

MCFM
FAMILY MEDIATION QUARTERLY

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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

Did you know... MCFM is in the process of updating our website to make it of greater value to our members and to our consumers. Any of you who may be website gurus, please pass on any ideas, thoughts, or suggestions you may have that come to mind. You may email me at kathleen@divmedgroup.com.

Mediation Tips – Stay Balanced What a temptation it is to move on after one spouse has provided a pretty comprehensive outline of an issue and the other spouse has sat patiently nodding assents here and there. More often than not, if you specifically ask the listening spouse for his or her take on the issue, you will hear more information. Not only does it fill out the picture, it is a tool you can easily use to demonstrate your neutrality.

Practice Tips – Client Notebooks Provide your clients with 3-ring binders with pockets to keep their papers, notes, documents, etc., in. It is a place for them to store resource information that they may acquire on their own or that you may provide to them. It also provides them with a place to go back to later where they can find their divorce documents and other relevant papers.

Business Tips – Get Paid As You Go For those mediators whose primary billing is for mediation time and for writing agreements or preparing documents (and not for review of documents, or writing interim memos, or having phone contact with clients), you may want to use a pay as you go system. This is where there is no upfront retainer and no big bill at the end. The clients pay for their time at the end of each session. They pay for their agreement and for any forms that are drafted prior to final documents being disbursed to them. It greatly simplifies bookkeeping for the sole practitioner.

MCFM – Your Best Friend Your board's nominating committee is beginning to review possible board openings and potential candidates for any of those potential openings for our June election. Let us know if you are interested in being considered. You can email me at kathleen@divmedgroup.com

Mediation World Canada has been in the international forefront of court connected mediation services for years. In Toronto, in 1998, a roster of family mediators was developed and is available to all clients of the family court. Clients are required to pay for the service. Mediators on the roster charge a fee of \$300 per party for the first four hours of mediation (including preparation and screening), after which they may charge their usual fee. Mediators on the roster are also required to provide a minimum of 12 hours of free mediation per year.



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AN APOLOGY AT THE DIVORCE MEDIATION TABLE

By Ronald Ramer

Abstract In court ordered custody and visitation mediation, an apology, spoken directly by one of the parties, or intimated by a party and then facilitated by a mediator, can dramatically change the mediation process and outcomes.

The change in process can involve party movement from an accusatory and confrontational communication process to one which combines transformative and problem-solving approaches leading to party resolution of issues.

After a brief statement and explanation of each of three key elements that form the core of an apology, the author presents a court ordered case he has mediated to illustrate how each element functions and how it was processed.

Introduction Schneider (2000) summarized research on apology and informs us there are three main elements to an apology. They are, the offender: (a) acknowledges an injury to the one offended; (b) shows that he or she is visibly affected by what he or she has done; and (c) is vulnerable when he or she offers of an apology without defense because the offended party may refuse to accept it.

ELABORATION AND ILLUSTRATION OF THE ELEMENTS OF AN APOLOGY

Element One: Acknowledgment The first element is “acknowledgment – recognition - of an injury that damages the bonds between the offending and offended parties” (Schneider, 2000, p. 266). The offense is one that Schneider says has to be a “genuine injury that transgresses a moral or relational norm” (2000, p. 266). In the acknowledgment, the offender expresses personal accountability for the injury and says in effect, it was my action, and I offer no excuse. It is important that the apology contain no excuse. An excuse minimizes the impact of the injury on the one offended. Being visibly affected by the impact on the one injured is the second of the three elements and will be discussed as part of case study #2.

Case #1: Acknowledgment of an injury Parents were divorced for four years, with Mom as primary residential parent and both parents awarded joint legal custody. Then Mom’s drug possession led to Dad’s successful petition to be awarded sole physical and legal custody of the minor child. Mom was permitted supervised visitation, with Dad as supervisor, for one, four-hour period on a Saturday and on a Sunday on alternate weekends. After the order had been in effect for four years, Mom petitioned for unsupervised visitation and more time with the minor child, a 13-year-old daughter.



During intake interviews, Dad stated he did not believe Mom's petition because she missed past visitation appointments, and he questioned why she did not ask for more time sooner.

Mom said she had straightened herself out and has now held a full-time job for eight months. She wants to be with her daughter. Her attorney's perspective was that Mom had changed and should be given a chance. Dad was *pro se*.

The first joint mediation session began with Mom choosing to speak first. She acknowledged her mistakes that damaged her relationship with Dad, and her relationship with her daughter.

Mom said: "I am not perfect; I messed up; I messed up with you. I want to do better. I am asking for a chance to prove myself. My daughter is at a stage where she needs me. I'll work with you. I don't want her to make the same mistakes I made."

I don't know what I can say to you now so that you would believe me."

After several moments of silence, the mediator asked Dad: "Is what Mom is saying credible – do you believe her?"

Dad: "Yes, for the first time in eight years I believe her."

Analysis: Mom's opening statement expresses the first element of an

apology, acknowledgment of an injury and her accountability – she is responsible. The words she says are she "messed up." The research on apology says she is now engaged in a linguistic ritual, one that uses words to let the offended party know that she caused an injury and the words alone cannot undo it, but the injury cannot go unnoticed (Tavuchis, 1991, p. 13). She acknowledges that her actions damaged her relationship with Dad – she messed up with him. And now she wants to work with Dad so that her daughter does not make the same mistakes and do drugs.

As a reparative mechanism, apologies also redress moral relationships and restore to the offended party a sense of goodness.

When writers talk about the power of apology, they are talking about an apology as a reparative process, the kind of process that occurs within transformative mediation. In the above case, Mom wants to restore her sense of being a good mom by repairing her relationship with her ex-husband and her daughter. The redress is to be a positive influence in her daughter's life.

Mom is visibly affected personally by her actions and this is the second of the three elements that must be present for it to be a genuine apology.

Element Two: Affect Schneider wrote, "To truly accept responsibility, the offending party must also be visibly

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affected personally by what he or she has done” (2000, p. 266). He also found that evidence of the offender being “troubled” by what he or she has done has to be there; it is a feeling that might be called “regret and shame” (2000, p. 266).

Case #2: Illustration Parties were married eight years, one child now three years old. Each filed for sole custody. A Guardian ad Litem was appointed. His report stated that both parents will work together for their child. The GAL said the child is fine when he is with the mother, at least for a temporary custody situation. Case has been in the court two years when it was ordered to mediation.

During intake interviews, Mom said that this case is all about a gun the husband

The injured party may refuse to accept the apology.

bought for her; now they are divorcing, she won’t give it back. She believes “he is making it hard for her because of this gun.” Dad said Mom’s house was filthy and the child was not being cared for as his reasons for sole custody.

During the joint session, the mediator asked what this dispute was about. Mom spoke directly to her husband and said this was never about the gun that she refused to return to Dad.

Mom: “I feel like the stupidest person in the world. I was the one who invited my best girlfriend to live with us when she lost her apartment and had nowhere to

go. My best friend, right in my own apartment. And you and she are now going to get married. Don’t you see how I feel? Don’t you see what you are doing and what you are throwing away? Five years we tried to have a baby, we spent thousands of dollars for fertilization doctors and then we finally had our son. And now you are throwing all this away?”

Dad is silent.

The author felt that this was an opportunity where Dad might acknowledge Mom’s feelings of being thrown away. He asked Dad if he heard what Mom was saying, about being thrown away. Could he feel that? He said to Dad, “If I could speak as you, I would say to Mom that I hurt you, that I am sorry.” The mediator continued speaking to Dad: “Is this something you can say to Mom?” Dad replied, “Yes,” and spoke those words to Mom. Dad’s impact on Mom was such that Mom accepted what he said. The fact she accepted is explained by research literature that tells us that the spoken words have to be sincere, that the offender really means what he says, and that the injured party feels both the acknowledgment and that the offender is affected by the injury.

Analysis: The parties engaged in repair work (Schneider, 2000, p. 268); the author modeled an empathic understanding of Mom’s statements and invited Dad to communicate to Mom in a way where his words could not make up for the injury, but the words began to



repair their ability to join in cooperative communication to arrive at resolution of the custody and visitation issues. He felt that some parties need assistance in order to get past defensiveness and fear of blame that preclude apology (Schneider, 2000, p. 269).

As a reparative mechanism, apologies also redress moral relationships and restore to the offended party a sense of goodness. This is seen clearly in Case #2. Mom wanted Dad to know that his initiation of the divorce made her feel like trash, to be thrown away. Only when Dad felt and expressed his empathic response to the impact that his words and actions were having on Mom did Mom feel that the moral imbalance was restored – she was a good person. After this exchange occurred in the mediation, he asked how they wanted to proceed. Both of them said they wanted to get the mediation completed and they shifted into problem solving over custody and visitation, which they did resolve during that session.

Mom accepted his apology. She did not have to. And that leads to the third element of an apology, which is the injured party may refuse to accept the apology.

Element Three: Vulnerability An apology, to be effective in repair work, must be “offered without defense.... The offending party is...vulnerable by offering the apology ...[because] the chance exists that it may be refused” (Schneider, 2000, p. 267). If it is refused, the injured party may not want

to repair the relationship or may want to punish the offender.

Case #1 illustrates vulnerability in that Mom offers no defense – quite the opposite. During the joint mediation she says, “I will take random drug tests. I want to be part of my daughter’s life and make sure she does not mess up the way I did. She’s 13 and already I can see signs she might make the same bad decisions I did. I’ve been there and can work with you so that what happened to me does not happen to her. If you want, I will pay the costs of the tests. I am asking for another chance.”

Dad did not have to accept the apology. Yet, he did. In doing so he was making his own commitment to make this post-divorce relationship work. Dad chooses to accept an apology as a statement of rebuilding trust that his ex-wife will keep her commitments. The mediation then continued with both of them revising the visitation schedule with a trial period of three months.

There were two unexpected outcomes from this mediation. One occurred later that evening, when Mom called this author four hours after the mediation ended. She said that Dad called her and said, “Tonight is our daughter’s birthday. You should be with her and not have to wait until Sunday (two days) for the next visitation. I do not have to be present to supervise.”

The second outcome was the mediation agreement they took to court deleted a three-month trial period and they

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immediately began unsupervised visitation. This order has been in place now for one and one-half years.

Case #3: The essence of an apology is peacemaking Apologies don't always get expressed with language such as regret, or being sorry. Showing (as in case #1) there can be speech acts that enable the repair work in communication to occur. Another illustration is case #3 of Mom and Dad, divorced for five years, ordered to mediation over the Dad's petition on his visitation schedule with his 17? year old son. He claimed Mom was withholding access to his son.

There was great difficulty in setting up the first session because Mom refused to be in Dad's presence at a joint mediation session. She said she was physically afraid of him, that she would not be bullied by him anymore and stated there was an order of protection against Dad. She refused, too, to have her attorney present, saying that Dad would attack him and she did not feel safe.

Finding a way to help shift from an adversarial to a constructive communication process is really what this work on apology is all about.

With her attorney's advice, she did agree to meet at the County Judicial Center Courthouse in a conference room with a sheriff monitoring a video

camera of the room and another in a hallway fifty feet away.

The mediator began with the question: "What do each of you want to get out of this mediation?"

Mom: Peace.

Dad: Peace and respectful communication. Respect.

The mediator asked how would this be evident?

Mom: Dad has free access to his son at any time.

Dad: If Mom wants to be at peace from this point, okay.

The mediator asked if there was anything that needed to be written up for the court. They said in effect, there was no reason to continue the conflict and, hence, nothing to write up.

Analysis: The parties engaged in a ritual exchange where the word "sorry" would have been inadequate given their confrontational history and the current

order of protection against the Dad. Their peacemaking declaration was followed by Dad's story how much contact with his son meant, what the loss was like. In his narration, he was vulnerable as he expressed this loss, vulnerable in the sense

Mom could have exploited this against him and aired her own grievances of being bullied. Instead, Mom was visibly troubled that she could have



been wrong when she interpreted his behavior as attacks on her. She then said he could have “free access to the son.” Dad’s reply, “If Mom wants to be at peace, then okay,” is an acknowledgment, a willingness to meet the goals they set out at the beginning of the mediation “Okay,” in this context is a speech act that performed like an apology in that it brought closure to their dispute.

During the mediation, the author thought about the glaring fact they were in conflict about visitation that would change in six months when the minor reached majority. However, neither he nor the parties brought this up. Other than his open-ended question, of what they each wanted to get out of the mediation, the parties chose how to bring closure and they chose the words and the ritual to stop the conflict.

Conclusion The power of apology in mediation is that it can be a reparative process which enables parties to shift from a confrontational to a constructive communication process. Attentiveness to the elements of an apology focuses on opportunities to explore an injury felt and an expression of empathic recognition of the injury.

This author has found the framework of an apology to crystallize for the parties and himself greater freedom to explore their declared need to repair communication in order to comply with the Court’s expectation of a speedy resolution on behalf of the best interests of the children. And to do so in the

midst of a party process where, in addition to the fact that they are not motivated to reach a resolution outside of court or to communicate constructively, they also have additional grievances against each other stemming from the adversarial positions they may have taken through court actions. Hence, finding a way to help them shift from an adversarial to a constructive communication process is really what this work on apology is all about.

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WHEN PARENTS ARE TOO TOXIC TO TOLERATE

By Richard A. Friedman

You can divorce an abusive spouse. You can call it quits if your lover mistreats you. But what can you do if the source of your misery is your own parent?

Granted, no parent is perfect. And whining about parental failure, real or not, is practically an American pastime that keeps the therapeutic community dutifully employed. But just as there are ordinary good-enough parents who mysteriously produce a difficult child, there are some decent people who have the misfortune of having a truly toxic parent.

A patient of mine, a lovely woman in her 60s whom I treated for depression, recently asked my advice about how to deal with her aging mother.

“She’s always been extremely abusive of me and my siblings,” she said, as I recall. “Once, on my birthday, she left me a message wishing that I get a disease. Can you believe it?”

Over the years, she had tried to have a relationship with her mother, but the encounters were always painful and upsetting; her mother remained harshly critical and demeaning. Whether her mother was mentally ill, just plain mean or both was unclear, but there was no question that my patient had decided long ago that the only way to deal with her mother was to avoid her at all costs.

Now that her mother was approaching death, she was torn about yet another effort at reconciliation. “I feel I should try,” my patient told me, “but I know she’ll be awful to me.”

Should she visit and perhaps forgive her mother, or protect herself and live with a sense of guilt, however unjustified? Tough call, and clearly not mine to make. But it did make me wonder about how therapists deal with adult patients who have toxic parents.

The topic gets little, if any, attention in standard textbooks or in the psychiatric literature, perhaps reflecting the common and mistaken notion that adults, unlike children and the elderly, are not vulnerable to such emotional abuse.

All too often, I think, therapists have a bias to salvage relationships, even those that might be harmful to a patient. Instead, it is crucial to be open-minded and to consider whether maintaining the relationship is really healthy and desirable.

Likewise, the assumption that parents are predisposed to love their children unconditionally and protect them from harm is not universally true. I remember one patient, a man in his mid-20s, who came to me for depression and rock-bottom self-esteem.



It didn't take long to find out why. He had recently come out as gay to his devoutly religious parents, who responded by disowning him. It gets worse: at a subsequent family dinner, his father took him aside and told him it would have been better if he, rather than his younger brother, had died in a car accident several years earlier.

Though terribly hurt and angry, this young man still hoped he could get his parents to accept his sexuality and asked me to meet with the three of them. The session did not go well. The parents insisted that his "lifestyle" was a grave sin, incompatible with their deeply held religious beliefs. When I tried to explain that the scientific consensus was that he had no more choice about his sexual orientation than the color of his eyes, they were unmoved. They simply could not accept him as he was.

I was stunned by their implacable hostility and convinced that they were a psychological menace to my patient. As such, I had to do something I have never contemplated before in treatment.

At the next session I suggested that for his psychological well-being he might consider, at least for now, forgoing a relationship with his parents. I felt this was a drastic measure, akin to amputating a gangrenous limb to save a patient's life. My patient could not escape all the negative feelings and

thoughts about himself that he had internalized from his parents. But at least I could protect him from even more psychological harm.

Easier said than done. He accepted my suggestion with sad resignation, though he did make a few efforts to contact them over the next year. They never responded.

Of course, relationships are rarely all good or bad; even the most abusive parents can sometimes be loving, which is why severing a bond should be a tough, and rare, decision.

Dr. Judith Lewis Herman, a trauma expert who is a clinical professor of psychiatry at Harvard Medical School, said she tried to empower patients to take action to protect themselves without giving direct advice.

"Sometimes we consider a paradoxical intervention and say to a patient, 'I really admire your loyalty to your parents — even at the expense of failing to protect yourself in any way from harm,' " Dr. Herman told me in an interview.

The hope is that patients come to see the psychological cost of a harmful relationship and act to change it.

**It is crucial to be open-minded
and to consider whether
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really healthy and desirable.**

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Eventually, my patient made a full recovery from his depression and started dating, though his parents' absence in his life was never far from his thoughts. No wonder. Research on early attachment, both in humans and in nonhuman primates, shows that we are hard-wired for bonding — even to those who aren't very nice to us.

We also know that although prolonged childhood trauma can be toxic to the brain, adults retain the ability later in life to rewire their brains by new experience, including therapy and psychotropic medication. For example, prolonged stress can kill cells in the hippocampus, a brain area critical for memory. The good news is that adults are able to grow new neurons in this area in the course of normal development. Also, antidepressants encourage the development of new cells in the hippocampus.

It is no stretch, then, to say that having a toxic parent may be harmful to a child's brain, let alone his feelings. But that damage need not be written in stone. Of course, we cannot undo history with therapy. But we can help mend brains and minds by removing or reducing stress. Sometimes, as drastic as it sounds, that means letting go of a toxic parent.



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Lady Astor:
**“If you were my husband
 I'd give you poison.”**

Winston Churchill:
**“If you were my wife,
 I'd drink it.”**



PERMANENCY MEDIATION & THE JUVENILE COURT

By Julia A. B. Pearson

When Patrick was three years old he was removed from his mother's care after his mother failed to provide him with medical treatment for pneumonia. Angela, his mother, was abusing drugs at the time. She had previously arranged for her two older children to reside with their father because of her drug addiction; she was hoping to be a better parent with Patrick. After this incident Patrick entered Department of Children and Families' ("DCF" or "Department") foster care system while Angela engaged in substance abuse treatment programs and struggled to beat her addiction.

Angela successfully completed an inpatient substance abuse program, however, she was only partially compliant with the DCF service plan geared toward Patrick's reunification. She did not have stable housing, was not engaged in counseling services and failed to show for her visits with her son. Meanwhile, Patrick was flourishing in his foster home. He received Early Intervention services for developmental delays and continued to show progress. His foster parents were not able to adopt him and he was in the process of being placed into yet another foster home in less than a year.

Although Angela appeared to be maintaining her sobriety her chronic instability in other basic parenting areas resulted in the Department changing his goal to adoption and requesting the

court terminate Angela's parental rights. A trial was scheduled in order to free Patrick for adoption. Angela loved her child but despite her love she was unable to provide Patrick with the fundamentals of parenting. The professionals working with Angela and Patrick also saw Angela's love for her child but worried that her parenting limitations would put Patrick at risk again should he ever return to live with her. Patrick was placed into his new foster family and had found a secure permanent place within their family. Recognizing the many complicated aspects of this little boy's plight, the judge referred the case to Permanency Mediation hoping a solution could be found.

Since 1995, Children's Services of Roxbury's Massachusetts Families for Kids ("CSR/MFFK") program has developed, piloted and trained professionals in Permanency Mediation. The primary goal of Permanency Mediation is to decrease conflict and the adversarial nature inherent in child custody matters. Mediation saves the court significant time and money as they resolve these cases. Over 1/3 of all MFFK referrals helped children achieve permanent homes in less than 90 days and 83% of referrals achieved permanency in less than five months. A contested trial can take over two years to achieve permanency. Children and families benefit from permanency

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mediation services because it reduces the time spent by children in foster care, increases the number of children in legalized permanent living arrangements, decreases the number of moves children have while in foster care, and results in a written agreement that follows the child into adulthood keeping a connection to their birth family.

Empowerment is one of the fundamental principles in permanency mediation, meaning it is highly cognizant and respectful of the role played by a child's birth parent in providing the child with safety, well-being and permanence. MFFK

Active participation of family members in decision-making is initiated, creatively facilitated and supported throughout the mediation process.

mediators understand that race, culture and ethnicity play defining roles in the lives of children and families as does the interplay of primary attachment relationships, kinship connections and the child's essential need for timely and stable permanence. Active participation of family members in decision-making is initiated, creatively facilitated and supported throughout the mediation process. Birth families are supported to actively participate in planning for their child's care, protection and permanency once they have entered the child welfare system.

As mediators we have the advantage of being "neutral." Even though there is a natural human tendency, even for mediators, to try to decipher truth from fiction, right from wrong, and guilt from innocence, that's not our job. Because we are able to listen to parties with non-judgmental ears, parties are sometimes able to break down the walls that harbor conflict, resentment, misunderstanding, and self-service. Birth parents come to mediation feeling as though no one has ever really listened or understood their "side" of the story. Unburdened from the task of professionally assessing the validity of the story, we help parents feel heard for the first time. This frees the parents from the bonds of adversity and takes them to a new place where they can stop putting all their energy into defending and protecting themselves, and genuinely put their children's needs and interests first.

Traditionally, birth parents experience a sense of disempowerment, shame and guilt as a result of having their child placed into foster care. Consequently, empowering birth parents to be part of the decision making process requires sensitivity and effort. To support empowerment, permanency mediators hold individual sessions with the birth parents in their homes to build a trusting relationship and bring them into the decision-making process. Mediation focuses on the strengths in the child-parent relationship that should be maintained, even if returning home is not the permanent goal. The concept of



a “fit” parent changes in this model: no longer is a fit parent someone who raises their child without social service involvement; instead, fit parenting means making the best decisions for the child by listening, understanding and integrating information about their child and either changing their circumstances to meet the needs of the child or participate in identifying the family in which their child would have their needs best met. The aim of empowerment is to support parents in taking charge of their child’s life.

Another foundational principle of MFFK’s Permanency Mediation work is its child-centered nature. All deliberations are focused on the issues of safety, support, continuity of relationships and permanency specific to the child’s needs and best interests. Early loss is part of an adoptee’s life experience even for those adopted as infants. This loss is all that more clear when an older child is adopted and children have lived with birth parents and family for part of their lives. In these situations the emotional cut-offs typically imposed by the system can lead to escalation in the child’s inherent loyalty conflict. Children are often supported by relationships others have judged to be inadequate. Children can and do love parents who may have failed to keep them safe. Often the key to long-term emotional well being for these children is to support their affectional ties to significant attachment figures. A child’s optimal level of

connectedness can only be understood by considering the child specific needs and family history. Clearly, there is a growing understanding within the permanency field that a child can never fully feel that he/she is a member of their permanent family unless their new family can recognize and accept the child’s connection to their birth family.

Traditional methods within the court system have had the unintended consequences of delaying permanency and making children, birth parents, caregivers and permanent parents feel that someone else controls the important

Permanency Mediators are attorneys, social workers and alternative dispute resolution experts who are mediators trained in the clinical issues involved in child welfare cases.

relationships in their lives. Permanency Mediation offers an alternative that brings important adults in the child’s life together to make a child-specific plan, reducing the amount of time it takes to achieve permanency traditionally required by the court system.

The CSR/MFFK Permanency Mediation model employs the basic principles of mediation. A screening conference is court ordered for the parties to gain information about mediation. However, entering into the process is voluntary. During the screening phase the parties’ right to informed consent is assured.

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The parties' rights to self-determination and confidentiality are protected by the use of an impartial, neutral third party mediator. Characteristics, that underlie permanency mediation, include that the mediation is child centered, the mediator keeps all deliberations focused on the child's needs; is a collaborative model, that is empowerment based. During the mediation, the mediator seeks to help build a baseline relationship between the birth parent and the adoptive or foster family. The mediation uses shuttle diplomacy and has a psycho-educational component to ensure all parties have the needed information to make an informed decision. Permanency Mediation is an outreach model where the mediator goes to the parties, thus enabling them to participate fully. Due to the empowerment nature and relationships

Permanency mediation has been used in every county in Massachusetts throughout the years. Now is not the time for our Commonwealth to take a step backwards.

that are being established, the mediation takes a period of months as opposed to hours using a single-mediator model.

In the case of Patrick, mediation worked to involve Angela and the pre-adoptive parents, the Murphy's, to design a permanent plan for Patrick. Individual sessions with the birth mother focused on her child's current needs, exploring realities/readiness for full-time

parenting. Angela expressed a great deal of ambivalence. Angela expressed ambivalence relative to her sobriety, relative to parenting her child given his current needs and about upsetting Patrick' current attachments. She recognized the progress Patrick had made and the fact that this home afforded him the greatest stability he had ever known. Angela was able to convey that her decision not to attend parent-child visits was partly a conscious one as she wasn't sure she could follow-through with parenting Patrick and did not want to hurt him. Through the mediation process, Angela came to conclude that it would be in her child's best interest to remain with his current family permanently. However, she wanted to know how he was doing throughout his development and wanted to be available to him if he wished to get

to know her in the future. Individual meetings with the pre-adoptive parents focused on their comfort level with maintaining a connection to Patrick' birth mother and exploring what level of connection would be beneficial to Patrick. The

Murphy's recognized the importance of Patrick' early connection to Angela and wanted to minimize the losses he would suffer. They came to conclude that Patrick not only needed information regarding his birth family, but also may eventually want to visit Angela and his extended birth family. The Murphy's concluded that in order to give Patrick what he needed they would need to broaden their definition of "family".



Angela and the Murphy's crafted the terms of their open adoption agreement through individual and joint sessions with the mediator over a two-month period. There was anxiety and ambivalence on both parts surrounding these meetings. Ironically, all parents expressed anxiety about being judged and feeling inadequate; the birth mother worried about not measuring up to the adoptive parents education or financial status and adoptive parents recognized their absence of a biological connection to Patrick.

Joint sessions included the two parties meeting to share information about Patrick. Angela gave the pre-adoptive parents pictures of Patrick as a baby. This was the first time the Murphy's had seen pictures of Patrick as an infant. The pictures evoked an emotional response from both of Patrick's "mothers". The pictures revealed a healthy, well-dressed and happy child. This was a different perspective than court reports and Department of Children and Families records had suggested. The Murphy's commented how beautiful and healthy Patrick appeared. Evident to them was Angela's love for her son. The significance of the birth mother's role was underlined as Angela was able to provide information on the pregnancy and delivery, personal and first-hand accounts the family had not previously received from DCF records. Likewise, the Murphy's came prepared with current photographs of Patrick. As difficult as it was, Angela was able to see

that Patrick was clearly a part of the Murphy family.

The parties exchanged information regarding medical and family history. What was supposed to be an hour meeting turned into a two and a half-hour spontaneous interchange. The meeting ended with Angela offering a sincere thank you to the Murphy's for

Mediation has proven to be a powerful tool in the permanency planning process for children in foster care.

their commitment to and love for her son. The Murphy's expressed that although they would have known the "right" things to say to Patrick about his mother, they only now felt them in their hearts. The Murphy's assured Angela that her son would always know how difficult this decision and planning was for her and how it came from a loving place and from a desire to see him have a happy, healthy upbringing. Follow-up letters to the mediator indicate what this process meant to those involved: Angela writes, "I just wanted to thank you for your patience and kindness and for supporting me when meeting the Murphys. Although I am still very sad and emotional and think of my son often, my heart is finally at ease. Patrick is being well cared for by loving and mature people and will have more opportunities than I could ever provide. I knew it would come to the point where I couldn't take care of my son anymore, but this process helped me make this decision with dignity and respect."

Continued on next page



As for the adoptive family, the Murphy's write: "Both my husband and I were extremely apprehensive about the thought of meeting the birth mother face

The primary goal of Permanency Mediation is to decrease conflict and the adversarial nature inherent in child custody matters.

to face. It was the best possible thing we could have done for Patrick. Somehow this meeting changed our hearts in a way we never thought possible."

Patrick was adopted five months after mediation began; saving months (possibly years) of foster care payments, social work costs, and minimizing the disruption to this little boy's life. In addition, resolution of the legal case without litigation significantly reduced the costs associated with legal representation for Patrick, Angela and DCF as well as attendant court costs. An average contested termination of parental rights trial can take over two years to resolve and cost over \$15,000. A mediated agreement takes between three and five months to achieve and costs between \$2,500 and \$3,000 per case.

The evolution of Permanency Mediation in Massachusetts over the past 15 years has encountered many barriers. The systems involved in a Permanency Mediation case create many opportunities for derailment. Permanency Mediation has educated

and trained people from the court system, the judges, probation officers, attorneys who represent parents and children as well as the Children and Families agencies. Each has a stake in the outcome and their support to empower parties to make a self-determined decision is essential. Birth parents and foster parents look to attorneys and social service caseworkers for advice and support, either of

which can undermine or unintentionally sabotage permanency mediation. Permanency Mediation has been a change agent in the field of child welfare and the courts. Developing partnerships with the courts, the attorneys and the social service agency has allowed Permanency Mediation to grow. Permanency Mediators are attorneys, social workers and alternative dispute resolution experts who are mediators trained in the clinical issues involved in child welfare cases. Success of the program is also contingent upon supervision, which consists of individual case supervision as well as peer/group supervision.

Mediation has proven to be a powerful tool in the permanency planning process for children in foster care. This innovative court-connected mediation program using a non-judgmental approach brings together the biological family, prospective adoptive family, care takers, attorneys and agencies connected with a child. Using an empowerment model of mediation, a permanent plan is created that will follow a child into adulthood and



provides that connection to important and significant relationships. Permanency Mediation provides a peaceful social justice solution to child welfare cases. Due to significant state budget cuts mediation services and programs across the state have been impacted. Court contracts with community mediation programs have been eliminated. Permanency mediation has been used in every county in Massachusetts throughout the years. Now is not the time for our Commonwealth to take a step backwards. Mediation has proven results to save time and money. Not just money in the future, but time and money now! We must not allow the court to ignore the party's right to self-

determination and the ability to use mediation. It is penny wise and pound foolish to eliminate mediation as a court resource.



Julia A. B. Pearson, Esq., is the Program Director at Children's Services of Roxbury, Massachusetts Families for Kids, Permanency Mediation Program. Ms. Pearson is responsible for managing the Court-Connected Permanency Mediation Program for all courts in the Commonwealth of Massachusetts as well for the training and supervision of permanency mediators. She can be contacted at 617-989-9446 or Jpearson@csrox.org.



**“Love,
though said to be
afflicted with blindness,
is a vigilant watchman.”**

Charles Dickens



PEER SUPERVISION GROUPS FOR FAMILY MEDIATORS

By S. Tracy Fisher & Laurie Udell

Many mediators work in solo practices or with other professionals who are not involved in the work of divorce and family mediation. For those of us who work on our own, we can feel isolated without colleagues down the hall to discuss questions with or trade ideas. A peer supervision group gives mediators a wealth of opportunity to form a comfortable and safe environment to share and gain valuable insight into themselves and their mediation practice.

When forming a peer group one should consider and identify what the composition of the group should be. We believe that composing a group with a mix of experience level and professional background will add valuable dimension to the knowledge base of the group. The group would be missing out on beneficial expertise when a group is

We learn so much from each other all while having such an enjoyable time.

composed of only mediators with legal or mental health backgrounds. One should also consider the optimal number for the group, the space requirements that are available as well as how many people can realistically participate given the allotted time frame of the meeting. Whether the group will remain open or closed to new members over time is something that should be discussed and agreed upon. The familiarity and particular group dynamics that solidify

in long term stable groups lends itself to maintaining a consistent set of members. Newer groups are more apt to allow members to join and leave and to maintain the group as “open” to new members.

Peer groups should have some rules established so that members can feel that they are in a safe space to talk openly. Confidentiality, dividing the “talk time” amongst all members fairly and one person speaking at a time are all important issues that should be discussed. It may seem obvious that a group of mediators would all observe the rules that we try to enforce in our practices, but that is not always the case. Methods to determine how each member will get a chance to speak can be articulated— who has the most “burning question” or going around the table. It may make it easier to listen and participate when you know you don’t need to “fight” for a turn. It is crucial that each member knows he or she will have a chance to discuss a difficult mediation or ask a question at each meeting.

The list of topics to be reviewed and discussed at a peer group meeting can be extensive, ranging from legal issues and changes and trends in the law to feedback on mediation techniques that could have been used in particular scenarios. Other important topics are ethical considerations, substantive issues such as particular tax, pension



and health insurance situations and emotional issues in conflict and divorce. meetings take place to take the burden off of one hosting member. The

The frequency, regularity and length of time of meetings are important group decisions. Our peer group meets once monthly, except usually for one month in the summer when many of our members are vacationing. We generally schedule our meetings two or so months ahead so we can schedule our client meetings for times that don't conflict with our upcoming gatherings. Meeting monthly works well because we can usually get answers to our burning questions about what to do with the couple we recently saw. If we need an answer to a specific question before our next meeting, we frequently email questions to the group.

Our meetings are always scheduled for the morning, but some groups might choose to meet in the late afternoons or early evenings (or alternate times) if there are many in the group who go to court frequently. Because we meet first thing in the morning, we always have breakfast food available, which makes it more convivial, and a time saver as well.

We have chosen a consistent meeting place for our group, a home that is fairly centrally located to the members of the group. Some groups might prefer to alternate houses or offices where the

Peer groups should have some rules established so that members can feel that they are in a safe space to talk openly.

advantage to having one place is if our calendars say "peer group meeting," there is no confusion as to where we are to meet. At our group meetings, we sit around the kitchen table where we are all comfortable and relaxed. Once in a while, a child or spouse is in the house and hears our periodic laughter and is always surprised to find we're having such a good time discussing our work.

And that is why we continue to meet month after month. We learn so much from each other all while having such an enjoyable time. We are free to ask all our questions without embarrassment. We've all heard the statement that there are no stupid questions, but still often hesitate to ask what might be seen as one by one of our colleagues, but there is no such hesitating in such a setting as ours. The feeling of safety needed to

A peer supervision group gives mediators a wealth of opportunity to form a comfortable and safe environment to share and gain valuable insight into themselves and their mediation practice.

Continued on next page



disclose areas of inadequacy in our professional lives takes a good deal of time to develop, so a stable, long term group really aids in that process.

Of course, by seeing how others handle their cases, we can have another valuable perspective. Since we have therapists and attorneys in our group, we can get remedial courses in the areas we do not have as much training in. We have each been able to put to good use in our upcoming mediations what has been suggested at our meetings. We recognize we all do things a bit differently in our mediation sessions but we all strive for greater excellence as a mediator, and our peer group meetings definitely help us in that quest.



S. Tracy Fischer, JD, has been practicing divorce and family mediation for the past 20 years with offices in Danvers and Newton. Tracy is a certified mediator and deals with all areas of family mediation. She can be reached at 978-745-0590 or tracy@tracyfischermediation.com



Laurie S. Usdell, Esq. is a family law attorney and mediator practicing with over 30 years of experience. She is a certified mediator with an office in Needham. Laurie can be reached at 781-449-3355 or lsudell@aol.com.



**“In every marriage
more than a week old
there are grounds for divorce.
The trick is to find,
and continue to find,
grounds for marriage.”**

Robert Anderson



MASSACHUSETTS FAMILY LAW A Periodic Review

By Jonathan E. Fields

Termination of Alimony The SJC made headlines this November when it ruled that an ex-husband could not stop paying alimony when he retired. The parties, married in 1967, had entered into an agreement upon their divorce in 1999. The agreement merged with the judgment and included an alimony provision declaring that alimony terminates on the death of the husband or the wife, or the remarriage of the wife. It said nothing about retirement.

The ex-husband, in seeking to end his payments, argued that there should be a rebuttable presumption that alimony terminates when (1) a person retires at a customary retirement age, (2) the parties' assets had been equally divided upon divorce, and (3) the parties have the same amount of liquid assets at the time of the provider spouse's retirement.

The SJC declined to adopt the ex-husband's argument, noting that alimony is statutory and not court-made. Adopting the ex-husband's rule, said the SJC, would discard the multi-factor analysis required under G.L. c.208 s.34 including "the opportunity of each [party] for future acquisition of ... income." Termination, therefore, will continue to turn on a fact-specific, judge-by-judge analysis. Those looking for "a light at the end of the tunnel" may have to wait for the legislature to get involved – a task for the truly patient. For now, however, the take-away for mediators: if the parties want alimony to end on retirement – at least put it in the agreement. *Pierce v. Pierce*, 455 Mass. 286 (November 9, 2009)



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



The Beginnings of Massachusetts Alimony

In 1695, the justices of the Superior Court of Judicature were empowered to assign to a wife whose marriage had been nullified by reason of consanguinity "such reasonable part of the estate of her late [i.e., former] husband as in their discretion the circumstances of the estate may admit." (Citations omitted.) *Gottsegen v. Gottsegen*, 397 Mass. 617, 621 (1986).



FIFTH ANNUAL FISKE AWARD HONORS DIANE NEUMANN

Presented by John A. Fiske

Editor's Note: Deb Smith took the photo on the opposite page when John personally presented the award to Diane on her return from Italy. John delivered the tribute below at MCFM's 8th Annual Family Mediation Institute.

To the Assembled Multitude:

One of the great things about this award is that there are so many mediators whose excellence merits recognition. If there is anyone deserving of acknowledgement, gratitude and praise, Diane Neumann springs to mind.

In many ways a pioneer in our beloved field, she has invented and developed divorce mediation as much as she has contributed to the entire field. She is the only divorce mediator I know who has established her own firm of divorce mediators, directly over a post office no less.

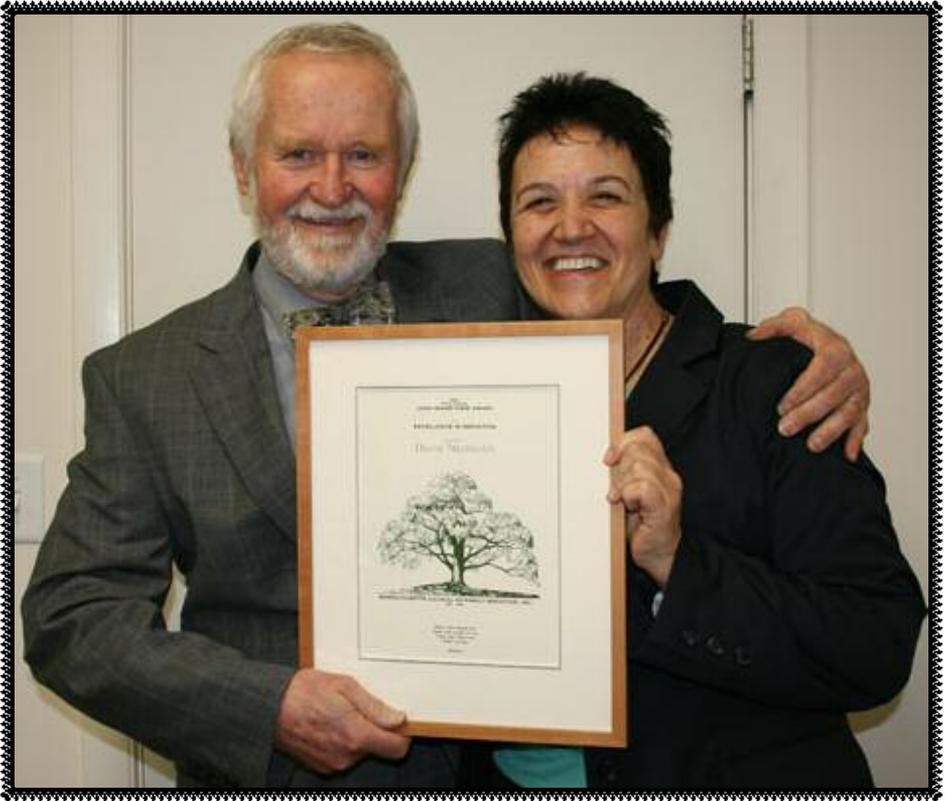
She wrote a book about divorce mediation while she was a freshman in law school, and followed that with another book about how to find a good divorce mediator. She founded Divorce Mediation Training Associates and has been responsible for training over a thousand mediators throughout New England and elsewhere, in addition to teaching me so much about what is going on right in front of me before my very eyes, such as for example the dynamics of power imbalance about which she wrote a masterful and often quoted article Diane's article on power imbalance is Volume 9, Mediation Quarterly Number 3, Jossey-Bass (Spring 1992).

She devoted a lot of her time to building the Academy of Family Mediators and served as its president for a year. She served as president of our own Mass Council on Family Mediation, always



urging us to become more active and important in the growth and development of divorce mediation right here in Massachusetts. It was her idea to organize a Gathering of Family Mediators in New England, which we did successfully for five splendid and enriching occasions.

Many of the fruits of her labors are right here in this room, and we are all thankful for the benefits of her work.



John A. Fiske is an attorney and mediator with Healy, Fiske, Richmond and Matthew, a Cambridge firm concentrating in family law and mediation. John can be contacted at 617-354-7133 or jadamsfiske@yahoo.com



MCFM'S 8th ANNUAL FAMILY MEDIATION INSTITUTE

A Photo Array by Lynn K. Cooper & Debra L. Smith



Deb Smith, Kathy Townsend, Ellen Waldorf, John Fiske

Photo By Lynn Cooper



Edward Donnelly & Patricia Shea

Photo By Lynn Cooper



Les Wallerstein & Dee Fraylick

Photo By Deb Smith



Lynda Robbins & Ramona Goutiere

Photo By Deb Smith



Tracy Fisher

Photo By Deb Smith



Diane Spears, Kate Fanger & Lynn Cooper

Photo By Deb Smith



Mark Kupsc & Jared Correia

Photo By Deb Smith



Mary Socha

Photo By Lynn Cooper



Susan Miller & Laurie Israel

Photo By Deb Smith



Mindy Milberg & Ellen Waldorf

Photo By Deb Smith



Jon Fields

Photo By Deb Smith



Michael Leshin & Oran Kauffman

Photo By Deb Smith



Jeanne Kangas

Photo By Lynn Cooper



Miriam Kosowsky & David Feldman

Photo By Lynn Cooper



Deb Smith & Fern Frolin

Photo By Lynn Cooper



Frank Vangeli & Mark Zarrow

Photo By Deb Smith



Paula Noe & Marion Wasserman

Photo By Lynn Cooper



SAVE THE WALK IN DIVORCE IN MIDDLESEX: MAKE AN APPOINTMENT

From: john fiske <jadamsfiske@yahoo.com>

November 18, 2009 8:32:23 AM EST

Subject: Waking Up With a New Idea about “Making An Appointment”

Dear Fran, Les, Laurie:

Funny how the brain works. As you know, I had exhaustively combed my email and Word records for the letter to Lawyers Weekly. This morning I woke up and realized my relentless search for the Lawyers Weekly letter had not included the name of the editor, Henriette Campagne. Silly me, not to acknowledge the possibility that I of all people had written to her by her name and not her title.

So today begins with my typing “Campagne” in my Yahoo search and Bingo there’s the letter I’m now sending you. (How I missed it in my chronological search of September is another story). Anyway, here it is. Les Wallerstein, amateur archivist among other things, will appreciate the moral of the story: (a) throw away nothing and (b) know where to find it.

Cheers, John

PS to Fran and Les: Note the last sentence. Thanks for taking care of that problem, getting the word out to lawyers and mediators who need to help, and understand, the courts as much as possible.

Forwarded Message

From: john fiske <jadamsfiske@yahoo.com>

To: henriette campagne <henriette.campagne@lawyersweekly.com>

September 19, 2009 9:05:34 AM

Subject: Save the Walk In Divorce in Middlesex: Make an Appointment

Dear Henriette: You’re the editor. Feel free to edit. Thanks, John

To the Editor:

This letter offers a suggestion to lawyers seeking approval of divorce agreements in Middlesex County, hoping to strengthen a noble experiment.

Couples who have agreed upon the terms of their divorce are allowed to file a joint petition for a divorce and present their Separation Agreement to the judge for approval under G.L. c. 208 section 1A. In most counties, getting this court date may take a month or more after the filing. For some time Middlesex County has allowed

Continued on next page



these couples to come in at 8:30 in the morning and be assigned that day to a judge, a big help to the couple but an administrative nightmare for court personnel, who have no advance knowledge or time to inspect the papers (which almost invariably require some change, or a needed document is missing etc). I hope the Middlesex court does not give up this consumer friendly effort, and write this letter to the bar to enlist lawyers' help in improving and thereby saving this unique procedure of great value to the bar and cooperatively divorcing couples.

The suggestion comes from an experienced assistant judicial case manager: a 3 step process I'll call "**Make An Appointment.**"

- 1. File the divorce papers in the early afternoon (NOT during the early morning chaos).**
- 2. Identify the judge to whom your case is assigned.**
- 3. Call the session clerk of your judge and make an appointment for the next day or the first time the judge can hear your case.**

In the meantime, this Lawyer for the Day continues to marvel at how court personnel in every county (court officers, session clerks, assistant judicial case managers, deputy assistant registers, secretaries, everyone behind the counter, etc), especially Suffolk, have the patience and stamina to deal with the all-day-every-day flood of pro se litigants, not to mention lawyers like me who invariably need their help.

I could not think of any way to get this message to the relevant lawyers other than Lawyers Weekly, so thanks for this service.

Sincerely, John A. Fiske, Cambridge



WAIVERS OF ATTENDANCE: *DOING "A WALDORF"*

From: Ellen Waldorf <e_waldorf@divorcemed.com>

January 11, 2010 3:26:38 PM

Subject: Waiver of Attendance

Dear Colleagues,

Do any of you have any experience with a motion to waive attendance of the required parenting class? Middlesex County and the other parent is in Washington, DC . Any read on the likelihood of success of a waiver? Does it hurt for the DC

Continued on next page



parent to be visiting the child in MA or help that the parent may be deployed in the summer?

Thanks for any input.

Ellen Waldorf
Diane Neumann & Associates

From: john fiske <jadamsfiske@yahoo.com>
January 12, 2010 12:42:08 PM
Subject: Re: Waiver of Attendance

Dear Ellen et al:

Yes, I have had clients obtain a waiver. I recommend you talk to the divorce clerk of the county where the divorce agreement will be presented to see what their policy is. Note that paragraph 2 of Standing Order #4-08 says the program is mandatory "unless waived by the court." Paragraph 4 lists the circumstances for a waiver, upon motion with notice. I expect that different judges have different standards for granting waivers.

Thanks for asking: your request is a good example of how practitioners can help each other. Keep it up, John

From: john fiske [<mailto:jadamsfiske@yahoo.com>]
January 12, 2010 1:43 PM
Subject: Re: Waiver of Attendance

Dear Ellen et al:

... and my partner Barbara Richmond adds that the response of the court to a waiver request may depend on the ages of the children: the older they are, the more likely a waiver would be approved. It would be interesting if you have time to let us know the result, if someone does make the request for a waiver.

Sincerely, John



From: Doris Tennant <dtennant@tllawgroup.com>
January 12, 2010 2:21:45 PM
Subject: RE: Waiver of Attendance

John, since you asked and I forgot to copy everyone on my response of yesterday to Ellen:

I got a waiver recently when my client lived in Ohio and the other parent lived in MA. I actually think it's pretty easy to get one regardless, with the court adding that if the parties come back on a parenting issue, each must then take the class before court hears dispute. Accordingly, I also got a waiver in another case where both parties filed for waivers that said the following:

[Mom] and [Dad], parties in this divorce, jointly and respectfully request that the Court allow a waiver of each of their attendances at the Court-required Parent Education Class. As reason therefor, the parties state that they have been successfully parenting their children for over a year, since their separation in September of 2008. The parties agree and acknowledge that, should they ever be before the court on a parenting matter, they will each take the Parent Education Course at that time.

The parties have executed a Separation Agreement, filed herewith. The parties and their counsel agree that under these circumstances it is appropriate for the parties to be excused from attendance at the Parent Education Class, so that the parties may proceed with their divorce.

Doris Tennant, Esq.
Tennant Lubell, LLC

From: john fiske <jadamsfiske@yahoo.com>
January 12, 2010 3:04:46 PM EST
Subject: Do a Waldorf

Dear Les, Doris, of course Ellen and then the rest:

First, thanks for your answer Doris, and your gracious paragraph exemplifying a good waiver request.

Second, Ellen look what you started. It's a good way to exchange relevant and useful information among mediators.

Third, Les if you want to publish this correspondence for members of the MCFM and other Quarterly readers, I suggest you give credit where it's due and encourage all of us, when we have questions, or answers, of general interest, to ***Do A Waldorf by emailing a bunch of colleagues.***

Cheers, John



WHAT'S NEWS?

National & International Family News

Chronologically Compiled & Edited by Les Wallerstein

Iceland: Nordic Countries Lead in Gender Equality Iceland and three other Nordic countries lead the world in gender equality, according to the Switzerland based World Economic Forum. The report ranked countries according to how much they reduced gender disparities based on economic participation, education, health and political empowerment, while attempting to strip out the effects of a nation's overall wealth. Iceland was followed by Finland, Norway and Sweden. The United States was 31st. (Reuters, New York Times, 10/28/2009)

Death by Stoning for Adulterers Banda Aceh, the provincial capital and largest city of Aceh, Indonesia, located on the island of Sumatra. Under Islamic law, or Shariah, the religious police in Banda Aceh have administered public canings for such things as gambling, prostitution and illicit affairs. But under a new Islamic criminal code that goes into effect in October, the Shariah police will be wielding a new and more potent threat: death by stoning for adulterers, a punishment specified in the Koran. (Norimitsu Onishi, New York Times, 10/28/2009)

Premature Births Fuel Higher US Infant Mortality Rates Infant mortality is widely used as a way to gauge the health of a nation. Most European countries — as well as Australia, Canada, Hong Kong, Israel, Japan, New Zealand and Singapore — have lower infant mortality rates than the US. High rates of premature births are the main reason the US has higher infant mortality rates than do many other rich countries. (Denise Grady, New York Times, 11/4/2009)

Maine Votes to Reject Same-Sex Marriage Maine voters have decided to repeal that state's new law allowing gay men and lesbians to wed, setting back a movement that had that had made remarkable progress nationally in 2009. Maine has become the 31st state to block same-sex marriage through a public referendum at the ballot box. (Abby Goodnough, New York Times, 11/4/2009)

W.H.O Assesses Women's Health In its first study of women's health around the globe, the World Health Organization said that H.I.V. is the leading cause of death and disease among women ages 14 - 44. One in five deaths among women in this age group is linked to unprotected sex. The United Nations' data was



intended to highlight the unequal health treatment a woman faces from birth to death. (Associated Press, New York Times, 11/10/2009)

Texas' Gay Marriage Ban May Have Banned All Marriages A Houston lawyer and Democratic candidate for attorney general says that a 22-word clause in a 2005 constitutional amendment designed to ban gay marriages erroneously endangers the legal status of all marriages in the state. The amendment declares that "marriage in this state shall consist only of the union of one man and one woman." But the troublemaking phrase is Subsection B, which declares: "This state or a political subdivision of this state may not create or recognize any legal status identical or similar to marriage." Architects of the amendment included the clause to ban same-sex civil unions and domestic partnerships. But the Democratic candidate for attorney general says the wording of Subsection B effectively "eliminates marriage in Texas," including common-law marriages. She calls it a "massive mistake" and blames the current attorney general, a Republican, for allowing the language to become part of the Texas Constitution. (Dave Montgomery, Fort Worth Star-Telegram, 11/18/2009)

Divorces Rising in Military The divorce rate in the armed forces rose again in the past year, the Pentagon said, and is now is a full percentage point higher than around the time of the attacks of Sept. 11, 2001. There were an estimated 27,312 divorces among roughly 765,000 married members of the active-duty Army, Air Force, Navy and Marine Corps in the budget year that ended Sept. 30. That is a divorce rate of about 3.6 percent for the fiscal year 2009, compared with 3.4 percent a year earlier, according to figures from the Defense Manpower Data Center. In late 2001 the reported rate was 2.6 percent. As in previous years, women in uniform had much higher divorce rates than their male counterparts — 7.7 percent in 2009, compared with 3 percent for men. There is no comparable annual system for tracking the civilian divorce rate, though the Centers for Disease Control and Prevention said in 2005 that 43 percent of all first marriages ended in divorce within 10 years. (Associated Press, New York Times, 11/28/2009)

US Food Stamp Use Soars With food stamp use at record highs and climbing every month, a program once scorned as a failed welfare scheme now helps feed one in eight Americans and one in four children. More than 36 million people use inconspicuous plastic cards for staples like milk, bread and cheese, swiping them at counters in blighted cities and in suburbs pocked with foreclosure signs. Virtually all have incomes near or below the federal poverty line, but their eclectic ranks testify to the range of people struggling with basic needs. They

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include single mothers and married couples, the newly jobless and the chronically poor, longtime recipients of welfare checks and workers whose reduced hours or slender wages leave pantries bare. (Stephen Crowley, *New York Times*, 11/29/2009)

D.C. Approves Same-Sex Marriage The City Council passed a measure legalizing same-sex marriage, making the nation's capital the first jurisdiction below the Mason-Dixon Line to allow such unions. The bill, which passed by an 11-to-2 vote, may still face obstacles in Congress, among city voters and in the courts, but most advocates of same-sex marriage say they expect it to become law by spring. (Ian Urbina, *New York Times*, 12/16/2009)

A Statistical Abstract of the US About 3 in 10 people who married in the early 1990s did not stay married long enough to celebrate their 10th anniversary. While abortion rates keep declining, one in three births is to an unmarried woman. These and a host of other facts are now available online in 2010 Statistical Abstract of the United States from the Census Bureau: census.gov/prod/www/abs/statab2006-_2010.html. (Sam Roberts, *New York Times*, 12/20/2009)

Real Working Wives In more than a third of American households women are now the chief breadwinners. This reversal of traditional roles was accelerated by the brutal two-year recession, in which 75 percent of all jobs lost were held by men. Even in homes where both spouses work, one in four wives now earns more than her husband. (William Falk, *New York Times*, 12/29/2009)

Breaking Up in a Digital Fishbowl A new dating order has emerged in the era of social media. Couples who used to see each other's friends only at parties now enjoy 24-hour access to their beloved's confidants. Sharing passwords to e-mail accounts, bank accounts and photo-sharing sites is the new currency of intimacy. And courtship — however brief or intense — is wantonly scrutinized by the whole world on Twitter, Tumblr and Facebook. As a result, the idea of what it means to break up is also being redefined. Where once a spurned lover could use scissors (literally) to cut an ex out of the picture, digital images of the smiling couple in happier days abound on the Web and are difficult to delete. Status updates and tweets have a way of wending their way back to scorned exes, thanks to the interconnectedness of social media. And breakups, awkward and drawn-out in person, are even more so online as details are parsed by the curious, their faces pressed against the digital glass. (Laura M. Holson, *New York Times*, 1/7/ 2010)



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



MCFM NEWS

MEDIATION PEER GROUPS

Merrimack Valley Mediators Group: We are a group of family law mediators who have been meeting (almost) monthly since before the turn of the century! The criterion for membership is a desire to learn and share. Meetings are held at 8:15 AM on the last Tuesday of the month from January to June, and from September to November, at the office of Lynda Robbins, 11 Summer Street, Chelmsford. Please call Lynda at (978) 256-8178 or Karen Levitt at (978) 458-5550 for information and directions. All MCFM members are welcome.

Pioneer-Valley Mediators Group: This Western Mass group is newly organized and 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.



CORRECTION

The last several editions of the Family Mediation Quarterly have misstated the cost of recertification applications for MCFM certified mediators. Thanks to Lynn Cooper, MCFM's Certification Chair, *the correct cost was (and is) \$50.*

**Readers are encouraged to report errors and omissions
in the FMQ, by emailing wallerstein@socialaw.com**



ANNOUNCEMENTS

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

MCFM’S PROFESSIONAL DEVELOPMENT PROGRAM

“THE SHADOW AND THE LIGHT OF THE LAW IN MEDIATION”

David Hoffman, Esq., Boston Law Collaborative, and
Vicki Shemin, J.D., LICSW, ACSW, Boston Law Collaborative

February 3, (4-6 PM) at
Wellesley Public Library



FRAMINGHAM COURT MEDIATION SERVICES

Spring Mediator Training
March 5 – 19, 2010

Framingham Court Mediation Services will be holding a 34-hour basic mediation training March 5-19, 2010 for people interested in learning how to mediate as a means to enhance professional and interpersonal skills.

For course schedule and other information go to www.framinghammediation.org, email info@framinghammediation.org, or call 508 872 9495.



**THE MEDIATION & TRAINING COLLABORATIVE (TMTC)
34-HOUR BASIC MEDIATION TRAINING**

**Northampton, MA
March 6, 11, 18, 25 & April 1 and 3, 2010**

This highly interactive, practice-based training is open to anyone who wishes to increase skills 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 brochure, contact Susan Hackney at mediation@communityaction.us or 413-475-1505.



**THE MEDIATION & TRAINING COLLABORATIVE (TMTC)
&
HCC KITTREDGE CENTER FOR BUSINESS &
WORKFORCE DEVELOPMENT CO-SPONSOR**

**34-HOUR DIVORCE ADVANCED MEDIATION TRAINING
Prerequisite - 30 hours Basic Mediation Training**

**Holyoke, MA
April 29*, 30 and May 1, 14 & 15, 2010**

A 34-hour advanced mediation training for those interested in working with separating, divorcing or already-divorced couples. Topics include the emotional and legal aspects of divorce, parenting issues, division of assets and debts, spousal support, working with non-traditional couples, mediator ethics, dealing with high conflict, and more. Fee includes training manual, coached role plays, parking and refreshments. Social Work CEC's or attorney CLEs available upon request. Trainers are Betsy Williams, Cate Woolner, Larry Saunders, Stephanie Levin, Oran Kaufman and Court Dorsey. Fee is \$795.

* The four-hour April 29 session will focus on Massachusetts family law for divorce mediators and is open to divorce mediators who want a review of this topic. Fee for



this session alone is \$80. Attorneys taking the full training who have extensive experience in family law may choose to omit the April 29 session. Call for more information on either of these options.

For brochure or more information, mediation@communityaction.us or 413-475-1505



**PARENTING SOLUTIONS PRESENTS
UPCOMING WORKSHOPS**

7:30 - 9 PM

**Fee \$30 per workshop
(2nd parent half price)**

DISCIPLINE THAT WORKS SERIES

With Sylvia Sirignano, Ph.D.

March 10, 2010: Secrets of Successful Discipline

FOR PARENTS OF TEENS

With Glenn Smith, LICSW

February 3, 2010: Parenting Teens: Is It Them or Just Me?

PARENTING IN STEPFAMILIES

With Glenn Smith, LICSW

March 3, 2010: Debunking Old & New Myths About Stepfamilies

PARENTING TOGETHER

With Sylvia Sirignano, Ph.D. & Glenn Smith, LICSW

February 10, 2010: Parenting as a Team: Making marriage AND parenting Work

PRE-REGISTRATION IS REQUIRED FOR ALL WORKSHOPS

Register by phone: 508-366-7557

Register online: www.ParentingSolutionsPrograms.com

Location: 6 Colonial Drive, Westborough, MA



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.

All members are listed online at MCFM's web site, and all listings are "linked" to a member's email. Annual membership dues are \$90, or \$50 for full-time students. Please direct all membership inquiries to **Ramona Goutiere at <masscouncil@mcfm.org>**.

REFERRAL DIRECTORY: Every MCFM member 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 Referral Directory is printed and mailed to all Massachusetts judges, and to each listed member. **The most current directory is always available online at www.mcfm.org.** The annual Referral Directory fee is \$60. Please direct all referral directory inquiries to **Jerry Weinstein at <JWeinsteinDivorce@comcast.net>**.

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 both the online and the printed 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 **Lynn Cooper at <lynncooper@aol.com>**. For certification or re-certification applications contact **Ramona Goutiere at <masscouncil@mcfm.org>**.



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EDITOR'S NOTICE

MCFM Family Mediation Quarterly

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

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

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

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

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

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

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

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

MASSACHUSETTS COUNCIL ON FAMILY MEDIATION

www.mcfm.org



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

