



NY State Council on
Divorce Mediation

Council News

Member Newsletter

Volume 2018 ~ Issue 2 ~ Fall

NYSCDM: The Voice of Divorce and Family Mediation in New York State

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Mediator Energy and Influence: How You Make a Difference

By Trish Blake-Jones

Our influence and energy – a topic of interest to many curious mediators!

Thirty-five mediators and associated professionals attended the 2018 NYSCDM Upstate Symposium, held at Locust Hill Country Club in Rochester, New York, on Friday, September 21st. Holding the symposium on Friday was a switch up from the long-standing practice of having a Saturday event. With the increased number of attendees along with the anecdotal consensus on the day, it seems that a Friday event is preferred.



Left to right: Patricia Northrup, Daniel Sperrazza, Donna Durbin, Tim Mordaunt and Deborah Hope Wayne generate energy and influence.

The first session - *Recognizing, Responding, and Referring: A Toolkit for Mediation* - featured Patricia Northrup, Prevention Education Coordinator, Willow Domestic Violence Center, Rochester; and Deborah Hope Wayne, Esq. The session sparked thought-provoking discussion about the mediator's role in recognizing, supporting and acting to help individuals who feel unsafe with their partner.

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Welcome New Members!

Please join us in welcoming our new and returning members of the New York State Council on Divorce Mediation. The members below completed the membership process during the second half of 2018.

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Marialeen Martorella
Diane Kramer
Donna Erez-Navot
David Gross
Kathleen Garrigan
Charles Levy
Joann Feld
Rosalia Labate
Roy Gerard
Lori Greene
Alla Kurolapnik
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President's Podium

By Renée O. LaPoint, M.S.



Reflecting and Looking Ahead

Dear NYSCDM Members,

During this the time of year, I reflect on my practice, what is going right and what can be improved upon. It is also a time I look at my other activities and try to prioritize where I spend my time and where that time will be most beneficially spent personally and professionally.

Each of our lives is pulled in so many directions, it is important for all of us to be mindful of self-care and creating our best life for those around us, including our clients and colleagues. We are all connected and we can choose how we interact and act with one another.

As mediators in our communities, it is important that we model leadership and kindness. We were reminded of this during the Upstate Symposium, held on September 21, 2018 in Rochester, *Mediator Energy and Influence: How You Make a Difference*. We learned how to take care of ourselves and our clients, better understand our leadership styles, recognize when we get triggered by clients and how to manage our reactions when in session. Please see the article on page 1 for a full recap of the event.

It was wonderful to see so many of you at the Downstate Symposium on December 8th in New York City. Everyone liked our new location at New York Law School, and we were blown away by the presenters who inspired us to always be looking for new strategies and techniques to help our clients. Look for more details about this dynamic event in the next issue of *Council News*.

A big project this year has been an internal review and enhancement of our Accreditation program while working with other agencies in an effort to become the "go to" organization in New York State for divorce mediation. Increasing our levels in standards of practice will help us grow as professionals and elevate the field of divorce mediation overall. Stay tuned for more details in 2019.

The Board of Directors will be updating our longterm strategic plan at its biennial retreat in January 2019. Thank you to everyone who responded to the recent survey. Your responses gave us valuable feedback and confirmation on the Council's direction. We will be addressing ways to increase our visibility with the public and opinion leaders, grow our membership throughout the state, and continue to explore ways to better serve our members and the community.

Thank you all for your efforts in practice, in growing the field, and through the time you give the Council. We could not thrive without your hard work. And a special thanks to a wonderful and hardworking Board of Directors.

Renee LaPoint, MS
NYSCDM President
renee@mediationctr.com.



Members of the Board of Directors pictured in Rochester.

News Briefs



Several members of the Annual Conference Committee and NYSCDM Board meet with Ken Cloke, one of the founders and thought leaders in the field of mediation, during his recent lecture and book signing at John Jay College. We are pleased to announce that Ken Cloke will be our pre-conference workshop leader on Thursday, May 2, and the opening plenary speaker on Friday, May 3. You will not want to miss the 2019 Annual Conference, so mark your calendars and look for more details in January. Left to right: Patty Murray, Ken Cloke, Mark Josephson, Chuck Newman and Susan Ingram.



Several members of the Brooklyn and Manhattan Peer Groups for NYSCDM meet to celebrate the holidays. Left to Right: Sandy Balick, Barbara Rothberg, Rachel Green, Chuck Newman, Kate Bar-Tur, Andrea Hirschman, Mark Josephson, Helene Bernstein and Catherine Canade.

News Briefs



Several members of the Long Island Peer Group for NYSCDM at a recent meeting. Back row from the left: Marc Miller, Elaine Camlet, Nancy Vavasis, Joelle Perez (in front of her), Donna LaScala, Will Wiesner, Manny Plesent, Mary Calabrese, Steve Linker. Front and sitting: Amy Augenstein, Diane Kramer, Ada Hasloecher, Deborah Kaminetzky, Christina Moran, Connie Wohlers.

Members of the Brooklyn Peer Group for NYSCDM at a recent meeting. Back row from the left: Gary Shaffer, Helene Bernstein, Rachel Green, Ira Mandel, Sandy Balick. Front: Barbara Rothberg, Tamara Hirsh, Catherine Canade.



Please send us your announcements to be included in *News Briefs* by emailing [Patty Murray](#).

News Briefs

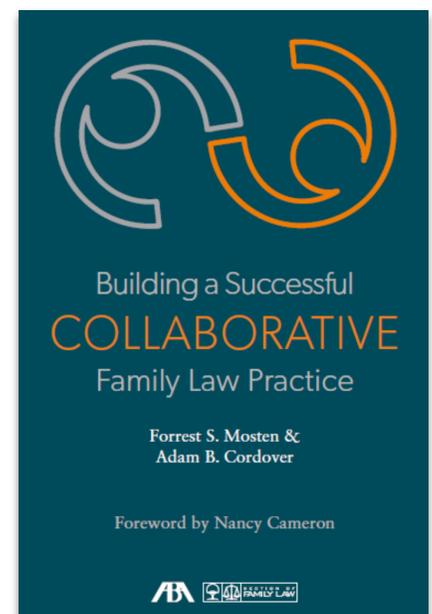


Several members of the Westchester Peer Group for NYSCDM at a recent meeting. Back row from the left: Deborah Hope Wayne, Clare Piro, Susan Freedman, Ira Mandel, Candi Fulop, Elaine Kirsch, Bill Hoefer, Abby Rosmarin. Front row: Kathy Seiden, Loretta Miraglia, Linda Markowitz, Lisa Hackel.

Lara Traum Authors Chapter for ABA Book on Building A Successful Collaborative Family Law Practice

The book teaches attorneys, mental health professionals, and financial professionals how to make a living by keeping people out of the traditional, adversarial divorce process. The book, co-edited by Forrest "Woody" Mosten, author of the Collaborative Divorce Handbook (Josey-Bass 2009) and Adam B. Cordover, an emerging leader in collaborative practice, brings together experts in the field of collaborative divorce, a healthier, more private, and more peaceful divorce process.

Lara Traum, Esq., wrote the chapter titled "Fine-Tuning Your Collaborative Team", which is devoted to a study of team-building practice strategies to help strengthen the quality of collaborative services for parties and practitioners alike.



Please send us your announcements to be included in
News Briefs by emailing [Patty Murray](mailto:Patty.Murray).

News Briefs

Nadia Shahram Receives 2018 Diversity Award from Leadership Buffalo

Leadership Buffalo recognized Nadia Shahram as an advocate for diversity in all that she does as an attorney, mediator, adjunct professor, author and human rights activist. Nadia founded the Coalition for the Advancement of Moslem Women, a nonprofit organization dedicated to the cultural and economic advancement of refugee Moslem women in 21st century America. Leadership Buffalo stated that “the full complement of Nadia’s work ensures that all voices are heard, all perspectives are understood and respected, and opportunity exists for those who might otherwise be marginalized.”

Nadia also was honored as a 2018 Lawyer of the Year by *The Daily Record*, Western New York’s source for legal news.



Left to right: Nadia Shahram pictured with friends Karen King, Erie County Commission on the Status of Women and Lenora Foote Beavers, Buffalo City Court Judge.

Mediator Self Care: Hearty Comfort Food That’s Good for Your Brain By Candi Fulop

For those of you who are interested in Greek Jewish peasant food, I want to share a recipe from my grandparents who came from Janina Greece. This recipe is just what you need after a long day of mediating. It’s so simple, you can make it as fast as you can make your first martini, and it will be finished before your salad is done.

Name of recipe: Spinach and Chick Peas

Time to prepare: 5 minutes

Time to cook about 30 to 40 minutes

Level: Ridiculously easy

Ingredients:

1 can of chick peas rinsed and drained

2 frozen 10 oz packages of cut-leaf spinach (not chopped spinach)

Good olive oil, salt and pepper to taste

How to prepare:

Take a large sauce pan and put the two boxes of frozen spinach in the pot with about 5 tablespoons of oil and a little water (about $\frac{1}{2}$ to $\frac{3}{4}$ cup). Pour chick peas over it and add salt and pepper. Bring to a boil and let simmer, covered for about 30 minutes. Check every 10 minutes to separate the spinach. Add water and a little more oil as necessary. I never measured anything so the oil and water amount is up to you. The combination should be a little soupy.





2018 Upstate Symposium attendees celebrate International Day of Peace at the event on September 21.

Leadership is Energy and Influence, Not a Title -

was led by Sherri McArdle, Master Certified Coach. Sherri had the whole group of attendees sit in a large circle. Facilitating several exercises (including one where we removed our shoes), Sherri focused our awareness on how to really lead ourselves and our clients with conscious energy and influence (and not by our “titles” alone).

After lunch, Don Boice, LCSW, challenged us with the question: **Are You Using Your Neocortex to its Fullest Potential?** Don led us on a humorous journey - with props and costumes - that guided us toward understanding the science behind how we are triggered emotionally in our mediation sessions. Don explained how to recognize and prepare for these triggers in order to avoid getting hijacked and maintain our equilibrium.

Closing out the day was **The Divorce Tax Challenge: Updates on New Tax Laws**, with Mark Josephson, Esq., CPA, CFP, CFE, CGMA. Using a rapid-fire Q&A format, with correct answers from the audience winning 100 Grand chocolate bars, Mark provided the most up-to-date tax law information for separation and divorce.



Left to right: Sherri McArdle, Renee LaPoint and Don Boice discuss leadership styles.



Trish Blake-Jones is the owner of Blake-Jones Mediation, Inc., where she mediates divorce, family and business conflict. Trish also is a certified Mediator with the Center for Dispute Settlement in Rochester and Canandaigua, regularly mediating court-referred custody and visitation cases, small claims and community disputes.



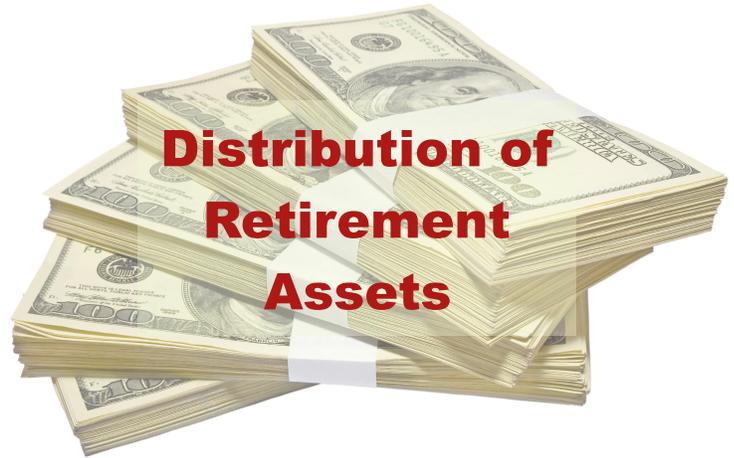
QDRO vs DRO vs COAP

Donna E LaScala, RFC, CLTC, CSA

QDRO “Qualified Domestic Relations Order”, DRO “Domestic Relations Order” and “COAP “Court Order Acceptable for Processing” are documents issued by order of a court decree and are necessary to ensure the equitable distribution of retirement assets without taxable consequences post-divorce. These documents are written according to the domestic relations law of each state. It is important to know the details of your practice state’s laws because they vary from one jurisdiction to another. It is just as important to know the specifics of the type of plan that is being divided, including the type of investments that are held in the plan.

The two main classifications of retirement plans are defined contribution plans and defined benefit plans. Defined contribution plans, like 401(k)s, 403(b)s and IRA’s, have rules governing how much money can be deposited in them. These accounts have a cash value. Defined benefit plans, or pensions, have rules governing how money is distributed from them. Pensions are usually owned by individuals who are civil service or government employees and who are eligible to receive income that is based on the employee’s years of service and life expectancy in retirement. These accounts have an income value. Thus, generally speaking, defined contribution plans require QDRO’s and pension plans require DRO’s or COAP’s. Each type of plan document has specific requirements and restrictions that are crucial to the division of assets.

A COAP is required when you are dealing with the pension plans of governmental employees. There are two types of government plans – FERS and CSRS. FERS is the Federal Employees Retirement System and CSRS is the Civil Service Retirement System. Each has their own rules and regulations, especially for items such as survivor benefits and the inclusion and eligibility of Social Security Benefits. Individuals who are covered under CSRS are not eligible for Social Security Benefits and therefore receive higher benefits from their pension accounts than FERS employees. This difference also affects how the pension benefits are calculated. FERS



participants receive 1% of the average of their highest three years of earnings multiplied by their years of service, while CSRS retirees receive up to 2% of their highest three years of earnings multiplied by their years of service.

Confusion may arise when trying to compare various plans and accounts with one another. Cash value plans and income value plans are not necessarily equal in value but calculations can be made in order to negotiate their weight and importance in an agreement. Additional questions need to be addressed when discussing the types of investments held within cash value accounts. Many retirement plans, especially IRA accounts, have annuities held within them. An annuity has various characteristics and features – cash value, death benefit value and income value. An annuity can be fixed or variable or a combination of both. A fixed annuity has a guaranteed annual interest rate that adds to the value of the account. A variable annuity has sub-accounts that are market-based and can fluctuate in value. These products can be annuitized to generate income for the life of the owner and beneficiary of the account or for a specified period of time. This is where things can get complicated. Is an annuity treated as a “cash value” account OR as an “income account”? Because of this issue, many companies are now requiring QDRO’s for IRA accounts when they have annuities held within them.

When dealing with FERS and CSRS pensions there are several ways to approach the Social Security issue. One method suggests that when dealing with a CSRS pension you subtract out the enhanced Social Security portion of the benefit, also known as ‘benefits in lieu of Social Security’ before looking at equitable distribution. In order to do this, you would go to the SSA.gov and plug in the individual’s earnings history and age. The website will then provide you with a calculation of what Social Security would have been. Another method is to assume that the “employee contribution” portion of the CSRS is what the individual would have contributed to Social Security and subtract that value from the total pension plan value.

Most importantly, the QDRO, DRO or COAP must include specific language regarding the commencement date of benefits as well as survivor benefit options. In the case of FERS and CSRS, the participant retains control over commencement date and benefit payout options forcing the non-participant spouse to wait for their commencement of benefits until the participant retires. All plan documents are not created equal, and therefore, each plan treats the issue of “separate/independent interest” differently. In some cases, this is not allowed by the plan document, which is a crucial factor in dealing with survivor benefits and how long the benefits can be paid to the non-participant spouse. For example, if the participant chooses a life with 10 year certain payout and passes away in year 7 it may not be possible for the surviving non-participant spouse to continue to receive benefits if this contingency was not addressed in the COAP and the original plan document did not allow for such an event. Some plans go so far as to disallow payments to a former spouse if he/she remarries before the age of 55 with the only exception being if the couple was married for more than 30 years before the date of divorce.

It is important to understand that before determining whether you need a QDRO, DRO or COAP you need to

1. Know your state’s domestic relations law
2. Know your clients’ type of plan
3. Know specifically, if it’s a pension, whether it is a FERS, CSRS or other type of pension plan
4. Know all the specifics of the plan document
5. Know the types of investments held within the account.



Donna E. LaScala, RFC, CLTC, CSA is Vice President of Dynamic Financial Services, Ltd. a financial services practice located in Syosset. A trained mediator, Donna offers College, Divorce, Estate and Retirement Planning solutions to her clients.

Member Resources

The next time you log into your account on nysmediate.org, be sure to explore the Quick Links to the right of your screen. You will find many useful resources to help you with your business including: archives of past webinars, back issues of Council News, sample MOUs, intake sheets, budgets, etc.

While you are there, be sure to update your profile on the Find A Mediator Directory. This promotes your business 24/7 and is one of the most visited pages on our website.

If you ever need assistance, please contact Patty Murray, director@nysmediate.org.

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ASK THE ETHICIST

By Rachel Fishman Green, Esq.

Usually, I answer your questions in this column. This month instead I present a puzzle for you, dear reader, to solve. Are there ethical questions raised in this case? If so, what are they? What should have been the solution? What do you think of the settlement that Marie and Keith came to? Please share your thoughts, and we will publish responses received in the next issue.

Rachel Fishman Green

I recently finished working with "Marie" and "Keith" (not actual client names), but I am left with some serious misgivings about the terms of their agreement.

During the mediation process, there were two things going on that gave rise to my concerns: one had to do with the process and the other concerned the substance.

Keith and Marie have been married for 22 years and have two children, ages 9 and 14. They have been separated for two years.

Keith works in local politics. He is extremely charismatic and articulate. He speaks volubly and at length and is charming and persuasive. Marie, in contrast, is quiet and almost shy. After sessions, when I thought about how it had gone, I found myself realizing that I had allowed Keith to take up 80% of the airtime.

Sometimes, after a session, I write up a summary of the points discussed and agreed upon. I found that I had written down things that Marie said, as she said them, but had forgotten them after listening to Keith's lengthy responses. I was glad I had recorded her thoughts and preferences and was annoyed with myself for not remembering her more succinct and quietly expressed thoughts and ideas.

In addition to the somewhat troubling communication dynamics, there were some facts in the situation that could raise additional concerns about power dynamics.

Marie had initiated the separation. Keith had been angry, and had refused to move out, even though Marie is a preschool teacher, and was the primary caregiver to their two children, picking them up after school every day, and spending all their days off and summers together. As a result, Marie left the family home because she was clear that she wanted to separate. The schedule the family has been living with is that Marie picks the children up from school, gives them a snack, takes them to extracurricular activities, often has dinner with them, and then brings them to their old home (now Keith's home) to sleep. The children sleep at Keith's home just about every night.

During mediation, Marie expressed that she wished she had more time with the children and had them for some more overnights. She suggested a 50/50 schedule. Keith responded to her suggestion with anger and said that he felt like she already had more time with the children than he did, since the earliest he got home from work was 6:00 p.m., and she spent hours with them every day after school.

The last important piece of information is that during their marriage, Marie inherited assets totaling approximately four million dollars. She deposited the funds inherited from her grandparents and her mother into a Merrill Lynch Client Managed Account held in her and Keith's joint names. The account held about \$3.2 million dollars.

Marie received the inheritance from her father after she and Keith had separated and held these assets in her separate name. This inheritance was comprised of a house worth about \$600,000 and liquid assets of about \$200,000.

Keith and Marie had not made any deposits into the Merrill Lynch account from their earnings. They lived on their salaries. They had taken some funds out of the account for a couple of family vacations and big purchases – a new sofa – but mainly, the funds had been segregated from their family life.

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I had many mediation sessions with Marie and Keith, and I worked to give Marie more space to speak, and to support her to help her find her voice. I was happy, during our fifth meeting, when Marie said, "I feel that those assets are mine. They are my inheritance and symbolize my heritage. My grandparents and parents are gone, and those monies are what I have left. You will still receive an inheritance, down the road, and I won't benefit from any part of it – but this is mine." At that moment I felt Marie had found her voice.

House: We computed that, were they to sell the house, they would likely each net approximately \$235,000. from the sale. They had a few brokers walk through the house to give them estimates regarding what the house would sell for, and had a high balance on their (interest only) mortgage. Keith wanted to stay in the house and buy Marie out. Marie expressed surprise that their equity, in Brooklyn's booming real estate market, was so low. Keith explained his estimate of what closing costs on a sale would be, and how he had arrived at that number.

Spousal Maintenance: Marie earned about \$35,000. as a preschool teacher. Keith earned about \$170,000. in his corporate job. Marie expressed that she felt it would be fair for Keith to pay her spousal maintenance, as she had taken this job partly to be available after school, during the myriad days off from school, and during summers, to care for the children. Marie wanted \$2,500. per month for 9 years, until their younger child finished high school.

Keith expressed that he felt that Marie was underemployed, as she had two Masters' degrees (both in her field of early childhood education) and did not work full-time (as compared to the number of hours he was required to put into his job). Marie was indignant, and said she worked full-time for her field. In addition, Keith said that his dream had been to be a composer, but he gave up that dream, and took the corporate job to support the family, that he had made sacrifices in his life too, and felt that, given the assets that Marie would surely end up with, she was making the choice to be underemployed, and he should not have to pay spousal maintenance.

At our last session, they came in and told me that they had been speaking about the settlement and had agreed to the following terms:

- Schedule – The children would spend every other weekend with their mother and, in addition, when the father had weeknight meetings – about seven times per month – instead of the mother bringing the children to the father's home fairly late, the children would stay with their mother.
- Child support – neither would pay child support to the other. Keith would pay \$50 per month to Marie to mollify the court. Add-on expenses would be divided equally.
- Marie's Separate Assets – Marie would keep 100% of assets inherited from her father.
- Divided Assets – Marie and Keith would divide the \$3.2 million in assets held in their joint name, which had been inherited by Marie.
- House – Keith would pay Marie \$300,000. for her share of equity in their house, approximately \$65,000. more than she would have received upon the sale of the house based upon their prior calculations.
- Spousal Maintenance – Keith would pay \$200,000. as a lump sum, in lieu of spousal maintenance.

What do you think about this settlement? What should be the result in this case? What ethical issues do you see? Did the mediator violate any ethical obligations? And if so – how would you have handled the challenge?



Please email your responses/thoughts to: rachel@mediate2resolution.com

Rachel Fishman Green, Esq. is an attorney who began her practice as a divorce and family mediator in 1995. She has helped thousands of divorcing couples and is the chair of the NYSCDM Ethics Committee.

TAX TIDBITS

By Mark A. Josephson, Esq., CPA, CFP, CFE, CGMA

How Mediators Can Assist With Discovering Hidden Assets and Unreported Income

Before agreements can be made, mediators need to take special care to identify all of the income and assets that are available to ensure the division of property is fair and equitable to both spouses. Certain spouses may not be forthcoming during the divorce process, which can make it difficult to properly identify all sources of income and all the assets. Income tax filings are one of the most common and important documents a mediator can review to assist their clients in discovering potential hidden assets and income. Due to the correlation between income and assets, a thorough review of an income tax return may flag items indicating unidentified income and assets. This article points out some of the key items on the income tax return to review that may give rise to additional inquiry and investigation.

Wage and Investment Income

Income from wages and services performed as an independent contractor as reported on the tax return can be matched with W-2 and 1099 Forms. These amounts can also be matched to the deposits made to a couple's bank account to ensure all income received has been deposited. The review of W-2 forms can also indicate income from deferred compensation plans, stock incentive plans as well as other executive benefits.

Reviewing schedules on the tax return that report interest will help identify the existence of bank accounts, money market accounts, bonds as well as tax free investments. The interest amounts reported on the tax return can be used to estimate the actual principal held in these accounts. Dividend and capital gain schedules will indicate assets such as stocks, mutual funds and interests in investment partnerships. The proceeds from the sale of capital assets should be traced to verify where the funds were deposited.

Retirement Income and Contributions

The tax return reports distributions from retirement plans as well as contributions to IRAs and other self-employment plans such as SIMPLE, SEP and other qualified plans. Examining the lines on the tax return that report these amounts helps to identify all of the related assets. Additionally contributions reported on the tax return can be traced to the underlying retirement plan statements to ensure a spouse does not try to hide funds by contributing more to a plan than what is actually reported on the



returns. Other forms may also be included within the tax return that provide details for contributions to non-deductible IRAs, the value of non-deductible IRAs, conversions from traditional IRAs, SEP or SIMPLE plans to Roth IRAs, and distributions from Roth IRAs.

Other Types of Income

Rental income schedules will help identify other property to be included in the listing of marital assets as well as identify possible liabilities associated with these properties. These schedules also include information regarding the location of the properties which can help identify out of state assets. Many times rental properties produce losses for tax return purposes due to non-cash items such as depreciation and amortization deductions. These losses and deductions should be analyzed carefully to ensure the actual net cash flow available from the rental property is properly calculated.

There are other schedules included with the income tax return that report income and losses from Partnerships and S-Corporations as well as income and losses from

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Tax Tidbits: Hidden Assets

Estates or Trusts. Income and losses reported on these schedules can be compared to the tax returns and books and records of the underlying entities to make sure all of the information coincides. The review of the tax returns of these related entities may also identify other investments that exist within these entities.

The tax return also has a line called "Other Income" which is basically a catchall for all other sources of income that do not fit elsewhere. Some items that can be reported here are gambling winnings, prizes and awards, lawsuit settlements and distributions from qualified tuition programs. All amounts reported as miscellaneous income should be investigated.

Income Adjustments

Other than the adjustments to income for retirement plan contributions discussed earlier, some other adjustment items to be aware of include deductions for self-employment tax, health insurance deductions and penalty deductions for early withdrawals from savings accounts. A self-employment tax deduction indicates the existence of a business whereby further investigation of the business records maybe warranted. Health insurance deductions indicate an insurance policy exists. Further investigation may be deemed necessary to see if anyone other than the spouse and children are covered by the policy. A penalty for an early withdrawal from a savings account flags the existence of additional funds to be included in the total marital assets.

Certain Itemized Deductions

Although many itemized deductions will be eliminated under the tax law, some of the important deductions to be aware of that will still exist under the new tax law include state and local income taxes, real estate taxes and mortgage interest. Reviewing these items can reveal undisclosed assets. For example real estate taxes may be deducted for land held and not reportable elsewhere on the tax return. Mortgage interest deductions will reflect the existence of loans which can reveal the purchase of an undisclosed asset. It is also important to review the source of the funds used to pay for these items to ensure that they are all being made from marital funds and not from other sources.

Foreign Reporting and Disclosures

There are different areas on the tax return that may indicate accounts being held overseas. For example, there are a series of questions a taxpayer must disclose if they have an interest or signature authority over a financial account held in a foreign country. There are also questions related to the ownership of and distributions from foreign trusts. Other forms may also be included with the income tax filings that report interests in foreign corporations, foreign partnerships, foreign disregarded entities, foreign pension plans and other foreign financial assets.

Summary

There are many ways mediators can assist their clients in identifying sources of income and assets owned, but the initial examination of a couple's tax return is a great starting point. The tax returns can act as a roadmap to identify and explore items of concern. By tracing income, losses and deductions reported on the income tax return to their source, the underlying assets can be identified. Once items have been identified as requiring additional investigation, mediators should work with a tax professional and other advisors specializing in the areas of concern to ensure a thorough analysis is performed before an agreement is finalized.

Editor's Note: Mark's article provides useful guidance in how we might use tax filings with a couple to uncover the complete financial picture. As mediators, our role is to support both parties, and to not act in any way that favors one over the other. Referral to outside financial experts is always a good idea for complex financial scenarios.



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MEDIATION AND CULTURE

By Deborah Hope Wayne, Esq.

Artistic Inspiration

After a very challenging week, I gave myself an afternoon off to attend a gallery talk on Marc Chagall. The art historian conducted an interesting discussion about the Cubist art of creating and what is reflected in the shattered pieces on the canvas. Trying to find meaning in the work, we look at this art and ask about the intention of the artist. On my only afternoon off in a long time, I found myself thinking about how this particular form of art relates to our work as mediators. As I understand it, the Cubists' perspective of the world is not bound to form. Shattered forms are put together to create a new reality. This discussion about non-objective art intrigued me because I have thought of my own work on each case as a puzzle. The challenge becomes how to help put it together and how to continuously challenge myself to try different approaches in seeking to resolve conflict.

As mediators, we can ask the same questions about our cases that we ask about these paintings. That is, what is the reality and what is the illusion? How do we interpret what we see? Do we take it at face value – or, do we insert our own interpretation into the mix. In other words, are we able to see the case from various



Deborah Hope Wayne, Esq., NYSCDM Vice President.

angles? Analogizing the Cubist abstract concepts to our own work, we might ask how we play a role in what the shattered pieces become.

The Cubist inquiry into form is an interesting one. As I understand it, a Cubist painter looks at every possible angle of a subject and then pieces together fragments from these different vantage points to create a painting. Cubism seeks to depict the world as it is, not how it seems. The process involved in cubism and the impact the process has on the result is striking because it involves opening up the mind to see things in a new way. Cubists make room for space to flow through the forms. The artists abandon perspective and explore new forms and ways to create movement on the canvas. Like our own

work, if we seek to determine intention there can be multiple views.

After the gallery talk, I wandered down Fifth Avenue to a café and took time to reflect on how to step back, look at the shattered pieces and put them together in a way that makes sense. That, my friend, is a work in progress!

Deborah

DIRECTOR'S DESK

By Patty Murray, NYSCDM Executive Director

Thank You and Happy Holidays!

The holiday season is often a time of reflection for many people, including myself. As 2018 draws to an end, I think of all the ways our members, volunteers, committee chairs and board directors have contributed to the success of the Council this year. You help make us better by suggesting speakers, organizing educational programs, running peer groups, writing newsletter articles, researching policy decisions, answering surveys, planning for the future and much more. Your valuable contribution of time, talent and ideas makes this Council beneficial to our members, the mediation community at large, and families in transition.

I want to thank you for all that you do and for letting me be a part of this wonderful community. I wish you all the happiest of holidays and a happy 2019!

Patty



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2019 Pre-conference Speaker, Dinner Keynote & Conference Opening Plenary

Ken Cloke

World-recognized mediator, dialogue facilitator,
conflict resolution systems designer, teacher,
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