

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.

Family Mediation Quarterly



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INSPIRING SETTLEMENTS SINCE 1982

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January 29, 2007

Child Support Guidelines Task Force
Two Center Plaza, Suite 210
Boston, MA 02108

Dear Task Force Members:

In response to your request for comments and suggestions to revise the Massachusetts Child Support Guidelines, I offer five proposals.

1. While divorce impoverishes all family members, it is well documented that mothers and children bear a disproportionate brunt of the burden. To help remedy this inequity, the current \$20,000 custodial parent "set-aside" (3. c) should be gradually increased based on the number of children. Thus \$20,000 could be set-aside for a custodial parent with one child, \$25,000 for a custodial parent with 2 or 3 children, and \$30,000 for a custodial parent with more than three children. A "set-aside" calculation based on the number of children would be in line with the calculation of the Basic Order (1.b) for the non-custodial parent.

2. Revised guidelines should clarify that family health insurance costs include the cost of all health insurance provided, i.e., medical, dental, optical, prescription drug benefits, etc.

3. If the revised worksheet continues to require completion "for all cases," it will continue to be mathematically impossible to calculate child support in shared custody cases. Unless shared custody is specifically exempted from this requirement, the revised worksheet should provide clear guidance. As examples:

(i) The parent with whom the children live primarily shall be deemed the custodial parent solely for the purpose of completing the worksheet.

(ii) If the children live equally with each parent, the parent with the greater income shall be deemed the non-custodial parent solely for the purpose of completing the worksheet.

4. Parents should be re-empowered to agree on appropriate child support, subject of course to court approval. Accordingly, the revised worksheet should *reinstate* its prior instructions: "These guidelines will apply (*absent a prior agreement acceptable to both parties*)...."

5. Revised guidelines should specify precisely how to calculate child support in families with income in excess of the upper limits. For example, X percent of income in excess of the upper limits shall be added to the weekly order.

Thank you for the opportunity to share these ideas.

Sincerely,



Les Wallerstein

The deadline to submit comments is February 22nd. Share your ideas with the Task Force by mail as above, or by email at childsupport@jud.state.ma.us. All written comments will be considered.



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 effect 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 to all MCFM members. Copies are provided 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 on-line 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.



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THE MEDIATOR'S TOOL KIT

Transference and Countertransference: Part II

By Rina Folman and Steve Nisenbaum

Editor's Note: In Part I of this article (*FMQ*, Vol. 5, No. 3, Summer, 2006), the authors reviewed the relevance of "transference" to divorce and post-divorce mediation. Sigmund Freud proposed that the therapeutic alliance activates a phenomenon referred to as "transference" in which the patient ascribes feelings and thoughts to the psychoanalyst that actually are unconscious projections of the patient's deep infantile longings for the ideal parent. In Part II the authors consider whether the analogous "countertransference" activated in the therapist also corresponds to feelings activated in mediators toward their clients. "Countertransference" refers to when the therapist imbues the patient with unconscious, internalized feelings (positive or negative, or both) based on a composite sum of historically experienced interactions with parental figures during the formative years.

Review In Part I we suggested that both psychodynamic couples psychotherapy and mediation are processes in which a trained neutral party helps individuals communicate and understand each other more effectively. Both interventions involve a hired neutral facilitator who schedules sessions with the couple in order to facilitate the resolution of a presenting problem. Both processes help clients listen to each other, improve communication patterns, reach agreements and learn how to cooperate in order to resolve problems.

The concern presented in this article relates to the mediator's lack of insight into his/her own "countertransference" and how that may create bias that results in an inadequate assessment and poor choice of interventions. In the context of psychotherapy, "countertransference" refers to the events and processes that take place when a therapist perceives and acts as if the patient embodies or represents internalized memories of his/her parents from early childhood. In this article, we propose that in mediation, too, unrecognized countertransference may not only interfere with attaining the goals set forth, but also may have the potential to produce real harm.

Countertransference in the Mediation Process In his *Lectures on Psychoanalysis* (1916-17), Freud opined: "We overcome the transference by pointing out to the patient that his feelings do not arise from the present situation and do not apply to the person of the doctor, but that they are repeating something that happened to him earlier. In this way we oblige him to transform his repetition into a memory" – in other words, to neutralize its awesome resemblance and securely put it behind him forever. By helping the client recognize these transference feelings in the past, the client becomes aware how these repetitive patterns distort and reshape relationships in terms of early childhood experiences and often adversely affect his/her life. In a similar manner, the psychoanalyst was seen as being at



risk for distorting and reshaping the therapeutic alliance in a potentially harmful way, if the client stirred up the therapist's own personal, and perhaps largely unconscious, feelings about his/her early childhood experiences and family relationships.

The term "countertransference" was adopted to refer to any repressed infantile wishes elicited in the psychoanalyst that might distort understanding of the patient, produce bias and frustrate the goals of the therapeutic process. For example, an analyst's fear of his or

The mediator who remains oblivious to how clients are stirring memories of his/her own past issues and parental relationships, may be using interventions that are relieving the mediator's anxieties and fears instead of wholehearted devotion to the clients' needs.

her own infantile aggression might cause the analyst to respond with anxious impatience or overly punitive disciplinary reactions, rather than empathy. Alternatively, an analyst unaware of his own need for nurturing and approval might encourage a continual line of associations and tangential discussions, rather than

properly confronting extraneous digressions and recognizing such flowering as actual resistance to a yet more productive focus. Similarly the mediator who remains oblivious to how clients are stirring memories of his/her own past issues and parental relationships, may be using interventions that are relieving the mediator's anxieties and fears instead of wholehearted devotion to the clients' needs. For instance, if the mediator had unresolved feelings about his own alcoholic parent, he/she might have difficulty properly assessing a couple presenting a spouse with a drinking concern. This might lead to an overly exaggerated focus on the client's drinking, or at the opposite extreme, to a denial and undue avoidance of its importance. The mediator can even wrongly apply interventions that serve to shame the client, if, for instance, the mediator felt ashamed about his/her parent's drinking and was unaware of how such shame was being acted out in mediation sessions.

The Mediator's Tool Kit In Part I, we enumerated a partial inventory of some 40 common techniques in a mediator's typical "toolkit." In order to promote the healthy goals of mediation, these tools should be used for the following purposes: 1) encouragement that agreements can be made in a fair manner; 2) guidance and direction that educates clients as to how to develop more effective communication skills; 3) catharsis and a safe atmosphere for releasing pent-up feelings; 4) illumination and clarification; and, 5) hopefulness and resiliency in coping with life and the future.

The goal for the mediator should be to enhance the couple's ability to meet the demands of their situation, and to respond in a way that promotes each person's sense of control over

Continued on next page



his/her own life, while acting as cooperatively as possible in the best interests of the family. The mediator driven by his/her emotionality and countertransference issues may have grave difficulty adhering to a path that facilitates the couple's control and sense of empowerment in their own lives. The primary danger for the clients seeking mediation is when the mediator driven by the unconscious and unattended to countertransference misuses the "Mediators Tool Kit" in ways that encourage a sense of helplessness in the clients, and leaves them feeling at the mercy of the mediator's superiority and purported god-like guidance and wisdom. In other words, if the mediator is exhibiting countertransference, even inadvertently, the Mediator's Tool Kit could be misused in order to help the Mediator cope with his own anxiety or emotionality at the expense of the clients themselves.

For instance, if one of the spouses reminds the mediator of his father in a way that stirs up a need to get approval, or stirs up old feelings of inadequacy, the mediator may begin to feel anxious about how that client perceives him/her. There may be a greater willingness to accommodate or to promote that client's interests. The consequence may be that the anxiety of the mediator can interfere with an objectivity that allows for reality testing, empathetic confrontation and creating a plan of action that balances both parties' needs.

Risk and Promise in Properly Handled Countertransference Countertransference poses both a risk and an opportunity. In mediation as in psychotherapy, countertransference distortions might invite both beneficial and detrimental effects, depending upon the degree to which an identification with the patient is essentially introjective or projective, or creating blind spots for the mediator.

There is no detached observer present in the mediator's office to monitor countertransferential distortion and error, or to ensure it is properly recognized and avoided.

domains of human life. For this reason, the profoundly affect-laden content of the subject matter of divorce causes an intense stimulation of primordial needs and drives, and if left unchecked may produce bias and anxiety in the mediator. The mediator's impulse may be to do whatever is deemed necessary to reduce his/her sense of helplessness and distress due to the clients' issues or display of emotions. If the mediator acts upon his own interests and needs impulsively or without proper consideration of the countertransference, the clients' interests may become secondary to the mediator's needs and interests.

Unlike psychotherapy, mediation is typically shorter in duration, deals simply and directly with content that is more pragmatic, less intimate, and arguably less likely "stimulating" of regressive infantile needs. However, divorce and post-divorce mediation involve family issues, the most intimate and emotionally charged



Seven Deadly Sins of Countertransference Among the most common problematic patterns of interaction confronted by divorce and post-divorce mediators are the Seven Deadly Sins of Mediator Countertransference. This list, borrowed and adapted here by Dr. Nisenbaum from parenting educational materials to the context of mediation, illustrates how mediator-client relationships can mimic typical problematic parent-child relationship dynamics:

Parent Behavior	Fear (re Mediator)	Natural Response	Optimal Response
Clingy/Demanding "I need you"	Can't get enough	Push away	identify, reassure, structure, teach
Rebellious/Sneaky "I'm in charge"	Pain to come	Punish	validate, focus on safety, identify firm limits, nurture
Taking over, "I'll take care of everything myself"	Pain to come Be rejected and abandoned	Allow this	value in a client role, teach client skills
Superachiever, "Love me for what I do"	Won't be valued unless succeeding	Praise	value without minimizing success, nurture broadly
Disengaged, "Don't notice me"	No one is there	Ignore	press for choices, stimulate, nurture unstated needs
Alienated remote "Things matter, not people"	I must take care of myself	Try to show care, but get mad and reject instead	provide for needs, stay emotionally available

While meant to be neither exhaustive nor necessarily entirely mutually exclusive, the categorical typology captures to some extent the range and variation in a continuum of mediation possibilities.

Ten Tips When a Client is a Jerk or a Couple Does Tag-Team If you have an out-of-touch, out-to-lunch, or out-of-control couple in divorce mediation, or a client who is unscrupulous, dishonest, or manipulative, you have to have a strategy rather than act impromptu and off-the-cuff. Always keep in mind: what exactly is the problem here, who's upset about it, who brought it up, who is responsible and who can do something. Many of these issues mimic the difficulties of a divorcing spouse whose mate is exploitative, so we borrow some tips from the 1986 classic *Joint Custody with a Jerk* by Julie A. Ross and Judy Corcoran.

First, pick your battles. You can't succeed on everything, so don't try your hardest on every little thing. Instead, create a plan of action and set yourself up for success. Several

Continued on next page



smallish successes have a major symbolic impact on the dynamics, even more than the wished-for elusive dramatic tour de force breakthrough.

Second, bite your tongue. Stay absolutely neutral, even though the “victim” spouse may make you feel like you need to be the protector. Don't take the bait, but instead work extra hard to emphasize neutrality. Remember, this is a business, and you are not a combatant, neither an ally nor an opponent to anyone at the table.

Third, use some positive statements to disarm. Neither spouse is expecting you to find anything positive, so catch both of them off guard with positivity instead of judgmentalism.

Fourth, never use the words “never” or “always.” Avoid polarizing and promote gray ambiguity instead of definitive answers. The best way to promote change is always to lower

Mediation of divorce and post-divorce conflictual issues is a veritable babe-in-the-woods.

Fifth, practice makes perfect. It won't look like you're succeeding at first, but remember Aesop's fable about the tortoise and the hare. Slow and steady wins the race. Don't belabor. Get in and get out. Say what you have to say and move on expeditiously. Make your interventions by avoiding all-or-nothing traps. Avoid both the drama of blitzkrieg and the grueling agony of trench warfare.

Sixth, promote self-observing ego. Set limits by suggesting choices, taking time out for a brainstorming session (with either or both spouses, individually in caucus or jointly together), asking questions in an absolutely non-provocative way, even by reverse role-playing if you have to. Anything to open up options, avoid rigidifying, and enhance detached self-reflectiveness.

Seventh, sell your ideas through repetition. It's just like being a used car salesman. The more times they come to your lot, the more likely they'll drive away (even in a clunker). If at first you don't succeed, try try again.

Eighth, learn mindfulness and deep breathing relaxation exercises for yourself. For a minute, never mind them and their crazy antics wearing you down. Focus on the moment for yourself, learn mental set-shifting, and letting go. Take a break to go to the restroom – anything to escape their clutches for a respite.

Ninth, pull along instead of push-push-pushing. Give yourself permission to compromise your high expectations for them (i.e., yourself!), and accept less than you'd hope for. Something is better than nothing. Catch 'em doing something right. Sooner or



later they're bound to do something constructive, or at least not destructive, and when they do – applaud and give them credit. If necessary, apologize for not having gotten them there sooner. Give yourself permission to not be the problem-solver, the good guy or gal, Mr. or Ms. Wonderful.

Tenth, be an effective listener and avoid the fight or flight response, where you either get sucked into their sticky tar patch and flailing in quicksand, or else give up, use avoidance and denial, pretend you can't find a way to stay there and persist.

Utilizing Countertransference to Facilitate Mediation and Encourage the Clients' Sense of Control Every divorce and post-divorce mediator knows that the couples in mediation struggle mightily with overwhelming emotional flooding. The valence of family and home, the failed dreams, hopes and disappointments, failure in the most meaningful life roles, are inescapably poignant issues. It is extremely difficult to imagine discussing these issues casually or not anticipating the intense passion, which may interfere with resolution of the couple's issues.

Therefore it is critical that the mediator, similar to the psychotherapist, must recognize and appropriately handle his/her own countertransference

reactions in order to perceptively and accurately fathom the underlying and largely unconscious motives brought to the negotiating table by all parties.

The challenge for the mediator is to deftly encourage mutually acceptable and felt, genuinely fair reciprocal accommodations by the parties, strengthen their respective investments and commitment to their agreements while recognizing, but not acting on, any of the mediator's own countertransference feelings that might result in bias, or in attempts to over-control the couple, due to their emotionality and the effects it has on the mediator. The mediator must be aware to not facilitate potentially harmful interventions and outcomes.

As in psychotherapy, a mediator's effective interventions may reduce the intensity of volatile regression in divorcing clients. In fact, the mediator's empathic attitude in helping the client to deal with an immediate problem in the external life circumstance may lead to a favorable ego identification, without activating and/or exacerbating a primitive, pathological idealization or devaluation of the mediator.

The danger of unrecognized mediator countertransference cannot be overstated in terms of control issues, and inadvertent nurturing of clients' dependence on the mediator. Mediation requires firm, consistent, stable facilitative interventions by the mediator and the assurance of safe boundary maintenance both within the bargaining room conditions

A mediator's effective interventions may reduce the intensity of volatile regression in divorcing clients.

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and in the external reality. Given that mediators often operate solo in delivery of professional services, the challenge is formidable. After all, a basic premise is that countertransference is largely if not entirely an *unconscious* process sealed off from normal self-reflective awareness. As in psychoanalysis, then, there is no detached observer present in the mediator's office to monitor countertransference distortion and error, or to ensure it is properly recognized and avoided.

Recommended Guidelines and Safeguards in Mediation Mediation of divorce and post-divorce conflictual issues is a veritable babe-in-the-woods. Emerging only in the last quarter century as an alternative to the nastiness spawned in divorce court litigation, especially for contentious fault-based contested divorces, mediation is quickly gaining

As more people turn to mediators, we must raise the level of awareness about transference and countertransference issues and their consequences for a successful mediation outcome.

raise the level of awareness about transference and countertransference issues and their consequences for a successful mediation outcome.

Based on the theoretical framework presented in this article it is abundantly clear that there must be appropriate safeguards and risk management policies for conducting divorce mediation. The recommended guidelines for divorce mediation include the following:

1. **Rigorous training** that includes an in-depth understanding of how transference and countertransference affect each party's perceptions, attitudes and behaviors, and manifests itself in divorce mediation. Training should include skills for how to recognize and avoid personal patterns that result in potentially harmful reactions to client's needs and circumstances.
2. **Well defined and unambiguous practice standards and ethical codes** that protect couples from potentially harmful interventions, that may be a result of the mediator's personal issues or lack of adequate skills or training.
3. **Consultation and supervision** as a necessary tool when the mediator is involved in a difficult, emotionally charged divorce mediation that results in strong countertransference reactions.



4. Consideration of developing screening methods for optimizing good matches between the couple's needs and profile and the mediator's strengths, skills, limitations, and experience.

A mediator self-aware of potentially contaminating personal issues and family history might properly decline to provide services in particular cases that might compromise his/her neutrality, as in certain situations involving domestic abuse, specific ethnic/religious/gender matters, particular kinds of mental distress or other special needs. The challenge before us is quite formidable.



Rina Folman, Ph.D., is on the staff at University of Massachusetts Memorial Health Alliance. She has private practice offices for psychotherapy and parenting coordination in Brookline and Fitchburg. Dr. Folman also has special expertise in divorce, professional ethics and boundaries in sexual abuse, trauma, and coaching law clients to prepare them for the rigors of divorce litigation. She has also been active over the years in many professional organizations, including APA, MPA, MAGAL, AFCC and MCFM. Rina can be contacted at (978) 534-5365.



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**“Men are more moral than they think
and far more immoral than
they can imagine.”**

Sigmund Freud



TOO CLOSE FOR COMFORT

By Stephanie Coontz

Ever since the Census Bureau released figures (in October, 2006) showing that married-couple households are now a minority, my phone has been ringing off the hook with calls from people asking: “How can we save marriage? How can we make Americans understand that marriage is the most significant emotional connection they will ever make, the one place to find social support and personal fulfillment?”

I think these are the wrong questions — indeed, such questions would have been almost unimaginable through most of

It has only been in the last century that Americans have put all their emotional eggs in the basket of coupled love.

history. It has only been in the last century that Americans have put all their emotional eggs in the basket of coupled love. Because of this change, many of us have found joys in marriage our great-great-grandparents never did. But we have also neglected our other relationships, placing too many burdens on a fragile institution and making social life poorer in the process.

A study released this year showed just how dependent we’ve become on marriage. Three sociologists at the University of Arizona and Duke University found that from 1985 to 2004 Americans reported a marked decline in the number of people with whom they discussed meaningful matters. People reported fewer close

relationships with co-workers, extended family members, neighbors and friends. The only close relationship where more people said they discussed important matters in 2004 than in 1985 was marriage.

In fact, the number of people who depended totally on a spouse for important conversations, with no other person to turn to, almost doubled, to 9.4 percent from 5 percent. Not surprisingly, the number of people saying they didn’t have anyone in whom they confided nearly tripled.

The solution to this isolation is not to ramp up our emotional dependence on marriage. Until 100 years ago, most societies agreed that it was dangerously antisocial, even pathologically self-absorbed, to elevate marital affection and nuclear-family ties above commitments to neighbors, extended kin, civic duty and religion. St. Paul complained that married men were more concerned with pleasing their wives than pleasing God. In John Adams’s view, a “passion for the public good” was “superior to all private passions.” In both England and America, moralists bewailed “excessive” married love, which encouraged “men and women to be always taken up with each other.”

From medieval days until the early 19th century, diaries and letters more often used the word love to refer to neighbors, cousins and fellow church members than to spouses.



When honeymoons first gained favor in the 19th century, couples often took along relatives or friends for company. Victorian novels and diaries were as passionate about brother-sister relationships and same-sex friendships as about marital ties.

The Victorian refusal to acknowledge strong sexual desires among respectable men and women gave people a wider outlet for intense emotions, including physical touch, than we see today. Men wrote matter-of-factly about retiring to bed with a male roommate, “and in each other’s arms did friendship sink peacefully to sleep.” Upright Victorian matrons thought nothing of kicking their husbands out of bed when a female friend came to visit. They spent the night kissing, hugging and pouring out their innermost thoughts.

By the early 20th century, though, the sea change in the culture wrought by the industrial economy had loosened social obligations to neighbors and kin, giving rise to the idea that individuals could meet their deepest needs only through romantic love, culminating in marriage. Under the influence of Freudianism, society began to view intense same-sex ties with suspicion and people were urged to reject the emotional claims of friends and relatives who might compete with a spouse for time and affection.

The insistence that marriage and parenthood could satisfy all an individual’s needs reached a peak in the cult of “togetherness” among middle-class suburban Americans in the 1950s. Women

were told that marriage and motherhood offered them complete fulfillment. Men were encouraged to let their wives take care of their social lives.

But many men and women found these prescriptions stifling. Women who entered the work force in the 1960s joyfully rediscovered social contacts and friendships outside the home.

“It was so stimulating to have real conversations with other people,” a woman who lived through this period told me, “to go out after work with friends from the office or to have people over other than my husband’s boss or our parents.”

And women’s lead in overturning the cult of 1950s marriage inspired many men to rediscover what earlier generations of men had taken for granted — that men need deep emotional connections with other men, not just their wives. Researchers soon found that men and women with confidants beyond the nuclear family were mentally and physically healthier than people who relied on just one other individual for emotional intimacy and support.

When honeymoons first gained favor in the 19th century, couples often took along relatives or friends for company.

So why do we seem to be slipping back in this regard? It is not because most people have voluntarily embraced nuclear-family isolation. Indeed, the spread of “virtual” communities on the Internet speaks to a deep hunger to reach out to others.

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Instead, it's the expansion of the post-industrial economy that seems to be driving us back to a new dependence on marriage. According to the researchers Kathleen Gerson and Jerry Jacobs, 60 percent of American married couples have both partners in the work force, up from 36 percent in 1970, and the average two-earner couple now works 82 hours a week.

This is probably why the time Americans spend socializing with others off the job has

Paradoxically, we can strengthen our marriages the most by not expecting them to be our sole refuge from the pressures of the modern work force.

declined by almost 25 percent since 1965. Their free hours are spent with spouses, and as a study by Suzanne Bianchi of the University of Maryland released last month showed, with their children — mothers and fathers today spend even more time with their youngsters than parents did 40 years ago.

As Americans lose the wider face-to-face ties that build social trust, they become more dependent on romantic relationships for intimacy and deep communication, and more vulnerable to isolation if a relationship breaks down. In some cases we even cause the breakdown by loading the relationship with too many expectations. Marriage is generally based on more equality and deeper friendship than in the past, but even so, it is hard for it to compensate for the way that work has devoured time once spent cultivating friendships.

The solution is not to revive the failed marital experiment of the 1950s, as so many commentators noting the decline in married-couple households seem to want. Nor is it to lower our expectations that we'll find fulfillment and friendship in marriage.

Instead, we should raise our expectations for, and commitment to, other relationships, especially since so many people now live so much of their lives outside marriage. Paradoxically, we can strengthen our marriages the most by not expecting them to be our sole refuge from the pressures of the modern work force. Instead we need to restructure both work and social life so

we can reach out and build ties with others, including people who are single or divorced. That indeed would be a return to marital tradition — not the 1950s model, but the pre-20th-century model that has a much more enduring pedigree.



Stephanie Coontz is the Director of Research and Public Education at the Council on Contemporary Families and teaches history and family studies at The Evergreen State College in Olympia, Washington. She is also the author of *The Way We Never Were: American Families*, and *The Nostalgia Trap*. Copies of her book *Marriage, A History* are available from Barnes & Noble and Amazon.com.



TAP YOUR INNER GEEK: Online Marketing for Mediators

By Tammy Lenski

If you're like most mediators, you chose this work because you want to help individuals, groups, or your community find more effective paths through conflict. Business ownership is the path to making mediation your day job rather than mediation the path to business ownership. When people ask what you do, you're more likely to respond that you're a mediator than an entrepreneur.

And, if you're like many mediators, marketing yourself and your services is a business "must-do" rather than a business "want-to-do." In the era of a fast-changing Internet, incorporating online strategies for marketing may seem daunting indeed, making the "must-do" even harder.

Yet an effective web presence is increasingly critical to building a thriving ADR practice. In 2004 (eons ago in Internet terms) the Pew Internet and American Life Project released a report that confirmed what many of us had already guessed: More and more people are using the Internet to help them make important life decisions. I spoke just yesterday with a mediator who's discovering that many of her potential clients are looking her up in search engines before placing the first call to her office. Is your current web presence giving potential clients the image and information that will compel them to pick up the phone?

And as "local search" moves into reality, the public is moving away from the yellow pages and toward search engines to find services even in their immediate geographic region. Suddenly, the need to emerge near the top of Internet searches is becoming important for mediators who want to build even local business.

The Internet's also becoming interactive in ways it wasn't even just a few short years ago. The traditional "static" website, essentially an online brochure, is being devalued by major search engines, which want fresh, unique content. So do Internet users.

Some cases in point: The Boston Globe has said that blogging is essential for your career because self-employment is easier when you have an effective way to market yourself (Trunk, 2006). Business 2.0 magazine said, "Yesterday, your grandmother started blogging" (Demos, 2006). The Pew Internet & American Life project says that blogs have established themselves as a key part of online culture.

If you're like many mediators, marketing yourself and your services is a business 'must-do' rather than a business 'want-to-do.'

Blog readership shot up an eye-popping 58% in 2004, over 6 million Americans got news and information fed to them through

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online syndication tools that year, and 27% of Internet users say they read blogs, a 58% jump 11 months prior. This translates into 32 million Americans who were blog readers by the end of 2004 alone (Horrigan & Rainie, 2006).

Marketing Is No Longer About Telling and Selling Effective marketing today means leveraging the Internet effectively as part of any practice-building strategy. That's actually good news for mediators, because some of the current tools available to build a dynamic web presence are much simpler to use than their predecessors. If you can write an email, you can create digital content. If you can talk into a phone, you can record digital audio. If you have a recently purchased digital camera, you can record digital video. This means you can blog, podcast or videoblog (also called vlogging), all part of the current crop of powerful and elegantly simple ways to reach out to prospective clients.

The other good news for mediators is that marketing today is about being in conversation with your public, really engaging them. It's not selling and telling...it's about listening. It's about a desire to understand what they really want.

It's about using the skills you already have as a good mediator. Instead of trying to change yourself into whatever perception you have of "a marketer," these tools allow you to change marketing into a set of strategies and activities to which you're drawn, heart and soul. Instead of trying to guess what marketing secret you don't know, these online tools allow you to build your marketing on the best of who you are.

How to Enjoy Marketing: Market from Your Strengths You probably already know how to "play to your strengths" much of the time. After all, your strengths carry you while you develop and shore up your growing edges over time. For many mediators, the actions typically associated with traditional marketing feel more like they play to your weaknesses, or at least to your misgivings and self doubts.

Let's look at this through a conflict lens. Engaging conflict is hard for everyone because, at least in some ways, it calls upon you to confront your fears. Conflict may "press your buttons" because you experience a real or perceived threat to some part of your identity...a threat to your view of yourself as competent, autonomous, worthy of being included, and so on.

You may find marketing a challenge for similar reasons: Offering your talents for the world to buy or ignore puts your identity on the line. Mediocre (or worse) results from your marketing efforts imply judgments by others of your competence or value.

Kat, a new professional in the field, put it this way in a conversation with me: "I'm already resistant to doing the kinds of things that most marketing books tell me I need to do. So, when I do them and then don't see results, two things happen. I dislike doing those tasks even more next time. And my dislike of the tasks shines through, probably to the very people I'm trying to reach. It's like a double slap in the face."



No more slapping yourself in the face! Building a marketing strategy based on your strengths yields four immediate, compelling and irresistible results:

- You'll do it better.
- You'll enjoy it more.
- And you'll more likely follow through because it's enjoyable.
- You'll attract others to you because you're working from a place of enjoyment and ability.

This doesn't mean that you shouldn't do marketing tasks that fail to capitalize on your strengths. It means that marketing from your strengths helps you gain real momentum from which to build. Marketing from your strengths is your launch pad and the Internet your booster rocket.

The Value of Dialogue: What Mediators Already Know Good mediators know a great deal about dialogue. We know why it's important and how to help create it. We know, for instance, that:

- Genuine dialogue increases understanding. Because real dialogue is, in part, a learning conversation, dialogue creates opportunity for new information to surface and be considered thoughtfully. Participants in a dialogue are encouraged to question and to bring their genuine curiosity to the table. Dialogue is generative.
- Genuine dialogue builds relationship. Because dialogue gets people actively involved, it builds engagement. And authentic engagement sows the seeds of trust over time, particularly when dialogue

becomes the communications norm in the relationship. Dialogue is invigorating, involving, and creates real human connection.

- Genuine dialogue leads to more informed decision-making. One goal of dialogue can be to solve problems and jointly reflect on options and opportunities. The best dialogue leads to ownership and buy-in, because it's the result of each person's full and voluntary participation. As participants in a dialogue consider a problem or idea from multiple perspectives, new options are made visible

- Genuine dialogue isn't for show. It's not manipulative and it's not put on for the sake of an unspoken motive. It's candid and honest and draws on what's best in us.

There are specific ways of thinking about and engaging dialogue that are already known to practiced mediators and which are also relevant to effective marketing.

The frame of mind with which you enter a conversation helps determine whether or not that conversation reaches the level of true dialogue. As you know from mediating, entering a conversation in order to persuade, manipulate or strong-arm will only get you so far. Such conversations are a trading of assumptions, judgments and diagnoses and can succeed in a positional debate that differs from dialogue. Building dialogue comes from a genuine interest, a willingness to try ideas on for size, a curiosity or learning mindset, and a willingness to uncover assumptions that are derailing effective outcomes.

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Good listening is important, as is the artful use of inquiry. The ability to ask useful questions at the right time and with the right

Mediators, more than most, are well suited to dialogue marketing, also called conversational marketing

language to convey them is a mediator's stock in trade. Similarly, the ability to distill and reflect what you've heard helps you check your own understanding, helps the speaker clarify their own thinking and feeling, and helps others understand the speaker's perspective more effectively than they may have otherwise. By listening with empathy, the mediator helps bridge divides.

The way the discussion is framed helps define what conversation will ensue. Framing a discussion in one way limits potential or locks it in positional debate. The art of framing or helping parties frame creates opportunity for the meaningful exchange and exploration of ideas. By engaging the conflict at the level sought by parties, the mediator helps people consider and craft outcomes that are the best match for those particular parties' specific needs. For example, some parties may seek formal resolution to a specific dispute, others relief from a state of conflict, still others the chance to carefully think through a situation without the need for formal agreement.

If mediators understand and value dialogue, and know how to help create dialogue out of difficult conversations, then mediators, more than most, are well suited to dialogue marketing, also called conversational marketing. Coined and popularized by technology innovator and consultant Shel

Israel, conversational marketing is an approach that embraces the notion that

“...people respond better to lowered voices spoken in credible tones than they do to the aggressive in-your-face marketing speak as is evidenced in everything from TV ads to the pap-lingo of so many websites. If common sense prevailed, marketers would understand that simply conversing with customers, prospects, partners, investors and employees is more effective. People listen better and longer when you just talk to them and listen back. All too often professional marketers lose their credibility by hyperbole, hubris and amplification. It seems to me self evident that just talking with people is more effective than shouting and repeating yourself as if your audience was comprised of deaf idiots” (Israel, 2004).

If you understand as a mediator that entering a conversation primarily to persuade, manipulate or strong-arm will only get you so far, then you intuitively already understand that marketing conversations would do well to avoid such ineffective approaches. If you already know how to enter a mediation with a curious mindset and a desire to uncover problematic assumptions, then it's a short leap to use the same tools in new ways as a marketer.



If you know how to listen like a mediator, engage with empathy, and use artful inquiry to ask important questions at the right time, then you already know some of the most basic and effective tools of conversation marketing.

And if you know how to frame a conversation as an opportunity for dialogue, then you already understand a fundamental idea behind conversational and relationship marketing. You already know a great deal about how to build dialogue to market your ADR practice.

How a Narrow Target Audience Helps Your Dialogue Marketing

Many mediators try to do it all, attempting to reach a broad market and doing a little bit in several different arenas. The reasoning, as I understand it, is that you don't want to say no to someone who calls, since not a lot of people are calling. The fear, as I understand it, is that narrowing your target market will do you out of potential work.

This approach, while common among ADR professionals trying to build a practice, is inconsistent with much of the leading marketing advice available. While seemingly counter-intuitive, narrowing your market actually gives you greater opportunity for business success. Here's why:

With a focused target market, you can speak with a clearer voice and more focus to the people you're trying to reach. When you try to write for everyone (for instance, in

brochures, website, letters), you end up speaking to no one in particular and your message becomes watered down.

With a narrow target market, you know where to find the people you're trying to reach. If, for example, you're targeting a rock musician market (I know a mediator who does), you're probably going to find these folks in different places and through different venues than, say, environmental agencies and organizations.

If you cast your net too widely, you spread yourself and your dollars very thin trying to reach everyone.

You'll have a much easier and more effective time engaging an audience in dialogue if you're genuinely interested in and have invested time and energy learning about that audience.

You will convey greater passion when you focus on a narrow market in which you're

Narrowing your market actually gives you greater opportunity for business success.

genuinely interested, rather than trying to convince everyone you have a compelling interest in him or her. Fakery, even well intended fakery, is detectable and won't serve you well in the long run.

A narrow target market is a place to begin, not the place you have to be forever, if you have diverse interests. When I founded my full-time ADR practice in 1997, my single

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target market was institutions of higher education. While I don't serve only higher education today (neither do I market to everyone), that work provided a strong foundation with a solid income from which to diversify several years later.

Engaging Potential Clients Through Online Dialogue: First Action Steps The essential steps to creating dialogue with online tools are straightforward and simple:

1. Identify a narrow target market. If you know specifically where you will find them, online or off, you've probably narrowed sufficiently. You need to be able to identify where they convene, where they shop, what kinds of non-ADR services they buy, what media they read and watch.

2. Get clear on the kinds of conflict-related problems your target audience most needs solved. And get clear on their interests so that you can speak directly to those interests in your marketing efforts. You do this initially by talking to as many folks in your target audience as you can find. You're not selling anything, you're asking for information.

Blogs are easy to set up and require minimal technical knowledge to maintain and grow.

3. Find opportunities to create dialogue offline. Offline approaches include professional networking events, pro bono presentations, and similar chances to connect eye to eye. People buy services like ours from people they think they can

trust, and getting in front of them is one of the most effective ways to start building that trust.

4. Create mechanisms for building dialogue online. For far less than a penny a day you can have a professional business blog on a topic that your target audience finds compelling. This goes beyond "frequently asked questions." Think: inform, educate, entertain, and solve problems. Blogs are easy to set up and require minimal technical knowledge to maintain and grow.

5. Start the dialogue. Using your on- and off-line approaches, talk with your prospective clients. Ask them what they'd find most helpful. Engage them in conversation on matters that are important, even if only tangential to conflict. Learn from them, offer low-risk information to them, and build trust over time.

6. Commit. I once heard marketing professional Adam Urbanski use the phrase "opt and dropped" to describe the haphazard marketing approach taken by many service professionals. Opt and dropped happens when you run a newspaper ad for a few weeks and, when response isn't what you hoped, you stop. Opt and dropped happens when you start a business blog, write for a few months, and let the blog die a quiet death when clients aren't jamming your phone lines. Opt and dropped happens when you build a website, put it up, and generally forget about it. Give your strategies the chance to grow roots.



Mediators know how to market—and market brilliantly. It's a matter of taking the good skills you already have and adapting them slightly for a new use. Let your passion for ADR shine through dialogue and prospective clients will respond in kind.

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**“Do good by stealth,
and blush to find it fame.”**

Alexander Pope



THREE EASY TIPS TO GET CLIENTS WHILE YOU SLEEP

By Dina Beach Lynch

Every service professional wants to have a robust practice filled with paying clients who do repeat business and mediators are no exception. This article takes a brief look at the limiting thoughts that keep mediators from being successful and suggests three, fun ideas you can implement right now to boost your practice.

Believing the Myth As mediators, we often talk about assumptions that disputants make that prevent them from reaching agreement. Yet, we aren't immune from a similar type of limiting thinking that prevent us from having the kind of practices we dream of.

One thought that impedes practice growth is: "I have a good reputation so people will think of me when they need mediation." It's a comforting thought, especially if you've

Mediation is not a common consumer choice.

worked hard to build a solid professional reputation and render the best mediation services possible. However, it is a bit of fuzzy logic and here's why.

Mediation is not a common consumer choice. Once at a party, after explaining what I do for a living a guest exclaimed, "I didn't know you could solve problems with anyone but a lawyer."

Mediation is not a top of mind choice for consumers looking for solutions unless the issue is family or divorce. Yet, we can all think of common situations where the skills

of a mediator would be invaluable to finding solutions like deciding which child an elderly parent could live with, or working with parents and child to figure out a wedding budget; or, helping new entrepreneurs develop an agreement among partners about policies or exit strategies.

Here are three easy-to-do, results-packed tips that you can implement in under 15 minutes to bring your practice to 'top of mind' so clients will know when to call you — even while you sleep.

1) Prospect with Voicemail Don't miss a golden opportunity to tell callers about your featured or new services. Add a sentence or two about what you have to offer. You might say something like:

Hi, this is Dina Beach Lynch. I'm away helping mediators who want to be richly rewarded in heart, mind and wallet. Please leave your name and I'll get back to you soon. Meanwhile, visit "<http://www.adrpracticebuilder.com>" to read a free article on How to Strike Gold with your Signature Line.

2) Educate with Email Use every email as a mini-promotional tool by having a distinct signature line. Tell prospective clients how you can help them specifically with their issues at the end of the email. For example:

Bill Moore Family Mediator
Ph: 555-3689
E: Bill@SaveYourFamily.com
W: SaveYourFamily.com



Wish You Knew What to Do to Make Your Teenager Listen? Send a blank email to xxxxxx.com to receive a free ebook entitled "I'm not Deaf, I'm Ignoring You — Tips for Parents Who Want Their Teenager's Attention." You'll serve a need and capture an email address for ongoing contact (make sure to get permission otherwise you're spamming)

3) Surprise with Snail Mail This tip couldn't get any easier. Be sure to drop your business card in every piece of snail mail you send — bills, invoices, greeting cards. People tend to keep business cards and you might get a referral.

Using these simple techniques you can do a number of good things for your practice like standing out in the in the marketplace; providing a way for potential clients to identify themselves to you and building a relationship so that they get to know and trust you. Before you know it, you'll be marketing in your sleep and gaining lots of paying clients.



Dina Beach Lynch is a workplace mediator & Business Mensch who founded ADRPracticebuilder.com, and offers free monthly marketing teleseminars. Dina can be reached at 617-553-0423, or Dina@adrpracticebuilder.com



**“A divorce is like an amputation:
you survive it but
there's less of you.”**

Margaret Atwood



NEUTRALITY CHALLENGES

By John A. Fiske

It's hard for the mediator to remain neutral. I now have a website, www.mediate.com/fiske, and I tell the person who calls me to talk about mediation to check the website and encourage his or her spouse to do the same. Sometimes I explain to the caller why I do not or cannot call the spouse who has not called me. There are of course advantages in this system, but the disadvantage is that spouse #2 learns about me through the voice of spouse #1.

So the couple has decided to meet with me and they show up this morning. They are in their 60's and this marriage is about 13 years old. I had told her the names of some favorite financial advisors and suggested she make the list available to him. She did: she gave him a list of names of financial experts. She thought she was being helpful. He does not want the divorce and he exploded when she gave him that list: "I felt she was just thrusting this stuff at me and saying, "Here, you figure it out." It was demeaning and insulting." She was astonished.

I looked at them and quoted some lines from a poem,

**"The slave will not thank his manumitter,
Which often makes the manumitter bitter"**

and said, "You will never guess who wrote that," and he said Robert Frost, which is correct, and when it was my turn to be astonished he said, "Well, it just sounded like Frost. I met Frost, etc. etc."

So after talking about Frost we discussed what the wife should have done, from his point of view, to tell him about some experts who could be helpful. He said she could have waited until he asked her for information about people who might be helpful, but of course she did not want to wait.

So there are no magic answers to this challenge of remaining neutral. We just keep trying and hope we do get thanked once in a while.

manumit: to release from slavery. manu = hand + mittere = to let go, send.



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HOW OUR VALUES SHAPE OUR PRACTICES Exploding the Myth of Neutrality

By Rachel Miriam Goldberg

How can our values shape our work be when we run processes that are supposed to be neutral and we behave in ways that are supposed to be neutral? Because frames matter.

We all have frames in our hearts and minds. People without frames cannot process the huge amount of data coming at us every minute in the world – we make sense of the world through frames and categories.¹ This, by necessity, means we filter some information in, as relevant, and some out. This is how cultures are created, how we gain a sense of 'us' as opposed to 'them,' and a sense of our personal identity.

The same thing happens in every profession. As a field we have a common set of assumptions (process matters) and language (parties, BATNA) that means we talk within the same frame and don't have to explain everything all the time.

What we don't think about as much, is how constructed those frames are and how they constantly shape our experience and assessment. Frames are made year after year as we learn through our culture, family and life experience. They are composed of norms, values, and beliefs. That's why the title of this article is that our values shape our practices. What we value is filtered in through our frame, what we do not, we filter out.

Things that don't fit into your frame tend to

be disregarded as wrong or irrelevant. This often happens unconsciously.

Put another way, we all have maps in our heads that define our worldview. All this, *here*, we think, inside our frame, this we rule in as sane, interesting, relevant, something we value, think is important worthy, etc, etc. Out here, at the edge, that's where crazy lives, that's where unacceptable and wrong lives. The edge of the map, your worldview, your frame, is what I think of as 'Mental Teflon.' If it doesn't fit into your frame, it tends to just slide off. Sometimes you reject it as wrong or bad, sometimes it doesn't even get processed at all; you don't even see it, as if it doesn't exist.

Let me give you an example. I am getting over Lyme disease so I had to learn that when you take a lot of antibiotics you need to take a lot of probiotics (beneficial

What we value is filtered in through our frame, what we do not, we filter out.

bacteria), like acidopholous or you get sick, because antibiotics kill of your natural intestinal flora and you can't digest things. Now, there is absolutely *no* scientific contention that these beneficial flora live in our guts and are essential to our health and are killed by antibiotics. No doctor or

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scientist would disagree with that statement. However, because acidophilus is associated with another frame, that is, unregulated,

People come into our offices, hopeless, frustrated, stuck in rigid, angry stories, and we help them re-see their situation and options and each other.

dangerous health foods, doctors simply don't have it in their frame associated with healing. No matter how rational it is, if it doesn't fit in the frame, it slides right off.

I recently took my dog to the vet, the vet said, we'll we need to put her on antibiotics again; so you need to be prepared, she's going to get diarrhea. I gave my dog regular doses of probiotics and she never had a problem. The vet couldn't figure it out. And yet, as I say, what I was doing made total medical sense based on what we know about bodies.

So, what does this have to do with conflict resolution? Two things:

One, this is what we do all day long, we unmake frames. We unmake the status quo so something new can happen. People come into our offices, hopeless, frustrated, stuck in rigid, angry stories, and we help them re-see their situation and options and each other.² This is what conflict resolvers do that makes it possible for something new to happen. We unmake rigid frames, remake frames, challenge frames.

Two, If the frame is different enough, or even in conflict with our own, we run into

the mental teflon. Something of great importance or central to another's sense of self or the world, can slide off, be invisible, and get lost. It is possible for us not even to know it exists.

To sum up: If it happens for parties, (they make frames and get stuck in them), and we do this all day long, (help people remake frames), how is it possible, how is it even *conceivable*, that we are somehow magically immune or protected from having frames that might effect our cases? So much for common sense. Now, we have research that backs it up.

My research strongly suggests that we cannot truly claim to be neutral, or that our processes protect parties from being swayed by our values. That is to say - we have frames, and frames matter. And I have more bad news. Not only is there no pure neutrality out there, but almost everyone else already knows it. Almost every discipline has come to terms with this, sociology, anthropology, psychology, but also math, biology, physics, and on and on.³

I did preliminary interviews with 188 practitioners, and full interviews with 43 of the best known and respected environmental and intercultural, and a small number of young practitioners. Of these I fully coded 18. I asked for stories of times the practitioner had done something that had gone particularly well, and analyzed this rich text using metaphor and narrative analysis methods created for this work.

Because narratives are a constructed



recounting of how we understand reality, through analyzing them you can learn something about how people consciously think the world is constructed and organized and about their internal values framework. Metaphor analysis reveals unconscious frameworks and values. As I also asked people about what they did, as practitioners, so I was able to look at patterns connecting conscious values, unconscious values, and practices. My research strongly suggests that they are deeply connected. In the ACR presentation that this is based on, at this point I had the audience members do an exercise where they told each other stories from their practice, about when they had done something that had worked particularly well, and then did very brief narrative and metaphor analysis. Most people in the room did see connections between their values and their practices.

In my research I found a series of ways that values and practices are connected. For the purposes of this article, I'm just going to give you one of the continuums I found, to

give you a sense of the kinds of patterns my work revealed.

You can also, if you like, think about this in

Not only is there no pure neutrality out there, but almost everyone else already knows it.

terms of your own practice. Look at the continuum above. Do you focus more on how to handle 'what is', or how to change the world? Do you focus more on objective fact or subjective impressions? Do you focus on task, or relationship, primarily? (Is it more important to you that people feel comfortable, to build rapport, or to make sure you move through the agenda and cover all the issues? I know, we all do both, but which is *more* important to you? Which do you prioritize?) My work suggests that depending on where you are on this continuum, you will practice differently. Again, I want to emphasize that my 'map' of the values of the field covers work done by excellent practitioners. These are all good, not to mention great, ways to practice.

IDEOLOGICAL META FRAME

Realism	Social Constructivism
Ontology: There is <u>one</u> reality	Ontology: There are <u>multiple</u> realities
Ethnocentrism	Ethnorelativism
Epistemology: We can know "the truth"	Epistemology: We can compare "truths"
Axiology: Objective factors matter	Axiology: Subjective factors matter
Logic/Order: Analysis, cognitive, empirical processes	Logic/Order: Emotive, intuitive, relational processes
Task has priority over relationship	Relationship has priority over task

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Also, I found that practitioners move across continuums, and some have more flexibility that way than others, but most people can access and use more than one value orientation.

What's important here is that our values do affect our practices, and, I believe, that pretending they don't is very dangerous.

What's important here is that our values do affect our practices, and, I believe, that pretending they don't is very dangerous.

What are the problems with false neutrality? Christine Rack has done wonderful research that shows that for most Anglo mediators, Latino disputants are regularly disadvantaged in our cases. In my analysis, this is because the Anglo mediators think that the disputants are protected because they (the mediators) are neutral. However, Latino fairness norms, Rack writes, predispose bargainers to "be the most concerned with the outcome of the negotiation process for the other party. This pattern of other concern is consistent with collectivist culture expectations." (Rack, 2000, pp. 9)⁴ Anglo norms, on the other hand, favored individualism, and opportunistic behavior. In essence, she says that Anglos were more inclined to do 'hard bargaining,' and expected their partners to do so as well. In her research she found that "Latino male claimants often offered to split the disputed amount 50-

50...Especially Anglo male respondents appeared to interpret this large concession

at early phases as a bargaining weakness, and the respondents proceeded to opportunistically exploit the concession. The Latino men who continued to negotiate thus found themselves conceding greater

amounts as the mediation session went on. The Latino male claimants were able to settle at the 50% mark only in the 12 cases where they were met with other Latino respondents." (Rack, 2000, abstract) Simply put, Rack found that most Anglo mediators showed an unconscious bias towards their own worldview and that seriously disadvantaged Latino parties. She found a "primary mediator pattern" that Anglo mediators both failed to realize what was going on, and that their behavior reinforced the disparity.

The implications for practice are powerful. I believe that if we remain ignorant of these dynamics it virtually guarantees that we will unconsciously bias our processes. However, we use neutrality for a reason, to be fair and to empower people to solve their own problems. So, how can we do good practice without neutrality?

I think we should speak the truth, and the truth will set us free. I believe that if we know our values, and our clients know our values, they will be better protected from

Being explicit about our values will make us *more* effective practitioners and *better* able to serve our clients.

bias, because they will be able to see it, even we may not even be conscious of it,



and better empowered to call us on it and make educated choices as consumers. My work and the instruments I am developing from it will allow us to articulate those value differences and talk to each other and clients about them. I think being explicit about our values will make us *more* effective practitioners and *better* able to serve our clients. If we know who and what we are, (a basic tenant of all intercultural work), and our clients know the differences between practitioners, (including their values of practice), everyone can make better, clearer choices. And I think we have the opportunity here to both realize that there are many wonderful ways to practice, and get a little humility. I think some cases call for different orientations, like an ability to value and understand power or the ability to see multiple realities, and we need to know we have limits. I know I am not the best mediator for every case in the world. Now I can talk clearly about why that is so and help clients know why I am what they need, or why someone else is really better for their case.

I welcome thoughts and discussion about this topic!

End Notes

1. There is a huge literature in intercultural communication, psychology, sociology, anthropology, and other fields that has dealt with and defined these kinds of issues. (See literature on cognitive frames, social constructivism, intercultural competence, and social psychology, for instance early thinking on this includes, Adlerian psychotherapy (Mozak, 1979) or in Sociology, Goffman on frames (1974).)

2. Sara Cobb (1993) talked about it in terms of empowerment, saying that what we really have to offer in terms of empowerment is to help people struggle to "destabilize conflict narratives...to open up stories to alternative meanings and interpretations. (Cobb, pg. 251)" Cobb, Sara. "Empowerment and Mediation: A Narrative Perspective". 1993. *Negotiation Journal*. July, Vol. 9, No. 3. 245-260.

3. We are, in fact, part of a much larger shift happening across many disciplines, and the research on this shift is chronicled in the book *Naturalistic Inquiry* by Lincoln and Guba, (1985). They cite Schwartz and Ogilvy as showing that this new paradigm is emerging in, "...physics, chemistry, brain theory, ecology, evolution, mathematics, philosophy, politics, psychology, linguistics, religion, consciousness, and the arts." (pp. 51) Lincoln, Yvonne S. and Egon G. Guba. *Naturalistic Inquiry*. 1985. Newbury Park, CA. Sage Publications

4. Rack, Christine. "The Effect of Culturally-Based Fairness Norms on Disputant Negotiations in Mediated Small Claims Cases". Presented paper, Peace Studies Association Conference, Spring 2000.



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WHAT CAN MEDIATORS DRAFT?

By Oran E. Kaufman

When I first started mediating in 1994 I made the decision that even though I would prepare separation agreements for mediating couples, I would not prepare the divorce forms necessary to file the divorce, I would not prepare deeds, QDROs or any other ancillary documents in connection with my clients' divorce. Over the years I began to question my practice and the rationale behind it (assuming of course that there was a rationale). In 2006, I made the decision to offer my clients the service of preparing their forms. Just like that, 12 years of doing things in a particular way was changed.

One of the things that kept me from offering the service of filling out the forms was the concern that it was somehow unethical or bordered on violation of the prohibition, as a mediator, of the unauthorized practice of

To say that a mediator can provide the clients with the forms, help the clients fill out the forms and answer questions about the forms — but not fill them out, is putting form over substance.

law. What did not make sense about this is that the drafting of the separation agreement, in my opinion, comes much closer to that line than the drafting of documents that are purely clerical in nature. The difference of course is that there happens to be an ethical opinion (Boston Bar Association Ethics Opinion 78-1 (1978)

on the issue of separation agreement whereas there are no "official" opinions in Massachusetts about mediators preparing other documents.

My motivation for offering my clients the service of preparing their forms comes out of my desire to serve them as best as I can and my desire to provide them with the ability to complete the mediation process with everything they need to go to court. A recent experience convinced me to change my long-standing practice of not offering this service. I had worked with a couple over the course of several months. The mediation was successful, I prepared an agreement for the couple and I am fairly certain that they were very pleased with my services. As was my typical practice, I prepared a packet of forms for them that included all the court forms (not filled out)

and explanation about how to fill out the forms and what to do in court etc. Unfortunately, the final forms (which I did not see) were not filled out properly by my clients, things were delayed, one party became very upset and what should have been a very easy process turned into a further anxiety. I offered to prepare the documents for the couple, and ultimately they filed the corrected documents without a hitch.

Some clients choose to not pay my hourly rate to fill out forms that are fairly self-

explanatory. Others however, have without hesitation asked me to do so in order to avoid what is to them, a foreign language and additional stress. In most cases, these are clients who do not wish to involve their own individual attorneys in the filing of documents. In considering how to proceed, I have asked myself the following questions:

Is there anything wrong with this practice?
Is there anything unethical about this practice?
Does this practice constitute unlawful practice of law?
What if anything are the pitfalls in this practice?
Is there anything wrong with this practice?

In my opinion, to say that a mediator can provide the clients with the forms, help the clients fill out the forms and answer questions about the forms

— but not fill them out, is putting form over substance. In the extreme example, a mediator could meet with the clients and literally direct the clients on how to fill in each line of every form. If a client wants this I suppose it is their dime and there is nothing that should prevent it. This method however seems more cumbersome and more costly. I suspect that given the choice, most clients would opt for the mediator filling out the forms and then sitting down with the mediator and reviewing the forms and any questions the clients have. There is nothing on any of the forms required for filing a joint petition for divorce that in any substantive way affects or negatively impacts one party versus another. The forms



are almost exclusively informational. So, simply put, in my humble opinion, I see nothing wrong with filling out forms for clients. (This of course is based on the assumption that the mediator knows and fully understands the forms.)

Is there anything unethical about this practice? I cannot think of any conflict of interest in preparing the forms. In reviewing the Model Standards of Conduct for Mediators published jointly in August 2005 by The American Bar Association, Association for Conflict Resolution and the American Arbitration Association, there are no provisions that would appear to preclude drafting of such documents. The practice does not impinge in any way on self-determination, impartiality, conflict of

If you plan to prepare forms for clients, check and double check them to make sure they are accurate.

interest, competence, confidentiality or quality of the process, which are the categories addressed in the Model Standards which might be relevant.

Does this practice constitute unlawful practice of law? A thorough analysis of this question is beyond the scope of this article. What became apparent as I engaged in the law-related practice of legal research is that there is a great deal written about this topic, not a lot decided and that at the present time, it is primarily dealt with on a case by case basis. In Massachusetts, this question is governed by the Massachusetts Rules of

Continued on next page



Professional Conduct Rule 5:5 that states: A lawyer shall not:

(a) practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction; or

(b) assist a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law.

This is not particularly helpful in analyzing the question. Although not dealing specifically with mediation, the recent case of In Re Chimko, 444 Mass. 743 (2005) is helpful. In that case, the Massachusetts SJC addressed the following questions posed by the United States District Court for the District of Massachusetts:

Getting divorced is hard enough for my clients. I strive to make it as easy as possible and to provide them with as much “one-stop shopping” as possible.

“1. Does an attorney admitted to practice in another United States jurisdiction but not admitted to practice in the Commonwealth of Massachusetts engage in the ‘practice of law’ by:

a. completing a reaffirmation form that modifies and creates rights but does not change the original terms of the loan;

b. providing a pro se debtor with a notice intended to provide general assistance in

understanding the reaffirmation process; and

c. corresponding with a pro se debtor and the Bankruptcy Court using law firm letterhead but not clearly intending to hold himself out as practicing law?”

2. If the above constitutes the ‘practice of law,’ may such services be provided on a temporary basis in the Commonwealth of Massachusetts if they are reasonably related to the attorney’s practice in the other jurisdiction?”

The SJC noted that, “It is not easy to define the practice of law.” Lowell Bar Ass’n v. Loeb, 315 Mass. 176, 180 (1943). “To a large extent each case must be decided upon its own particular facts.” Matter of the Shoe Mfrs. Protective Ass’n, 295 Mass. 369, 372 (1936). What can be garnered from this opinion is that actions which do not involve the rendering of legal advice, engaging in a legal contest, relating to a specific legal problem do not constitute the unauthorized practice of law.

Based on the above, it can be concluded that the preparation of forms such as a joint petition for divorce, Rule 408 statistical form and affidavits of irretrievable breakdown do not invoke a lawyer’s professional judgment in applying legal principles to address a client’s individualized needs and thus should not be considered the unauthorized practice of law.



What if anything are the pitfalls in this practice? There might be some pitfalls in preparing documents for mediation clients. First, clients may have confusion about the mediator’s role and start to think of the mediator as their lawyer. It is thus critical to continually re-assert to the clients that the mediator is not in fact representing either of them.

Secondly, an obvious pitfall of preparing forms is what happens if the mediator makes a mistake in filling out a form? In that case, the mediator can expect a call from the courthouse or later from dissatisfied clients. The obvious answer to this is that if you plan to prepare forms for clients, check and double check them to make sure they are accurate.

So what can we conclude from this? At the present, with no specific guidelines on this issue, it is up to the individual mediator to find his or her comfort level with what they will or will not provide their clients. It is easy to have a bright line test such as not preparing any forms for mediation clients. As soon as that bright line is erased, questions arise and decisions may become

more complicated. So, it might be acceptable to draft a joint petition for divorce, but how about drafting a QDRO, a promissory note or a mortgage to secure a property? With little to guide us at this point, I suggest that these are personal decisions to be made by individual mediators based on their expertise, and comfort level.

I have decided that getting divorced is hard enough for my clients. I strive to make it as easy as possible and to provide them with as much “one-stop shopping” as possible. So, if they choose to have me prepare their forms and they are willing to pay me to do it, until there is a clear directive or statute that indicates otherwise, I will provide them with that service.



Oran E. Kaufman, Esq. is a past president of MCFM who offers mediation and collaborative law through his general family law practice in Amherst, Northampton and Greenfield. Oran can be contacted at (413) 256-1575, or <oran@orankaufman.com>.



**“I’m an excellent housekeeper.
Every time I get a divorce,
I keep the house.”**

Zsa Zsa Gabor



COURT CONNECTED ADR: AN UPDATE

By Mark I. Zarrow

The administrative office of the trial court's standing committee on adr continues to make progress

The various Working Groups of the Standing Committee on ADR completed their work, for now, by submitting their combined report to the Committee in September 2006. The Committee, in turn, has submitted a draft to the Chief Justice of Administration (CJAM). At a gathering of the members of the Working Groups and the Standing Committee the CJAM in October, Justice Mulligan, enthusiastically congratulated the group on its efforts and indicated his strong support for making ADR a reality in the courts of the Commonwealth. The report is available for review by any interested person. It may be obtained by emailing Timothy Linnehan, of the AOTC, at timothy.linnehan@jud.state.ma.us.

In the meantime the CJAM has given clearance to all trial court departments to implement those aspects of the report that can be done quickly and easily with little or no expense.

The work of the Standing Committee, to present to the CJAM a comprehensive

recommendation for implementation of ADR in all court departments and in each courthouse, proceeds. At the same time, the Standing Committee has undertaken a wide-ranging discussion of the possibility of "presumptive ADR" in the courts. Presumptive ADR would mandate that the attorneys and parties involved in most cases attend a screening to determine whether they would be amendable to mediation, arbitration or some other ADR process. Since Time Standards are being implemented in all departments, such a process, offered throughout the course of the litigation, could become a key component in moving cases through the system in an efficient and timely way. If you have any questions or concerns you would like to express please let me know.



Mark I. Zarrow, Esq. is a member of the Administrative Office of the Trial Court's Standing Committee on Dispute Resolution, and an MCFM Officer. Mark welcomes any questions or comments about the Standing Committee's work. He can be reached at (508) 799-4461, or by email at [<mzarrow@lzes.com>](mailto:mzarrow@lzes.com)



**“A man may be a fool and not know it,
but not if he is married.”**

H. L. Mencken



From The President: Lynda J. Robbins

Happy New Year to all! As we resist the impulse to hibernate at this time of year, let me share with you some of what is happening in the mediation world.

As mentioned in the last FMQ, work continues to fashion a Massachusetts version of the Uniform Mediation Act that will stay true to the philosophy of "uniform acts" while, at the same time, trying to better meet the needs of Massachusetts clients and mediators than the present draft. Representatives from mediation organizations, bar associations, the Court and individual practitioners have joined together to work towards making sure this Act works for the profession and our clients. We are wrestling with very important issues of training, confidentiality and the fundamental definition of mediation. Please let your voice be heard. Go to www.massuma.com for more information.

On a related note, we have a number of associated organizations in Massachusetts, including MCLC, AFCC and NE-ACR, and I hope to venture into a new endeavor this year by co-sponsoring, with one or more of these organizations, workshops of interest to the combined memberships. I believe that pooling our resources with these worthy organizations will benefit all members of the respective groups. I believe we have much in common and, as the coalition working on the UMA (see above) is teaching me, we have much to gain by pooling our efforts and talents. Please contact me with your feedback on this idea and suggestions for programs of interest.

Speaking of which, another MCFM member, Karen Levitt, and I presented a workshop at the International Academy of Collaborative Professionals Annual Forum last fall on the interrelationship of mediation and collaborative practice. The attendees were diverse, and included mediators, both lawyer and mental health, as well as collaborative practitioners and the consensus was that there was more common ground than not and that the interrelationship between these two models of dispute resolution need to continue to be explored. Increasingly positive intersections between collaborative practice and mediation include similar foundational skills, cross-referrals, incorporation of interdisciplinary collaborative team roles in mediation, and involvement of mediators in some collaborative cases. We believe that there are many ways the professions enhance each other and hope that we can foster cooperative efforts between the professions to better serve our clients' needs. Mediators provide a valuable resource for collaborative professionals and collaborative professionals are the perfect resources for our mediation clients. To learn more about collaborative practice, see the MCLC website at www.massclc.org or contact me directly. The presentation began some interesting dialog and we would love to continue that here in Massachusetts where we have such active mediation and collaborative practice communities with significant overlap in membership. Working together we become stronger than the sum of our parts. And who to better bring peace into the dispute resolution room than mediators?



WHAT'S NEWS?

Chronologically Compiled by Les Wallerstein

Married & Single Parents Spending More Time With Children Despite the surge of women in the work force, mothers are spending at least as much time with their children as they did 40 years ago, and the amount of child care and housework performed by fathers has increased sharply. The findings are set forth in a new book, "Changing Rhythms of American Family Life" based on work that Suzanne M. Bianchi, chairwoman of the department of sociology at the University of Maryland did in 16 years as a demographer at the US Census bureau. (Robert Pear, New York Times, 10/17/2006)

Law on Overseas Brides Keeps Couples Apart In June, 2006, the federal immigration service froze 10,000 visa applications for foreign fiancées because they did not conform with a federal law that went into effect in March. The law, known as the International Marriage Broker Regulation Act is intended to protect women from potential abuse by American men who seek brides from other countries on the internet. (Eduardo Porter, New York Times, 10/17/2006)

Massachusetts Spouse Denied Benefits For the first time, the federal government is denying death benefits to the spouse of a congressman because he was gay. Former representative Gerry Studds married Dean Hara in 2004, after same-sex marriage was legalized in Massachusetts. The 1996 federal Defense of Marriage Act blocks the federal government from recognizing gay marriage, denying Mr. Hara, 48, an estimated annual \$114,000 pension. (AP, New York Times, 10/19/2006)

Making Peace Over Money Wealth management firms are increasingly offering new services to teach families to better communicate about their finances. Their goal is to prevent future problems, and to mediate family disputes before they become expensive and public court battles. Family consulting units of such firms as Wachovia, Merrill Lynch, Charles Schwab and Mellon Financial say business is booming. (Rachel Emma Silverman, Wall Street Journal, 10/21/2006)

Seven of Eight States Amend Constitutions to Ban Same-Sex Marriage On ballot measures to amend their state constitutions to recognize marriage as only between a man and a woman, a majority of the electorate in the following states voted yes: Colorado (56%), Idaho (63%), South Carolina (78%), South Dakota (52%), Tennessee (81%), Virginia (57%) and Wisconsin (59%). Arizona was the only state where a 51% majority voted no. (Monica Davey, New York Times, 11/9/2006)



Mexico City Legalizes Gay Civil Unions For the first time in this mainly Roman Catholic country, Mexico City's legislature voted (43 to 17) to give legal status to civil unions between same-sex couples, extending similar benefits now available only for married, opposite-sex couples. (AP, New York Times, 11/10/2006)

South African Parliament Approves Same-Sex Marriage In December, 2005, South Africa's highest court ruled that the nation's marriage statute violated its constitution, which prohibits discrimination on the basis of sexual orientation, and gave the government a year to alter the legal definition. Parliament's vote to legalize same-sex marriages makes South Africa the fifth nation in the world to allow same-sex couples to wed. The approved proposal allows both same-sex and opposite-sex couples to register marriages or civil partnerships. In a concession to critics, the law would allow civil officers to refuse to marry same-sex couples if such marriages conflicted with their conscience. (Sharon LaFraniere, New York Times, 11/15/2006)

US Babies Born to Singles & Unmarried-couple Households at Record Highs Out-of-wedlock births in the US have now climbed to a record high, accounting for nearly 4 in 10 babies born last year. According to a National Center for Health Statistics report drawn from information in 99% of birth certificates filed in the US in 2005, births among women in their 20s rose most sharply. Also, the number of unmarried-couple households reached 1,700,000 in 2005, up from fewer than 170,000 in 1970. (AP, New York Times, 11/21/2006)

Virginia Appeals Court Upholds Parental Rights for Two Mothers A three judge panel of the Virginia Appeals Court unanimously accepted the ruling of the Vermont Supreme Court conferring parental rights both to a child's biological mother and her adoptive mother. The appeals court rejected a lower court ruling granting sole custody to the biological mother, who is expected to appeal the ruling. (Adam Liptak, New York Times, 11/29/2006)

Canadian Parliament Upholds Same-Sex Marriage Parliament voted down a motion by the government of Prime Minister Stephen Harper to revisit the 2005 law that allows same-sex marriage. The motion, which was defeated by a 175-to-123 vote, would have allowed the government to introduce legislation to restore the traditional definition of marriage. (Christopher Mason, New York Times, 12/8/2006)

New Jersey Legislature Approves Civil Unions For Same-Sex Couples With the governor poised to sign the new legislation, New Jersey will join Vermont and

Continued on next page



Connecticut to become the third state in the nation to recognize civil unions for same-sex couples. While the legislature was instructed by the New Jersey Supreme Court not to fall short of equality in the benefits it extended, conservatives lobbied to preserve the word "marriage" for heterosexuals. The same-sex couples who filed the original law suit argued that denial of the word marriage violates their right to equal protection under the law, and are considering an appeal. (Laura Mansnerus, New York Times, 12/15/2006)

California Marriage Name-changing Laws Challenged Currently, only six states — Georgia, Hawaii, Iowa, Massachusetts, New York and North Dakota — recognize a man's right to change his name through marriage without a court petition. In California, a woman who chooses to change her last name when she marries is not obliged to petition the court, but a man who wants to take the surname of his wife or prospective wife must pay at least \$320 in court fees, and advertise the name change in a newspaper. The American Civil Liberties Union in Los Angeles has filed a lawsuit in Federal District Court seeking to overhaul California's laws. (Jennifer Steinhauer, New York Times, 12/16/2006)

Constitutional Amendment to Ban Same-Sex Marriage Advances Massachusetts took the first step toward possibly banning same-sex marriage when legislators voted to advance a constitutional amendment defining marriage as the union between a man and a woman. The amendment now requires the approval of at least 50 legislators in the 2007-8 session. With that approval the amendment would then be placed on the November, 2008 ballot as a referendum question. If it passed, the amendment would not invalidate the more than 8,000 same-sex marriages that have taken place since 2004, but it would prevent future same-sex marriages. (Pam Belluck, New York Times, 1/3/2007)

Married or Not, Gay Couple are Ruled Legally Separated A gay couple from New York were married on Valentine's Day in Massachusetts, 2005. When their relationship soured, a lawyer for one party drafted a separation agreement that both parties signed. Soon the other party filed for divorce in Manhattan, and the defendant countersued - claiming their marriage could not be valid because NY does not recognize gay marriage. The judge agreed. After ruling their marriage invalid she dismissed the suit for divorce... and then upheld their separation agreement as an enforceable, valid contract. (Anemona Hartocollis, New York Times, 1/9/2007)

51% of US Women Are Now Living Without a Spouse For what experts say is probably the first time, more American women are living without a husband than with one. In 2005, 51 percent of women said they were living without a spouse, up from 35 percent in 1950 and 49 percent in 2000. In 2005, married couples became a minority of all American households. (Sam Roberts, New York Times, 1/16/2007)



MCFM NEWS

MCFM ACCEPTED AS COURT CONNECTED ADR PROVIDER

Effective January 1, 2007 the Massachusetts Council on Family Mediation, Inc. was approved by the Probate and Family Court as a court connected ADR Provider. MCFM is now eligible to accept referrals from the Probate and Family Court Department in every county for mediation referrals. All MCFM members that have been certified through the organizations' certification program are eligible to handle referrals. For more information you may email Mark Zarrow at mzarrow@lzes.com.



NEXT EXECUTIVE COMMITTEE & BOARD OF DIRECTORS MEETING

Monday, March 19, 2007
5 PM: Executive Committee
6 PM: Directors

In the Office of Debra L. Smith
 134 Main Street
 Watertown, MA 02472
 Phone: (617) 924-6728
 Email: lawdeb@aol.com

Directions to Deb's office are available online at www.lawdebsmith.com

***PLEASE EMAIL ANY AGENDA ITEMS FOR CONSIDERATION TO:
 Lynda J. Robbins at <ljrobbinsesq@verizon.net>, or to any other officer,
 all of whom are listed in the DIRECTORATE on page 43***



WHAT'S HAPPENING ON 10/19/2007??? ***MCFM'S 6th ANNUAL*** ***FAMILY MEDIATION INSTITUTE***

8:30 - 5:00 PM
Wellesley Community Center

SAVE THE DATE!

Continued on next page



MEDIATION PEER GROUP MEETINGS

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.

Metro-West Mediators Group: The Metro-West group (usually) meets on the first Friday of the month at the home of S. Tracy Fischer, located at 120 Cynthia Road, in Newton. Monthly meetings begin at 9:15 AM and are open to all MCFM members. Please call (617) 964-4742 or email <tracyfischer@rcn.com> for confirmed dates and directions.



HELP BUILD AN ARCHIVE!

Last spring, 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@sociallaw.com.**



ANNOUNCEMENTS

MCFM's FREE, WINTER PROFESSIONAL DEVELOPMENT WORKSHOP FOR ALL MCFM MEMBERS & THEIR GUESTS

COMPARISON OF DIVORCE FINANCIAL PLANNING SOFTWARE

PRESENTED BY:

**James McCusker, CPA
of James McCusker & Associates
&
Susan M. Miller, CPA, CFP, CDFIA,
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COME WITH QUESTIONS!

**Wednesday, February 7th
4:00 pm to 6:00 pm**

**NEEDHAM PUBLIC LIBRARY
1139 Highland Avenue
Needham, in the Community Room**

Driving Directions Available online: www.mcfm.org



THE MEDIATION & TRAINING COLLABORATIVE (TMTC)

PRESENTS

BASIC MEDIATION TRAINING

This 34-hour 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-

Continued on next page



approved mediation program, and this training meets SJC Rule 8 and Guidelines training requirements for those who wish to become court-qualified mediators.

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at shackney@communityaction.us or 413-774-7469 x16



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PRESENTED BY:

Kathleen Townsend, Esq., Vice President,
Massachusetts Council on Family Mediation

With the advent of same-sex marriage in Massachusetts in 2004,
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Come consider the known and the unknown
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Wednesday, April 4th, 2:00 pm to 4:00 pm
Concord District Court
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Driving Directions Available online: www.mcfm.org



FRAMINGHAM COURT MEDIATION SERVICES (FCMS)

PRESENTS

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MEDIATION & CONFLICT RESOLUTION

A 36-hour basic training in mediation and conflict resolution will be conducted by the Framingham Court Mediation Services (FCMS), a court-approved program. Participants



will be introduced to the basic skills in mediation and conflict resolution through lectures, interactive exercises, and role-plays. An apprenticeship may be available upon successful completion of this training.

Trainers: David Babik, Brian Blancke, Patty Contente,
 Emily Tobin, Beverly Waring, and Lisa Wong

Training Dates and Times: Saturdays, 3/10/07 and 3/31/07 - 8:30 am – 4:00 pm
 Mondays, 3/12/07, 3/19/07, and 3/26/07 - 6:00 pm – 9:30 pm
 Wednesdays, 3/14/07, 3/21/07, 3/28/07 - 6:00 pm – 9:30 pm

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OR HURT BY A PARTNER?**

**Have you ever been in a relationship
in which you or your children were**

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Massachusetts Department of Social Services
Child-At-Risk Hotline
1-800-792-5200

Massachusetts Elder Abuse Hotline
1-800-922-2275

Necessities/Necesidades
Northampton, Multilingual
1-888-345-5282

SafeLink
Worcester, Multilingual
1- 888-427-8989

Casa Myrna Vasquez,
Boston, Multilingual
1-800-992-2600

**VIOLENCE IN THE FAMILY IS COMMON
REPORTING IS A CALL FOR HELP
BREAK THE CYCLE OF VIOLENCE**



JOIN US

MEMBERSHIP: MCFM is open to all practitioners and friends of family mediation. MCFM invites guest speakers to present topics of interest at four, free, member meetings annually. Educational meetings often satisfy certification requirements. Members are encouraged to bring guests at no cost. 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 **DeLaurice Fraylick 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 annually and mailed to all Massachusetts judges, and to each listed member. **The most current referral directory is also 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 MCFM's Standards of Practice. MCFM's Standards of Practice are available online at **www.mcfm.org**.

CERTIFICATION & RE-CERTIFICATION: 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 and re-certification requirements are available on-line at **www.mcfm.org**.

Every MCFM certified mediator is designated as such both online and in 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 \$75. For more information contact **Lynn Cooper at <lynnkcooper@aol.com>**. For certification or re-certification applications contact **DeLaurice Fraylick at <masscouncil@mcfm.org>**.



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