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NYSCDM NEWSLETTER

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New Look, New Format

This is the first issue of the re-formatted, re-designed NYSCDM newsletter and it really needs a fresh name. More about naming in a minute...

Previously titled THE REPORT, the NYSCDM newsletter captured current Council news and information while including articles of varying lengths, updates to the law, and advisory columns - all illustrative for the practice of divorce mediation. Going forward, the *new* newsletter will sport a shorter format with shorter articles, etc. and be published quarterly. Longer articles (3-30 pages in length) will be published on their own as received and approved, as part of a numbered monograph series.

Please consider submitting work for either of these publications. You know things other people would like to know. Tell us about it.

The Publications Committee, which is responsible for the newsletter and monographs, has also undergone change in the last six months. Moving onto the Committee are Lauren Abramson and me; departing the Committee is Justine Borer. Remaining to guide us through the transformation are Chuck Newman and Eli Uncyk. Melissa Burns takes on a broader role with our publications by coordinating the content, layout and design of the newsletter, a detail-driven task and one she does well. All submissions for the newsletter shorter than three pages

should be directed to Melissa. Please contact me with any feedback, questions, and ideas you have for articles or monographs.

Back to the name. With a fresh look we want a bright, new name for the newsletter's masthead and are soliciting *all* ideas. Please submit your idea(s) to me before April 30th and we'll choose and announce the winner of the naming contest at the 2015 Annual Conference. The prize will be worth your effort - so name the newsletter!

Trish
tbj@trishmediates.com

New York State Council on Divorce Mediation

Publications Committee:

Trish Blake Jones, Chair

Lauren Abramson

Charles Newman

Eli Uncyk

Melissa Burns, Production Manager



PRESIDENT'S LETTER

By Clare A. Piro



Clare A. Piro,
President, NYSCDM
(2013-2015),
Accredited Member

I am pleased to introduce the latest publication from NYSCDM, the NYSCDM Newsletter. The hardworking Publications Committee (Trish Blake-Jones, Charles Newman, Eli Uncyk, and Lauren Abramson) plans on publishing this newsletter on a quarterly basis to keep you up to date on Council activities and events. In addition, they will publish individual monographs, in-depth articles focusing on an aspect of divorce mediation or an interview with someone of interest in the mediation community.

This brings us the best of both worlds – timely news of the comings and goings of the Council and the scholarly articles which had been the hallmark of The Report.

This latest change brought to mind the history of the Council's publications, and I want to take this opportunity to thank all of those who have contributed over the years. I believe I have this correct, but please let me know if I missed anything, and especially anyone.

As I understand it, the first editor of a Council publication was Dolly Hinckley, and it was called *Council News*. She describes those early editions as a true “cut and paste” of articles that she believed would be of interest to members, along with news about the Council. That was in 1985, when the Council was in its infancy.

The name of the publication changed to “Mediation Notes,” and then to the “Monthly Mailer.” Jill Sanders-DeMott took over the cut and paste as Editor, and I have often heard her speak fondly of cutting out articles, assembling those mailers and distributing them to members.

When Eli Uncyk became editor, he added his own spin on the Monthly Mailer, including cases of interests and substantive articles written by him and other members. Chuck Newman became his co-editor a few years ago and then with Justine Borer THE REPORT became more of a journal with longer, instructive articles, news of board happenings, interviews and recaps of conferences, all produced with professional formatting done by Melissa Burns.

Throughout my membership, I always enjoyed reading whatever publication was offered, and I appreciate the enormity of all that has been done by all volunteers, past and present. Every member wants a publication, but not every member wants to contribute, and we all need to give a special thank you to those who do.

Please keep in mind though, that as with any committee participation, there is an added benefit as related by board member Chuck Newman, who aptly describes his rise to board membership from his editorial work on THE REPORT: “Starting small, you can rise in the organization and get to know talented, kindred spirits from all around the state in a much deeper way.”

So, when you're asked to write an article about a conference you attended or if you have that editor's touch and enjoy the challenge of improving the written words of others, give Trish a call.

Public Awareness Committee

The Public Awareness Committee would like to remind you to visit the **Resources Page** in the **Members Area** of www.nyscdm.org to access valuable marketing tools.

NEW! Membership Logos

NYSCDM members, we encourage you to use the links on www.nyscdm.org to download and post the appropriate membership logo on your website as follows:

Mediator Member – is any member who has completed comprehensive family and divorce mediation training including a domestic violence component, or is a family law attorney or Certified Divorce Financial Analyst who has completed basic mediation training and a domestic violence component.

Affiliate Member – is any individual interested in the field of mediation or supporting mediation.

Accredited Member – is a member who has been granted Accreditation through demonstrated education and experience. Please contact Bob Badolato (rbadolat@optonline.net) for your logo.

When you post the logo on your website, please link to the NYCSDM website, ideally this page <http://nyscdm.org/about-nyscdm/>. If you have any questions, please contact Patty Murray at Patty@MurrayPublicRelations.com

PowerPoint Presentation/Mediation Quiz

While on the Resources Page, be sure to download the PowerPoint presentation – *Is Divorce Mediation Right for You and Your Family?* – along with *The Divorce Mediation Quiz* for use with your marketing efforts.

As always, please send your blog articles to Patty@MurrayPublicRelaitons.com. In particular, we are looking for new/unpublished blogs whenever possible.



Board Highlights

The Board of Directors of the New York State Council on Divorce Mediation meets four times per year. In order to keep the membership informed of Board activities, we present you with some of the highlights of the May 1st, 2014 meeting, which was held in Saratoga, the September 5th meeting held in Canandaigua, and the December 12th meeting held in Tarrytown.

At every meeting, we have reports from our President, Treasurer and our independent contractors, Melissa Burns, Bob Badolato and Patricia Murray. Please take a look at the Board minutes in the members only section of the website for more detail.

The Board approved the following:

- an Advertising Policy regarding ads in the members-only section of the website and in publications of the Council, along with a process for soliciting ads
- a Conflict of Interest Policy and a Financial Disclosure form to be executed by all board members
- the list of Core Competencies for Mediators and a survey of CDRC's state-wide, as presented by the Education Committee
- a budget for 2015 which will be posted on the website
- that the Council seek to become an Accredited Provider of Continuing Education credits for New York State Licensed Social Workers
- that the Council join the New York Council of Non-Profits which will provide us with information on new laws and tools
- that the number of consecutive terms that a board member may serve be extended from two to three;
- the formation of a Past Presidents and Former Board Member Advisory Committee
- the conference fee package for the May, 2015 Annual Conference



Reflections

Those of you who know me are aware of how much I enjoy the outdoors, especially hiking. It is my “release.” My time to simply “get away” from day to day... “issues”. Everyone has them, right? So whenever I get the chance, I pack my backpack, lace up my boots, grab my poles and head out. Sometimes alone, sometimes with friends.

Probably as with you, mediation is always on my mind. Well, maybe not “always.” But it’s usually back there, maybe subconsciously, even while out in the peaceful, quiet fresh air. Even while enjoying the pleasures nature brings to us, mediation is a “practice” I have occasionally utilized. You may be thinking, “What in the world is he talking about? He must mean ‘meditation’.” No, mediation.

*You just may
end up
pulling your
"mediator"
skill-sets out of
your backpack*

Let me share a couple of examples with you.

When hiking with others, one of the issues that surfaces is the difference in hiking speeds between the first person in the group and the last. Occasionally, the group decides prior to a hike who will lead it. Or sometimes one person simply takes the lead after everyone has strapped on their backpacks and the group has decided upon their final destination. What may happen after about twenty minutes

hiking is that the distance between the lead hiker and the last hiker increases. Those in the back two-thirds of the group may begin grumbling about the pace, their exhaustion level and the fact that the hike is becoming more of a pain than the pleasure it was meant to be. I have found myself, more than once, hearing hikers say, “Why is she racing through the woods? This isn’t a forced march, you know!” Those at the end are saying, “This isn’t fun. I am not able to look around and enjoy the wonderful scenery.” Worse yet, the leader may be thinking, “I need to move faster,” erroneously assuming everyone is comfortable and ready for more.

Positive, creative thinking and open communication is what we all needed. I find the mediator’s technique of changing the terms from negative to positive to be handy.

Not too long after the group stops for a breather, I have often asked, “How is everyone doing? Pace OK? Is everyone comfortable or do we need to step it up or pull back on the pace?” Those previously making the negative comments may not necessarily bring their frustrations out in the open, in fear of... (whatever). But what they can do is simply answer affirmatively: “I’d like to spend more time looking around. Can we slow it down a little?”



LJ Freitag, Mediator
Member, NYSCDM
Board of Directors

Another example is when the hiking parties come to a point where they can’t agree on which way to go. Does that sound familiar? (Rumor has it that the male of the species will never admit they made a wrong turn. I wouldn’t know, because I’ve never made a wrong turn.) Hikers sometimes disagree as to which is the “easiest” route or which is the “fastest” or “prettiest” way to their destination. In short, you simply have at least two parties with a disagreement where a discussion is most likely warranted.

Participating in a conversation could result in both (or all) of the parties having a positive experience. Had they not brought up the issue, they each may have ended up with an unenjoyable hike. Even though I was not part of the problem, I stepped in as a facilitator and problem-solver. Mutuality includes focusing the responsibility on the parties for resolution of the problem. Many times in mediation we focus the parties on cooperating toward mutual gain and resolution. It removes the target and refocuses the parties on the problem — their mutual problem. It can be just so on the trail. By inviting my hiking buddies to talk through their preferences and the reasons behind their preferences, I have been able to help people literally walk a path together that makes sense and gives joy to both of them.

In the future, if you think you’re only going out for a casual hike — or doing whatever *you* do that gets you away from mediation — think twice. You just may end up pulling out your mediator skill-sets from your backpack (or whatever you carry) and practicing what makes just about everyone a “happy camper.”

2014 Upstate Mini Conference

The Upstate Mini-Conference of the New York State Council on Divorce Mediation was held on Saturday, September 6th at the beautiful Inn on the Lake in Canandaigua, New York. The well-attended conference drew members from around the state who were, as usual, very interactive, which was appreciated by the speakers.

The presentations started off with by John Sobraske, LMHC, LMFT, a psychologist with over twenty years of experience, who provided information on identifying and working with clients with personality disorders. Along with (tips on how to) address the issues present in mediating people with some of the more common disorders, there was also a discussion on when it is best to stop a mediation if the mediator feels that the disorder prevents the party from participating in working towards a fair and equitable agreement.

John's talk was followed by a humorous yet salient presentation by Kristin Skarie, MA, on self-care for mediators and how to set an intentional mediation practice in place. Kristin is the founder of Teamworks, a company dedicated to the development of effective teams and collaboration. She shared some ways to mentally prepare before starting a mediation, how to check in with yourself during the mediation, and options to debrief after a mediation.

Kristen Jenks, CFA, a consultant who performs asset valuations (pensions, business interests, and professional degrees/licenses), and Julie V. Mersereau, Esq., Divorce Mediator and Collaborative Family Law Attorney, reviewed kinds of pensions that mediators may encounter and what information is considered in order to divide them properly. Kristen also explained some of the different ways of paying out a spouse's share of the pension. Mediators can always use more information on the intricacies of working with pensions!

Michelle Y. Cimino, Esq., an experienced civil litigator in family law, braved the mediator crowd and provided us some insight on the latest direction the courts are taking on spousal maintenance.

Lastly, Julie V. Mersereau, Esq. moderated a discussion on issues mediators are seeing with couples at or nearing retirement. There was a vibrant discussion and participants were so engrossed they stayed past the published ending time of the conference! The NYSCDM mini-conferences continue to be successful in offering our members valuable continuing education and networking experiences.



2014 Upstate Mini-Conference Chairs, Julie Mersereau (L) and Barbara Kimbrough (R)

Barbara Kimbrough/Co-chair 2014 Upstate Mini-Conference of the NYSCDM
Greene Mediation Group, LLC
Divorce and Family Mediation Services
www.greenemediationgroup.com

2014 Downstate Mini Conference

History of Downstate Mini-Conference

After 17 years of co-chairing the downstate Mini-Conference and much soul searching, this year we decided it was time for us to “pass the baton”. We recently looked way way back on how we got started on this challenging and rewarding venture.

Our combined recollections and Morna Barsky’s excellent memory reminded us that Morna, who chaired the education committees for both NYSCDM and FDMCGNY, organized CE programs for FDMCGNY from 1982 to 1988. These were held several times a year in various members’ offices. In 1989 both councils together began to hold an annual Mini-Conference. In 1992, the elegant Williams Club became the regular conference location under Morna’s auspices; she chaired them until 1998, when we took over.

The Williams Club remained the location until 2010 when we learned that the club had been sold. Finding a new location was a nightmare until Glenn contacted Maria Volpe, a professor at John Jay College, and head of their Dispute Resolution Program, who became our guardian angel. She was enthusiastic about the college co-sponsoring the conference with NYSCDM and FDMCGNY. At John Jay, we’ve had wonderful meeting rooms and the ability to provide lunch to our attendees. The last five conferences were held there and expect that future mini-conferences will continue to use the venue.

In planning the “mini”, we never met in person, nor texted, skyped, or tweeted. Our interactions were multiple daily phone calls for 2 months. (The one exception was in 2001 when we were in Toronto for the 1st. ACR Conference. We suddenly realized that we had to come up with an entire program for that year’s mini conference in less than a week. We batted ideas back and forth while walking to a Chinese restaurant. By the time we got there, we had 4 topics worked out. Over dinner, we twisted the arms of our colleague mediators who committed to present. Et Voila!)

Our gratitude goes to those NYSCDM members and to the many supporters of mediation who gave of their time and expertise to present workshops at our conferences. One of the hardest parts of co-chairing the mini has always been coming up with new workshop topics. The contributions of our presenters greatly enhanced and advanced the skills and knowledge of all attendees.

We also sincerely thank the various Presidents and Boards of NYSCDM under whom we worked. Being able to plan the mini with the Council’s implicit approval was essential to our ability to make meaningful things happen quickly. Looking back, we are a bit humbled by the faith and trust that the Council always showed in our judgment and planning. Thanks, NYSCDM.

Most of all, we thank each other for 17 years of cooperation, flexibility, and communication. We shared the labor and worked together harmoniously. If the couples whose divorces we mediate only could collaborate as well as we did, we’d all be out of work.

Thank you all!

Sydell S. Sloan and Glenn E. Dornfeld

Mini-Conference Co-Chair Emeriti



2014 Downstate Mini-Conference
Chairs, Sydell Sloan (L) and Glenn
Dornfeld (R)

Ask the Ethicist

Dear Mediator,

Joe and Janice have been living together in separate bedrooms for several months. They have created a schedule for caring for their children, so that each takes turns making dinner, being on homework duty, etc., and each has nights 'off,' just as they will when they have separate households.

Janice is a type-A high strung person, who plays a lot of tennis, runs marathons, and is easily frustrated when she is not getting her way. During our last mediation session, she said to Joe, "Either you move out, or mediation ends now, and I hire a litigation attorney."

I am quite troubled by this statement, on several levels. Can mediation continue?

Mary Mediator

Dear Mary,

I am troubled by this statement by Janice, as well. Mediation is a voluntary process. Standard I of the Model Standards focuses on self-determination as one of the anchoring principles of the process.

Standard I: D. A family mediator shall inform the participants that they may withdraw from family mediation at any time and are not required to reach an agreement in mediation.

Standard I: E. The family mediator's commitment shall be to the participants and the process. Pressure from outside of the mediation process shall never influence the mediator to coerce participants to settle.

The reason the process is voluntary, is so we end up with an agreement that works for both people and reflects both people's needs, interests, ideas, etc.

Janice seems, instead, to be negotiating via threat and duress. "I will get the big guns out to destroy your life. I will spend our children's entire college fund on litigation fees, just to make your life a living hell, I am THAT angry. You had better give in to me, or you will regret it."

When someone is threatened, it is human nature to try to get away from the source of the threat. Just as people cannot freely discuss their honest thoughts, ideas, and feelings, if they fear later that they will be hit, for having disagreed with their (former) partners. You can elicit, and then loop, Joe's response to those threats, and try to find out whether he feels so frightened as to render the mediation process impossible.

But it is also important for you to loop Janice's underlying fears that are leading to bullying, aggressive threats. Janice is clearly suffering; why? What is going on at home that makes the thought of both staying there so intolerable to her.

Did you discuss options? Is Joe moving out the only possibility? Is there some other way to have more boundaries and less contact at home? Is nesting available?

Ask the Ethicist, continued

Now, if Janice were instead to say, “I am really suffering, with both of us being in the house. Would you move out if I were to . . .” and find some ways to sweeten the pot, then you would have some movement in the direction of a mediated agreement. Offer to give him some extra cash in the final settlement? Not take a piece of retirement that she would be entitled to? Offer to pay spousal support to him? Or all of his moving and set-up costs? Or more time with the children?

Mediation is about (1) coming to have a better understanding about what your ex needs, in order to move forward, and (2) reaching across the table, to offer something the other person wants, in order to get something that you want.

Without the willingness to listen, hear, and try to understand the other person’s perspective, we cannot accomplish movement in mediation.

Perhaps in your next session, you could go back to contracting. Why are they there? What is their long-term vision for co-parenting? Remind them that their children will never thank them for destroying the other parent. Find out if there is a willingness to truly listen to and understand each other.

But – people who have good conflict resolution skills don’t need our help, and if Janice is only interested in coercion, then this couple might not be able to mediate.



Rachel Fishman Green, Esq.
Accredited Member, NYSCDM

Core Competencies

The Education Committee has been working on a list of core mediator competencies for the benefit of our members. The basic divorce mediation training which most mediators complete provides a minimal knowledge base for mediators. The Core Competencies are meant to be a framework that our members can use to expand their skills.

The Basic Core Competency document was prepared by the Education Committee, approved by the Board, and is envisioned to be a “living document.” The Education Committee expects that the document will be used as a tool by Divorce Mediators for self-assessment of competency in those areas that frequently need to be addressed in a divorce mediation practice. The committee also believes that the document may be used as a tool by Divorce Mediation trainers to enhance current trainings beyond the traditional 40 hour course.

The Education Committee understands that there will be those who feel that the document contains too little. The committee’s response is that the document is a tool to be used as individual mediators and trainers see fit. However, we recognize that changes may be necessary and to that end we invite suggestions for modification that will be reviewed by the committee for possible inclusion.

To access the list of Divorce Mediation Core Competencies, visit nyscdm.org, log into the “Members Area” and look under “Resources for Members.”

Membership Committee Survey Results

The NYSCDM Membership Committee, in a continuing effort to understand membership needs, is pleased to share the results of the survey distributed at the 2014 Annual Conference held in Saratoga Springs. Fifty-four percent of the approximately 85 attendees participated in the survey. The results indicate a wide and diverse range of experience, training and background.

Highlights:

- Members have been practicing divorce and family mediation for less than one year to more than 33 years, with the median being 10 years. 33% of the members responding have been practicing divorce and family mediation for more than 15 years,
- More than 72% devote more than 60% of their practice to divorce mediation, while only 15% devote less than 15%.
- We have members who are mediators, attorneys, financial specialists, mental health professionals and clergy.
- 70% offer free consultations, and of those, 18% limit the consultation to the phone or limit the time to 15-30 minutes.
- The number of mediations started in the last 12 months ranged between 3 and 100, with a mean of 25, and a median of 19.
- The number of mediations resulting in the preparation of an agreement ranged between 3 and 68, with a median of 20.
- It took between 3 and 18 hours to complete a mediation excluding the drafting of the MOU or agreement, 10 or more hours for 72% of participants and less than 10 hours for 28%.

Thank you to those members who took the time to complete the survey. The Membership Committee is already working on a new survey.

Member suggestions are welcome and encouraged.



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NYSCDM's Mission Statement:

- To promote the highest professional standards for divorce mediation.
- To assist and encourage mediator excellence and success.
- To increase public awareness of the financial and emotional benefits of a mediated agreement.
- To promote mediation as the first choice when couples separate, divorce or face family conflicts.

Check out our blog: <http://nyscdm.org/category/blog/>

NYSCDM Annual Conference REGISTER NOW!

When: April 30 - May 2, 2015

Where: West Harrison, New York

<http://nyscdm.org/annual-conference/>

Questions? Contact Melissa Burns: mburns@nyscdm.org

Feel Free to Share!

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