

MCFM

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



PRESIDENT'S PAGE: JONATHAN E. FIELDS

This past year saw some leaps forward in the area of court-connected mediation and ADR. More court-connected inquiries are coming into MCFM for mediation services – still not a big number but an improvement over past years. A number of courts have convened meetings with court-connected providers such as MCFM – again, small steps but a positive development. Suffolk and Norfolk Probate and Family Courts have started on-site programs that have helped reduce the caseload in those counties.

Newly-appointed Probate and Family Court Chief Justice Angela Ordonez brings great energy to the field of court-connected ADR and I am certain we will realize through her office a great expansion in this area. Some weeks ago, she convened a meeting with Rachel Goldman and me to request MCFM's assistance in creating a pro bono on-site program in Middlesex Probate – particularly the Marlborough session. The Board is in the beginning stages of working on that. These are positive steps for the mediation community and for MCFM – by aligning ourselves and helping out the community, MCFM's reputation is enhanced and mediation itself becomes even better known. From a marketing perspective, this exposure is critical and will generate more paid work for our members.

Lastly, a bittersweet note: my two-year term as President draws to a close in May after which, by tradition, I will continue to serve on the Board for two years as a Vice President. I've been on the Board for over 8 years and it continues to be a meaningful part of my life. The community is a special one to me through which I've learned a great deal; and, perhaps more importantly, met countless colleagues and friends who I respect and trust.

Yours,



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MEDIATION: A PROCESS FOR EMPOWERMENT OF BOTH PARTIES

By Dr. C. Lynne Halem

Mediation has long been identified as a process which promotes the self-actualization and the empowerment of the individual participants. But what does empowerment mean? Clearly it would not be a "good" outcome for mediation to encourage individuals to learn to be aggressive or confrontational or to stubbornly stand their ground, so empowered are they by their newfound self-worth or importance. Nor is empowerment akin to granting individuals his or her own bully pulpit. Rather, in mediation, empowerment represents individual growth and new found personal confidence and strength, as well as the acquisition of new skills. This personal development does not occur instantaneously, nor is it a natural by product of mediation. The mediator *must* be skilled in creating an environment in which each individual's growth is not only encouraged but fostered.

Consider this couple:

Albert and Elizabeth have been married for 30 years and have two adult children, both of whom are pursuing their own careers and are financially independent. Albert assumed that he and Elizabeth would be embarking on a new phase of their lives, free of caring for children and daily parental concerns. He envisioned a life with more vacations and less worries. Elizabeth, however, had a different notion of her future. Now that

the children were grown, she wished to have time for herself, time away from her married life. In short she wanted to be released from her long-term marital relationship. She wanted a divorce.

When Albert finally realized that neither marital counseling nor heart felt pleas would result in the resurrection of his marital relationship, he agreed with Elizabeth that mediation offered a saner approach to ending their marriage; it would be less expensive, less antagonistic and hopefully would give each of them a voice in the creation of a fair settlement

From the beginning of the mediation process, it became clear that Elizabeth, although wanting her freedom and her independence, did not really have the skills to assess her financial options. She was determined to remain in the marital home, providing the children with a family home to which they could return for holidays and vacations. To Elizabeth, freedom meant being on her own, but also having the same resources as she did during her marriage. Although Elizabeth was employed, working at a small company as an administrative assistant to the president, she did not earn nearly enough money to be financially independent.

Albert was an engineer who earned over \$180,000.00/year. He understood that Elizabeth needed financial help and



that he had an obligation to provide assistance, even if he felt victimized and hurt by Elizabeth's decision to end the marriage. Albert argued that the house had to be sold, that it was financially impractical and perhaps even impossible for Elizabeth to keep the house and afford to maintain it. Besides, he wanted to purchase a house or a condo and needed his share of the home's equity. He suggested that they consider selling the house and using the proceeds to purchase buying two affordable properties.

Elizabeth pleaded her case; she told Albert how she had toiled fixing up the house, landscaping the yard, and looking for antiques at yard sales, auctions and estate sales. She was responsible, she argued, for increasing the value of their home and was too emotionally attached to the house to sell it. Where would the children go for Thanksgiving and Christmas?

Albert finally agreed to a delayed sale. Elizabeth could have three years to live in the house and then it would be sold with the equity shared equally between. Although Elizabeth had suggested trading her interest in retirement funds for Albert's share of the house, Albert knew that this would not be a wise decision for Elizabeth. Anyhow he wanted cash for a house purchase, not illiquid retirement funds. And so a deal appeared to be struck. However, Elizabeth's metamorphosis had not yet occurred. Prior to the mediation of support, the mediator required Albert

and Elizabeth to compile a detailed budget, with Elizabeth using the house in her budget and Albert using a rental that he had recently located. Elizabeth worked diligently on this task.

At the next mediation session, she surprised the mediator and Albert by saying that she agreed that the house needed to be sold. Although with support provided by Albert and her income, she might be able to cover the costs of the property, she would really be living for the house, with little funds left to embark on the new life she envisioned. Stunned by her ability to forecast her expenses and to actually agree that the house was an impractical expenditure, Albert suggested that they find a way for Elizabeth to have one year in the house. Albert proposed that Elizabeth agree to work her decorating magic during the year to further increase the value of the house, thereby making his and her financial sacrifice to keep the house for another year a good investment. Albert

[I]n mediation, empowerment represents individual growth and new found personal confidence and strength, as well as the acquisition of new skills.

was offering his help; he would pay additional funds to support the house; she would agree to fix up the property. Elizabeth was shocked; she did not think that Albert would help her, that he could look beyond his own emotional pain to see her attachment to the house.

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Mediation had given Elizabeth the impetus to think logically and analytically, to look realistically at her needs. For the first time in her marriage, not only did she do a budget, but she had gone beyond the numbers, extrapolating the effect of incurring such high housing costs on maintaining not only her standard of living, but her ability to spend money on other outlets beside the house. She, too, saw Albert in a new light; never before had he acknowledged so directly and concretely her feelings. Albert had not been comfortable with expressing his feelings, or with discussing emotional concerns of family members. Albert had also grown in the process. He realized that he and Elizabeth had lived in two different marriages. He had not had the vaguest inclination that she was unhappy. He spent ten to twelve hours a day working and really had not interacted in the day-to-day family life. And so they had moved in two different spheres, unaware of what each other was thinking and feeling.

Elizabeth felt proud of her ability to put aside her wants and consider the practicality of her future. Albert was proud that he could truly understand Elizabeth's feelings and offer help that would actually benefit both of them.

Mediation is not in and of itself, responsible for the personal growth of this couple. Rather, the mediator's creation of an environment in which both parties had to participate actively literally forced Elizabeth to look beyond her demands to its impact on her future. Albert, too, had a personal awakening; he heard Elizabeth's plea and he responded—not casually, but with concert assistance. Interestingly this couple had not only acquired new skills and increased awareness, but they also learned to communicate—to hear each other and to problem solve together in a manner that gave each party the satisfaction of reaching a positive and productive outcome. While neither party felt the marriage could be saved, they both were confident that they could preserve their friendship.



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REFLECTIONS ON EVERYTHING IS WORKABLE: A ZEN APPROACH TO CONFLICT RESOLUTION

(by Diane Musho Hamilton)

By Doris Tennant, Esq.

A few years ago I heard Diane Musho Hamilton, a Zen teacher, mediator and facilitator, speak about how her son with Down syndrome had taught her to be present with things as they are. Her stories about Willie, and his often profound expressions of humor and insight, revealed a woman who had learned to hold her seat in the face of disappointment, trauma and uncertainty.

Everything is Workable (Shambhala, 2013) is Hamilton's book about how to live consciously in a world sated with conflicts. Hamilton calls our most basic moral obligation "simply being present to each other" as a non-judgmental witness. She acknowledges that learning conflict skills asks something of us: "The more intimate we become with human suffering, the greater our compulsion to serve others."

The book caused me to reflect on how my own work is energized by that compulsion, which has grown out of eyes wide open to the suffering in the world, including in my clients. In addition to being my livelihood, I have come to see my work as an attorney, practicing Collaborative divorce law and mediating family and workplace matters, as service.

Not long ago I was speaking to a friend about how I continue to look for ways to contribute to the world. He pointed

out that my work is itself a contribution. That was the permission I apparently needed to move from viewing my work as merely an ethical way to support myself to service for the greater good. That subtle shift in perspective made me appreciate my work as my practice in being genuine.

When a client is relating to me from a place of blame, I must be aware of the desire that arises in me to defend my ego. I can stay present when I am not expending energy on self-protection. I can be truly curious about what is happening in the room and what may be behind an aggressive comment. As Hamilton teaches, "This profound presence to what is frees us of our need to change or manipulate anything," transforming the "energy of aggression" and bringing discipline to conflict resolution.

Recently I was mediating a conflict between two professionals who had been appointed to lead a long-term initiative in their company. They had been close friends for years, but co-directing this program was putting enormous strain on their friendship and professional relationship, so much so that each was considering resigning. I saw fairly quickly that facilitating their arriving at new ways of working together was not a solution—they had tried everything they could think of,

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and I had no rabbits to pull out of my hat. I felt a creeping inadequacy as they covered old territory and felt frustrated at getting nowhere. I could hear them thinking, “What are we doing here? Isn’t it her job to get us unstuck?”

I knew all was lost if I let myself be ruled by those judgments, so I dropped the urge to explore solutions. I made a conscious decision to hold the space in the room, simply being vigilant of their pain and mindful of breathing the same air. I had no agenda and did not rush to fill the silence, though I made a few brief observations and occasionally reflected back what I was hearing. A bit of openness arose in one, inviting it in the other—tentatively, with starts and halts, but with gradual momentum. My attention to them, not to my misgivings, was imperative. We were able to structure a simple plan that gave them just enough encouragement to experience greater spaciousness in their relationship and begin to find ways to work with their conflict, rather than being overwhelmed by it.

Hamilton calls our most basic moral obligation “simply being present to each other” as a non-judgmental witness.

I am grateful to those clients, as I am to so many others, who teach me again and again that trusting in the integrity of my own nature is the resource I can rely on, which means I can drop the effort to protect my reputation or status, or secure an image of myself as a miracle

worker. Indeed it is in the bareness of the moment, when I truly am left with nothing to prove and nothing to defend, that I have anything to offer.

Hamilton describes her experience as a mediator with the rare clients who “understood that the meeting was part of a precious day in their lives and that how they conducted themselves mattered,” and who had the capacity to express their own point of view as well as to hear an opposing one. Those qualities are not different from those of dispute resolution specialists who can both inhabit and model multiple perspectives and have come to know that defending their egos is “far less interesting than working creatively with the challenges that arise.”

I am a student of conflict every bit as much as my clients are, and I can learn best from conflict when I am, in Hamilton’s words, “more present, more fearless.” It is from that place that I can best employ the conflict skills she teaches. Among them is her emphasis on the mediator’s ability to reframe an attacking statement so as to bring to light a “compelling truth,” deepening the attacker’s perspective by getting to the nub of the matter, so that he sees more than what he saw before. It is also from a place of presence and fearlessness that I can notice the “shadow” in conflict—which Hamilton recognizes as the hidden perspectives no one will claim—and the need to acknowledge these ignored tensions in order to facilitate difficult conversations. Similarly, I can be aware of my own reactivity as I work



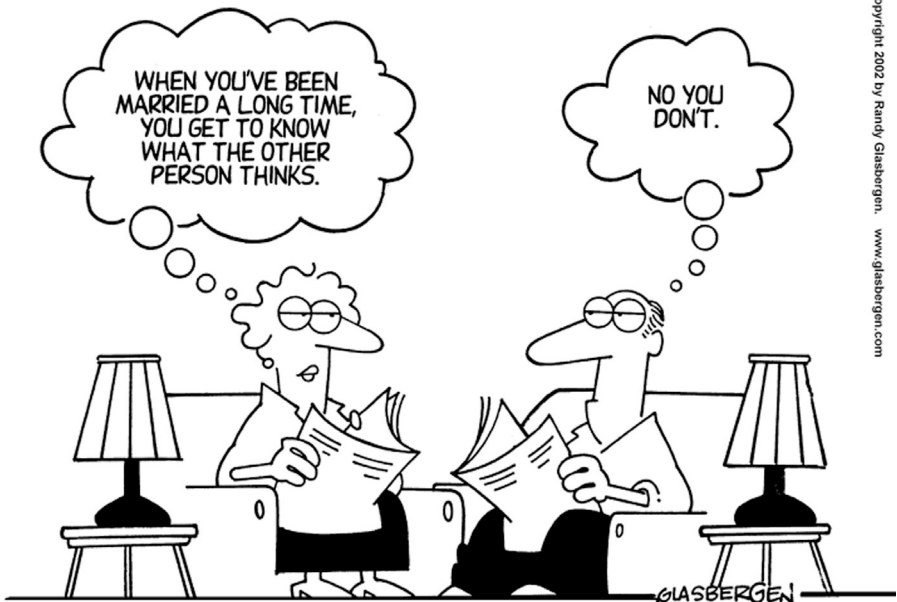
with conflict, and be brave enough to dig down to the shadow in myself—something that I have disowned and may be projecting onto my client.

Hamilton prods me to remember “the dimension in which we are the same”—we’re all trying, we’re all afraid, we all want to feel okay in the world—and respect conflict as “an expression of our profound and inextricable relatedness.” That relatedness can be messy, but

it is the only place to start if conflict resolution is to go beyond defending individual fears and desires—for me as well as my clients.



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MEDIATING INHERITANCE DISPUTES: TOP 10 TIPS AND TRICKS

By Jeffrey N. Fink, Esq.

Inheritance disputes can be difficult to resolve. They are tied up in a lifetime of emotions toward the deceased and every other claimant under the will, as well as personal and spousal expectations of monetary gain. Here are 10 tips and tricks that have helped me with this kind of dispute:

1. Grief.

Grief never stops completely. It only gets attenuated. Every time something comes up that reminds a party of the deceased, there is a little bit of grieving. Since there is no “normal” for how people express grief, it is hard for a mediator who does not know the parties well to predict how they will act or what their particular triggers might be.

2. Old Habits.

Normally high functioning people sometimes revert to childhood patterns of interaction. If a person was dependent on a parent into adulthood, they may display dependency when discussing the parent. Interaction patterns with siblings that were formed decades ago still persist, so middle-aged people will argue like they did when they were young children. A sibling who was respected as a 12 year old may carry that respect well past the time it is warranted.

3. Money Isn’t Just Money.

As in other areas of life, money can

be a proxy for parental love, sibling love, competing notions of fairness and even competing notions of honesty. The mediator should not assume he or she knows what money means to each of the parties.

4. ...Except When Money Is Just Money.

People may have lived their lives in anticipation of a particular inheritance. They may have disproportionate financial needs, or, sometimes, disproportionate greed. If the conversation becomes a zero-sum calculation on how to maximize financial gain, then the mediator should consider ways to broaden the discussion by adding non-financial elements to the mix such as preservation of personal relationships, or by exploring creative solutions such as using financial payments to fund the next generation’s college bills. Although commercial mediation techniques designed to manage positional bargaining may work to resolve the financial part of a dispute, the mediator should be cautious before choosing tools that could possibly further damage personal relationships.

5. Addressing Relationship Problems Often Resolves Money Problems.

People who seek out a mediator generally have strong but divergent



opinions on financial issues. In many cases, it can be helpful to have them express these opinions up front, then spend more time on the fractured relationships that have led to their disagreement. This often sets the stage for overall resolution.

6. Taxes Can Make Rational Decisions Difficult.

For instance, an asset specially bequeathed to one child may need to be valued for tax purposes, which all beneficiaries should want to be a low number. The problem is that if the will reads, "Tommy and Janet each get 50% of the estate, but Tommy gets the house and counts the value toward his 50%," the beneficiaries may disagree with having a low valuation of the house.

7. Embarrassment.

The mediator is intruding upon a deeply personal clash. Parties are often embarrassed to be in his office. There is often a shared expectation that the parties should have been able to resolve the dispute themselves. Establishing a personal connection with the parties is very important to try to overcome any reluctance to speak freely in front of the mediator.

8. Everyone Should Be In The Room. Even The Deceased.

Spouses often exert subtle and not so subtle influences on the parties. Much of the time, they should be in the room. Children and grandchildren should generally

not be present, especially if they are minors, since they add a layer of emotional complexity that is not conducive to resolution; however, if a piece of the puzzle has skipped a generation so that grandchildren who are of age are direct beneficiaries, there may be specific reasons to include them. The more difficult issue is that people who cannot be present, such as the deceased, usually play an important part in the process. For instance, parties often say, "Mom would have been horrified that we are fighting." The mediator should use this as a gift – except that he should also be careful if Mom had a pattern in life of intentionally causing strife.

9. Time Is The Key.

As with divorce mediation, parties' ability to stay focused is usually limited to a few hours at a time. Also, it takes time to for inheritance discussions to work their way through the process. On the one hand, grief proceeds at its own pace. On the other hand, inheritance discussions often follow a particular pattern that overlays the major emotional processing. Since communication in the presence of a neutral sometimes makes people speak and hear more clearly, the first session may involve re-opening channels of communication. The parties may then need to exchange enough views and information to be able to make a decision, which could take a second session or some legal skirmishing outside

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the mediator's office; they may then need to use a third session to process the information, depending on how much work they do offline; and then they may need yet another session just for help making the decision. As with family business disputes, the mediator should set the parties' expectations up front for how long the process may take.

10. It Is An Iterative Process.

As with other types of mediation, parties often keep circling back to the same points. Different mediators use different approaches. Some move parties quickly forward in the interest of a speedy resolution. If the parties' primary goal is to find a dollar amount to settle a case, that makes sense. However, while I do try to keep parties focused on

the future, I tend to let them stay in the conflict narrative more than in other kinds of mediation. If you help them through it, the iteration will help them with the grieving process as well as with separating their interests from their positions as, over time, they come to re-evaluate what is most important to them. In my experience, this approach limits last minute changes of heart.



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**Autobiography is an unrivalled
vehicle for telling the truth
about other people.**

Philip Guedalla



MEDIATION'S MAGNUM OPUS

A Book Review by Les Wallerstein

Like most emerging professions, mediation has spawned an abundant literature of mediocre merit that is often ignored and easily forgotten. By contrast, *Mediation: A Practice Guide for Mediators, Lawyers and Other Professionals* [MCLE New England (2013)] by David A. Hoffman and Boston Law Collaborative is an extraordinary tour de force brimming with insight and wisdom.

As lead author, David Hoffman draws on his wellspring of experience with contributions* from colleagues at the Boston Law Collaborative he founded. He weaves a tapestry touching on virtually every aspect of mediation: from the minutia of seating arrangements to the intricacies of confidentiality and privilege; from representing clients in mediation to ethics; ranging from a theoretical overview of mediation to a discussion of its underlying principles. His focus is on both family and civil cases (commercial, personal injury, etc.), and he interweaves stories of both types of mediation into the fabric.

The overarching strength of this magnum opus is the authors' humanity that permeates its pages, enriched by real tales from the trenches.

The uniform structure of the book makes it eminently readable as well as practical. Each chapter begins with a

detailed table of contents and a chapter précis titled "Scope Note". The text is enhanced by numerous "Examples" and "Practice Notes" to illustrate the hands-on work of mediation. This book includes extensive appendices stocked with technical resource materials. And while this book addresses universal issues in mediation, its jurisprudence is grounded in Massachusetts law; a special benefit for the Massachusetts mediation community.

The inherent strengths and weaknesses of any practice guide stem from a common source - the need to cover an enormous amount of material in limited space, which requires the distillation of complex concepts that warrant book-length analyses. Rather than skirting the issue, this book strives to ameliorate that reality with frequent invitations for the reader to explore subjects in greater depth, by providing plentiful references to primary source material.

Here are four short examples of what awaits the willing reader:

Posing the provocative question **Why Screen for Domestic Violence?** several authors offer the following analysis. "Because of the potential danger associated with disclosing a history of domestic violence to a mediator or third party, as well as feelings of shame associated with a history of such violence, mediators seldom learn about this aspect of the

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parties' past unless they inquire. There are two primary reasons why mediators should screen for domestic violence. First, if the mediator is unaware of the problem, she could elicit information in a joint session that would put one of the parties in danger of reprisal. Second, the mediator could be unaware of a power dynamic related to a history of domestic violence that puts one of the parties at a severe disadvantage regarding her ability to safely assert her own interests...." [§3.2.3(a)]

In his consideration of the Stages in the Mediation Process, David Hoffman advises mediators of the need for **Delivering Bad News Gracefully**: "Another vital skill in helping the parties and counsel assess the value of their case is for the mediator to communicate reality-testing questions with more than impartiality—with compassion. The parties and counsel may have invested considerable time and effort in developing their claim or defense. They may lack an objective view of the case. Any questions that you raise—even if invited—may be viewed with skepticism or defensiveness, or as an attack on their judgment or ability. Therefore mediators need to tread lightly, but candidly, in providing this type of feedback." [§4.7.2(b)]

David Hoffman's creative, out-of-the-box problem-solving skills are well illustrated in his story of bringing a husband's mother-in-law into the process. "In a marital mediation case in which the parties wished to remain married, the parties told the mediator that one of their major problems was

the tension between the husband and the wife's mother. The next two mediation sessions were held at a bagel shop near the mother-in-law's home, and the only attendees were the mediator, the husband, and his mother-in-law. The bagels were excellent, the discussion was productive, and the parties are still married." [§4.9.1(b)]

Everyone with any curiosity about mediation will find something of interest and lessons to be learned.

Lastly, in a chapter entitled *The Psychology of Mediation*, after an examination of the power of belief and expectations of clients and attorneys, the authors focus their attention on the often-overlooked subject of mediator expectations in a section entitled **The Psychologically-Minded Mediator**: "In order for agreement to emerge from the thought, experiences, and creativity of the parties, the mediators must achieve a psychological stance that is difficult to achieve. The mediator must learn to detach herself from the outcome of the mediation...." [§7.3.1(d)]

Everyone with any curiosity about mediation will find something of interest and lessons to be learned. Mediator aspirants will find practical advice from the ground up, considering every conceivable aspect of how to establish and maintain a mediation practice. Seasoned practitioners will discover thoughtful analyses of conundrums and contradictions of the human condition that pervade all mediations.



No one who has had the pleasure of rubbing shoulders with David will be surprised to learn that his new book is available both in the traditional format of the printed word as well as digitally... as an eBook... revised “with regularity.”



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The overarching strength of this magnum opus is the authors' humanity that permeates its pages, enriched by real tales from the trenches. If you could have but one book in your library on the subject of mediation, or only one in your digital collection... this should be the one.

* Contributing authors are attorneys Israella Brill-Cass, Nicole DiPentima, Annie O'Connell, and Katherine Triantafillou; and clinical psychologist Richard Wolman.



**The most costly of all
follies is to believe passionately
in the palpably not true.
It is the chief occupation
of mankind.**

H.L. Mencken



INFIDELITY: DEALING WITH THE ELEPHANT IN THE ROOM

By Lynn K. Cooper

As a mediator, my job is to help people restructure their family in a way that (if all goes very well) fosters health and healing for all family members. As a therapist, my job is frequently to help a couple rescue their tattered marriage so it is stronger in the broken places. Dealing with infidelity is one of the most difficult tasks in both of these jobs.

Questions arise: What is infidelity, really? If a spouse confides in a friend outside the marriage in ways that are more intimate emotionally than the relationship with their spouse, is that infidelity? Or is infidelity defined by sexual behavior outside the marriage? If the sexual behavior is consensual (as in swinging), is it still infidelity?

For the purpose of this article, I'm defining infidelity/an affair as the secret sharing of intimate behavior (either sexual or emotional) outside of the marriage; and the sharing is kept secret at least partly because it would be experienced as a betrayal by the spouse.

Infidelity is often (but not always) a reaction to loneliness or frustration about unmet needs in the marriage. In many cases, the straying partner reports (after discovery) that they never meant to stray—it “just happened”. Secrecy about the affair (whether emotional, physical, or both) is always damaging to the marriage; and the resulting erosion in trust is then quite toxic to

the relationship. If the affair partner is willing to give up the affair person and wishes to recommit to healing the marital breach, such marriages can often be saved. When the affair partner is unwilling to give up the affair person, those marriages usually end up in divorce. Which is where a mediator may enter the picture.

If the discovery of the infidelity is quite recent, emotions are likely to be strong and raw. It is rare that an infidelity is revealed voluntarily; usually it is discovered by the betrayed spouse, who is then often furious and wounded to the core—even if the marriage has been previously quite unsatisfying to both parties. The lies that accompanied the secret affair damage trust; and the reality of the straying spouse's intimate attachment to someone outside the marriage can strike at the core of the identity and role of the betrayed spouse. Feelings of humiliation, rage, sadness, anxiety, and despair are common. The straying spouse often shows guilt coupled with defensiveness, with resentment and some sadness underneath but not too far from the surface.

When divorcing after an affair, the strength of the emotions experienced by both parties makes it very difficult (and often impossible) for either of them to have a clear sense of what their children need as separate from what



each of them need. Very often, the discovery of the infidelity occurs while the children are around, and it is a rare betrayed spouse who at that very difficult time is willing and able to protect their children from sharing in the discovery. It is all too frequent for an enraged betrayed spouse to either express their feelings within earshot of the children (so that they become aware of the situation) or to insist that the straying parent tell the children what they have done—because the children “should know the truth”. The misery and anger of the children almost always leads to a disruption of their relationship with the straying parent—and to great personal distress for the children.

Whether that disruption is temporary or not depends on the ability of one or both parents to put their children's needs above their own and to be able to accurately see the difference between the two.

Even when the betrayal has not been loudly discovered within earshot of the children, it is a rare person who is both able and willing to protect their children from the knowledge that their spouse and co-parent has cheated on them (and lied about it as well). The betrayed spouse often thinks of the betrayal as a betrayal of the children as well as themselves, and thus feels justified in sharing the news of the betrayal with the children. The assumption is that the children will share the outrage of

the wronged parent and be angry at the offending parent. Which usually happens.

Helping the “guilty” spouse apologize sincerely and helping both spouses separate their needs, feelings, and wishes from those of their children can prevent tremendous distress for the children who need to maintain loving connections with both parents.

The wronged party can justify sharing this incendiary information with the children as a way to uphold the principles of telling the truth, and of justice, asserting that the betraying spouse is guilty of fracturing the family, and thus should be punished with the children's anger, rather than having the children angry at the “innocent” spouse or at both parents for a divorce.

A clandestine extramarital affair is unquestionably a destructive way of dealing with unhappiness with a marriage. The damage done to the prospects of saving the marriage and/or protecting the children are further compounded by the affair person's deceptive behavior in hiding the affair from their spouse. This fact pattern tends to make it easy to place full blame on the straying spouse for the demise of the marriage and breakup of the family. Sometimes this is justified, but in many cases the marriage was in trouble before the affair, and each spouse contributed to the trouble in significant ways. This

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by no means justifies betrayal and deceit as a way of handling dissatisfaction with a marriage. However, to believe that one spouse is entirely at fault because before their affair the marriage was working well when it truly was not serves neither truth nor justice (nor the health of the children's future relationships with either parent).

Unfortunately, this mix of despair, rage and blame is all too common when such a couple appears in a divorce mediator's office. The mediator has a difficult task; to empathize with the wounded feelings and sense of identity and other serious losses experienced by the betrayed spouse while also trying to help that spouse separate their experience from that of their children, and their interests from those of their children. Helping the "guilty" spouse apologize sincerely and helping both spouses separate their needs, feelings, and wishes from those of their children can prevent tremendous distress for the children who need to maintain loving connections with both parents.

Even when the children have already been immersed in the knowledge of a parent's affair, much work can be done in helping the betrayed parent to give their children permission to love the other parent in spite of the affair behavior and the betrayed parent's own strong negative feelings. This is a tremendous gift for the children.

Some parents are able to go this far, but are overwhelmed by distress and anger when the affair spouse wants to make the affair partner a permanent part of their post-divorce life, and thus wants the children to meet him/her. This is asking a lot of the betrayed spouse, and also of the children. If the betrayed spouse is able to give the children permission to like the other parent's new partner (while not having to like the new partner themselves), this at least gets the children out of the middle of a loyalty bind that would likely make them angry, guilty, and miserable.

And last, but not by any means least, it can be a challenge for us, as mediators, to work with our own feelings and judgments about the issue of infidelity behavior so we can truly be of the most help to our clients.



Lynn K. Cooper, Ed.D., A.B.P.P., is a licensed and Board-Certified clinical psychologist, a divorce/family mediator certified by the Massachusetts Council on Family Mediation, and a collaborative coach, with an office in Newton MA. She is a past President, Vice President, Certification Committee chairperson, and current member of the Board of Directors of the Massachusetts Council on Family Mediation, and she is also a member of the Massachusetts Collaborative Law Council and the International Academy of Collaborative Professionals.



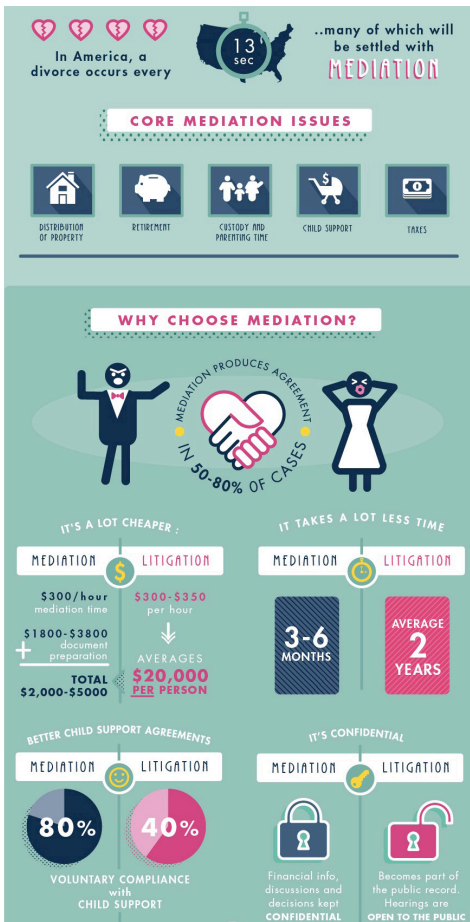


CHOOSING DIVORCE MEDIATION THROUGH STATISTICAL ANALYSIS

By Rackham Karlsson

Top Counseling Schools has posted an infographic titled, Does Divorce Mediation Work?, which perhaps ought to be titled, “Does Divorce Mediation Work (Well Enough)?” The graphic is chock full of great statistics, but might still leave somebody wondering whether mediation is right for them. Here is the infographic itself (shared by permission):

DOES DIVORCE MEDIATION WORK?



Source: TopCounselingSchools.org

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Somebody viewing this infographic might balk at the statistic that mediation produces agreement in 50-80% of cases. Why spend thousands of dollars on a process that might have no better chances than a coin flip?

Divorce mediation numbers are better than that.

First, it should be noted that even if 50-80% of mediated cases result in full agreement, many of the remaining cases still reach agreement on one or more issues. That means the couple has reduced the number of issues that remain to be resolved after the mediation process. If they go to court, that could mean a *significant* reduction in litigation expenses.

More importantly, the 50-80% rate of full agreement is based on reported statistics from multiple sources. It turns out that some mediators reported a 50% agreement rate, while others reported an 80% agreement rate. After the infographic, the Top Counseling Schools blog post includes a list of “traits of good mediators,” including:

- Humanity (humor, optimism, empathy, sympathy, friendliness)
- Intelligence; adaptability; problem-solving mindset
- Professionalism

A mediator who exhibits all three of these traits is likely to have a much higher agreement rate.

Although potential cost savings is one reason to choose mediation over litigation (and for some people the only reason they need), there are other important factors to consider.

Decision tree analysis favors divorce mediation.

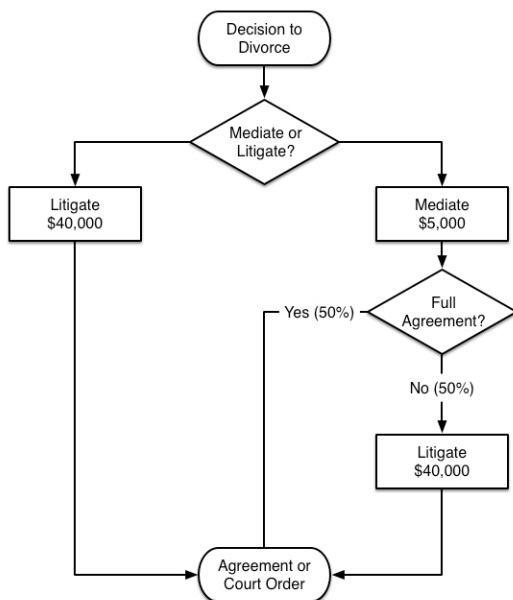
A decision tree is a common analytical tool for comparing the measurable benefits of different courses of action. You input the estimated likelihood of each outcome, to determine which course of action is statistically preferable. Let's do that here, using the *worst-case* numbers for mediation and the *best-case* numbers for litigation. Specifically, let's assume only a 50% success rate (i.e., full agreement) for mediation, with the mediation process costing \$5,000 total and the litigation process costing \$40,000 total. Let's also assume that mediating beforehand does not reduce the cost of subsequent litigation – an assumption that I believe to be false, but I don't have any way of quantifying that belief at the moment.

Here are the possible outcomes if you mediate:

1. Mediate and reach full agreement: \$5,000 (50% chance)
2. Mediate, then litigate: \$45,000 (50% chance)



The decision tree looks like this:



With a fifty percent chance of each outcome (either full agreement or further litigation), the “mediate” branch of the decision tree gives an expected cost of $(0.5 \times \$5,000) + (0.5 \times \$45,000) = \$25,000$. The litigation branch of the decision tree has only one possible outcome: **\$40,000**. That’s a huge statistical bias in favor of mediation – and remember, this analysis used the numbers most favorable to litigation!

Divorce mediation isn’t just about saving money.

Although potential cost savings is one reason to choose mediation over litigation (and for some people the only reason they need), there are other important factors to consider. With the right mediator, spouses will learn constructive ways of working through issues, and will gain valuable insights into each other’s goals and interests in the process. Those tools will serve them well even if mediation does not yield a full agreement.

If there are children involved, mediation could mean the difference between effective, respectful co-parenting and parents who can’t speak to each other anymore. Note the huge differences in child support compliance rates in the infographic – 80 percent versus merely 40 percent! As long as there are no allegations of child abuse or neglect, mediation or collaborative law should absolutely be a serious consideration for any divorcing couple with children.

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I love science and evidence-based analysis. If you can show me the numbers, I am far more likely to support a view than if you just tell me it “feels” right (although that is an important factor, too). Looking at the numbers here, it is very clear that divorcing couples should consider mediation. It is less expensive, faster, and produces agreements with much higher compliance rates.

It's not a panacea, but it sure does look good on paper.



Rackham Karlsson is a family law mediator and collaborative attorney based in Cambridge, Massachusetts. He lives in Cambridge with his wife, three children, two dogs, and two cats. He can be reached at (617) 475-0861 rackham@zephyrlaw.com



**My wife and I tried two or three
times in the last forty years to
have breakfast together,
but it was so disagreeable
we had to stop.**

Winston Churchill



TALKING WITH YOUR CHILDREN ABOUT DIVORCE "AN UMBRELLA OF PROTECTION"

By Janet Miller Wiseman

Find a quiet time and place, maybe after dinner, to talk together with all your children.

Allow the parent who is ahead of the other in the process to begin to speak first.

Ask the children what they, themselves, have noticed about your relationship. Are you having more fun together than you used to? Do you seem more upset with one another than you used to? What have they noticed?

Tell them you have been observing your relationship yourselves, too, for quite some time, talking about it, and even talking with a neutral professional decision-making helper about it.

They are the most important people in the world to you. You couldn't make a decision about the future of your relationship, something that will deeply affect everyone, without very careful and thoughtful consideration.

Although you still love each other, and respect each other deeply, you haven't been as happy together as you could be and want to be. Perhaps you have grown apart to such a distance that you can't reach back and connect to one another. It hasn't been for lack of trying. You have certainly tried.

In spite of the pain of loss of the family unit under one roof, you have made the decision to separate and divorce. There will be sadness, even anger, sometimes feelings of hate and rage, which are normal feelings. These feelings are temporary and you will return to feeling normal and, hopefully sooner than later.

It is your intention to put a roof, "a kind of umbrella of protection" over all of you, as a family. You will continue to do things together; parent conferences, graduations, dinners out, get-togethers with extended family, weddings, births; maybe even more times. You won't fail to let the other parent know how you're doing when you are with them; you won't fall between any cracks. You intend to talk regularly, to have "Parent Conferences", to talk to each other and with you about your needs at school, extracurricular activities, work; about everything you are involved in. If anything, you intend to be more, rather than less attentive to their needs and more present when they need you, and even when they don't!

Getting divorced is about parents still being parents, but no longer a couple who tries, and keeps trying to create a good couple relationship. You still intend to create an even better parent relationship, which will never end. You will always be their parents, forever and ever.

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You want them to feel open to come to talk with you, to tell you when they are mad at you, because most kids are mad at their parents when their

It is your intention to put a roof, "a kind of umbrella of protection" over all of you, as a family.

family restructures into two homes. And, you may recommend that they get a professional outside-the-family counselor or a group-counseling situation, at least for a little while. You hope they find friends who have encountered this challenge, successfully, with whom they can be friends and from whom they can learn how those friends have adjusted and maybe even like their situations.

"Most of all, we want you to know that we respect each other...for X and Y reasons, especially. And, that without having been married to one another, which was good in this and that ways, we wouldn't have had you as our particular children in our lives. This

would have been unimaginable and we have no regrets about this marriage. It was meant to be. Remember you don't have to protect us or be our parents. You need to pay attention to what you need and go about the business of being kids, just people of your own age!"

"We'll both be here, without any out of town travels, or business trips, for at least five days, consecutively, and much longer if we are able, so we can answer all of your questions, provide you comfort and listen to your feelings. We both believe there is a better, more hopeful future to come after the clouds and the rain clear away."



Janet Miller Wiseman, LICSW and Certified Family Mediator by MCFM, is a divorce, decision-making, couples, and business mediator and a psychotherapist with a dual practice in Lexington, MA. She practices Collaborative Mediation (sm: service mark), a cross-disciplinary approach involving financial, legal, and psychological colleagues. Her book "7 Visual Steps to Highly Effective Negotiation and Decision-Making" will be published this year.



**Bigamy is having one [spouse] too many.
Monogamy is the same.**

Oscar Wilde



THE SLAP AND THE SERMON

By Michael Jacobs

“Mediators are bound to feel tempted sometimes to knock heads together, tell people what they ought to do – or just give up.” Lisa Parkinson

Mediators spend a lot of time working with conflict. And equally, it might be argued that conflict spends a lot of time working on us. This article explores some possible responses to our long term exposure to people in dispute.

To illustrate my point, I want to begin by describing the practice of two former colleagues. I hasten to add that neither of these characterisations is meant to be definitive. For me, each of these long-serving mediators represents a kind of archetypal response to sitting day-after-day with conflictual couples. Nor are their behaviours in any way exclusive – I suspect that many of us will recognise ourselves in their responses.

Annabel had been mediating for nearly twenty years. She had come to mediation with a background in social work. Annabel was my supervisor and ‘dumping ground’ – the person I’d moan and groan to after a difficult session. I still haven’t really forgiven her for retiring a year or so ago.

Part of the reason she stopped mediating was her urge to slap clients. I hasten to add that she never actually succumbed. However, sitting day after day with people who behaved as badly as only those engaged in conflict can, brought her to the edge of self-control. She’d feel an enormous desire to tell them off, to

chastise, to tell them in plain language to get a grip and grow-up. She admitted that with certain clients her restraint was sorely tested. In the end, she felt it was in everyone’s best interests – her own as well as clients’ – that she retired before her self-control gave way.

I suspect the urge to slap disputing parties probably comes to us all from time to time. The point is that in Annabel’s case she recognised it as a signal. Her skills as an experienced mediator were still intact, what happened was a kind of inner shift. Clients continued to tell the same kinds of stories, but she no longer felt willing to reshape this material into more constructive versions.

This behaviour didn’t arise out of an absence of competency or care. Annabel might well argue that what happened was something more akin to truth-telling – she was no longer interested in spending time with people who could only see the world through a narrow self-centred lens. Her desire to slap them came from wanting to bring them back to their senses. To return them to a larger world.

Caroline went down a different path. She had already been mediating for a number of years when I first arrived as a trainee. Caroline had been a teacher prior to mediating. So perhaps it is not surprising that when she too finally lost patience with clients, she was possessed less with the urge to slap than the tendency to sermonise.

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There were more or less standard versions of her more frequent lectures. She would trot them out when she heard certain key words or phrases emanating from clients. She talked about what children needed – about what they *really* needed from their separating parents. Caroline's belief was that conflict distracted parents from their primary role. Her job was to remind them.

Caroline was old enough and grey enough to get away with this dispensation of wisdom and advice. Having worked with her, I have no doubt that her intention was always to be helpful. Mostly people didn't interrupt her sermons. Of course, this didn't mean they actually did what she suggested. There were also those who found her tone patronising. They rarely came back for a second dose.

I believe these two tendencies – the slap and the sermon – are familiar responses for many long-serving practitioners. After eighteen years, I admit to having felt them both. And while acting on either would raise some serious questions, acknowledging their presence may not be to contemplate retirement.

Experienced mediators know the pain and distress caused by disputes. This can be especially poignant in family work where the lives of children are affected. We do the work we do because we know that mediation can make a difference. So when parties resist behaving in more collaborative, less conflictual ways, we can feel anything from disappointment to frustration to outrage.

The slap and the sermon are potent reminders of the limits of our work. That

as mediators we can't control other people's lives. In professing the virtues of empowerment and self-determination as a central tenets of mediation, we voluntarily tie our own hands. If people insist on doing stupid things, if they make crap choices, we may well find it very difficult to stop them. The only antidote to the resulting frustration may be to remember that we too have the capacity to do dumb things. Such is the nature of human freedom.

Our desire to deliver a slap or a sermon represent a longing for better outcomes. The paradox is that while we have no power to insist, we do have the responsibility to continue to believe. Our belief in the possibility of agreement, resolution and peace is what underpins the invitation we extend to parties to participate in the mediation process. And while we are entitled to extol the benefits of accepting this invitation, it remains an invitation which the parties are free to decline. Having refused, we might well wish to slap them into sensibility or berate until they make a different choice.

Our job as mediators is neither to punish or to preach. We extend an invitation. All we can do is find ways of making that invitation ever more attractive, so that even our 'inner idiot' will find it hard to say no.



Michael Jacobs has been a mediator for nearly 18 years – and is still quite capable of getting things wrong on a regular basis. This is one of the chief reasons he is so passionate about what he does. He can be reached at michael@kenosis.org.uk



HOW CAN YOU SAY THAT?

By Kate Fanger

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

Dear Kate,

In my mediations I often have clients who are not ready or able to move at the same pace with the mediation, with one party pushing the conversation and the other party dragging his/her heels. Sometimes it is because one is more emotionally ready to negotiate the details of the divorce, and the other is stuck in hurt or blame and can't, or won't, move as quickly. What can I say to them to help them cope with their frustrations? –South Shore Mediator

Dear South Shore Mediator,

This is a challenge I often encounter! Frequently one party presents as less emotional, apparently readier to talk and make decisions. This party is often the one who instigated the divorce. The other party is more obviously emotional, whether with tears or anger or silence expressing his/her disapproval of the divorce, and slowing down the conversation by complaining about the past, or a betrayal, or simply by attacking the other party. After I've tried all the usual mediator tricks to connect with both of them and create a space for them to talk, I often decide to meet with them separately in a caucus, where I can speak differently—and directly—to each of them. To the hurt/angry “slower-downer” I will talk about what choices are available to them, sympathizing with their distress but discussing the reality that the divorce will happen whether they want it to or not, and that their choices are really about how it happens, and how they can choose to participate in making it less awful, both for themselves and for their children, by using the mediation process effectively. I will try to find out how I can support their ability to participate in the conversation at the mediation table, and ask for their help in doing that. If it appears that the slowing down is being done to intentionally frustrate or punish the other party, I might talk about the longer-term effect, or cost, that can have on the process. To the “hurry-upper” I may again start with sympathizing with their feelings, their wanting to ‘get it done’ and to ‘move on’. Then I might revisit what I tell all my clients in the initial session about my role as a resource for them to make informed decisions throughout the process. I will say that I consider that role to extend to the process itself, (the strategic) and not just the divorce decisions (the substantive). I will say that in my experience all the choices they make will have consequences, or a cost for them, and that if they continue to push the other party to hurry up, the cost to them may be a loss of good will, generosity or even reasonableness from the other party that can affect all of the substantive negotiations to come. By highlighting the direct downside to pushing the other party to get on with it, sometimes a client can see that patience is not just a concession to the other, but will serve their interests as well. In caucus I will emphasize their individual aims; when we're meeting together I'll frame it as a joint goal, by commenting on both of them wanting an effective process. I'll refer back to that in future moments when either seems to be slipping back into unhelpful push/resist behaviors.



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



NEWS FOR 2014 FROM THE CERTIFICATION COMMITTEE

Have you ever considered the idea of becoming an MCFM Certified Mediator but felt the process was too complicated? If you have an advanced degree, 90 hours of substantive training and over 100 hours of face to face mediation experience in 10 or more mediations you are eligible to become certified. MCFM's Certification Committee is delighted to announce a variety of upgrades to the process of applying for Certification and new benefits of maintaining your Certified Member status.

The application for Certification is now available as a fillable pdf form on the MCFM website that may be much more easily filled out than the previous paper form. The hours of training needed for each category of study automatically add up. The entire application can be typed out on one's computer.

Payment for the Certification application can be made online by credit card once a member is logged into their MCFM account. Once payment is made, the Certification application will then be available for download. After the application is filled out it will be emailed for review, making the whole process much more user friendly.

The renewal process for Certification occurs every two years and is also now accessible online. Once a member is logged into their account, payment for the renewal and an affidavit can be accessed. Mailing of forms and checks will no longer be necessary.

A new and exciting benefit for Certified Mediators is a Certified Mediator Badge that all Certified Mediators may feature on their websites, email signatures and marketing materials. This badge is already displayed on the profile page of the MCFM website of all certified mediators. This icon is hyperlinked and when clicked on, will bring the user to the page of the MCFM website that details the explanation of what the designation of MCFM Certified Mediator means.

The Certification committee has implemented these updates to make the certification process more streamlined. We hope that these changes will persuade those of you who are experienced mediators to participate in the certification application process. Prominent display of the MCFM Certified Mediator logo is a strong message to potential clients that a mediator is experienced and well trained.



MASSACHUSETTS FAMILY LAW: A PERIODIC REVIEW

By Jonathan E. Fields

Temporary Alimony Doesn't Count. In the most significant case to date concerning the Alimony Reform Act, the SJC determined that the period during which temporary alimony is paid during the pendency of a divorce proceeding pursuant to G.L. c. 208 s. 17 is *not included* in the calculation of the maximum presumptive duration of general term alimony. Rather, the Court found, temporary alimony is separate and distinct from general term alimony as the new law did not amend or reference G.L. c. 208 s. 17, the temporary alimony statute.

As to a payor's concern that this ruling might encourage payees to elongate divorce proceedings to maximize alimony payments, the SJC stated that a judge may shorten the duration of alimony in the event that "temporary alimony is unusually long in duration or where the [payee] has caused unfair delay in the issuance of a final judgment in order to prolong the length of time in which alimony may be paid..." The formulation allows that an "unusually long period of temporary alimony" can, *by itself*, be sufficient.

How long is an "unusually long" period of temporary alimony? Here, it lasted almost two and a half years but there was no evidence that the wife delayed final resolution of the case. As such, the SJC found that the judge did not abuse her discretion in deciding that the appropriate length of alimony was the maximum presumptive duration. *Holmes v. Holmes*, 467 Mass. 653 (April 2, 2014)



**Convictions are more dangerous enemies
of truth than lies.**

Friedrich Nietzsche



WHAT'S NEWS?

NATIONAL & INTERNATIONAL FAMILY NEWS

Chronologically Compiled & Edited by Les Wallerstein

Nigeria Bans Same-Sex Relationships

A tough ban on same-sex relationships that threatens violators with 14-year prison terms has been signed into law by the president of Nigeria, Africa's most populous nation. The ban, known as the Same Sex Marriage Prohibition Act, is considered the most significant setback to gay rights in Africa, where same-sex relationships are already widely prohibited. The law took effect as gay-rights advocacy is gaining traction elsewhere, led by the United States and other Western nations where the legality and acceptance of same-sex marriage and civil unions are expanding. Any same-sex marriages or partnerships accepted as legal in other countries would be void in Nigeria. (Rick Gladstone, NY Times, 1/14/2014)

Oklahoma's Ban on Same-Sex Marriage Unconstitutional

A federal court ruled that the state's constitutional amendment barring same-sex marriage violated the federal Constitution, the latest in a string of legal victories for gay rights and one that occurred in the heart of the Bible Belt. The decision found the state's ban on marriage by gay and lesbian couples is "an arbitrary, irrational exclusion of just one class of Oklahoma citizens from a governmental benefit," and that the amendment is based on "moral disapproval" and does not advance the state's asserted interests in promoting heterosexual marriage or

the welfare of children. (Erik Eckholm, NY Times, 1/15/2014)

Are You My Cousin? The previously staid world of genealogy is in the midst of a controversial revolution. A handful of websites have turbocharged family trees with a collaborative, Wikipedia-like approach. You upload your family tree, and then you can merge your tree with another tree that has a cousin in common. After that, you merge and merge again. This creates vast webs with hundreds of thousands — or millions — of cousins by blood and marriage, provided you think the links are accurate. One site, Geni, has what it calls the World Family Tree, with about 75 million relatives in more than 160 countries and all seven continents, including Antarctica. (A. J. Jacobs, NY Times, 1/31/2014)

Federal Judge Overturns Virginia's Same-Sex Marriage Ban

A federal judge ruled that Virginia's ban on same-sex marriage was unconstitutional, in the strongest legal reversal yet of restrictive marriage amendments that exist throughout the South. The ruling, which overturned a constitutional amendment adopted by Virginia voters in 2006 as well as previous laws, also said that Virginia must respect same-sex marriages that were carried out legally in other states. (Erik Eckholm, NY Times, 2/14/2014)



Federal Judge Strikes Down Texas' Ban on Same-Sex Marriage

A federal judge in Texas struck down the state's ban on same-sex marriage, ruling that the laws restricting marriage to a man and a woman violated the United States Constitution. The judge wrote that the amendment to the state Constitution that Texas voters approved in 2005 defining marriage as between a man and a woman — and two similar laws passed in 1997 and 2003 — denied gay couples the right to marry and demeaned their dignity “for no legitimate reason.” (Manny Fernandez, NY Times, 2/27/2014)

Part of Kentucky Marriage Law Overturned

A federal judge struck down a portion of the state's constitutional ban on same-sex marriage, ruling that Kentucky must recognize marriages that have been performed legally in other states. The ruling struck down portions of the Kentucky law after lawsuits by four gay and lesbian couples challenged the legality of a provision of the state's 2004 same-sex marriage ban that extended the prohibition to marriages performed in other states. The lawsuits did not address the state's same sex-marriage ban as a whole. (Timothy Williams, NY Times, 2/12/2014)

Michigan's Ban on Same-Sex Marriage Struck Down

A federal judge in Detroit struck down Michigan's ban on same-sex marriage, the latest in a string of court decisions across the country to rule that denying marriage to gay and lesbian couples is a violation of the Constitution. The two-week trial drew special attention because it was the first

in several years to include testimony from social-science researchers on the potential impact of same-sex marriage on families and children. The state, arguing that it would be risky to change the definition of marriage, cited studies concluding that children raised by same-sex couples had worse outcomes in life. Lawyers for the plaintiffs described the scholars who appeared for the state as religiously motivated and part of a “desperate fringe.” The judge agreed with the criticism, describing the state's witnesses as “unbelievable” and calling their studies deeply flawed. The Michigan attorney general filed notice that the state would make an emergency request to the United States Court of Appeals for the Sixth Circuit to stay the ruling and reconsider it. (Erik Eckholm, NY Times, 3/21/2014)

Ohio Must Recognize Same-Sex Marriages Performed Out of State

A federal judge has ruled that Ohio has to recognize same-sex marriages performed legally in other states, the latest in a series of court decisions around the country overturning restrictive state marriage laws and amendments. Unlike recent federal court decisions in other states, including Oklahoma, Texas, Utah and Virginia, the new decision will not require Ohio to allow same-sex marriages within the state. Ohio announced that it will appeal the decision. (Erik Eckholm, New York Times, 4/4/2014)

International Birth Rates Drop

Nearly half of all people now live in countries where women, on average,

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give birth to fewer than 2.1 babies — the number generally required to replace both parents — over their lifetimes. This is true in Melbourne and Moscow, São Paulo and Seoul, Tehran and Tokyo. It is not limited to the West, or to rich countries; it is happening in places as diverse as Armenia, Bhutan, El Salvador, Poland and Qatar. At just over two births per woman (down from nearly four in 1957 at the peak of the baby boom), the United States is more fertile than most other rich countries, like Germany and Japan. In large, emerging economies where labor is still relatively cheap — places like Brazil, Russia, Iran, much of southern India — fertility rates have steadily fallen since the 1980s. (Michael S. Teitelbaum & Jay M. Winter, NY Times, 4/6/2014)

More American Mothers Stay at Home The number of stay-at-home mothers in the United States has risen since 2000 after decades of decline. A report released by the Pew Research Center found that 29 percent of mothers with children younger than 18 — about 10.4 million women — stayed at home in 2012, compared with the historic low of 23 percent in 1999. About 49 percent of mothers stayed at home in 1967, but that number decreased until 1999. (Jess Bidgood, NY Times 4/8/2014)



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



**The final delusion is
the belief that one
has lost all delusions.**

Maurice Chapelain



MCFM NEWS

MEDIATION PEER GROUP MEETINGS

Peer Group Focused on Financial Issues in Divorce Open to all divorce professionals, the purpose of the group is to focus awareness on the financial intricacies of divorce in an open forum that promotes discussion of a wide range of issues. Discussions will be led by Chris Chen, CDFA, CFP, Diane Pappas, CDFA, and group members. Morning Meetings are usually from 10:00 am – noon at Cambridge Savings Bank, Arlington Center, 626 Mass Avenue – upstairs conference room. **Seating is limited. Please contact Diane @ (978-833-6144), diane.pappas@insightfinancialstrategists.com or Chris @ (781-489-3994), chris.chen@insightfinancialstrategists.com**

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

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

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

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

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OFFER MCFM's BROCHURES TO PROSPECTIVE CLIENTS

Copies of MCFM's brochure are available for members only. Brochure costs are: [1-20 @ 50¢ each, 21-50 @ 40¢ each & 51+ @ 30¢ each] plus shipping, (unless you pre-arrange to pick them up at a professional development meeting or other MCFM event). A blank area on the back is provided for members to personalize their brochures, or to address for mailing. **Remember: when you buy 21 or more brochures the "per copy" price is less than the cost to print!**

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



AN INVITATION FOR MCFM MEMBERS ONLY

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



HELP BUILD AN ARCHIVE!

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

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



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



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THE FMQ WANTS YOU!

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



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

NOW'S THE TIME TO SHARE YOUR STORY!



ANNOUNCEMENTS

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

ELDER (ADULT FAMILY) MEDIATION TRAINING

Presented by Elder Decisions® - a division of Agreement Resources, LLC

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

Participants have travelled to Massachusetts from more than 20 states and from Canada, Germany, the UK, Switzerland, New Zealand and Australia to attend. The new four-day format expands on the popular three-day program with additional content and even more multi-party role play opportunities.

FOUR-DAY TRAINING
July 29 - August 1, 2014
Newton, MA

Lead Trainers:
Arline Kardasis and Crystal Thorpe
Joined by guest experts in Aging and Elder Law

Cost: \$1,050 by early registration deadline; \$1,125 thereafter.
Trainings include lunches, snacks, and course materials.
For detailed information and registration:

visit: www.ElderDecisions.com
email: training@ElderDecisions.com
or call: 617-621-7009 x29



JOIN US MEMBERSHIP

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

REFERRAL DIRECTORY

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

PRACTICE STANDARDS

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

CERTIFICATION & RECERTIFICATION

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

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

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



DIRECTORATE

MASSACHUSETTS COUNCIL ON FAMILY MEDIATION, INC.

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EDITOR'S NOTICE

MCFM **Family Mediation Quarterly**

Kate Fanger, Editor
21 Properzi Way, Suite G
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617-599-6412

KF@katefangermediation.com

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

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

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

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

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

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

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

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



Massachusetts
Council on
Family Mediation



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