveness as a mediator does seem to have an intrinsic element to it. Extremely talented mediators that I have witnessed and tried to learn from, exude a certain disposition, ask the right questions in the right tone of voice, allow for silence when most appropriate – these aspects of a mediator cannot be taught or acquired and seem to flow from one's general temperament. Chasing these characteristics is futile. Watching and imitating these gifted practitioners is a meaningful exercise for the inexperienced mediator, as it can instill a certain aspiration for them. But ensuring that every mediator is able to possess this innate predisposition to the practice of mediation is irrational and unreasonable.

Essentially, there are certain skills and training that every mediator should be exposed to. The patchwork requirements currently offered in the various states and their various courthouses do not offer a meaningful solution to ensuring that mediators are providing a high-quality, meaningful experience for disputing parties. The most reasonable solution at this time would be to establish a national Alternative Dispute Resolution Board (consisting of the most respected and experienced professional mediators in the nation), to establish a rigorous training program that is affordable and accessible to any person interested in becoming a mediator. This training should be followed-up with mandatory apprenticeships whereby inexperienced mediators have an opportunity to learn from their more experienced, professional mentors. There should be uniform national professional standards (including expectations surrounding confidentiality and ethical practices, among others) that are widely circulated, easily understandable, and legally enforceable. This kind of national uniformity would go a long way to ensure that every mediator has at least had an opportunity to acquire the most essential skills needed to conduct mediation, and would advance the practice of mediation by providing the public with some assurance that those acting as a mediator are capable of so doing.

While most states do have some modified version of what I have just proposed, national uniformity would advance the credibility of the practice, and make it easier for mediators to rely on uniform expectations of professional conduct. Mediation is too important a profession, too high a calling, too meaningful to individual communities and the nation at large to be as loosely regulated as it currently is. The practice is essential to advancing fairness and justice within our society and we should demand that those acting as mediators are qualified to do so. It is time for mediators to assume a role in modern society that is respected, venerated, and appreciated; developing meaningful, uniform, national standards will go a long way towards advancing these goals.

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Footnotes

[1] Jay W. Stein, Mediation and the Constitution, 53 Disp. Res. J. 22, 27 (May 1998).

[2] W. Lee Dobbins, The Debate Over Mediator Qualifications: Can They Satisfy the Growing Need to Measure Competence Without Barring Entry into the Market?, 7 U. Fl. J. Law & Pub. Pol'y 95, 95 (Fall 1995).

[3] Tad Powers, Civil Mediation: A Culture of its Own, 36 VT Bar J. 28, 28 (Fall 2010).

[4] Norma Jean Hill, Qualification Requirements of Mediators, J. Disp. Res. 37, 37 (1998) (noting also that some states have established certain qualification requirements either through statute or adopted court rules).

[5] Kent J. Wagner, A New Era for the ADR Review Board – Facing Issues Through Strategic Planning, 20 Hamline J. Pub. L. &Pol'y 355, 370 (1999).

[6] Mainly those having graduated from the mediation training at the Woodbury College program.

[7] The term "mandatory training requirements" will be used interchangeably with the terms licensing or certification.

[8] K. Austin, et al., Mediator Certification: What are Some Practitioners Afraid Of?, 26 Alternatives to High Cost Litigation 181 (November 2008).

[9] Tony Willis, Mediator Accreditation: Is It Risk? Or Quality Enhancement?, 26 Alternatives to High Cost Litigation 165 (October 2008).

[10] See Carol J. King, Burdening Access to Justice: The Cost of Divorce Mediation on the Cheap, 73 St. John's L. Rev. 375, 463-64 (1999).

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"The golden rule is that there are no golden rules."

George Bernard Shaw

CONFLICT RESOLUTION AND ANGER

By Jeanette Bicknell

Anger can make us do and say things that we later regret. It can make a person do and say things that they would never do or say in normal circumstances. Most of us know or have known someone who became angry over trivial matters, or whose anger was detrimental to themselves and their relationships. There is a Buddhist saying that I think perfectly sums up the self-destructive character of anger: Holding onto anger is like holding a burning coal with the idea of throwing it at someone else; you are the one who gets burned.

Yet there is another side to anger. Anger or indignation can also be tied to our sense of justice and injustice. When we believe ourselves or others to be victims of an injustice this can make us angry. The philosopher Aristotle thought that the ability to feel anger at the right times, to the right degree, and for the right reasons, was a characteristic of a virtuous person. He thought that there was something flawed about a person who would fail to become angry over a serious injustice to himself or his friends. And later feminist thinkers have linked the ability to feel anger to proper self-respect. This is why to tell a woman that, "You're cute when you're angry," is demeaning. It suggests that the individual expressing anger (and the slight that caused it) are not to be taken seriously.

So while the expression of anger can be both damaging and self-damaging, it is not necessarily an emotion we'd be better off without. Sometimes we feel driven to express anger, as Shakespeare's "shrew" Katherine tells us:

> My tongue will tell the anger
> of my heart, or else my heart
> concealing it will break.

Yet at other times the expression of anger would be self-indulgent at best, and have serious harmful consequences at worst. I have in mind here occasions like expressing anger towards a boss, co-worker or a customer, or having an angry exchange with one's partner (or ex-partner) in front of the children. Even if the capacity to feel anger is tied to self-respect, sometimes the ability to suppress the expression of anger is a sign of mature self-restraint.

In modern society we're often encouraged to express anger. However it is worth noting that the available empirical evidence does not support the view that the expression of anger is always beneficial. In fact, recent research suggests that the expression of anger is helpful only if it is accompanied by constructive problem solving designed to address the source of the anger.*

Mediators have different views on the expression of anger during the mediation session. While mediators are trained to diffuse anger and other negative emotions, they don't always choose to do so. I've heard experienced mediators say

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things like, "My clients were really screaming at each other – that's when I knew we were getting somewhere!" I find it interesting that these mediators link the expression of anger with the work needed to resolve a dispute. It has been known for some time that attempting to solve disputes through a confrontational process such as litigation tends to make individuals who are already aggressive even more so. Furthermore the expression of anger in litigation is unproductive; it is not tied to any work or to any eventual solution of the dispute. The very nature of litigation is that someone else has the responsibility for solving the dispute. The expression of anger in a mediation session is a different matter. It has the potential, at least, to be real constructive work. An angry exchange in the privacy of a mediation session might be part of the process that leads to a satisfactory resolution for everyone involved.

"My tongue will tell the anger of my heart, or else my heart concealing it will break."

So… when to express our anger, like Shakespeare's Katherine, and when to keep it inside? While there are no easy answers, we might do worse than referring back to Aristotle:

Is this the right time to show anger? In the home, is there a possibility that young children might witness my outburst and be upset by it? At work, will my supervisors and co-workers think less of me if I display anger? Rather than reacting and displaying anger in the moment, a better strategy might be to suppress the response and share your feelings later with a trusted confidant. In a mediation session, expressing angry feelings to the mediator during a private session (caucus) is likely to be safer than sharing them with the group as a whole.

Am I angry to the right degree? Even if the time is appropriate, is the degree of your anger reasonable, in light of the cause? People who get very angry over real but relatively trivial matters rapidly lose the respect of those around them.

Am I angry for the right reasons? Remember the saying, "Don't sweat the small stuff"? Are you angry because of an injustice, or because of an inconvenience? Would a neutral outsider share your perspective?

To sum up, it is important to consider all that you communicate with an angry outburst – about your feelings in the moment, but also about your character. Are you communicating that you are a

reasonable person who is understandably upset by some serious matter? Or are you communicating that you lack appropriate self-control in the face of some annoyance or inconvenience? Caught in the grip of conflict and struggling to keep perspective, these are not easy issues to think about. Yet thinking about them is absolutely crucial and goes to the heart of what kind of person you want to be.

* See Littrell, J. 1998. "Is the Re-Experience of Painful Emotion Therapeutic?" Clinical Psychology Review, 18, 71–102; and Lohr, J. M., Olatunji, B. O., Baumeister, R. F., & Bushman, B. J. 2007. "The Pseudopsychology of Anger Venting and Empirically Supported Alternatives," Scientific Review of Mental Health Practice, 5, 54–65.

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"Anger is an acid that can do more harm to the vessel in which it is stored than to anything on which it is poured."

Mark Twain

THE MEDIATOR'S TOOLKIT: NEUTRALITY & THE MEDIATOR

By David Aschaiek

In the case of mediation, neutrality applies to a mediator's impartiality and refers to the idea that a mediator should not take sides in a dispute or voice an opinion about who is right or wrong in a dispute. Despite that it is critical for a mediator to be impartial, two items must first be noted. First, neutrality is not equivalent to passivity; that is, despite a mediator's neutrality, he or she is absolutely not exempt from actively participating in a dispute resolution process. Second, it is essential to consider that mediators are people first and mediators second; that is, there is room for personal perspectives to inadvertently make their way into a mediation context and interfere with the neutrality of a mediator's role.

Neutrality is Not Passivity There are a number of expressions in the English language that communicate neutrality. For instance, 'sitting on the fence', 'wishy-washy' 'to hem and haw' 'cop out' might be familiar. The connotation, of such expressions, is that an individual, by being neutral, is non-committal and passive. Though neutrality may have an association with passivity in some instances, this is not the case with respect to a mediator and his or her professional responsibilities. That is to say that despite that neutrality is a central value within the mediation profession, the mediator is not only not a passive party in a dispute resolution process; rather, he or she is explicitly involved within the dispute resolution process by actively directing it.

To use a metaphor, a mediator is much like the conductor of an orchestra. A mediator may not privilege a particular instrument's "voice," but he or she does determine which notes each party will play. In a similar fashion, a mediator may not privilege the position or interests of a particular party in a dispute. An orchestra director orchestrates the flow of music, and determines which instruments will be played, when and whether they will be played loudly or quietly, alone or together. A mediator, through how he or she consults with parties and through questions he or she asks, through how he or she directs questioning and times questions has an active and direct influence on the pace and flow of the mediation process. Ultimately, voices in an orchestral performance would not come together in the way they do without a conductor to orchestrate. Much in the same way, a mediator affects how parties in a mediation come together and in what way; in this way, through the process of orchestrating a mediation, a mediator actively shapes the mediation process.

The previous discussion has served to further articulate the meaning of neutrality within the context of the mediation profession. Specifically, as discussed, neutrality is not equivalent to

passivity in the context of mediation. Rather, though a mediator may be neutral in the sense that he or she does not have (or at least does not convey or share) his or her opinions about a mediation (and the parties involved in a mediation), he or she is an active participant in the mediation process.

Neutrality is not equivalent to passivity.

Further, as an active participant within and facilitator of the mediation process, a mediator shapes the mediation and thus, has the power and potential to influence outcomes of a dispute resolution process. The mediator has a responsibility, therefore, to be conscious of the power implicit to their role in the mediation context.

Neutrality and Accidental Bias The previous discussion centered on the idea that though neutrality often suggests passivity, a mediator is not passive in the dispute resolution process. Specifically, it was suggested that a mediator is much like an orchestra conductor – a conductor may not privilege any particular voice, note or instrument, but through his or her choices and guidance, he or she actively shapes the performance. Similarly, though a mediator may not privilege the voice of a particular disputant, through his or her choices and facilitation, he or she actively shapes a mediation and its outcomes. If so, then the mediator must especially be alert to how his or her own (often subconscious) attitudes and beliefs can inadvertently bias the mediation process and compromise his or her neutrality.

A mediator is a human being first and a mediator second, so it is understandable that human characteristics will seep into the mediator's professional persona. To be clear, bias is not necessarily introduced out of a mediator's malice or ill-intent, and may not be harmful to the mediation process. Yet, as a conductor introduces his or her 'biases' or 'preferences' into a composition through shaping performance of a composition, a mediator is in a position to introduce bias into a mediation process through shaping the mediation process. Thus, it is part of a mediator's responsibility to become explicitly aware and considerate of this aspect and potential of their role in the mediation process. In so doing, it might be noted that there are at least two ways in which a

A mediator is a human being first and a mediator second.

mediator inadvertently introduce biases into the mediation process and these are not necessarily mutually exclusive. First, a mediator may introduce bias into a mediation process due to his or her personal experience. Second, a mediator may introduce biases into the mediation process based on his or her reactions to the

Continued on next page

parties involved in the dispute.

Influences of Experience As has been suggested in this article, a mediator is a human being first and a mediator second. Much like any other professional, a mediator's personal experiences will affect his or her professional beliefs, attitudes and behaviours, on a subconscious level at the very least. In effect, in the event that a mediator or someone close to him or her was laid off by an employer, went through a divorce or was the victim of fraud or a contract violation, the experience and its outcomes will contribute to the view a mediator has of the dispute, the dispute resolution process and even the parties in a dispute. While a mediator's 'reaction' to his or her experience is a human one, it is one that can bias the dispute resolution process. In effect, it is a mediator's responsibility to explicitly examine his or her behaviour before, after and during a mediation process. And, it is within the process of reflective practice that a mediator identifies whether and how his or her experiences shape his or her perspectives and actions as a mediator.

A mediator is much like the conductor of an orchestra.

Influences of Perception In line with the idea that a mediator is a human being first and a mediator second, he or she is also vulnerable to interpersonal effects. Mediators' perceptions of the parties involved in a mediation can have implications for how decisions are consciously or unconsciously made around facilitation of a mediation process. For example, if a party in a dispute reminds the mediator of an individual that he or she knows, this can have implications for a mediator's choices. Further, a mediator is not immune to perceiving and interpreting the verbal and non-verbal cues transmitted by parties in a dispute. For example, if a mediator recognizes and feels that parties pursuing mediation are only doing so because they are mandated to do so, they will be especially sensitive to cues regarding parties' commitment to successful resolution of the mediation. If a mediator identifies that there is a power imbalance among the parties in a dispute, or that one party is more forthright than the other, then this can also influence how he or she proceeds with facilitating the mediation process. And finally, in the case that a mediator instinctively distrusts or dislikes one of the disputing parties, his or her feelings may inadvertently affect aspects of the mediation process.

Regardless of how the mediator's personal perceptions influence the mediation process, it is integral that the mediator demonstrates responsibility in his or her role as a mediator. Apart from ensuring his or her own safety in the mediation process (and that of the parties in the process), his or her number one priority is to the fair facilitation of the mediation process with the intent of achieving an optimal outcome for all disputing parties.

The Value of Reflective Practice
Reflective practice is recommended for all types of professionals; it is enormously important for professional growth because it involves committed efforts to take time and think about oneself in his or her professional capacity. To be more precise, it is not only about assessing one's professional performance, but rather, it is about thinking deeply and objectively about one's personal and professional selves independently and in interaction.

Reflective practice need not be retrospective, though at times it can offer perspective that is difficult to achieve when 'in the weeds'. In fact, it is deemed worthwhile for professionals to think about their practice reflectively as they engage in their professional lives.

Part of reflective practice involves understanding how one's personal thoughts, feelings and actions are presented professionally and have implications for professional practice. In the case of mediation, this would involve a mediator seeking to explicitly and non-defensively understand the threats to his or her neutrality. It is this awareness that is the first and most necessary step for a mediator to prevent biases from entering into the mediation context in a way that could compromise the integrity of the mediation process.

While it certainly requires a time commitment and a level of self-evaluation that might sometimes be uncomfortable, the benefits of reflective practice for a mediator are twofold. First, by controlling the inadvertent insertion of bias into the mediation process, reflective process protects the integrity of the mediation process, which serves the parties involved in a mediation as well as the mediator his or herself. In some cases, it might lead the mediator to realize that it would be prudent to opt out of the mediation altogether. Second, reflective process contributes to learning – it makes a mediator better at what he or she does...and let's face it...did a little learning ever hurt anyone?

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"My life is my message."

Mahatma Gandhi

MCFM'S 11th ANNUAL FAMILY MEDIATION INSTITUTE & 8th ANNUAL FISKE AWARD HONORING LYNDA J. ROBBINS

All Photos by Debra L. Smith

PRESENTED BY JOHN A. FISKE

We are all fortunate to know Lynda. She is as generous as she is competent, qualities I have tested more than once. She returns phone calls promptly, even knowing trouble may be at the other end. More than once have I had a sobbing client call me from the Concord Probate Court telling me their Separation Agreement had been disapproved and I soon discovered the best answer: tell the client to hire Lynda Robbins and she will get everything straightened out.

How is that excellence in mediation? Let me count the ways. She listens. She hears what is important. She understands how to connect with the spouse of her client. She is practical. She appreciates and knows the shadow of the law, what the court tolerates and what the court cannot stand even on a good day. Her leadership role in bringing Collaborative Law to Massachusetts also exemplifies this appreciation for the needs of clients who wants to remain in control of their lives with the comfort of a supportive lawyer. The processes may differ, yet require the same Lynda qualities. Her calm wisdom elevates the mediation process by helping to make it work. And whatever she is doing, she always seems to be having a really good time.

In the early days of mediation there were not a lot of family lawyers who saw the great promise of this process. Even fewer were those who tried it, and then committed themselves to helping make it work. Lynda was one of those, joining the MCFM 29 years ago and eventually serving as our president. That she was mediating leant credibility to what was then a novel and sometimes lonely pursuit. She saw the value of helping people regain control and dignity in their lives by building sensible separation agreements that endured because the clients created them. Now it seems to be becoming a movement, and Laurie and Ramona had to turn people away today.

Another unique contribution of Lynda to the spread of excellence in mediation is her founding and hosting for many years the Merrimack Valley Mediators Group and the North Suburban Mediators Groups. We need peer support in this challenging work. These groups of Lynda's lasted for years, and have served as a model for others including Lynn Cooper's new group in Newton. I once had the good fortune to be an invited guest of Lynda's, and about ten mediators spent two stimulating hours talking about pressing mediation issues that we cannot face alone. Last month she hosted an MCFM program on the value of peer support groups for you in your mediation practice.

In my mediations I find myself telling my clients they have to acknowledge each other, show each other some gratitude for something the other has done well. We

don't acknowledge each other enough. For her generosity and her competence, I am thrilled to see Lynda join this growing group of family mediators, right here in River City, who are getting acknowledged for their excellence.

ACCEPTED BY LYNDA J. ROBBINS

I am truly honored. I was surprised speechless (some may find that hard to believe!) when I found out I had been chosen to receive this award. Although, it might have been partly due to the delivery of the news—I do not believe any other recipient has had the announcement sung to her by a committee of some of her dearest colleagues!

I was drawn to mediation over 30 years ago. I can't even remember where or when I first learned about it but, I attended some workshops and was so inspired that I was brazen enough to start practicing without any real training! A few years later, I expressed an interest in taking John's mediation training but was concerned about finding 5 days away from work and a small child to do it. Word got back to John and I received a phone call from him saying that he had heard I was interested but didn't know if I could coordinate my schedule. He said they were setting the dates for the next training and asked what would be good for me? That was when I learned you can't say "no" to John!

I signed up for the training, of course. I did have some misgivings because I thought that, as an attorney, I'd be bored with the legal stuff and uncomfortable with the "touchy-feely" stuff. I was wrong—I loved it! And I was on my way.

One early discovery was that mediation is a solitary occupation. We sit in our offices or conference rooms with our clients and often do not get professional feedback until they bring the Agreement to attorneys for review or, worse, bring it to Court for a judge to review and question. It is important to interact with other mediators and related professionals such as lawyers, mental health professionals and financial professionals who serve as invaluable resources for issues of substance and for skill-building. We need to continue to learn and continue to acquire and refine our skills. As wonderful as my initial training was, I could not rest on my laurels and forego additional professional development. That would be a disservice to my clients and my profession. And, this is a profession. It is important that we treat it as such and strive for the highest levels of professional excellence and standards. Make no mistake, I am humbled and honored by this award and it is the highest point in my career but it is by no means the end of my professional growth.

How to make that continued growth and development happen? You all know that I am a strong proponent of peer support meetings and the interaction and learning they provide. And, it gets us out of our isolation. MCFM — this annual Institute and the regular Professional Development Meetings do as well. These forums provide opportunities for learning and

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increased expertise as well as referrals — also important for our professional growth! These meetings and the networking that results are tremendous resources and a connection to even greater resources and an expanded network.

I think one of my defining moments came when I read David Hoffman's book, Bringing Peace into the Room. Up until that time, I kept sitting in my professional isolation and thinking that I wasn't doing "it" right because I wasn't following the "rules." The clients probably sensed my own discomfort with myself. A number of essays in the book talked about the importance of being true to oneself and modifying the "rules" to work for our individual styles — and, of course, to meet the needs of the clients at our tables. All of a sudden, I was free! I know the clients could feel the greater confidence it brought.

I think another important "ah ha" moment was when I realized I needed to let go of outcome. As attorneys, we are all about the outcome and making it happen for the clients. Could I let go of all that and help the clients make it happen for themselves? It is still sometimes a challenge but, letting go of outcome is also very liberating. And, again, I believe the clients see the increased comfort and confidence and that is contagious.

My work with MCFM is another component of my professional growth. We are fortunate to have an amazing and hard working Board. I am proud to have served on that Board for over 10 years and to have been President for two. I have learned from every one of you.

None of us achieve excellence in a vacuum. And, as I said, it is an ongoing endeavor.

I will continue to strive toward achieving excellence in mediation and welcome your company on that journey.

Thank you, all, for this incredible honor.

Lynda Robbins

FOUR FISKE HONOREES

Jerry Weinstein, Lynda Robbins, David Hoffman & John Fiske

Lynda Robbins & John Fiske

Jon Fields

Barbara Kellman & Tracy Fisher

Amy Bricker & Larry Balin

Linda Sternberg, Judith Kaplan & Chris Chen

Lisa Ehrmann & Bill Leonard

Dan Finn

Cathy Heenan

Judy Levenson & Dorothy Anderson

Rachael Goldman & Ellen Waldorf

Jennifer Robertson & Howie Goldstein

Susan Klebanoff

Frank Farley

MOM ALWAYS LIKED YOU BEST: A GUIDE FOR RESOLVING FAMILY FEUDS, INHERITANCE BATTLES & ELDERCARE CRISES

By Arline Kardasis, Rikk Larsen, Crystal Thorpe, and Blair Trippe

Reviewed by Carol Cioe Klyman

Effective argument can destroy relationships. Power coalitions within a family can result in battles won and wars lost. Building consensus is the smart way to negotiate when all parties are dug in, may not see issues rationally, and despite their differences must maintain contact when the battle is over. Even if you do not spend Christmas with mean Uncle Joe, you will probably see him at family weddings and funerals. How awkward and unpleasant if you lost your temper or felt bullied by him during a family dispute, no matter if you won the argument or were left with bruises.

This small volume written in conversational English by four experts in the field of conflict resolution should be required reading not just for Elder Law attorneys, but for anyone who may be involved in a dispute with layers of subtext, such as the typical family argument. Simmering beneath the overt problem are all of the unresolved feelings, slights, anger, and distrust that may have been passed down like inherited assets from one generation to the next. This book teaches how to get past all that and be more effective in a family dispute by focusing on the positive outcome rather than the process of the argument.

The authors are a bit Zen-like in their approach. They are not so naïve as to assume their readers are all rational, reasonable adults in touch with the better angels of their nature. They appeal to the pragmatic. Conflict resolution is not a capitulation, and resolution may or may not result in compromise. The authors understand the human need to win but contend that to have the negotiation end in the result you hoped for, with the other side feeling invested in your success is the true winning outcome.

The rational approach to "getting to yes" begins with identifying interests as opposed to positions. Positions and conclusions are established through our observations of the world. Our observations of the world are influenced by our experiences, biases, values, needs, and desires. For this reason a position may or may not be based in reality. Positions on a given issue often differ because individuals have their own individual perspectives. Arriving at a position rather than identifying one's interests often ends in taking a stand, and it is from these disparate positions that family arguments ensue. If family members cannot get past these positions, there is impasse.

The key to breaking the stand-off is to separate positions from interests. While, according to the authors, positions are our biased conclusions, interests on the other hand represent our needs, desires,

Continued on next page

values, aspirations, fears, and concerns. For example, a position would be: Mom needs to stop driving immediately. A competing position would be: Mom is fine; she will suffer more if she can't drive. Behind the first stand is a concern for mom's safety and the safety of others on the highway. Behind the second stand may be concern that mom will become depressed and lonely if she is deprived of her ability to drive. Interests tend to be more complex and layered than positions. The first sibling is likely also concerned about mom's emotional well-being, and the second sibling likely also fears for mom's safety. Both siblings may be reluctant to admit it, but they probably dread the logistical problem of arranging transportation for mother. They may differ on the "fact" of mom's ability to drive, but in this example, their views of what is really important — mom's physical and emotional well-being — intersect. This is the basis for collaborative decision-making. "[T]rue success is achieved only when you have determined what you need and why — and when you have created a resolution that satisfies your needs regardless of whether the resolution matches your initially stated position," the authors write. This means putting aside positions and focusing on interests.

Conflict resolution is not a capitulation, and resolution may or may not result in compromise.

The next step to positive conflict resolution is to ask questions and gather information. The authors counsel that when an opponent digs into a position, the more enlightened party must try to understand the reason for the position taken. In the above example, it might mean questioning the sibling about the observations that led to the conclusion mom should not drive. She may have seen dents in mom's car or a speeding ticket, and maybe she is afraid for mom but she does not dare ask mom about her observations. The siblings also need to gather more information about the risks to mom's continuing to drive, perhaps involving professionals such as mom's physician, as well as to investigate the availability and cost of alternate transportation. Through the process of information gathering the parties begin to move away from intractable positions.

The path to consensus essentially starts at the end and works backward. From the initial assessment of the goal one is trying to achieve and the identification of the parties' common interests, the authors guide the reader in developing options toward reaching the goal, diffusing negativity through effective communication, and finally, on to consensus.

Each step is important. The authors contend that options should not be developed until the parties have fully explored their interests. It is clear that effective communication is key to resolution. "Active listening" — jargon that these authors deconstruct and illustrate — should enable opposing

parties to feel that each of their views are being heard, respected, and understood. While expressions of anger and frustration are best avoided, it may be important to discuss those feelings in order to break an impasse. The authors provide an "Active Listening Kit" that includes examples of conversation boosters (open-ended questions that do not call for yes or no answers), acknowledgments of appreciation, bullet point summaries of discussion highlights, reframing of issues (to turn down the heat and illuminate), using optimism and transparency to generate trust, and stringing phrases together with "and" instead of "but," which the authors call "the big eraser." You have to read the book to find out why. Because each topic is explained with concrete examples, the list is a real toolkit rather than vague platitudes.

The Active Listening Kit enables the reader to develop consensus among different solutions that may develop during the communication process. For example, the authors encourage readers to deconstruct the elements of the various options and develop a "zone of possible agreement" where the elements overlap and intersect. Elements outside the zone are non-negotiable, and elements inside the zone are negotiable. The most important negotiable elements will form the basis for an agreement.

The very best part of this book is how the authors apply theory to reality. For example, they discuss how the toolkit would apply to the issue of whether Dad should move to an assisted living facility, a very real issue in our clients' lives. In this family discussion, Dad also gets a say. Readers are counseled to slow down. Developing a solid decision-making process takes patience and practice, but will stand a family in good stead through disagreements to come, particularly as parents and siblings age. The book also contains chapters on barriers to consensus, and how to unstick the negotiation process when it becomes stuck. The laundry list of barriers is a long one — starting with lack of trust and different concepts of fairness and ending with historical impasses and emotional responses (Mom always liked you best). They illuminate the forces giving rise to the barriers one at a time and provide helpful suggestions to overcome them to keep the conversation moving. The authors also give advice on how to include the elder in the negotiation process, how to conduct family meetings, and how to identify abuse and neglect of a loved one and confront and deal with the suspected wrongdoer.

The path to consensus essentially starts at the end and works backward.

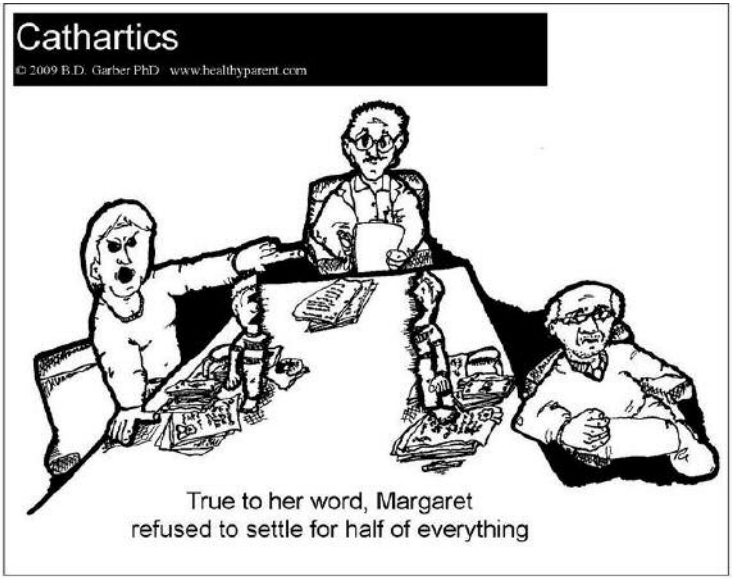
The authors spend a whole chapter on the proper way to apologize, which is becoming a lost art. A proper apology must be an unconditional acceptance of responsibility with no "buts" attached. Timing is important — the apology must come at a time when the victim of the slight is able to choose whether or not to

Continued on next page

accept, not when it is convenient for the apologizer to apologize, and rarely in the heat of the moment in which offense is given. Expressing contrition is not empathizing. Empathy, "I know you're upset," may be helpful to break an impasse, the authors assert, but empathy can dilute an apology. After reading this chapter of the book, you will find yourself deconstructing the public mea culpas reported in the press and finding most of them wanting. As the authors note, a poor apology can be worse than no apology at all.

So much information and practical advice is packed into this little manual. Elder Law attorneys with litigation practices will find it particularly useful in that it focuses on issues confronted routinely. Because it is written in a very approachable and readable style, with short paragraphs and bullet points, the book would be a helpful instruction manual for clients facing difficult family situations and for the attorneys who counsel them.

Carol Cioe Klyman, Esq., Springfield, Mass., is a member of the *NAELA Journal* Editorial Board. Originally published in NAELA Journal, published by the National Academy of Elder Law Attorneys, www.NAELA.org. Reprinted with permission.



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BUSY BEING BORN:
Bob Dylan's Notes for Mediation

David A. Kellem

From the smithy of his craggy-voiced soul, Bob Dylan has forged lyrics that demand reflection and inspire change. No lyric is more profound and pragmatic for the world of mediation than 10 words the artist voiced as a young man in 1965: *he who is not busy being born is busy dying*. Dylan has lived this mantra of self-creation for 50 years and remains a fresh, relevant and inspiring force today. As practitioners of the art of divorce mediation, we too can remain fresh, relevant and inspiring – and can change the worlds of our clients – by being busy being born.

The experience of mediation, at its highest form, should be a growth process. Our clients come to mediation in emotional and financial crisis, living the death of their marriage and confronting an uncertain future. Our goal is to help clients detach from their negativity so they may craft an agreement that promotes a healthy post-divorce life. Our job is to keep them busy being born in the mediation process rather than busy dying.

To be effective, we must remain sensitive to the states and stages of our clients' trauma. The mediator's complacency is a natural emotional defense but an enemy to our art. Mediators must welcome the pain, fear, anxiety, sadness, anger, resentment, and even pathology that come into the mediation session. It is the very stuff of our song.

How can we remain attuned to our clients' needs? One way is blowing in the musical winds around us. Bob Dylan's songs illustrate 10 emotional states that can stand as obstacles to successful negotiations. Take a listen:

Track 1. The Checked Out This individual has moved on emotionally from the marriage and is uninterested in rehashing the details of the marital dissolution that the other spouse still needs to vet.

Oh, Mama, can this really be the end
To be stuck inside of Mobile
With the Memphis blues again.

Track 2. The Disgusted This spouse is continually flabbergasted by the other spouse's destructive stupidity regarding the marriage. He (or she) can't believe they ever loved the other, and sings

Idiot wind, blowin' every time you move your teeth,
You're an idiot babe,
It's a wonder that you still know how to breathe.

Continued on next page

Track 3. The Deeply Saddened but Resigned Devastated by the breakup, this spouse accepts the fate of divorce – and to prove perpetual love and strength of character, is willing to make a deal that supports the other's needs more than necessary.

And though our separation, it pierced me to the heart,
She still lives inside of me, we've never been apart.

Track 4. The Vanquished and Depressed The husband or wife who feels lost in the break up. He or she goes through the motions and remains passive and disconnected in the mediation:

And when finally the bottom fell out, I became withdrawn.
The only thing that I knew how to do was to keep on keepin' on,
And I just grew, tangled up in blue.

Track 5. The Exhausted and Fatalistic Shrouded in the blackened depths of marital failure, this spouse feels spent and bereft of any chance for happiness.

Mama take this badge off of me
I can't use it anymore
It's getting dark, too dark to for me to see;
I feel like I'm knocking on heaven's door.
Mama put my guns in the ground
I can't shoot them anymore
That long black cloud is coming down.
I feel like I'm knocking on heaven's door.

Track 6. The Forlorn Cynic This spouse responds to every assertion or proposal from the other spouse with "Whatever."

I ain 't sayin' you treated me unkind,
You could have done better but I don't mind,
You just kinda wasted all my precious time,
But don't think twice, it's all right.

Track 7. The Shocked and Leveraged Having lived an affluent life style, this husband or wife cannot mentally absorb the financial change that divorce will bring. Blissfully detached from the marital finances, this spouse never understood (and probably was not told) that the marital lifestyle was financed by credit cards and home equity loans. He or she expects to maintain lifestyle luxuries no matter what the numbers show, and persists in proposing unaffordable settlement options. The enabler spouse loudly refrains, in disbelief and frustration, that the other:

Admit that the waters around you have grown,
And accept it that soon, you'll be drenched to the bone.
If your life for you is worth saving, then
You better start swimming or you'll sink like a stone,
For the times they are a changing

Track 8. The Still in Love, But . . . These clients continue to care deeply for one another although an unforgivable mistake (usually an affair) has irreparably severed their bond of trust. They each know the marriage must end, despite their love.

We split up on a dark sad night,
Both agreeing it was best.

And though our separation, it pierced me to the heart,
She still lives inside of me, we've never been apart.

Track 9. The Berater, Humiliater and Castigater This spouse argues fiercely over a *de minimus* financial estate and valueless items of household personal property. Why?

Cause when you got nothing, you got nothing to lose.

Track 10. The Emotionally Proud This client puts on a good face and a strong front despite the deep sadness that is evident below the surface. The mediator is solicited to

Say for me, that I'm all right,
Though things get kind of slow,
She may think that I've forgotten her,
Don't tell her it isn't so.

I used to think that it was best not to offer a seat at the mediation table to high conflict and deep pain. I was so much older then. Because I've tried to stay busy being born, I'm younger than that now.

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WHAT'S NEWS?
National & International Family News
Chronologically Compiled & Edited by Les Wallerstein

U.S. Suicide Rate Spikes Since Recession The rate of suicide in the United States rose sharply during the first few years since the start of the recession. According to a study reported by The Lancet, researchers found that the rate between 2008 and 2010 increased four times faster than it did in the eight years before the recession. The rate had been increasing by an average of 0.12 deaths per 100,000 people from 1999 through 2007. In 2008, the rate began increasing by an average of 0.51 deaths per 100,000 people a year. Without the increase in the rate, the total deaths from suicide each year in the United States would have been lower by about 1,500, the study said. Every rise of 1 percent in unemployment was accompanied by an increase in the suicide rate of roughly 1 percent, and the link between unemployment and suicide was about the same in all regions of the country. (Benedict Carey, N.Y. Times, 11/5/2012)

Historic Ballot Box Victories for Same-Sex Marriage in Maine and Maryland Voters in Maine and Maryland approved same-sex marriage, marking the first time that marriage for gay men and lesbians has been approved by Americans at the ballot box. While six states and the District of Columbia have legalized same-sex marriage through court decisions or legislative decisions, voters had rejected it more than 30 times in a row. (Erik Eckholm, N.Y. Times, 11/7/2012)

Same-Sex Marriage Wins in Washington Opponents of same-sex marriage in Washington State have conceded defeat. The concession comes a day after supporters of gay marriage declared victory on Referendum 74, which asked people to approve or reject a law legalizing same-sex marriage that state lawmakers passed earlier this year. Washington now joins Maine and Maryland as the first states to approve same-sex marriage by popular vote. (AP, New York Times, 11/8/2012)

Minnesota Voters Reject Constitutional Ban on Same-Sex Marriage Minnesota banned same-sex marriages by a statute passed in 1997, shortly after passage of the federal Defense of Marriage Act. In May 2011 the Minnesota legislature adopted a constitutional amendment that would ban recognition of same-sex marriage in the state if approved by voters. On November 6, 2012, Minnesotans voted 51% against and 48% for this amendment, making Minnesota the second US state to reject a constitutional ban on same-sex marriage. The first state to do so, Arizona, adopted such a ban in a subsequent election. (Wikipedia, 11/9/2012)

Adultery, an Ancient Crime, Remains on Many Books When David H. Petraeus resigned as director of the C.I.A. because of adultery he was widely understood to be acknowledging a misdeed, not a crime. Yet in his state of residence, Virginia, as in 22 others, adultery remains a criminal act, a vestige of the way American law has anchored legitimate sexual activity within marriage. In most of those states, including New York, adultery is a misdemeanor. But in others — Idaho, Massachusetts, Michigan, Oklahoma and Wisconsin — it is a felony, though rarely prosecuted. In nearly the entire rest of the industrialized world, adultery is not covered by the criminal code. Adultery laws extend back to the Old Testament, onetime capital offenses stemming at least partly from a concern about male property. Peter Nicolas of the University of Washington Law School says the term stemmed from the notion of "adulterating" or polluting the bloodline of a family when a married woman had sex with someone other than her husband and ran the risk of having another man's child. (Ethan Bronner, NY Times, 11/15/2012)

The Gini Coefficient Wealth inequality in America has worsened for two decades and is now at an extreme level. A common statistical measure of inequality is the Gini coefficient, a number between 0 and 100 that rises with greater disparities. From the late 1970s through the early 1990s, the Census Bureau recorded Gini coefficients for income in the low 40s. Yet by 1992, the Gini coefficient for wealth had risen into the mid-70s, according to data from the Federal Reserve. Since then, it has risen steadily, to about 80 as of 2010. In 1992, the top tenth of the population controlled 20 times the wealth controlled by the bottom half. By 2010, it was 65 times. Our graduated income-tax system redistributes a small amount of money every year but does little to slow the polarization of wealth. (Daniel Altman, NY Times, 11/19/2012)

Under One Roof Architectural historians, statisticians and builders are pointing out that the new household — and the house that can hold it — is much like the old household, the one that was cast aside after World War II by the building boom that focused on small, tidy dwellings for mom, dad and their two children. Population statistics help tell the tale. A Pew study reports that 41 percent of adults between 25 and 29 are now living, or have lived recently, with their parents. Over all, more than 50 million Americans are in multigenerational households, a 10 percent increase from 2007. (Penelope Green, NY Times, 11/30/2012)

Mortgage Catch Pushes Widows Into Foreclosure Just as the housing market is recovering — widows over the age of 50 whose husbands alone were holders of the mortgage — are losing their homes to foreclosure because of a paperwork flaw that

Continued on next page

keeps them from obtaining loan modifications. While there are no exact measures of how many widows have entered foreclosure, figures compiled by AARP show the rate of foreclosures among people over 50 increased by 23 percent from 2007 to 2011, resulting in 1.5 million foreclosures. To stay in the home, the surviving spouse needs to take over the mortgage. But to do that, most banks require that the borrower assuming the mortgage be up-to-date on payments. Housing advocates say that their clients, especially if one spouse experienced a prolonged illness, often find they are already thousands of dollars behind. As of 2011, 6 percent of loans held by people over 50 were delinquent, up from about 1 percent in 2007. (Jessica Silver-Greenberg, NY Times 12/1/2012)

US Census Officials Cite Significant Demographic Shifts The term "minority," at least as used to describe racial and ethnic groups in the United States, may need to be retired or rethought soon: by the end of this decade. According to Census Bureau projections, no single racial or ethnic group will constitute a majority of children under 18. And in about three decades, no single group will constitute a majority of the country as a whole. The new projections — the first set based on the 2010 Census — paint a picture of a nation whose post-recession population is growing more slowly than anticipated, where the elderly are expected to make up a growing share of the populace, and that is rapidly becoming more racially and ethnically diverse. By 2060 one in five people in the United States will be 65 or older, up from one in seven now. The share of the population that is between 18 and 64 — considered working age — is expected to decline to 56.9 percent in 2060 from 62.7 percent now. In 2056, there are projected to be more people 65 and over than under 18 for the first time. (Michael Cooper, NY Times 12/12/2012)

Violence Against Indian Women Continues to Increase India, which has more than 1.3 billion people, recorded 24,000 cases of rape in 2011, a figure that has risen by 25% in the past 6 years. (Heather Timmons & Niharika Mandhana, NY Times, 12/29/2012)

Pre-Divorce Mediation Mandatory in UK Since April 2011 all couples whose marriages break up have had to consider mediation first before turning to the legal system to settle disputes, although cases involving domestic violence or child protection issues still go straight to court. Figures for legal aid cases show that the average cost of using mediation is about £500, compared with £4,000 for issues that are settled through the courts. The average time for a mediated case is 110 days and 435 days for non-mediated cases. The government said it would pump a further £10?million into mediation services, taking the total funding available this year to £25?million. The number of couples in England and Wales getting divorced has fallen since a record high of more than 165,000 in 1993, and stood at 117,558 in 2011, a slight decrease on

the previous year. However, this is in part down to fewer people getting married in the first place. Census figures published last month show that married people have become a minority for the first time. The number of people in England and Wales describing their marital status as divorced grew by 20 per cent to 4.1 million. (Sam Marsden, Telegraph.co.uk, 1/4/2013)

Are You a POSSLQ? Forty-four percent of American adults are unmarried. Seven million Americans live with a paramour who is not a spouse. Until the 1970s, the American faux spouse was too rare and taboo to even try to track. In 1980, the United States Census Bureau made its first attempt at naming these creatures in order to count them. It really outdid itself lexicographically: "person of opposite sex sharing living quarters," abbreviated to POSSLQ and pronounced "possle cue." The CBS commentator Charles Osgood had his way with the acronym, publishing a poem (reproduced in full) riffing John Donne's "The Bait." (Elizabeth Weil, NY Times, 1/6/2013)

MY POSSLQ

Come live with me and be my love,
And we will some new pleasures prove
Of golden sands and crystal brooks
With silken lines, and silver hooks.
There's nothing that I wouldn't do
If you would be my POSSLQ.

You live with me, and I with you,
And you will be my POSSLQ.
I'll be your friend and so much more;
That's what a POSSLQ is for.

And everything we will confess;
Yes, even to the IRS.
Some day on what we both may earn,
Perhaps we'll file a joint return.
You'll share my pad, my taxes, joint;
You'll share my life - up to a point!
And that you'll be so glad to do,
Because you'll be my POSSLQ.

Les Wallerstein is a family mediator and collaborative lawyer in Lexington. He can be contacted at (781) 862-1099, or at wallerstein@socialaw.com

"You don't need a weatherman to know which way the wind blows."

Bob Dylan

MCFM NEWS

MCFM'S NEXT FREE PROFESSIONAL DEVELOPMENT WORKSHOP

IT'S NO SIN: FILING & SERVING A COMPLAINT BEFORE OR DURING FAMILY MEDIATION

Wednesday, February 13, 2013
WELLESLEY PUBLIC LIBRARY
530 Washington Street, Wellesley, MA
Wakelin Room, 2PM – 4PM

Presented by Gina Arons, Psy.D., David A. Hoffman, Esq., Hon. E. Chouteau Levine (Ret.) & William M. Levine, Esq.

The panel will discuss many of the protections, rights and obligations that will arise from the commencement of a legal action during family law mediation; the challenges to mediators when considering if, when and how to discuss these issues with mediation clients; the; the range of potential reactions by mediation clients, emotional, strategic and tactical; and the potential impacts on the mediation itself. Member attendees' input and questions will be encouraged.

PLEASE REGISTER IN ADVANCE AT WWW.MCFM.ORG

ATTENDANCE AT MCFM PROFESSIONAL DEVELOPMENT WORKSHOPS QUALIFIES FOR CREDIT EARNED TOWARDS BECOMING AN MCFM CERTIFIED MEDIATOR

CONTACT TRACY FISCHER FOR CERTIFICATION DETAILS
tracy@tracyfischermediation.com

MEDIATION PEER GROUP MEETINGS

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 information 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 <Kathleen@divmedgroup.com> who will coordinate this outreach, and put mediators in touch with like-minded mediators.

OFFER MCFM's BROCHURES WHILE THEY LAST

Copies of MCFM's NEW 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
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 wallerstein@socialaw.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.***

Doubt is not a pleasant condition, but certainty is absurd.

Voltaire

ANNOUNCEMENTS

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

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ELDER /ADULT FAMILY MEDIATION TRAINING

Presented by Elder Decisions - A Division of Agreement Resources, LLC

This program teaches mediators specialized skills and techniques for working with seniors and adult families facing issues such as living arrangements, caregiving, financial planning, inheritance/estate disputes, medical decisions, family communication, driving, and guardianship.

THREE DAY TRAININGS

February 12-14, 2013 OR April 9 – 11, 2013

9:00 AM – 5:30 PM on days 1 & 2
9:00 AM – 4:00 PM on day 3
Newton, MA

Lead Trainers:
Crystal Thorpe and Rikk Larsen

Cost: $775 by early registration deadline, $875 thereafter.
Trainings include lunches, snacks, and course materials.

For detailed information and registration:

visit: Elder Mediation Training
email: training@ElderDecisions.com
or call: 617-621-7009

$100 DISCOUNT FOR MCFM MEMBERS

30-HOUR BASIC MEDIATION TRAINING

Presented by The Mediation & Training Collaborative (TMTC)

Greenfield, MA
March 1, 9, 15 & 23, 2013
9:00 am to 5:30 pm each day

This highly interactive, practice-based training is open to anyone who wishes to increase 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 available upon request.

FOR MORE DETAILS OR TO REQUEST A BROCHURE CONTACT:
Susan Hackney at mediation@communityaction.us or call 413-475-1505
or visit www.communityaction.us/upcoming-trainings-events.html.

THE DIVORCE RECOVERY SERIES

Led by Mary Vanderveer, M. Ed., LCSW

The Divorce Recovery Series is an outreach program of The First Congregational Church in Norwood, offered as a community service. Groups are ongoing and continue throughout the year. All participants are welcome, regardless of religious affiliation.

Divorce Recovery is a support group for those who are separated, considering divorce, or divorced. It offers support and healing to people experiencing the pain of separation and divorce. Group members gain knowledge regarding the emotional stages of divorce and how to cope with lifestyle changes. Each session includes discussion and presentation of topics such as denial and bargaining, anger, depression, acceptance, forgiveness, alone without loneliness, letting go, spirituality in one's life, and creating a new lifestyle. **The cost is $90 for eight consecutive weekly sessions.**

Moving Ahead is a support group for those who have completed *Divorce Recovery* that addresses the needs of people who are rebuilding their lives after divorce. As a person's self-esteem takes a toll when experiencing divorce, the focus is to support people in creating a new and positive lifestyle. Topics include affirming and

Continued on next page

validating ourselves, self-acceptance, taking responsibility, changing negative thinking, reconnecting and developing spirituality, developing support systems, setting limits and boundaries. **The cost is $90 for eight consecutive weekly sessions.**

FOR MORE INFORMATION VISIT: http://firstcongregational-norwood.com
TO REGISTER: call 781-762-3320, or email: firstcongo.norwood@verizon.net

COMMUNITY DISPUTE SETTLEMENT CENTER

For more info, contact CDSC:
Tel. 617-876-5376 • Fax: 617-876-6663
E-mail: cdscinfo@communitydispute.org

NEW BEGINNINGS

An interfaith support group for separated, divorced, widowed and single adults in the Greater Boston Area. **Meets year-round, every Thursday, from 7:00 to 9:00 PM, at** Wellesley Hills Congregational Church, 207 Washington Street. For more information call 781-235-8612. **Annual Dues $50.**

For program details & schedule visit
www.newbeginnings.org

THE CHILD & FAMILY WEBGUIDE FOR ONLINE ACCESS TO CHILD DEVELOPMENT INFORMATION

The Child & Family WebGuide was created in April 2001 by Professor Fred Rothbaum and Dr. Nancy Martland of the Tufts University Eliot-Pearson Department of Child Development. The WebGuide describes trustworthy websites on topics of interest to parents and professionals that have been systematically evaluated by graduate students and faculty in child development. The WebGuide is easily searched by subject,

including many of constant concern to family mediators, e.g., divorce, separation and stepparents. It also offers several features requested by parents, e.g., 'ask an expert' sites and 'research news' sites. The goal of the WebGuide is to give the public easy access to the best child development information on the Web.

www.cfw.tufts.edu

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 article
call Les Wallerstein (781) 862-1099
or email wallerstein@socialaw.com

NOW'S THE TIME TO SHARE YOUR STORY!

"Married couples who love each other tell each other a thousand things without talking."

Chinese Proverb

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 **Rebecca J. Gagné at rebecca@gagneatlaw.com**.

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

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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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1982 MASSACHUSETTS COUNCIL 31st ANNIVERSARY ON FAMILY MEDIATION 2013

MCFM

www.mcfm.org

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.