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Council News

The Newsletter of the NYSCDM

VOLUME 2015, ISSUE 2

JUNE 2015

New Name!

In our last issue of the newsletter, March 2015, we promised that a new name would appear on the masthead for this issue. To that end, we asked attendees at the recent NYSCDM Annual Conference to help with this task by voting a name from a few choices, or to suggest their own.

As might be expected, the result was mixed with no majority vote for one name. Those considered included: "The Family Mediator," "Council News," plus an assortment of suggested names. "Middle Ground" gets our honorable mention for inventiveness. So really, no overwhelming support for any one name, and indeed the option "The Family

Mediator" we later realized is too similar to the Association of Professional Family Mediators (APFM's) publication, "The Professional Family Mediator."

After consulting amongst ourselves and reviewing options with Council leadership, we chose "Council News – The Newsletter of the New York State Council on Divorce Mediation" because it is succinct and clearly identifies the purpose of the newsletter.

As a committee with several new members, we are still sorting out the tasks of compiling a quarterly publication with regular features, columns and useful content.

Please let us know if there is an area you would like to see more information on, or, if you would like to submit an article on any aspect of divorce mediation. We heartily welcome your feedback and ideas, and we welcome new committee members. Please contact Publications Committee Chair Trish Blake-Jones, tbj@trishmediates.com.

**New York State Council on Divorce Mediation
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President's Letter

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



Mark A. Josephson,
President, NYSCDM
(2015-2017)

It is a privilege to serve as the new President of the Council, which has over thirty years of history and a diverse membership with differing professional backgrounds who work so effectively together.

Together, we will work to continue to help the New York State Council on Divorce Mediation grow, develop, and strategically improve. I am “inspired”, as I hope that you all are. With your contributions, the Council will innovate with a combination of traditions and creativity. The ultimate goal is for the Council to be the “go-to place” not only for mediators but for anyone considering, or in the process of, a divorce.

As mediation continues to evolve and become the first choice when couples are divorcing, we need to continue to educate ourselves. Take advantage of attending the NYSCDM Annual Conference each May as well as the upstate and downstate conferences in September and December respectively, not only for the knowledge you will gain, but for the personal interaction. Get involved with one of our committees. Check out the NYSCDM website from time to time, www.nysmediate.org, and read or revisit the wealth of information available. Reach out to one another through our Listserv, nysmediate@yahogroups.com, and share your questions, thoughts and experiences.

I want to thank everyone who has committed their time and efforts to the Council. I encourage those who have not, both long-time members and new members, to get involved. The more you participate in the Council, the more you will benefit. As you read this newsletter, if you have any questions, please reach out. If you have any thoughts for other articles, please let the Publication Committee know. Or better yet, why not be a contributor with an article of your own?

I look forward to seeing you at the Niagara Falls New York Upstate Conference on September 19th, and elsewhere around the Council. Enjoy the summer!



Public Awareness

News and Reminders from the Public Awareness Committee

The Public Awareness Committee is seeking new/unpublished articles for the council's blog. Articles can be short (about 250 words) and should help the public gain a better understanding of divorce mediation. Feel free to focus on one aspect of the process. For topic ideas, please review recent articles at <http://nyscdm.org/category/blog/>. As always, we will link the blog article to your website and share via the Council's Facebook and Twitter accounts. If you have any questions, please contact Patty Murray (Patty@MurrayPublicRelations.com).

In addition, we are in the process of updating various parts of the council's website. Coming soon will be a new FAQ page.

We continue to encourage you to visit the **Resources Page** in the **Members Area** of www.nysmediate.org to access free **Marketing Tools** including:

- NYSCDM Membership Logos for use on your websites
- Customizable PowerPoint slides – *Is Divorce Mediation Right for You and Your Family?* – which you can use as is or update for your presentations
- A one-page, print-quality flyer – *The Divorce Mediation Quiz* – for use with your marketing efforts
- Tips on how to secure a speaking engagement.

Are you interested in joining a Council
committee? Visit our website:

<http://nyscdm.org/about-nyscdm/committees/>

to see a list of committees and descriptions. You
can contact committee chairs directly to join!



Board Highlights

April, 2015

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 April 29, 2015 meeting, which was held in West Harrison, New York.

In addition to his written report, Treasurer David Louis reported that our required tax filings have been completed and will be timely filed.

President Clare Piro reported that the Council has hired a new webmaster who is doing an excellent job so far. The Family & Divorce Mediation Council of Greater New York has withdrawn from the Joint Ethics Committee that FDMC and NYSCDM maintained for several years. FDMC is open to working with us on ethics presentations.

Written reports were submitted by our independent contractors, Melissa Burns, Bob Badolato and Patricia Murray.

The Board unanimously approved the following:

- (1) The 2015-17 Strategic Plan, which will be forwarded to all members.
- (2) A policy that clarifies the determinations that can be made by a committee (*e.g.*, those that are part of the Strategic Plan) and those that must be made by the Executive and/or Board (*e.g.*, an action that affects the financial or human resources of the organization or the membership that affects the public image of the Council; a communication to all members; or something that could constitute lobbying).
- (3) In order to have a consistent website name for branding purposes, we will keep ownership of the name nyscdm.org but begin to phase out its use and for all purposes use the website name nysmediate.org.

Board meeting minutes, once approved, and committee reports are posted in the Member's Only Area of the website, and we invite all members to review them for more detail.



The 32nd Annual Conference

By Melissa Burns

The 2015 annual conference, held April 30-May 2nd at the Renaissance Westchester Hotel, in West Harrison, NY, was a beautiful venue which offered the opportunity for Council Members in the greater NYC area to conveniently attend. The theme of the conference, *Digging Deeper*, focused on mediation skills and the desire to constantly improve the level of service we offer to our clients. Daniel Burns and Renee LaPoint were co-chairs of this event.

The conference opened on Thursday with a presentation by Bill Eddy: *New Ways for Mediation™: More structure, More Skills, Less Stress*. The presentation included a lively Q & A component, and was very interactive. (See elsewhere in this newsletter for an in-depth review.) On Thursday evening we awarded Bill our “Lifetime of Service to Mediation” award, in recognition of his years of service to our community.

The evening continued with a brief history of the “Abel Award” by Melissa Burns, after which Ada Hasloecher and Steven Abel presented the 2015 Abel Award to longtime Council Member, Past President and Annual Conference co-chair, Daniel Burns. To say Dan was stunned is an understatement, and his humble, eloquent acceptance speech made it apparent that he is so very deserving of our organization’s most prestigious award.

On Friday morning, Bill Eddy’s presentation of Brief, Informative, Friendly, Firm (BIFF) Responses provided very useful guidance on sending email messages and other written

forms of communication without the hostility that can fuel the fires of conflict. In another morning session, Ada Hasloecher delivered an interactive workshop on what to do after the initial call from a potential new client. Her tips were helpful to mediators of all experience levels. Barbara Stark rounded out the morning workshops with a presentation on “Using Technology in a Mediation Practice.” The session provided useful information on the many ways technology can keep our practices organized and efficient.

Friday morning concluded with an important topic presented to all attendees: “Getting to Yes for Children and Families.” JoAnne Pedro Carroll, in her warm, genuine manner, spoke about the importance of understanding how divorce affects children and how to create the best positive outcome for them.

During lunch on Friday, the Council held its Annual Meeting. Clare Piro, in her last act as President, thanked Past-President Bobbie Dillon for her leadership and contributions to the Council during her many years of service as a member of the Board. Elections were held, and the Council welcomed President Mark Josephson and Vice-President Renee LaPoint. Kathy Jaffe was re-elected Secretary, and Susan Ingram and Nadia Shahram were both elected to second terms on the Board of Directors.

In the afternoon sessions, JoAnne Pedro Carroll shared with us how to create parenting plans that are tailored to the needs of the children for which they are intended. In sharing her extensive knowledge of child

development, JoAnne provided guidance on how to co-parent in a way that honors children’s needs. In another session, Jill Sanders-DeMott and Al Frankel



This year’s Abel Award recipient, Daniel Burns (left), with presenter, Ada Hasloecher



Conference attendees enjoy lively dinner conversation

32nd Annual Conference, continued

discussed the advantages of co-mediating in a divorce mediation practice. Co-mediating together for over 20 years, Jill and Al shared their experiences and successes using the team approach in divorce mediation. Also on Friday afternoon was Adam Berner, who engagingly presented “Strategies in the Face of Impasse” and shared effective ideas mediators can try when clients just won’t budge.

The Friday sessions ended with a plenary by Steven Abel, who did his usual outstanding job of updating all of us on the law in New York state, reviewing cases of significance that were decided over the past year.

In his role as our auctioneer for several years now, amid laughter and jeers, Steven Abel helped the Council raise over \$5,000! Special thanks to all who contributed to our auction; and especially to LJ Freitag, who solicited many of the items and services for auction, and to Rita Medaglio-Barrera, who arranged the annual gift basket raffle which raised several hundred dollars. Again this year, our own “DJ” Al Frankel continued the fun after the auction and raffle by providing music for an energetic dance party. This has become somewhat of a tradition at NYSCDM Annual Conferences and one that many attendees look forward to!

Saturday morning saw two sessions with a financial focus: Rita Medaglio-Barrera discussed social security income and how it is affected by divorce, and Kristen Jenks presented on the complexities of valuing businesses as part of divorce mediation. For those

who wanted to expand their mediation knowledge, Bobbie Dillon led a lively and interactive session on transformative mediation skills in divorce mediation.

The second half of the morning featured our Lois Rubin Memorial presentation on QDRO’s, with Tom Treacy and Ada Hasloeher helping us to understand the complexities of Pensions... and QDRO’s and Bears - Oh my! In another room, Steven Eisman gave us an update on spousal maintenance, while Cindy McMurtrie teamed up with Steven Abel to tackle the difficult but important topic of spousal abuse.

In the final session of this year’s Annual Conference, in her presentation about the Affordable Care Act, Kathy Brennan expertly informed the audience on the wide array of options available to those who lose health insurance coverage due to divorce.

The Annual Conference Committee would like to thank all who joined us this year in West Harrison. After several years in Saratoga Springs, a change of venue was refreshing and we enjoyed organizing this event downstate.



Conference attendees during a presentation at the 32nd Annual Conference



Meet Our Recently Accredited Members

Nadia Shahram, Esq.

What in your career brought you to the decision to become a Mediator?

After graduating from University of Buffalo law school in 1998, I had the opportunity to spend a year in Paris and Zurich with my family, and to think about my life back in Buffalo. I was dissatisfied with my choice as an attorney to practice law the way it is practiced in the courtroom. I thought there had to be a better way to settle disputes, especially where some parts of a relationship could be saved, such as for parents. While abroad, I was lucky to be introduced to and participate in neighborhood mediations (held regularly in homes) in Europe, Paris and Zurich. When I returned home to Buffalo I learned about the Mediation Center in Rochester, founded by Jack Heister. I contacted him and that is how I began my career as a MEDIATOR!

What have been some of your revelations as you've pursued accreditation with NYSCDM?

To me the accreditation itself means peer approval of my work as a mediator. As I was putting together the required agreements from earlier years, I clearly noticed improvement in the completeness of my drafted agreements.

What do you do after a challenging mediation session?

I am fortunate to have a beautiful park with breath-taking waterfalls behind my office building. I pick up my favorite cup of cappuccino (across from my building!) and go spend time in nature. If it's the evening, I go home and make my favorite meal along with a glass of Persian tea. I listen to meditative music all the time and although I may not talk about particular challenges in a particular case, I think about them deeply and fully.

Do you have favorite books, authors, web sites that inform your mediation practice?

Besides the obvious available websites and published literature on mediation in Western countries, I am very much in touch with different models of mediation being used in other countries. In particular, I am interested in the face-saving style which has been used by professor Roger Fisher from Harvard in his involvement with presidents and other high ranking political parties throughout the world. I was fortunate to take a one-week mediation workshop with Professor Fisher at Harvard in 2002. I try to use a face-saving technique in my style of mediation, where needed. The NYSCDM Yahoo group is a valuable site for answers to real life mediation situations that may not be easily found through electronic search!

Where do you live and how far is your drive to your office?

I live in Williamsville New York, which is a suburb of Buffalo and a seven minute ride to my office.

What is one thing even your friends may not know about you?

In my next life, I am going to be a PhD in marriage counseling. Every couple who walks into my office goes through evaluation of whether their marriage is really dead! If there is even one percent of doubt, I refer them to a marriage counselor!

Anything else you'd like to tell us?

Nothing that we as mediators don't already know. We are ambassadors of peace, creating harmony among couples at one of, if not the lowest points, in their lives. Kudos to all of us fabulous mediators!



Nadia Shahram, Esq., Accredited Member

Meet Our Recently Accredited Members, continued

Deborah Hope Wayne, Esq.

What in your career brought you to the decision to become a Mediator?

After practicing law for many years, I was asked if I would like to participate in collaborative law training by the senior partner of my firm, which included a mediation component. When I completed the training I realized I could practice law in a way that was more true to who I am as a person by using this new set of skills. I then began taking “collaborative” cases. After doing an apprenticeship at a community-based mediation center, I began taking mediation cases as well and found that I truly enjoyed the challenge and opportunity of working with families in this way. After a few years, I left my firm to open up my own practice and focus on mediation, collaborative law and advocacy in cases where individuals want to settle their matter out-of-court. Each case is like an unsolved puzzle to me and I enjoy working on each piece of that puzzle with my clients.

What have been some of your revelations as you’ve pursued accreditation with NYSCDM?

I have mediated for several years and I never took the time to compile the information necessary to become accredited. I reviewed the requirements a long time ago, but somehow I never got around to doing it. After I joined the Board of the NYSCDM and became more active in the organization, I decided that it was important that I attain accreditation. It was one of my New Year’s resolutions this year and I promised myself that I would do it by the end of March. It was important to me to receive accreditation because I do feel that I have gained substantial experience over the last several years and I think it is important that our experience, standards and level of practice be recognized by our organization and by the public.

What do you do after a challenging mediation session?

I try to allow myself time to regroup after the session. I usually need to take a walk or get some fresh air. I think about the challenge and whether there were other ways to handle the challenge. I try to identify a plan for meeting that challenge during the next session. I sometimes research an issue that arose during the session because it makes me feel more comfortable having a solid background of information on the subject. If the challenge was an emotional one and more about pressing my buttons, I try to figure out why. I sometimes discuss the challenge (anonymously) with my colleagues.

Do you have favorite books, authors, or web sites that inform your mediation practice?

When I first started mediating, I found the book *Challenging Conflict*, by Gary Friedman and Jack Himmelstein very helpful. I also enjoy reading books and articles by Bill Eddy and Brene Brown. I have read *Getting to Yes* every year to prepare for the course I teach on collaborative law and it refreshes my memory on the concepts. I attend courses during the year sponsored by the New York State Bar, the Council (NYSCDM), the Academy of Professional Family Mediators (APFM), the Family and Divorce Mediation Council of greater New York (FDMC) and the New York Association of Collaborative Professionals (NYACP as well as IACP).

Meet Our Recently Accredited Members, continued

Where do you live and how far is your drive to your office?

I live in Westchester County, approximately 5 minutes from my Purchase office. I love my office because it is set up strictly for mediation and collaborative law. I try to maintain a very peaceful environment. My Manhattan office requires a train ride of about 50 minutes. It is a pretty easy trip because I get a lot of reading done on the train.

What is one thing even your friends may not know about you?

Plenty – I am a pretty private person. Okay – well, one thing: in another lifetime I was a dancer. I love all kinds of dance including ballet, salsa, and jazz. I still enjoy going to dance performances as a member of the American Ballet Theater and Alvin Ailey. OK – one more thing: I used to be a hockey mom!



Deborah Hope Wayne, Esq., Accredited Member

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.”

Annual Conference Reflections

By: Armenay Merritt, Esq.

FAKE IT TILL YOU MAKE IT! This phrase was some of the practical advice for new mediators given by Ada Hasloeher. Interestingly enough JoAnne Pedro Carroll, also referenced an Amy Cuddy TED talk that stressed the “fake it till you make it” approach. Having received mediation training, it is time to consider and refer to oneself as a mediator. Yes, be bold, call yourself a mediator and draw from your prior life experience if your actual mediation experience is shallow. Three additional tips provided by Ada and helpful to any mediator include:

- 1) When a call comes in, focus your attention on your conversation with the caller. Pull away from the computer or whatever you are doing, pull out an intake sheet and engage in the conversation at hand.
- 2) Keep this conversation brief and process based. The purpose of this conversation is to encourage a couple to come for a consultation. Ms. Hasloeher charges half her hourly rate for the initial consult and if the couple book a session with her, the consultation fee is applied to their first session.
- 3) Keep a spreadsheet of calls you receive, including information regarding dates of contact, sessions scheduled, referrals made, years of marriage, number of children etc. Make sure to send a thank you to those who have sent you a referral.

Many other pieces of practical advice were shared within this session. And remember, each mediator develops a style that works for him or her; these are not hard fast rules but rather tips to help you not just fake it but also make it as a mediator.

By: Steven Stieglitz

As Co-Founder and President of High Conflict Institute, LLC, William A. (“Bill”) Eddy, JD, LCSW, CFLS, continues to develop and teach new techniques in the field of Alternative Dispute Resolution. He has provided an abundance of information through numerous seminars for attorneys, collaborative law professionals, and many others. His articles have appeared in national law and counseling journals as well as writing several books, including, *BIFF: Quick Responses to High Conflict People, Their Hostile Emails, Personal Attacks and Social Media Meltdowns*.

Bill was NYSCDM’s pre-conference presenter on April 30th, speaking on “New Ways for Mediation™: More Structure, More Skills and Less Stress.” At a breakout session on May 1st, Bill spoke predominantly of solutions for dealing with high-conflict people (HCP) and their communications, which can take place in a variety of settings such as

Annual Conference Reflections, continued

online or in a letter. The beginning of any solution is to use the BIFF method provided in the book when you communicate to an HCP and when you respond to difficult (or worse) communications from a HCP:

Brief - In order to avoid a prolonged and angry response, try to keep your communication brief and to the point. This way, even if the HCP feels threatened, you are not engaging in a drawn out fight but rather enduring a quick bump on the productive road ahead.

Informative - The most prevalent reason for high-conflict communication is misinformation stated by the HCP. Thus, simply stating the factual information is healthy in providing true information and in alleviating the HCP's hostility based on incorrect facts. It is important to not state opinions or beliefs but rather only factual information which cannot be misinterpreted.

Friendly - This involves walking the dangerous line between friend and advocate. One should be able to disagree with the HCP while seeming friendly enough to be on his or her side.

Firm - Sound confident. It is important for the HCP to know that you are not simply guessing or assuming, but rather have the factual information in hand and will not be persuaded otherwise. While this may seem stubborn and contradictory to the final goals, it actually allows the HCP to step into a lower role and not feel as if he or she has to question the information being given.

To apply these principles to communications in the world of technology, Bill's primary focus was on responding to potentially dangerous emails. Not so much dangerous in the sense of physical danger, but high-conflict emails can potentially turn collaboration into frustration. One of the best tips of the day was writing out a response which one may feel internally, but would never act upon. For instance, if a client is belligerent, disagreeable, perhaps even obnoxious, most people have the gut instinct to snap back and engage in negative communication. Writing that letter out can be incredibly helpful, but make sure to write it with pen and paper rather than typing it out. Everyone knows the cliché "I can't believe I pressed send all!" If you want to employ this method, just make sure to throw out the harsh words. It will allow you the satisfaction of snapping back without the negative ramifications of sending it. What could be better!

One more technique which is crucial in responding to a hostile email is to make sure to give yourself ample time and space before responding. When you become ready to respond in a level-headed and forward-looking manner, it can be helpful to have another professional read over your draft response. Even if we can think that we are being objective and helpful with a response, it is well to get an objective view from someone who is not emotionally invested. Remember, it is always better to have advice and not need it than to need advice and not have it.

Bill Eddy is an incredibly accomplished author, speaker, mediator, attorney, and so much more. He has shared incredible amounts of information with the dispute resolution community in the hope that more professionals will become aware of potential problems that can arise with high-conflict personalities. NYSCDM's Annual Conference was one more way in which he supports mediators in communicating in simple, straightforward and effective ways.



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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 Upstate Mini Conference

SAVE THE DATE

When: Saturday, September 19, 2015

Where: Niagara Falls, New York

Details to follow

Feel Free to Share!

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