



Mediation News

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Summer 2009

New Jersey Association of
Professional Mediators
1 AAA Drive
Trenton, NJ 08691-1803

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Save the Dates!

NJAPM GENERAL MEETING

NJ Law Center, New Brunswick, NJ
Wednesday, September 9, 2009
6:30 PM– 8:30 PM

NJAPM BOARD OF DIRECTORS MEETING

1 AAA Drive, Trenton, NJ
Wednesday, September 16, 2009
8:30 AM – Noon

FALL DIVORCE AND CIVIL MEDIATION NJAPM TRAINING PROGRAMS

See Page 15 of this Newsletter

NJAPM 16th ANNUAL CONFERENCE

Somerset DoubleTree Hotel, NJ
Saturday, November 14, 2009

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President's Message

by Robert J. McDonnell, MS, APM

Here at the midpoint of 2009, I would like to take a quick look back at the first half of the year to see what NJAPM has accomplished.

Because many New Jersey mediation programs are overseen by the Judiciary, we have been very active in providing input to the court on matters that affect our members.

In January, we provided comments to the Family Subcommittee of the Supreme Court Committee on Dispute Resolution. In February, we met with Judge Hansbury and members of the Family Subcommittee, at their request, to personally deliver the messages contained in our comments. They were very receptive to our suggestions regarding the economic mediation program. Important points communicated in our comments and in our meeting include:

- 1) Mediation should be ordered just after the answer is filed.
- 2) The economic mediation program should be expanded to a complete divorce mediation program incorporating parenting issues.
- 3) All counties should maintain a unified roster (regardless of profession) and the court should randomly assign a mediator to each case.
- 4) Counties and judges should formalize and standardize mediation referral orders in a manner similar to the civil mediation program.
- 5) The two free hour requirement should be eliminated.

In April, we provided written comments to the Supreme Court Committee on Complementary Dispute Resolution on their proposed 2007-2009 rules cycle revisions for all dispute resolution programs. An abridged version of these comments appears in this newsletter. We took advantage of this opportunity to appear before the supreme court. In May, I provided testimony to the court summarizing our views about the proposed rules revisions. In addition to the comments provided to the Family Subcommittee (discussed above), I pointed out that:

- 1) Economic mediation roster candidates should complete the required 40 hours of training prior to admission to the roster.
- 2) The court should go further in assisting mediators to collect their invoices
- 3) We support the committee's ongoing assessments of valuation programs in other jurisdictions and look to work with the court in developing an apprenticeship program to improve mediation quality.
- 4) As a major provider of mediation training, we are willing to work with the education subcommittee to co-sponsor programs to improve mediation quality in New Jersey.

In June, we provided comments to the Supreme Court Committee on Attorney Advertising (CAA), on the issue of advertising by mediator attorneys and multi-disciplinary media-

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*Mediation
News*
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New Jersey
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Editor's Column

by Robert Karlin, PhD, APM

This is my last issue as newsletter editor. I am on a sabbatical this year from Rutgers and need to sit back and think for awhile. It has been a pleasure and an honor to serve as newsletter editor and as a member of your board. I want to thank my fellow board members for their unstinting work for NJAPM. In regard to the newsletter, I want to specially thank my Associate Editor, Judy Shemming. Without her help, hard work, sense of humor and deep friendship I could not have done this.

I also want to thank our frequent contributors such as Armand Bucci, Carl Cangelosi, Katie Ross and Pat Westerkamp, our president, Bob McDonnell and our past president, Anju Jessani, who is **always** there when there is work to be done.

This issue of the newsletter has a featured article. Tom Cullen, who has been very involved in foreclosure mediation, gives us some insight into the process and the roles of those who participate in it. We are all proud of our members who are doing foreclosure mediation. In the continuing housing catastrophe, they serve in the front lines, ameliorating the pain of foreclosure or coming up with creative ways to avoid it altogether. I think this article, longer than most we publish, is well worth reading.

Also in this issue, along with our usual columns (Carl Cangelosi's divorce update, my Psych 101 column and the membership committee report), Armand Bucci and Pat Westerkamp each contributed an article discussing networking. Armand's article discusses online networking and the opportunities for marketing it affords. Pat discusses the art of

small talk and the need for it in a variety of settings, including mediation. Katie Ross provides an "Ask an Expert" column on the challenges of understanding and representing a non-paying payor spouse.

My Psychology 101 article is somewhat different from the ones I usually write. Every ten years, the American Psychological Association issues new guidelines for child custody evaluations. The way I spell total disaster in divorce mediation is "child custody suit." It is horrendously expensive and, despite evaluators' best efforts, the situation is horrible for the children. Moreover, this level of conflict between divorcing parents, which often continues, is the best predictor of child maladjustment post-divorce. However, those involved in divorce mediation should know what child custody evaluators are trying to do. The newest version of the APA guidelines spell it out. I have abridged them for this newsletter.

We have a new version of our website. NJAPM webmaster, Marv Schuldiner, who led the redesign project, explains the opportunities that the enhanced site will provide.

Next, we were asked to provide the courts with suggestions about mediation and Bob McDonnell sent them a thoughtful letter detailing some of the issues we want addressed. A very slightly abridged version of his April letter to Judge Grant, the acting administrative director of the courts, appears in this issue.

Finally, a repeated announcement of the new CE program, call for proposals for the Fall meeting, the membership committee report and the peer group contact list appear toward the end of this newsletter.

Toward a More Efficient and Considerate Mortgage Foreclosure Mediation Experience

by Thomas V. Cullen, Esq., Mortgage Foreclosure Mediator

I have had the opportunity to do a number of foreclosure mediations and have also had the pleasure of meeting and speaking with a lot of dedicated people on all sides of the program starting with Michelle Perone, Chief Civil Court Programs, her staff, the county point people, state appointed and private attorneys, counsel for plaintiffs, housing counselors, and other mediators.

All of the people that I have met are very hard working and very dedicated individuals. They are overworked; many still have a good deal of work to do at the end of each day when they get back to their offices. Many of these people travel all over the state from one mediation to the next. Lunch is either missed or is a banana or cookie. Out of concern, I have started bringing in food, water and soda for others to make sure they have something to nibble on or to drink. I share their hunger pangs. Time, and thus efficiency, is at a premium. Getting there on time, getting ready for the mediation and bringing the necessary information and documents to the mediation are not only efficient, they are considerate of the time and energy of all the people involved.

Unfortunately, there are many times when the mediation could have gone a lot smoother or a second mediation might have been avoided if the participants had been more thorough, known whom to consult prior to the mediation (or did consult with people they knew were available to them). It would help if all participants were more aware of what to supply in advance of the mediation (and to whom),

and knew what to bring with them on the day of mediation.

Information about mortgage foreclosure mediation, including important forms, can be found at www.judiciary.state.nj.us/civil/foreclosure/index.htm

In addition, a short video about the Foreclosure Mediation process, from a series called Court Clips, can be found at

www.youtube.com/watch?v=dxWApHB5W14

**Out of concern, I have started
bringing in food, water and
soda for others...**

It takes a team effort to make these mediations run efficiently. Here are the players:

County Point Person – This is the person who opens up the file with information supplied by the court, the attorneys, borrowers, and housing counselors; coordinates the parties involved in the mediation; sets up the date for the mediation; and keeps track of sheriff sale dates. The county point person will try to accommodate attorneys for plaintiffs and borrowers so that they can do several mediations the same day. If for any reason one of the parties has to reschedule, it is imperative that s/he contact the county point person as soon as possible so that people do not waste time showing up for a mediation that has been postponed. Unless the borrower has heard otherwise from the county

point person, the borrower should always show up at the mediation, even if the borrower believes something has been worked out with the lender. Also, the borrower should not assume that a mediation has actually been postponed because one of the attorneys has requested an adjournment.

Housing Counselors – These people are indispensable to the process; in fact, they might be the “Most Valuable Players.” Every borrower should have the assistance of a housing counselor and, in recognition of that fact, the Program has decided to make it mandatory. It is a common misconception that there is an income limit to qualify for the free assistance of a housing counselor. *There is no income limit.*

The use of housing counselors saves a tremendous amount of time and confusion. As an important example, take the Foreclosure Mediation Financial Worksheet that borrowers complete and submit to the court and which is also provided to the lender. This form is critical. Without a housing counselor’s help, this form often contains errors, is filled out incorrectly or remains incomplete. Accuracy is critical with this form as the lender is looking for the magic word “affordability” when considering a loan modification. Housing counselors are familiar with programs that are available to help borrowers achieve a mortgage modification. They are also familiar with other programs that might help Borrowers bring down their expenses. If their expenses are too high in relation to income, the lender will not agree to a modification.

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Mortgage Foreclosure Mediation, Continued

(continued from page 3)

It should be noted that at the bottom of the second page of the foreclosure mediation financial worksheet it says "Please attach the following: last federal tax return filed, proof of income (e.g. one or two current pay stubs), past two (2) bank statements, If self-employed, the homeowner must also attach a copy of the past six month's profit and loss statement. All of this information should be submitted at the same time. Since one to three months may pass before the mediation is held, any changes to the figures in the worksheet and any updates to the attachments should be supplied to the lender and their counsel prior to the mediation. The lender is always looking for the most recent information. Borrowers should not wait until they are at the mediation table to supply updates. Housing counselors will help the borrower comply.

Incidentally, housing counselors, especially, could benefit from having the use of a laptop and a portable printer at the mediation table so that they can do any last minute financial calculations, using their financial software.

Borrowers – Borrowers should have the advice and assistance of a housing counselor and an attorney. They should meet with both and bring their closing package or packages with them (they may have more than one loan) and all relevant financial information as well.

In some cases a borrower may feel that predatory lending may have been involved. Borrowers should discuss this with their attorney prior to the mediation. This allows their attorney to contact the lender's attorney and others before the mediation date. When borrowers come to the mediation table they should have all their financial and loan records with them (especially their most recent

pay stubs and bank statements). More is always better. Mediation provides borrowers with the opportunity to tell their story. They should be prepared to do so. They should be able to list events chronologically, including why they fell behind in the payments. They should cite any communications they may have had with the lender about modifying their loan or doing a short sale. The lender may require a hardship letter or ask the borrower if he is willing to make a lump sum contribution toward the arrears. This is something that the borrower should discuss in advance with his housing counselor and attorney.

The borrowers should also be prepared to discuss any financial information that has been provided to the lender, such as that contained in the foreclosure mediation financial worksheet. They should also be able to discuss additional financial information prepared by their housing counselor, information contained in their bank statements such as large withdrawals, and so on. Any outstanding judgments against the borrowers should be discussed with their attorney. The lender will want such judgments resolved. (Sometimes it is as simple as a warrant of satisfaction that just never got filed.)

If the borrowers have had a recent appraisal, they should provide it to the lender in advance and bring it with them to the mediation. If the borrowers have listed the property for sale, they should have detailed chronological information about the attempt to sell, including any offers. Again, the borrowers should provide the information to their attorney beforehand and bring it with them to the mediation.

An interesting case arises when a borrower claims that someone else

(usually a relative) will contribute to future payments. This should be discussed with all parties, including the lender and the lender's attorney, prior to the mediation.

Attorney for Borrowers –

Borrowers should always have the advice of legal counsel. Mediators and housing counselors are not permitted to give legal advice. There are state counsel and private counsel that represent borrowers at the mediations. The New Jersey Housing and Mortgage Finance Agency has contracted with attorneys to provide free legal services to eligible homeowners who participate in the New Jersey judiciary foreclosure mediation program. Income limits are \$50,000 for a one person household and up to \$100,000 for a two or more person household. Those who exceed the limits can contract with the participating attorneys on a flat fee basis. The State has been divided into four regions with each region served by one firm.

Region 1 (Hudson, Union & Essex),
Lisa Love, Esq., 108 Washington St.,
Newark, NJ 07102,
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Ragland, Liberty View Building, 457
Haddonfield Rd., Suite 120, Cherry
Hill, NJ 08002, Tel: (856) 414-9015

Mortgage Foreclosure Mediation, Continued

(Continued from page 4)

Attorney for foreclosing Plaintiff – The plaintiff’s attorney should have copies the note, mortgage, reinstatement figures, loan payment history and appraisal. A loan payment history is not usually provided, but should be available for verification purposes. Likewise, the reinstatement figures should not be lumped together, but should be broken down and shown in detail.

The plaintiff’s attorney should always have someone available, by telephone, during the entire mediation, who has the ultimate authority to make a decision. Sometimes that will mean having someone available beyond a servicing agent. If the borrowers made more than one loan with the same lender, and the loans are still held by that lender, it would be helpful if plaintiff’s counsel could contact the different departments beforehand to see if something can be worked out. The loans might have different year durations. Affordability might be more easily achieved if the loans can be rolled into one 30 year loan, for example, with a lower monthly payment.

Mediators —Mediators do not see the file until the day of mediation. It is important that everyone shows up on time. If the borrowers are represented by a housing counselor and an attorney, it provides a certain level of comfort to the mediator since a mediator is not permitted to give legal or financial advice and the borrowers are more prepared as a result of such representation.

Obviously, the role of the mediator is not to make a decision for the parties, but to help them focus and offer them creative solutions. I try to get an understanding about the case by starting from the top. When was the loan was made, the amount, the inter-

est rate, fixed rate loan or or adjustable loan (when does it or did it adjust and to what rate), was it an interest only loan, is it still? Next, was it a stated income loan, what are the principal and interest figures (from the note), taxes and insurance figures (who pays, amounts) was it a purchase money mortgage or a refinance, how much was the house bought for, how much is it worth now (any appraisals)? Then, I need to know what led to the problem today. Was there any communication with the lender when the borrower fell behind, what was the date of default, is there a sheriff sale scheduled, how many postponements of the sheriff sale have there already been? Finally, what, if anything is the plaintiff willing to do – forbearance agreement, loan modification, time to sell the property, graceful exit, and so on.

When the borrowers tell their story it allows them to vent a little, but it also provides information that might not have otherwise been obtained and that may be critical to the discussions. I get everyone involved in the process and listen intently. I try to offer suggestions or elicit further information. If I need to caucus separately with the parties I will do so.

There are going to be times when a second mediation is unavoidable. Following the suggestions above may help streamline the process of foreclosure mediation and reduce the need for additional mediations, for the benefit of all involved. I would note that this article’s views are based solely on my own experience as a mortgage foreclosure mediator.

Other Resources:

Legal Services of New Jersey – Legal Services has an “Anti-Predatory Lending Project.” A link to that website follows:

www.lsnjlaw.org/english/placeilive/iownmyhome/aplp/index.cfm

New Jersey Housing and Mortgage Finance Agency – provides a wealth of information such as that available on the following three websites:

Their home page, contains such things as telephone numbers for the court’s foreclosure mediation hotline, legal services and the Division of Consumer Affairs.

www.state.nj.us/dca/hmfa/home/foreclosure/

Foreclosure Fast Facts, which lists such information as hotline numbers, housing counseling agencies and county social service agencies where people are able to access services such as Medicaid, food stamps, child support, emergency assistance and employment support.

www.state.nj.us/dca/hmfa/foreclosureprevention_resources.pdf

Thomas V. Cullen has a law practice in Lavallette, NJ. His practice focuses primarily on mediation. He is a Monmouth County mortgage foreclosure mediation peer group leader and co-founder of NJAPM Monmouth County peer group. Memberships include NJSBA and Ocean, Monmouth and Essex County bar associations.

Ask the Expert by Catherine Ross, Esq., APM

In this column, a hypothetical situation is presented to an expert practitioner in the field. The expert then shares his or her view of the situation. This time I have asked Catherine Ross, Esq., APM to comment on a non-mediation case, because it contains a situation that is all too common.

A father is supposed to be paying child support of close to \$200/week. Over the 7 years since the divorce, the arrears has risen to a little more than \$15,000. Most of this accrued when the mother made it impossible for the father to see the children. The father's income has decreased by about 15% from what it was when the original order was entered. The father has recently received a threat of driver's license revocation from the DMV because of the arrears and shows up seeking legal help. Mediation has been rejected by both parties. What is a reasonable legal view of this situation and what should be done about it?

The overall picture:

It takes a year and a half or so to accumulate that much arrears at the rate of \$200 per week. Child support is NOT usually retroactively adjustable, with the exception of emancipation.

Denial of parenting time is not a defense. Dad would not be the first to respond to denial of parenting time by refusing to pay since that "seems" fair turnabout to many people---but not to the court. It catches up with the non-payor sooner or later through garnishment and then by way of warrant for arrest if the garnishment is not enough to meet the court order.

If the payments are being made through a county probation department, the letter that sent him to your office looking for help is one of many communications sent to dad about this situation. You can get

much of his history on line using his CS# and Social Security number at the NJ State Child Support Payment Center. It will also have a history of the court and collection hearing actions, that will provide a clearer background than dad may provide. You should know they can garnish up to 65% of his net pay (net after mandatory taxes only) because he is so far behind.

You need to ascertain whether there is any way to reduce child support going forward. To do this you need to know the circumstances upon which the existing order was based and compare them to the present to ascertain whether he could be paying less according to the present child support guidelines. If so, you would file a motion to modify (reduce) the child support as soon as possible under the docket number of the Superior Court support order. If granted it would usually be effective as of the filing date of the motion to modify. Sometimes the court will hold off some enforcement until the modification motion is filed. I do not recommend filing a modification motion unless you have a good basis to believe there will be a reduction. Some people do this without that basis, just to buy some more time on the enforcement case. There are ethical problems with this, plus it isn't the kind of quality practice you want to be known for, either at probation or the court. Furthermore, you may elicit a cross motion for an increase in child support if, as is sometimes the case, non W-2 income has risen.

The state child support system qualifies for federal funds based upon their child support collection success. A sizeable arrears attract their attention because it impacts federal funding the state receives.

So, there is administrative pressure to get arrears like this collected. Contrary to what is usually dad's opinion, it probably is not mom "messaging" with him. For example, many NJ courts hold a child support collection blitz starting in November to help the stats before the end of the year.

Usually you can contact the probation officer on the CS account and find out what payment arrangements they will accept to avoid driver's license suspension. They threaten that more than they take driver's licenses away, unless he is a chronic offender. The "we will suspend your license" letter was designed to get his attention, which it apparently finally did. Probation can also provide a complete record of the payments they received from him, so you can compare them with dad's records. Probation does make mistakes, but not as much these days as in the past.

Probation often will ask for more than the hearing officer or the court will order on account of arrears and to purge a warrant. There are usually local guidelines that differ across the state. If you have a probation officer who really detests your client, it can be more difficult. Some of the PO's get personally involved with recalcitrant non-payor situations. Contrite clients do better at these hearings than clients who describe all the horrible things the other parent did to them, through their children or otherwise. Generally all that strife is unrelated to the issue at hand which is solely concerned with two things: (1) whether the arrears number is correct, and (2) what can you do to satisfy Probation and the court about repayment. Also, the court will want to know whether or not there is a motion filed or planned seeking a reduction. You will have to appear with him in court on the bench

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President's Message, Continued

(Continued from page 1)

tion firms. The supreme court remanded the issues to the CAA, requesting that they consider and make recommendations and changes. The concerns and issues related to the topic, which are important to our attorney and non-attorney mediation practitioners, were captured very clearly in the NJAPM comments prepared for us by Hanan Isaacs.

In the area of training and professional development programs, NJAPM once again offered the spring 40 hour divorce mediation training course (Carl Cangelosi is program director), and the spring 28 hour basic civil mediation training course (Pat Westerkamp is program director and Jon Hyman lead instructor), as well as the advanced civil mediation seminar (chaired by Nick Stevens) and the annual divorce mediation seminar (chaired by Joan Geiger and Carl Cangelosi).

In addition, Pat Westerkamp and his program committee have done a great job in providing interesting and informative monthly general meetings. This is a change from the every other month schedule of the past.

We have also been reaching out to users of mediation by exhibiting at important events, such as the Family Law and Business Law Symposiums, the New Jersey Psychological Association, ADR Day, and other events. The weekly ad in the New Jersey Law Journal increases awareness of our Association and our programs. Anju Jessani has been coordinating these activities, and has some great ideas for additional marketing and outreach.

Based upon a member suggestion for more focused, lower cost, specialized training, we started a series of member-led training sessions. These can be offered at a low cost because members have offered to share their knowledge, lead these training sessions, without compensation. So, the

only costs that we incur and you pay for are for facilities, coffee and refreshments.

Speaking of the website, we cannot recap the first half of 2009 without mentioning the outstanding website redesign. This redesign was accomplished with minimal costs as a result of the significant contribution of the skills and time by Marv Schuldiner, our new web master. The first step of the new website rollout was replication of the existing site, but we have an excellent platform on which to layer additional modules and provide additional services to our members. Look for online membership renewal, online registration for training and events, and a whole lot more. We also see this web site as a vehicle to drive business to our members. The public will be able to find out about mediation, determine if it is right for them and their situation, and search among our accredited members to find a mediator.

I know the second half of the year is going to be exciting and productive. The all volunteer Board and Committee members are busy developing and implementing their plans. They need your help and expertise. So please consider becoming involved. It will help the Association and, I am betting, it will help your practice.

I need to point out, however, that we will have to cope with the future without Professor Robert Karlin, board member since 2004 and current newsletter editor, as Bob goes off on a well deserved sabbatical from his position at

Rutgers. Bob has been teaching, writing about and doing psychotherapy for 30 years, and added divorce mediation to his practice over a decade ago. This break will be a welcome one for Bob, and we extend to him our best wishes, and look forward to welcoming him back when he returns from his sabbatical year.

In closing, let me remind everyone that NJAPM is a growing organization and we are in excellent financial condition. The growth is a function of the outstanding training programs we offer, as well as the expansion of mediation as a profession. We are gaining members who are adding mediation to their professional practices, whether it is law, accounting, finance, engineering, mental health or another profession. We are also seeing more professionals who are in a career transition and looking for opportunities that may be available in the field of mediation. We have diverse membership needs and desires.

As your professional association, NJAPM is committed to supporting you professionally, helping your practice grow, and assisting you get more business. I urge you to fully utilize our web site, use the networking opportunities available, and actively participate in the activities of the association. Members' participation is what makes us who we are as NJAPM.

Please feel free to contact me at rmcdonnell@alliance-mediation.com or 973-709-0188 if you have any questions. Thank you again for your support of NJAPM.

Robert McDonnell is the president of NJAPM. Bob specializes in civil mediation. His practice is located in Lincoln Park, NJ.

Psychology 101: Child Custody Guidelines

by Robert Karlin, PhD, APM

About every ten years, the American Psychological Association updates their guidelines for child custody evaluations. This is a multi-year process that involves the public, professionals and just about everyone else APA can get to comment.

Below I have abridged the latest version of the APA's child custody evaluation guidelines, so that the divorce mediators among us are aware of what an evaluator is supposed to do. The APA guidelines may be found at:

www.apa.org/practice/guidelines-evaluation-child-custody-family-law.pdf. Further information may

also be obtained from Mary Hardiman, APA Practice Directorate, at mhardiman@apa.org.*

Guidelines for Child Custody Evaluations in Family Law

Proceedings (Abridged for this newsletter) Approved as APA Policy in February, 2009

Psychologists strive to identify the psychological best interests of the child. The child's welfare is paramount. To this end, psychologists are encouraged to weigh and incorporate such overlapping factors as family dynamics and interactions; cultural and environmental variables; relevant challenges and aptitudes for all examined parties; and the child's educational, physical & psychological needs.

Psychologists attempt to provide the court with information specifically germane to its role in apportioning decision-making, caretaking, and access. The most useful and influential evaluations focus upon skills, deficits, values, and tendencies relevant to parenting attributes and a child's psychological needs.

In child custody evaluations, general competence in the clinical assessment of children, adults, and families is necessary, but insufficient in and of itself. An evolving and up-to-date understanding of child and family development, child and family psychopathology, the impact of relationship dissolution on children, and the specialized child custody literature is critical to sustaining competent practice.

Psychologists strive to identify the psychological best interests of the child. The child's welfare is paramount.

Psychologists strive to employ optimally diverse and accurate methods for addressing the questions raised in a specific child custody evaluation. Direct methods of data gathering typically include such components as psychological testing, clinical interview, and behavioral observation. Psychologists may also have access to documentation from a variety of sources (e.g., schools, health care providers, child care providers, agencies, and other institutions), and frequently make contact with members of the extended family, friends and acquaintances, and other collateral sources when the resulting information is likely to be relevant. Psychologists may seek corroboration of information gathered from third parties, and are encouraged to document the bases of their eventual conclusions.

Not every child custody evaluation will result in recommendations. Psychologists may conclude that this is an inappropriate role for a

forensic evaluator, or that available data are insufficient for this purpose. If a recommendation is provided, the court will expect it to be supportable on the basis of the evaluations conducted. Psychologists may draw upon the court's resources to encourage relevant parties to participate in the child custody evaluation process. If a desired examination cannot be arranged, psychologists document their reasonable efforts and the result of those efforts, and then clarify the probable impact of this limited information on the reliability and validity of their overall opinions, limiting their forensic conclusions and any recommendations appropriately. While the court eventually will have no choice but to make a decision regarding persons who are unable or unwilling to be examined, psychologists have no corresponding obligation. Psychologists do have an ethical requirement to base their opinions on information and techniques sufficient to substantiate their findings and may wish to emphasize this point for the court's benefit if pressed to provide opinions or recommendations without having examined the individual in question.**

Although the profession has not reached consensus about whether psychologists should make recommendations to the court about the final child custody determination (i.e., "ultimate opinion" testimony), psychologists seek to remain aware of the arguments on both sides of this issue (Bala, 2006; Erard, 2006; Grisso, 2003; Heilbrun, 2001; Tippins and Wittman, 2006) and are able to articulate the logic of their positions on this issue.

Psychologists maintain records

(Continued on page 17)

Marketing Your Practice Using “The Fine Art of Small Talk”

by Patrick R. Westerkamp, APM

In the USA, we too often separate “business” from developing personal relationships. This style produces less than optimal results, since people are more likely to communicate and cooperate when they have significant ties. Mediators benefit by getting to know prospective clients on a more than superficial basis. We always have wonderful opportunities to know the others if only we would open our eyes and ears, and listen.

“Small talk” is one route toward this end. What is “small talk” for one person is another person’s passion. Debra Fine, in the “Fine Art of Small Talk,” (Piatkus Books), explains how tapping into these passions helps to quickly develop relationships. The trick is to discover, and become genuinely interested in, what interests other people. This is not “faking it until you make it.” The art of small talk requires a genuine desire to connect with people by connecting with their interests.

Consider civil mediator Marla, who has been invited by Chuck (the president of her county’s chamber of commerce) to lunch at a Japanese restaurant. Pizza fits Marla’s idea of exotic food. However, realizing that Chuck could well have a passion for Japanese cuisine, Marla senses that this topic could be an opportunity to build their relationships.

Here’s how their conversation went:

Chuck: Mahzu is a great Japanese restaurant.

Marla: Tell me more.

Chuck: I went to the one in Freehold, last Saturday night, with my wife and some friends. Our table was ready as promised and the food was wonderful.

Marla: What did you have?

Chuck: I ordered edamame and unagi.

Marla: Translate please.

Chuck: Edamame is steamed soybean, and unagi is eel.

Marla: Eel? Boy you are an adventurer.

Chuck: I thought so too. The waitress, who ironically was Chinese, recommended it to us. Unagi does not taste like fish, or any seafood really. It tastes like marinated dark meat turkey.

Marla: Will you be serving unagi this Thanksgiving?

Chuck: Unlikely, but we always serve dried edamame when we bring out the cheese and crackers.

Here are the rules of the road for small talk.

1. It’s up to you to start the conversation.
2. It’s up to you to keep the conversation going.
3. Start with a statement, followed by a question. For example, “*You said your daughter is a drama major at the University of Memphis. How did she become interested in the theater?*”
4. Keep the conversation moving along, by “digging deeper” *Has she been in any of the school’s productions?*”
5. Focus on the other person as if she/he was the only person in the world. Don’t fiddle with your jewelry, cover your mouth, look away from the other person, nor glance at your watch.

6. If things slow down, look to your surroundings for conversational cues. For example, “What do you think of the painting behind the head table?” “Is that Jerry Smithers standing by door?”
7. Be alert to cues from the other person that they want to end the conversation.
8. Have honest exit lines ready. “*This has been fun. Now, it’s time for me to...*”

Pat Westerkamp, JD, APM serves on the board of directors of NJAPM and is chair of the program committee.

SAVE THE DATE

**Saturday
November 14, 2009**

NJAPM’s

**16th Annual
Conference**

**DoubleTree Hotel
Somerset, NJ
8:15 AM — 4PM**

The New NJAPM website... A New On-line Home for the Association at the Same Address — www.njapm.org

by Marvin Schuldiner, MBA

One of the responsibilities I have taken on as a director of NJAPM is the website and technology committee. My first task has been to update our website and make it more user friendly, better organized, more stable, easier to administrate and more aesthetically pleasing. A website is any organization's public face. Our long time website was developed in 2001 and has served the organization well. We have grown to over 400 members, run several successful training sessions and conferences, promoted mediation in New Jersey, and have been able to disseminate a great deal of information to interested parties.

While it was serving its purpose, the old website had its issues. Some people would say it wasn't pleasing to the eye. The back-end administrative functions (i.e., signing up new members and deleting expired ones, listserver additions and deletions), ably handled by Carl Cangelosi, were neither very flexible nor easy to use. Expertise was required to modify the site content and the platform the system used had little expansion capability or modularity. So, it was time to look at a redesign.

One of my non-mediation businesses is website development and on-line marketing. When developing a website, the first thing I look at is the purpose of the website – who are you targeting the website at? In our case, we have three primary targets: current members, prospective members and the public seeking mediation services.

Next, you look at the functionality the website needs to have to meet the service needs of the or-

ganization. We have chosen to use a content management system (CMS) platform for the website. While the initial set-up is more complicated, it will allow for easy modification to both content and appearance for years to come. Administrators and editors who can word process can easily make content changes to pages. Modules can be added on for additional functionality; for instance, we can add calendars, stores, blogs, RSS feeds and more. security and access can be tailored by role.

In selecting a platform for the website, the committee looked at custom designed, proprietary and open source models. Each of these has their plusses and minuses. We ultimately chose to use Drupal, an open source CMS that is widely used. Being open source, it is free. There are many modules and themes freely available for Drupal and when we need to hire programmers for customization, they are readily available. Security updates are released as soon as the problems are patched. Drupal is used by organizations such as FedEx, Sanyo, NASA, Nike, Sun Microsystems, AOL, Amnesty International, the NHL, Warner Brothers Records, Fox, MIT, and Harvard University.

Incidentally, there are many open source software packages out there, many of which rival their proprietary cousins. If you don't feel like spending hundreds of dollars on Microsoft products, you can look into software such as Open Office (an office suite including a word processor, spreadsheet, presentation, and database packages) and Linux (an operating system for PCs).

The NJAPM website is being developed in phases. After developing a mock-up of what the site would look like on a Drupal platform, the Board of Directors approved development of Phase 1— replication of the existing website on the new platform with some slight enhancements. Subsequent phases will include additional functionality such as the ability to sign up for events, acceptance of credit card payments for membership renewals and events (currently under study), upgrading of our listservers and anything else worthwhile that our members would like and is technically feasible.

Since the website uses open source software and the website was largely developed in-house — only the custom searches have been outsourced for development — the Association has saved a significant amount of money. This is money which can be redirected and spent on marketing mediation and member services.

I would like to thank the current and past members of the website committee for their efforts with the website redesign: Carl Cangelosi, Anju Jessani, Art Lieberman and Michael Wolf.

Beyond the website, the website and technology committee will be looking at online dispute resolution systems (ODR) and other areas of technology that can help mediators and solo and small office practitioners. Please let me know if you would like to participate on the committee.

Marvin Schuldiner is a professional mediator and arbitrator. Previously, he worked in the corporate world in sales/marketing, operations planning and finance. He serves on the NJAPM board and chairs the website/technology committee and the mediator quality committee.

NJAPM Membership Report by Anna M. Delio, Esq.

I am happy to report our membership has grown significantly since the October 2008 renewal. Our organization never has been stronger, with current membership numbers totaling 438. Specifically, we have 98 accredited professional mediators, 3 general members seeking accreditation, 333 general members and 4 emeritus members.

It is clear there are many reasons to join and maintain your membership with NJAPM. This year alone we made significant improvements in member benefits, such as designing and launching a new, much more user-friendly and informative website, the implementation of member led training courses, the expansion of county peer group meetings, and the increase of NJAPM's visibility through targeted advertising. We also increased NJAPM's visibility with the judiciary, where we advanced our members' interests and provided thoughtful input on rule and policy changes that affect mediators and mediation in this state. Furthermore, our excellent list-serves continue to be an invaluable resource to experienced and novice mediators alike.

For our new members, NJAPM offers a variety of ways to find out more about the organization. The new NJAPM website is the obvious first choice, which you can find at: www.njapm.org/index.php. In addition, new members can network, meet other mediators, discuss mentoring possibilities, and enjoy a good breakfast or lunch at any of the monthly peer group meetings held in various counties throughout New Jersey. You can look for the meeting notices on the list-serves, but you also can find out more about the peer group meetings in the member section of our new website at: www.njapm.org/content/peer-groups.

New members can also review the

new member orientation presentation, which is available at: www.njapm.org/content/new-member-orientation-presentation.

And, as always, new members having questions about NJAPM can contact any of their fellow mediators on the membership committee:

Anna M. Delio, Esq. (new chair)
201-709-3493
amdesq1@verizon.net

Joseph F. Dillon
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jdillon@equitablemediation.org

Robert McDonnell, MS, APM
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Michele Walter, Esq.
732-739-4444
michele@mwalterlaw.com

Patrick Westerkamp, Esq., APM
732-866-7919
mediatorpat@verizon.net

In the next column is a list of 44 new members who have joined since the last newsletter. If your name is missing, just let us know and we will include your name in the next issue of Mediation News.

Anna M. Delio, Esq. practices law and mediates civil and family/divorce disputes in Kenilworth, NJ. She is on the New Jersey Court's roster as a civil and foreclosure mediator, serves as a volunteer mediator and coordinator for the Special Civil Part mediation program in Passaic County and serves as secretary for NJAPM.

Welcome New NJAPM Members!

Anna Thompson Alexander, MAS
Walter Gilbert Alexander, DDS
Valerie Bailey, Esq.
Laura Baker
Marsha Lynn Baldinger, CPA/ABV, CFP
Benjamin Franklin Bell, BS
Detravius Bethea, Esq.
Linda M. Bruno
Sandra L. Bugg
Nicholas M. DeMetro, Esq.
Alan Dixler, Esq.
Francisco Samuel Donaruma
Dolly Fernandes
Collette Anne Foley
Balvinder Kaur Gill, Esq.
David D. Green, Esq.
Jennifer K. Hayden
Jerald A. Harvey
Maria Heckendorn, MA
Christine M. Heer, JD
Richard A. Herman, Esq.
Daniel J. Hussey
Kathleen M. Larkin, MA
Gregory James Libertiny, CPA
Cynthia Wilcox Lischick, LPC, DVS
Richard Luongo
Robert P. Martino
Louis Mattielli
Howard Mendelson, Esq.
Vincent B. Menta, MA
Diana Casella Micallef, Ph.D.
Maggie Miller, Esq.
John Montenigro
Marshall A. Morris, CPA
Mary Morse
Kenneth F. Rempell, JD, MBA
Sampson Sackey
Thomas Simons
Rahmaan Simpkins
Linda Tancs
Deann Taylor
Bruce H. Watt
Elanna Weinflash, Esq.
Sheila R. Wiggins, Esq.

Family Law Case Update, Compiled by Carl Cangelosi, JD, APM

Wunsch-Deffler v. Deffler, Ch. Div., Family Pt. — Establishes a three-step formula that should be employed to adjust the paying parent's child-support obligation in cases where the parties equally share parenting time to take into account that both parents, not just the parent who receives the support, pay certain "controlled expenses," like clothing, entertainment and personal-care expenditures. January 9, 2009

Valente v. Valente, App. Div. — With the parties married for almost 12 years and having three children, the court reversed the award of permanent alimony to 40-year old plaintiff and remanded for determination of a proper term of limited duration alimony. The court noted that at the end of the term, the wife could seek permanent alimony or an extension of limited duration alimony if her earnings were insufficient to maintain her lifestyle without alimony. January 27, 2009

Lucci v. Lucci, App. Div. — The court noted that, based on the information provided in the certifications, it had written to the Internal Revenue Service, the State's Division of Taxation, the Sussex County Prosecutor and the Social Security Administration, to report defendant's conduct. In its letter, the court stated that certifications filed with the court indicated that there were inconsistencies between the amounts that defendant reported on the tax returns and the defendant's history of earnings; defendant had used two social security numbers; and defendant had apparently received unemployment benefits while he was employed. January 30, 2009

Mundie v. Adams, App. Div. — Even though defendant's alimony obligations may not be modified pursuant to the property settlement agreement, the appellate panel reversed and remanded to permit the trial court to fix a reasonable schedule for payment based on defendant's current ability to pay. Where defendant has made a prima facie showing of changed circumstances regarding his child support obligations, the panel reversed and remanded for discovery and, if necessary, a plenary hearing on those issues, and to fix a reasonable schedule for payment on arrears. February 6, 2009

Cordero v. Mora, App. Div. — Plaintiff was a professional baseball player having been in the major leagues for 14 years and having made as much as \$6,000,000 per year. His last year in the majors was in 2005. After finding that there was a dramatic change in plaintiff's earned income, as well as the documentation of assets and liabilities submitted by plaintiff, the court held that plaintiff had established that his earned income has been sharply reduced and this reduction was not transitory. The court remanded saying that plaintiff must fully disclose his financial condition, including the value of his major league baseball pension, the terms and conditions of this pension, the existence of any QDRO's affecting his rights under this pension, and the obligations he has assumed in the course of the dissolution of his two subsequent marriages. February 9, 2009

Melanie A. Dubois a/k/a Melaine A. Brodner v. Martin P. Brodner, App. Div. — The court reversed an award of permanent alimony in this

7.5 year marriage. The court said that the issue of the term and amount of the limited duration alimony are separate issues. "Nothing precludes a motion to reduce the amount of alimony once defendant retires and his post-retirement employment and income is known." In addition, defendant's concern that the limited duration alimony award may be seen as masqueraded child support is unfounded. The judgment of divorce and the opinions of the trial court clearly demonstrate that the alimony and child support awards are wholly separate. March 20, 2009

Anello v. Anello, App. Div. — Where defendant waived his acknowledged right to permanent alimony in exchange for non-payment of child support, and the court later ordered him to pay support for his daughter, his payment of child support constitutes a changed circumstance making enforcement of the alimony waiver unjust and inequitable, and discovery and a plenary hearing are required to determine the amount of alimony to award him. March 23, 2009

Allman v. Allman, App. Div. — Defendant appeals from the denial of his motion for reconsideration of the order that awarded counsel fees of \$5,000 to plaintiff, and the order that awarded plaintiff an additional \$2,075 in counsel fees for expenses she incurred in opposing his motion for reconsideration. The appellate panel affirmed, finding the court did not err in assessing counsel fees based on defendant's failure to participate in mediation to resolve parenting time disputes, where an express provision of the PSA required him to do so. April 3, 2009

(Continued on page 13)

NJAPM Peer Consultation Groups

by Katherine G. Newcomer, Esq.

Peer Consultation meetings are a great way to get to know your colleagues, to network and to discuss difficult cases with a group of your peers. Group meetings also provide an opportunity to share marketing ideas and update each other on current mediation issues. Accredited mediators receive one half hour continuing education credits for each meeting attended. Groups meet once a month, usually either for breakfast or lunch. They are friendly, informal meetings where newcomers are always welcome.

If you would like to attend a meeting in your area, contact the closest group close to you and you would like to form a peer consultation group, contact chairperson Katherine G. Newcomer, JD. I will be glad to help you set up and publicize your group.

Chairperson, Peer Mediation Committee and Mentoring Committee:

Katherine G. Newcomer, Esq.
(908) 439-9140
katherinenewcomer@comcast.net

NJAPM County Peer Group Leaders

Atlantic County

Contact:
Jeffrey D. Light, Esq., APM
(609) 646-0222

Bergen County

Contact:
Anna M. Delio, Esq.
(201) 709-3493

Camden/Burlington/Gloucester Counties

Contact:
William H. Donahue, Jr., Esq., APM
(856) 854-0303

Essex County

Contact:
John H. Montenigro
(973) 746-9535

Hunterdon/Somerset/Warren Counties

Contact:
Katherine G. Newcomer, Esq.
(908) 439-9140

Mercer County

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(732) 438-3880

Middlesex/Union Counties

Contact:
Marvin Schuldiner, MBA
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Monmouth County

Contact:
Thomas V. Cullen, Esq.
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Morris County

Contact:
George Hays, MBA, APM
(973) 539-5242

Ocean County

Contact:
Anna-Maria Pitella, Esq., APM
(732) 842-6939

Case Update, Continued

(Continued from page 12)

Ates v. Atkins, App. Div.—The trial court denied defendant's motion for an increase in child support. Defendant's child support obligation was based on \$320 per week "imputed income." Plaintiff alleged that defendant was receiving unemployment compensation benefits when his support obligation was established but that he subsequently obtained new employment. The appellate panel reversed and remanded, concluding that a change in defendant's

circumstances from being unemployed when his child support obligation was established to being employed when plaintiff moved for an increase in child support presented a sufficient prima facie showing of changed circumstances to require defendant to provide discovery regarding his current income. April 16, 2009

Editor's Note: In each newsletter Carl reviews a number of recently decided, important family law cases and allows us to "keep up." Carl is our president-elect and is a full time civil and divorce mediator. Carl practices in Princeton, New Jersey.

For a comprehensive summary of cases, each year the family law team at the Wilentz Goldman and Spitzer puts together a compendium of family law cases. These reviews may be found at: www.wilentz.com.

Letter to the Courts by Robert J. McDonnell, MS, APM

Although many see New Jersey as a model state for court related mediation, for years there have been problems fine tuning the relationship. The foremost issue has been the free hours at the beginning of mediation, and NJAPM has worked long and hard to change them. However, there are a variety of other issues. Our President, Bob McDonnell, addressed some of these in this (slightly abridged) April letter to the Honorable Glenn Grant, J.A.D., Acting Admin. Director of the Courts

Dear Judge Grant:

NJAPM, with approximately 400 members, is the state's largest mediation organization and the only New Jersey mediation organization with an accreditation program. Our mission is to support processes that provide more expeditious and more efficient resolutions to disputes, reduce litigation costs, advance rather than impair relationships and allow for disputing parties to provide their own solutions to their conflicts. Approximately one-third of our members serve on the roster of court mediators.

Overall, we concur with the changes proposed by the Committee. The proposed revisions generally strengthen the court's mediation program and assist mediators in doing their job. However, we feel some of the proposed rules, or amendments, would benefit from modification. We comment on these below:

1. All counties should maintain a unified roster and the court should randomly assign the mediator to each case.

As stated in our attached comments on the Economic Aspects of Family Law Mediation, as well as comments made in meeting with the CDR's Family Practice Subcommittee, we feel strongly that the mediator in fam-

ily part mediations should be randomly assigned by the courts, as is done for court ordered commercial mediations. The parties would still have the ability to select a different mediator if they desire, as provided for in Rule 1:40-6(b).

2. The roster candidates should complete all 40 hours of training in family mediation before admission to the roster.

Allowing mediators who have only partially completed the 40 hour training diminishes from the quality of the mediators on the roster. As we have stated elsewhere, mediation is a skill that is different and distinct from advocacy and therapy. It becomes far too easy for a new, undertrained mediator to confuse being a facilitative mediator with the processes learned while training for their originating career field. Someone who has not exhibited the commitment to finish the training in the first place should not be placed in a position of such great responsibility, where so much is at stake and where an under trained mediator could make matters worse. In many cases, court assigned mediation is the public's first exposure to mediation. If mediator quality is poor, the public perception of mediation will be lowered. This is not an outcome the court or NJAPM seeks.

3. The court should go further in assisting the mediator in collection of their invoices.

We applaud the rule changes proposed for helping the mediator collect. Collect on overdue invoices, but we feel the rules should go even further. The proposed change to Appendix XXVI, paragraph 12 will only ensure that counsel has a letter or two to their clients in their files

as "proof" that they are complying with the rule. Further, there is no consequence or remedy if this vague and ambiguous rule is not followed by counsel. The NJAPM would rather see the rule changed in two ways. First, if counsel has retained funds of the client's in their trust account, those funds should be used to pay the mediator's invoice in the same manner as other litigation expenses. Second, if a settlement is reached, those funds should be held in escrow until the mediator's invoice is paid by the recipient. When an attorney engages a client, the attorney can not only choose their client but can also set the terms of that engagement (i.e., a retainer). The court-assigned mediators do not choose their clients, nor can they specify the terms of the relationship.

"Prompt" or "timely" payment of the mediator's invoice is not specified anywhere in the rules. This lack of definition leaves the issue open to wide interpretation. The court rules should explicitly specify that the mediator's invoice be paid within 30 days. If a party is disputing the mediator's invoice, that should be made in writing to the mediator during that 30 day period. A party should not have the ability to delay payment of the mediator's invoice for months and then dispute it only when faced with an Order to Show Cause hearing.

We would also like to address some of the items in the Report listed under "Matters Held for Consideration" and "Miscellaneous:"

- We had an excellent discussion with the Family Practice Subcommittee regarding the use of mediation in cases where an FRO exists. We would like to continue the discussion

(Continued on page 15)

Letter to the Courts, continued

(Continued from page 14)

with the Committee to further explore this contentious area.

- NJAPM has identified mediator quality as an issue to be addressed. We have initiated work on several programs such as a mediator apprenticeship (supervised mediations at lower court levels) to improve mediator quality in the state and would like to work with this Committee to improve the quality of the mediators on the court rosters.

In addressing the mediation quality of cases assigned to mediation in Special Civil Part and small claims, perhaps the model of a mediator apprenticeship could be helpful. Ultimately, there could be a progression for mediators to gain experience before being eligible to acceptance to the civil, general equity and probate mediation roster.

- NJAPM would like to see minor changes to the recently instituted mediator complaint process. There needs to be some sort of expungement process to remove from a mediator's record any complaint which is completely baseless or frivolous. Additionally, competency issues raised on a billing dispute should only be referred to the Advisory Committee by the judge holding the order to show cause hearing. Mediators on the roster should not have to deal with threats of complaint against them from a litigant when trying to get an invoice paid. If there is a significant problem with the invoice or the mediator, the hearing judge would be the appropriate party to refer the mediator for further review.

- NJAPM would like to share its experience in presenting conferences for mediators by working with the Administrative Office of the Court to

host jointly sponsored mediation conferences in the future.

As the numerous NJAPM members who participate on the Committee on Complementary Dispute Resolution can attest, NJAPM and its diverse membership can bring a wealth of information, experience and knowledge to the Court as it looks to improve upon what already is a model program. We would like to continue the dialog in order to further enhance the Court's mediation programs and better serve the people of New Jersey.

Robert McDonnell is the president of NJAPM. Bob specializes in civil mediation. His practice is located in Lincoln Park, NJ.

Ask the Expert. Continued

(Continued from page 6)

warrant, with his proof of income, so the court/hearing officer can determine whether the proposal you are making to repay the arrears is reasonable. I would be surprised if they would accept anything less than \$4000 up front and high garnishment each week. Sometimes they only want \$25 or \$30 more each week when you think it would be more. I usually take a completed budget and show where the other money goes -- especially if there is a second family involved and/or IRS back taxes (non-payers often have those too).

It is possible for a naïve and well meaning payor to get into this kind of situation, but they are the rare exception. Usually, non-payers do not see their own contribution to the situation and tend to minimize and blame others for it. One must be frank and tough with these clients to get them to hear and accept the realities of what will happen. Mom may have been very unpleasant to him, but that is largely irrelevant here. Make sure you have the facts and the documents (court, probation, court orders, cancelled checks, paystubs for garnishment) so you don't get embarrassed when even more facts you did not know come out. You won't ever know all the facts.

Catherine Ross, Esq., APM, maintains a family law and divorce mediation practice in Lawrence Township.



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1 AAA Drive, Suite 102
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Visit www.njapm.org,
Email inform@njapm.org,
or Call (800) 981-4800

Social Media Marketing by Armand Bucci, APM

You have heard about Twitter, FaceBook, You Tube, and LinkedIn. You may not have heard of Plurk, Stumble Upon, Flickr, Slideshow, Digg or Friend Feed. All of these are part of what is known as social media. More and more Fortune 500 companies such as Dell, Hewlett-Packard and Comcast now use social media as part of their marketing plan. Not all the sites listed above will work for business and who knows what other sites are out there. While I was writing this article I received an email from a friend to join Plaxo. When I did I was surprised to learn of the number of people that were members that I already knew.

As with any marketing plan, you need to have an objective for using social media, know what you're trying to accomplish and whom you are trying to reach. "Shotgun" social media doesn't work any better than shotgun marketing does. Don't use something because you're fascinated with the latest tool. Tools are no good unless you know what to do with them. Just ask any carpenter or mechanic.

As in any other form of social networking, using social media will not show results overnight. It will take time and constant effort. According to Maggie Fox, CEO of Social Media Group, "You don't get huge results in three weeks on a small budget unless you hit a viral gold mine. The odds of that are the same as your chance of writing a best seller." You need to give a campaign time to have results. You will need to course-correct; you just can't launch and leave.

Forrester Research recently surveyed business buyers about their social activity. They learned that 69% are "Spectators" who read blogs, watch user-generated videos

and participate in other social media for business purposes. 37% are "Critics" who contribute comments or react to content they see on social formats. 29% are "Collectors" that use social media to collect information and stay on top of trends. 29% join social networks ("Joiners") and 5% are nonparticipants ("Inactives").

The hottest social media site today is Twitter. As of February there were 7,038,000 Twitter users, an increase of 1,382% from the year before. NBA player Shaquille O'Neal is one of several players that are tweeting from the locker room at halftime. Actress Jennifer Aniston reportedly broke up with singer boyfriend John Mayer due to his Twitter "obsession". Not all Twitter users are both under age 30 and using it only for social purposes.

Most of the time marketers are not writing but listening to the chatter, paying attention to what is being said about their product or service, brands and companies. Twitter Search, Google Blog search and Technorati.com can find out whether people are talking about you or your service as well as other useful information. There are more than 100 Twitter related sites and many offer free services.

While searching Twitter for mediation I came across several articles on the legal situation between the NHL and Phoenix Coyotes owner Jerry Moyes and his efforts to sell the team to Blackberry CEO Jim Balsillie. Part of the problem is that the team filed for Chapter 11 bankruptcy protection and the potential new owner wants to move the team to Canada, something the NHL doesn't want. Bankruptcy judge Redfield T. Baum ordered the two

sides to mediation. The CBC Sports article interviewed New York sports law attorney Rob Becker who gave an excellent explanation of what mediation is, how it differs from arbitration and why the judge feels mediation will help solve the problem.

LinkedIn is another well known social media that is more geared towards business. LinkedIn allows you search for groups related to your interest and it lists the owner of the group and the number of members. You have to ask to join the group and then can set up how often and what information you would like to receive from the group. You can also create your own group. A search for mediation brought up 64 groups in English and, yes, there is a NJAPM group.

No matter what social media you use, blogging included, there are a few ideas to follow to get the greatest results from your efforts. In your bio, clearly spell out what business you are in, who is posting the account and even what you hope to get out of it. You create transparency and trust at the same time. Find people to follow, they'll likely follow you back. Initially just sit back and watch conversations unfold. Be generous and offer more than you get back. Just like in networking, don't keep score of whom you have helped and what they owe you. Always try to be responsive to peers and customers. And, finally, be remarkable! People have lots of choices of information. What will make them remember you?

Armand Bucci is a marketing/business expert as well as a mediator, treasurer of NJAPM and vice chair for Drexel's Alumni Association's Board of Governors. His background includes management positions in radio, healthcare, insurance and financial services industries over the last 25 years.

Psychology 101, Continued

(Continued from page 8)

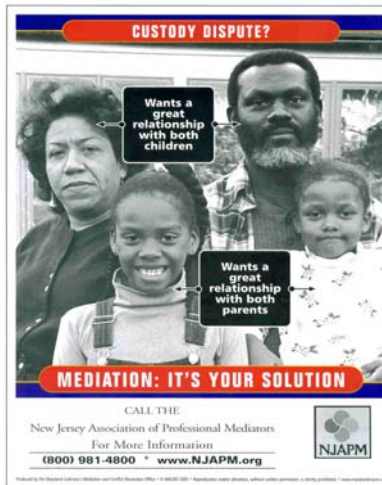
obtained or developed in the course of child custody evaluations with appropriate sensitivity to applicable legal mandates, the Record Keeping Guidelines (APA, 2007), and other relevant sources of professional guidance. Test and interview data are documented with an eye toward their eventual review by other qualified professionals.

*Note 1: Bob Karlin, who practices psychotherapy and divorce mediation in Princeton, only sees clients over age 25 and would not dream of doing a child custody evaluation.

**Note 2: When psychologists are not conducting child custody evaluations per se, it may be acceptable to evaluate only one parent, or only the child, or only another professional's assessment methodology, as long as psychologists refrain from comparing the parents or offering opinions or recommendations about the apportionment of decision-making, caretaking, or access.

Bob Karlin has been teaching and writing about psychotherapy for over thirty years at Rutgers, while practicing individual and marital therapy in Princeton. He has been doing divorce mediation for over a decade and, is the editor of your newsletter and a member of the NJAPM board.

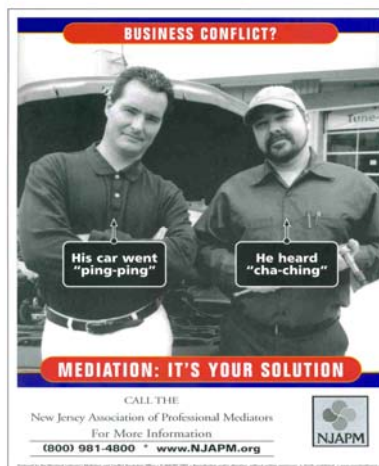
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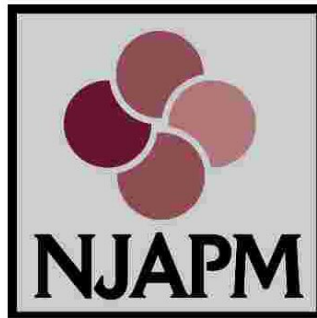


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