



Mediation News

Volume 10, Issue 3
Fall 2006

New Jersey Association of
Professional Mediators
203 Towne Centre Drive
Hillsborough, NJ 08844

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Have you registered?

NJAPM Annual Conference
DoubleTree Hotel,
200 Atrium Dr., Somerset, NJ
Saturday, November 4, 2006
The Mediation Environment

Keynote Speaker:
Author Nancy Kline
Time to Think:

Listening to Ignite the Human Mind

Featured Speaker:
Judge Robert Fall
Lehr v. Afflitto: What the Case Teaches Us
About Confidentiality in Mediation

Featured Speaker:
Kenneth Kressel, PhD
What Mediators Think and Experience
in the Process of Mediating

+ 6 stimulating workshops

NJAPM 800-981-4800 or 908-359-1184

NJAPM's 13th Annual Conference Focuses on "Thinking and Learning"

When?

Saturday, November 4th
from 8:15 AM to 4PM.

Where?

The DoubleTree Hotel, Somerset, NJ

Why?

"It is what we think we know already that often prevents us from learning." Claude Bernard, French physiologist, (1813 - 1878)

NJAPM's 13th annual conference focuses on thinking and learning, both from a theoretical and a practical perspective. Following breakfast, there will be some brief updates about NJAPM and we will award our first two scholarships. Then there will be three exciting speakers.

Keynote speaker, Nancy Kline, author of *Time to Think: Listening to Ignite the Human Mind*, will speak about how mediators can help people think for themselves. She will show how her techniques can create a "Thinking Environment in Mediation" and make it more effective.

The Honorable Robert Fall will speak about *Lehr v. Afflitto* and what it teaches us about confidentiality and mediation in New Jersey. Judge Fall will also provide some other observations about family law, the New Jersey court system, and his career.

Professor Kenneth Kressel of Rutgers University has spent his illustrious ca-

reer on understanding the process of mediation. He recently conducted a research study utilizing some of NJAPM's members. He will discuss how mediation style can influence both process and outcome.

Following lunch, there will two sessions of afternoon workshops; you choose one of three workshops to attend. We are especially proud to showcase so many of our members at our workshops. It is clear that we have an arsenal of talent within our organization!

Session I Workshop Choices:

A. Civil Mediation: Anthony Limitone, Esq., APM: "Mediating Insurance Disputes" with panelists Franklin L. Best, Jr., Esq., (Penn Mutual), Mark J. Bunim, Esq., Peter A. Scarpato, Esq., and Kharyne Neptune, Esq. (AIG)

B. Mediation Styles: Ken Kressel and a panel who participated in his study on mediation styles including Patricia Brady, EdD, APM, Nancy Gardner, and Art Lieberman, PhD, APM, will discuss how "Mediation Style can Influence both Process and Outcome"

C. Thinking Environment I with Nancy Kline – Presentation of Techniques

Session II Workshop Choices:

D. Divorce Mediation with Carl Cangelosi, JD, APM: "A Survey of Alimony Awards by County, Tax Related Issues, by County, and What Mediators Should Tell Their Clients about Alimony" with panelists Hanan Isaacs, Esq., APM, Paul

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Mediation News
A publication of the
New Jersey
Association of
Professional Mediators

Editor

Robert Karlin, PhD., APM

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NJAPM

203 Towne Centre Drive
Hillsborough, NJ 08844
800-981-4800

Website: www.njapm.org

Slate of Officers 2006-2007

The following officers were elected to serve the 2006-2007 term of office by uncontested ballot.

President:

Anju D. Jessani, MBA, APM

Immediate Past President:

Gale S. Wachs, Esq., APM

President-elect:

Anthony P. Limitone, Jr., Esq., APM

Vice-President:

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Carl J. Cangelosi, JD, APM

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Edward J. Bergman, Esq., APM
Bennett Feigenbaum, Esq., APM

Professional Liability Insurance

For NAJPM Members Is Now Available

Policies are available to all general and accredited members of NJAPM. NJAPM has been able to negotiate favorable group rates for arbitrators and mediators liability insurance for members who are not otherwise covered.

For further information or to obtain forms, visit our website at www.njapm.org or contact Armand Bucci at armand-bucci@alum.drexel.edu or 856-663-2237.

President's Message

What we've done; where we're going:

As we look back at the past year, NJAPM board of directors takes pride in the organization's accomplishments, and looks forward to implementing the goals and objectives that we formulated at our annual offsite planning meeting in June.

Within the New Jersey mediation community, no issue took greater precedence last year than the three-free hour rule of the Superior Court. NJAPM led a valiant effort to promote mediators getting paid from the get-go. Our membership wrote letters, and our board met with the judiciary, and also presented our views in the leading New Jersey law publications. Clearly, we were disappointed that that the "free" component was not eliminated, but rather, was replaced with two-free hours (one-hour of planning time, and one of mediation time). NJAPM is now considering alternatives and strategies. As Yogi says, "It ain't over till its over."

Our divorce mediators made a strong argument for NJAPM to take a position on the A-483 and S-1467, which add a new cause of action for divorce based on "Irreconcilable Differences." They felt this legislation, if passed, would make the divorce process less acrimonious, increase the use of mediation—with its financial and emotional benefits, and reduce the burden of contested divorces on our court system. Only Arkansas, Illinois, Maryland and New York have grounds for divorce that are as severe as New Jersey. The legislation is also supported by the New Jersey State Bar Association and the New Jersey Chapter of the Association of Family and Conciliatory Courts. We continue to work with those groups to promote this legislation.

We kickoff our fiscal year with our annual conference. Last year's conference featured Colin Rule, E-Bay's first Director of Online Dispute Resolution and James McGuire, a neutral with JAMS, and an outstanding public speaker and

educator in the field of mediation. This year's conference will be held on Saturday, November 4th at the Doubletree Hotel on Somerset, New Jersey. Morning presentations include keynote speaker Nancy Kline on "Developing a Thinking Environment in Mediation," Judge Robert Fall discussing confidentiality and mediation in New Jersey, and Professor Kenneth Kressel on mediator style and outcome. The afternoon includes a series of workshops. For more details on the conference, please see Page 1 of this newsletter. The "take-home" message is: "Come to the conference. It will be great!"

We continue to refine our basic 18-hour civil training and our 40-hour divorce training. Additionally, NJAPM's advanced civil and divorce workshops offered in the spring, continue to present leading edge ideas. In the spring of 2006, Dr. Daniel Shapiro, Associate Director of the Harvard Project on Negotiation and co-author (with Roger Fisher) of the current bestseller, *Beyond Reason: Using Emotions As You Negotiate* conducted a 3-hour interactive workshop showing mediators how to adapt and use the techniques described in his book, at the civil seminar. On May 5, 2007, Woody Mosten, an incredibly creative thinker and innovative teacher, will present a workshop on mediation skills and developing your mediation practice at our annual divorce seminar.

Our bi-monthly programs conducted at the New Jersey Law Center in New Brunswick from 7PM to 9PM, keep members in touch with the latest developments in mediation in New Jersey and help everyone maintain a network of mediation contacts. Admission is free for members; non-members pay \$20 for each meeting. All meetings include a topic of general interest or one civil and one divorce topic. Dates for upcoming general meetings for this fiscal year are December 6, 2006 and February 21, April 18, June 20 and September 19, 2007. Our Membership

Committee conducts a new member orientation at least twice a year, prior to these meetings. Please check the calendar of events on the NJAPM website (www.njapm.org) for further updates.

Another cornerstone of NJAPM's programming is our county peer group monthly meetings. We continue to add counties, and in some cases, establish separate civil and divorce groups. There is no better way to meet other mediators from your own region, and share information about local developments.

Last year, we changed the format of the newsletter to an online publication with three issues a year. One of these issues is also published as a print issue. We recently added a column for members to send in news about themselves. We also welcome articles submitted by members.

The NJAPM Foundation was established last year as a not-for-profit charitable and educational corporation to complement the activities of the association. This year, we should receive our 501(3) status from the IRS and start implementing programs in the Youth Peace Initiative. NJAPM will be awarding two scholarships to law students at our annual conference. Going forward, we will look to incorporate a college scholarship fund as part of the Foundation's charter.

Finally, I want to congratulate those diligent mediators who took the time to submit applications and go through NJAPM's accreditation process. Last year there was a significant increase in applications and approvals, and we look forward to an even busier year in 2006-2007 with the recruitment of very experienced AOC mediators to our membership. All accredited mediators are listed on NJAPM's website at no charge, and are also included on referral lists provided by the association.

If you have any thoughts or ideas for the organization, please email me at ajessani@dwdmediation.org or phone me at (908) 303-0396. Thank you again for your participation in and continued support of NJAPM.

News from Members

Here we go a second time with this column. It is our attempt to make a somewhat closer community out of our community of mediators. Please consider sending us some news about you and yours for the winter newsletter that will appear in early February. You can email your news to Bob Karlin at bkrln@aol.com or Judi Shemming at jashemming@aol.com.

Tom Scattergood writes: I am a member of NJAPM, have been actively mediating mainly as an AOC Qualified & Approved Mediator since 2001, have served as a private (UM/UIIM) and court approved arbitrator since the late 1980's and have been a practicing attorney for 35 years. I became involved in an organization known as the International Foundation for Education and Self Help (IFESH) and was invited to teach business law courses for two semesters (9/06-6/07) in their "Teachers for Africa" project at the Methodist University in Accra, Ghana. I intend to incorporate ADR in all my courses and if anyone has an interest or any input or suggestions, I would welcome their comments. I would especially be interested in hearing from anyone who has taught ADR and what methodology and materials they may have used in their curriculums. Also, I understand there is a shortage of books and supplies, so if anyone is so inclined to send materials, please let me know. I will contact you after I have assessed the students' needs. Contact me at tscatt@comcast.net

Debra A. Russenberger writes: On April 26, 2006 the Superior Court of New Jersey, Union County Vicinage, honored Dorothy Patkus and Debra Russenberger for their work as Chairpersons for the CDR mediator panels in Fanwood/Mountainside and Elizabeth at a dinner at the Grand Centurion in Clark, New Jersey. Then, on April 28, 2006 the Municipal Court of Elizabeth honored Claudia Cohen, Art Lieberman, Dorothy Patkus and Debra Russenberger for their work as mediators for the town of Elizabeth.

Julie Denny tells us: She was interviewed on Martha Stewart Living Radio by Maggie Mistral on Day in the Life, a career exploration program.

Katie Ross tells us: My youngest daughter, Dana John, is a freshman in the Music Business program at NYU this fall. She has her work study through America Reads, tutoring NYC middle school students in reading and math and reports loving life in NYC.

May-Britt Kollenhof-Bruning and Robert McDonnell report that they recently held a business meeting in the Netherlands. May-Britt and Bob are co-founders of Alliance Mediation Services, a civil mediation partnership they jointly established in 2005. May-Britt relocated to her native Netherlands in early 2006, but they continue to work together. May-Britt and her brother have developed a multi-lingual online dispute platform. The service, which will be extended with neutral services in due time, will be available November 1st. Bob is continuing the Alliance Mediation Services civil mediation practice stateside. May-Britt, and her husband Jeroen, hosted Bob, and his wife Sandi, at their home in Uithoorn. They also all vacationed at the Huis Ter Duin resort on the North Sea at Noordwijk. May-Britt expects to return to the states to attend the NJAPM Annual Conference in November.

Bob Karlin participated in early, post-trial attempts to review the Alexander case. In its review of Alexander, the NJ Supreme Court overturned the (1979) Hurd case and now hypnotically facilitated recall by witnesses to or victims of crimes is excluded from NJ criminal trials. Bob believes that this a good thing as hypnosis produces testimony that is often wrong and/or self-serving, but is also vivid, detailed, and largely impervious to cross examination. Bob also reports that his daughter Elizabeth is enjoying the hell out of being at

Northwestern University in Chicago. She always seems surrounded by groups of new friends and is, as he can tell, loving college. Sarah is a junior at St. Stephens High in Bradenton, FL and is doing wonderfully. Jake and Katie's Ari has made it to kindergarten at Columbia Grammar in Manhattan and brother Henry (age 2) is looking like he has a future as a line-backer in 15 years or so.

Judy Shemming is proud to announce that her daughter Kristina has earned her rookie freshman spot on TCNJ's soccer team by scoring 4 goals in the last 3 games. Daughter, Katie, is now teaching 2nd grade for the Jamesburg School District and loving it. Daughter, Kelly, has started her position as a global strategic outsourcing specialist for IBM and is enjoying traveling around the country.

Membership Committee Report

by Bob McDonnell

Since March 1, 2006, there have been 60 new members. 34 have indicated that they are civil/commercial mediators, 11 have noted family/divorce, 5 have designated they do both, and 10 have not identified an area of practice or interest. The breakdown of members by category is as follows:

Accredited Members: 106
 General Members: 264
 Members Pending Accreditation: 5
 Student Members: 4
 TOTAL - 379

Our membership as of September 2006 was 337, 106 of whom were accredited.

No Cause for Rejoicing: Lawyer Candor During “Caucused Mediations”

by Patrick R. Westerkamp, Esq.

The American Bar Association’s Ethics Committee recently extended one of its rules (4.1.a) to mediators during a caucus

The Rule itself simply provides that: In the course of representing a client a lawyer shall not knowingly: (a) make a false statement of material fact or law to a third person. Mediators fall among the “third persons” to whom lawyers may not make “false statements of material fact or law.” There is, however, little cause for mediators to celebrate this conclusion. Now that caucused mediation has been subsumed under Rule 4.1.a, attorneys have a justification for being “less than entirely forthcoming” with mediators about: estimates of value, the strengths/weaknesses of their case, and their client’s willingness to settle. In the words of the Opinion,

“Statements regarding a party’s negotiation goals or its willingness to compromise, as well as statements that can fairly be characterized as negotiation “puffing,” are ordinarily not considered false statements of material fact.”

Here are a few examples of possible impacts. Attorney A represents Plaintiff A, who would happily settle for \$25,000. In caucus, she acts within the scope of the Rule by saying to the mediator “We’ll settle if you can get Defendant up to \$40,000.” Or, consider a transactional mediation where the buyer is a “stalking horse” for an undisclosed, very rich principal. The buyer’s attorney has no obligation to disclose the principal’s interest in the transaction.

The Opinion governs attorneys’ conduct in “caucused mediations.” This process is described as one in which the neutral “meets privately with the parties, and either individually or in aligned groups. These caucuses are confidential, and the flow of information among the parties and their counsel is controlled by the



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mediator.” In contrast, the Opinion is not directed to mediations that only involve joint sessions. Apparently, the drafters concluded that mediators who rely on caucuses are more prone to manipulate the information that they receive in order to produce settlements. In this light, it appears that the Ethics Committee felt free to conclude that the traditional rule allowing some deception by counsel during negotiation could be appropriately applied in “caucused mediation.”

Professor *Kimberlee K. Kovach* has commented that the Committee’s opinion deals “a setback to the progress of mediation as a genuine constructive and collaborative process... [by] allowing attorneys to make misrepresentations to the mediator as well as one another. She also observes that the “ruling conflicts with the mediator’s duty to ‘promote honesty and candor between and among all participants’, as set forth in Standard VI, 4 of the Model Standards of Conduct for Mediators,” which was approved by the ABA House of Delegates.”

However much Opinion 06-439 may concern mediators, it presents an opportunity for a dialogue, moral or otherwise, about the standards governing our profession. Here are some thoughts for consideration:

A. Attorneys have a different moral imperative.

Whether acting as advocates, negotiators, or counselors under the standards governing the practice of law clients come first, and must receive zealous representation. Whether negotiating a transaction or the resolution of a lawsuit, the lawyer’s task is to get the best possible result as defined by the client. This may or may not be a win/win resolution. Attorneys have no duty to help the other party, or to support the mediation process.

The original drafters of Rule 4.1(a) took this partisan perspective. In the years after Watergate, they rejected proposals to amend the Model Rules to command a positive duty of fairness. They promulgated, instead, the present bar against material misrepresentations. The Comments to the Rule moreover assure attorneys that under “generally accepted conventions in negotiation, certain types of statements are not taken as statements of material fact.” Accordingly, practitioners may be comforted by the thought that dissembling is an accepted part of negotiations.

B. Opinion 06-439 ignores the progress of ADR.

While the Ethic Committee’s focus on “caucused mediation” is somewhat confusing, the Opinion has the flavor of reminding mediators of the gap between complying with ethical strictures and living in the real world of rough and tumble negotiations. This reminder, as Professor *Kovach* wrote, “has placed the process back within the legal paradigm of adversarial, win-lose conduct. Such an approach is antithetical to the growth and evolution of a genuine alternative ap-

(Continued on page 14)

Thinking Outside of the Box: the Benefits of On-line Mediation

by May-Britt Kollenhof-Bruning, APM

Editor's Note: Last year Colin Rule, head of online dispute resolution (ODR) at eBay and PayPal, described ODR at the NJAPM annual conference. It was a fascinating talk. One of our former NJAPM Membership Committee Chairs, May-Britt Kollenhof-Bruning, APM, has been working with eBay. In this report, she tells us about her views of the process. This article is a condensed section from a longer piece, which was in turn abstracted from May-Britt's Master in Mediation thesis. For a complete copy of the thesis, you can email May-Britt at mkb@juripax.com. May-Britt returned to Europe last winter. More news about her latest activities can be found in Bob McDonnell's note in the "News from Members" section of this newsletter.

In mid – September, members of the NJAPM listserv debated whether the physical “presence of parties” during mediation sessions is required. I want to use the example of online mediation to show that the actual immediate physical presence is not always required to have an effective mediation. Moreover, though many mediators may not have considered it, I want to suggest that there are proven alternatives to real-time communications.

Lack of face-to-face communication

The most commonly-heard concern among skeptics of on-line dispute resolution centers on the lack of face-to-face contact in the on-line environment. The lack of face-to-face communication certainly does create barriers. However, experience and research has shown that on-line environments can enhance the effectiveness of communications. For example, Tan, Bretherton and Kennedy (2003) at the University of Melbourne analyzed on-line interactions in a study of 98 negotiations. Their results indicated that on-line mediation may actually generate more integrative “win-win” outcomes than live mediation, and has the potential to generate more resolution-

The most commonly heard concern among skeptics of on-line dispute resolution centers on the lack of face-to-face contact in the on-line environment.

focused movement between the parties. Of course ODR is largely text-based and asynchronous. Parties engaged in an asynchronous on-line communication can connect to the on-going discussion at different times and may opt to delay their response. It is an axiom of communication theory that the ability to delay communication can lead to less emotional and more reflective communication. This is not only true for participants, but for the mediator as well. My own experience confirms that, given the option of stepping back and reflecting at times, I felt more “balanced” and confident in my own reactions. Of course, in on-line mediation “attentive listening” becomes “attentive reading”. As a mediator, it is important to find the relevant clues between the lines and to clearly re-frame and restate, demonstrating that s/he “did get the message”, without the necessity of reflecting back everything that was written.

Establishing and maintaining an equal level playing field

My experience, supported by published studies (Rule, 2002), shows that moving the traditional face-to-face communication to the on-line environment can create a more equal-level playing field. I recall e-commerce incidents, where self-confident “power-sellers” and less assertive private buyers entered the on-line mediation after

having had unfruitful oral communications. The change in medium from verbal to text-based paved the way for a more constructive dialogue. Further, textual communication tools, such as same length limits for messages and spell checkers, help the mediator to create a more level playing field between the parties by avoiding bias triggered by verbal style.

There are things that can be done to make ODR faster and better. Because the parties are not face-to-face, they may use much stronger language on-line (that is, more escalatory behaviour and emotions), especially at the beginning of the mediation. Brett (2004) showed us that the quality of the opening phase (managed by the mediator) in on-line mediation is of crucial importance to bolster the effectiveness and speed of the proceedings.

Also, my experience with mediating disputes on-line is that I spent relatively more time on re-assuring the parties of the “fairness” of the procedure. Perhaps the lack of convincing body language is at work here. One must depend more on the formal characteristics of the exchange, making sure that both sides know that they can trust the procedure to help them to a fair result. It would be an interesting research-topic to find out whether confidence in the ODR provider, the procedural safeguards, and relevant technology does, at least to some degree, adequately substitute for personal trust in the neutral third party.

Some challenges in ODR

First, on-line mediation is confidential. However, it is also based on written records. Apart from the liability-issues, the text-based medium is precisely where, as a mediator, I feel that one's trustworthiness and “ethics of carefulness” is most exposed. The smallest error can jeopardize the cautiously established trust in the mediator and/or the ODR procedure.

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Thinking Outside of the Box (Continued)

(Continued from page 6)

Second, in on-line settings it is easier for parties to "walk away" by simply stopping responding without "loss of face." Therefore, any expression of emotions by the parties signaling doubt whether the mediator is really "on the ball" or, else, "does not get it", should be immediately acknowledged and addressed.

Third, multi-tasking is an essential skill for on-line mediators. Managing different threads (and making sure communications go to the right parties!) can be challenging and confusing because of the multitude of simultaneously "open" cases. Further, one is involved in multiple concurrent discussions (jointly or

caucusing with parties separately) within each case. Additionally, the asynchrony of ODR can be too convenient. As Raines indicated, you can wind up mediating too late at night or when other things that need attention are going on around you. One needs to keep one's sense of balance.

Fourth, mediation communication can take place over a period of days or weeks. So, there is the constant need for summary statements and re-assessments each time you communicate (to remind parties of where they are in the process, what they have achieved so far and what still needs to be done). The challenge for a mediator

is, to establish a "resolution focused mindset" and not to let the case just drag on.

Finally, on-line mediators have to be "thick-skinned." More frequently than in face-to-face mediation, emotional outbursts are directed towards the mediator. Expressions such as "every idiot can see that Mr. X. is a liar" (implying that only a feeble-minded mediator would miss this obvious fact) should not be taken personally. The mediator should show resilience in putting up with criticisms and insulting language. A certain humbleness (without abasing oneself) and the ability to show occasional vulnerability may, at times, be valuable assets.

Judiciary Committee Report

Edward J. Bergman, APM, Esq., Chair

This past year the Judiciary Committee focused on proposed revisions to the "Three Hour Rule." Unfortunately, and to the surprise of many, the Supreme Court Committee on Complementary Dispute Resolution, on which I serve, recommended revisions to the Guidelines for Mediation that have now been adopted. Those revisions center around the "reduction" of pro bono requirements from three hours to two hours in each court-connected case, inclusive of one hour of face-to-face mediation. I strenuously objected to this recommendation which, nonetheless, was approved with near unanimity. One committee member did file a minority report in favor of an "opt-out" model which had been discussed at length, and endorsed by NJAPM.

The present guidelines are arguably even less favorable to mediators than the preceding ones, in part because pre-mediation activities by a mediator can seldom be accomplished in the hour allotted. As a result the mediator may expend more than the one pro bono hour allotted, only to find that the parties will not agree to provide compensation for the additional preparation time. In effect,

the mediator may now be devoting the same amount of pro bono work, yet being "credited" with two rather than three hours. The corollary public policy issue of disincentivizing mediator preparation is equally problematic as it could lead to less effective mediation processes and outcomes.

The retirement of Chief Justice Poritz may or may not impact the Court's perspectives on these issues going forward. In any case, it is my intention to advocate, as an addition to the existing guidelines, the need for distinguishing between simple cases and complex cases both as a function of number of parties and other variables, analogizing to the use of existing discovery track classifications. If we can establish a system in which cases that predictably demand intensive pre-mediation time commitments are treated in an alternative manner, some of the current compensation problems might be addressed obliquely without the need for amending the basic two free-hour rule.

Annual Conference (Cont.)

(Continued from page 1)

Kreisinger, Esq., & Amy Wechsler, Esq., APM

E. Marketing with Kristina Haymes, JD: "Growing your Mediation Practice: The Sky's the Limit!" A practical approach to planning and marketing mediation services from a practitioner/marketing professional

F. Thinking Environment II with Nancy Kline – Interactive Role Plays

The registration fee for members is \$155, \$115 for students, and \$175 for non-members. \$20 of the fee will be applied to membership dues if you join NJAPM within 45 days of the conference. The fee includes breakfast, lunch and all conference materials. There is a surcharge of \$20 if you choose to pay at the door.

Please mail your conference fees made payable to NJAPM, to NJAPM, 203 Towne Centre Drive, Hillsborough, NJ 08844. For more information or questions, please e-mail us at ajessani@dwdmediation.org (Anju) or mediatornj@aol.com (Gale), or call (800) 981-4800.

Is Your Probate Case Ready For Mediation?

Anthony J. Serra, Esq.

During initial telephone conferences about court-referred cases, counsel often ask me “But do you think this case is ready for mediation?” At some level this is a legitimate question and actually raises two more compelling questions: First, is the case appropriate for mediation? And second, is the case ready for settlement? Both questions are worthy of our attention. The answers involve determining which cases are likely to benefit from the mediation process and when is the optimal time for a case to be mediated.

Is the case appropriate for mediation? Are the parties acting in good faith and are they prepared to engage in a serious discussion that might eventually lead them to a compromise of their current position in the case? Some people simply believe, given the law as they understand it and the facts as they perceive them, that they are absolutely right and that the other party is absolutely wrong. They will not compromise. With probate matters, people who feel this way may legitimize their steadfast position by invoking the intentions of others who may no longer be around to speak for themselves. Take the case where a family member has been disinherited. Such parties may retort: “Dad did not want Johnny to get anything which is why he did not include Johnny in his will. Now it is up to me to carry out dad’s intentions which means Johnny (disgraced son) gets nothing and I (loving son) get everything. I cannot go against dad’s wishes.” While this may appear to be a noble position, if left unchallenged, it can justify being downright unreasonable. Others have less self-righteous motives. For example some want to get back at or “even with” those who oppose them. In these cases, strong emotions, sometimes emanating from childhood, may be driving the conflict and, if left unaddressed, may serve to all but hijack any hope for an amicable resolution.

Fortunately, mediation affords the parties the opportunity to “vent” as a means of

working through some of these emotions and mental roadblocks. This is not trivial.

In my experience, though most familial conflicts appear at first blush to be intractable and hopeless, the reality is otherwise. In the vast majority of cases, once involved in the mediation process, everyone is afforded the opportunity to be heard in the presence of the parties, counsel and the mediator. After that occurs, there are very few parties who are so entrenched in their positions that they are unwilling to explore reasonable avenues of settlement. Thus, a case in which settlement seems hopeless may be transformed once the parties begin talking about their issues and have been given the chance to be heard.

I have been involved in more than a few mediations that seemed hopeless in the morning, only to have reached a settlement later in the afternoon, much to the surprise of the attorneys in the room. Indeed, sometimes the only way of truly knowing whether the parties are negotiating in good faith and are willing to settle is to have them go through the mediation process. It may take some doing and it may require a good deal of hand holding and coddling, but in the end, allowing a person to express him or herself in a meaningful way can be quite cathartic and is the key, in some cases, to opening the door to a softening of positions.

Assuming you feel your case is appropriate for mediation (that is, you believe the parties will act in good faith in achieving a fair resolution to their dispute), the question then becomes: Is the case ready to settle? This should not be confused with the question of whether the case is ready for mediation? While one of the objectives of mediation is to bring the parties to a settlement, it is not necessarily true that the only time a case should go to mediation is when it is ready to settle. To believe otherwise is to have a very nar-

row and restricted view of what the mediation process is all about.

Let’s look at an example. Assume you have a will contest and the allegations are that the testator/decedent was unduly influenced at the time he prepared his will and was suffering from a diminished mental capacity. The opponent’s counsel argues that, for those reasons, the will should not be probated. The proponents of the will, on the other hand, believe that this was not the case and that the will is a valid expression of the wishes of the testator/decedent. Anyone who has been involved in this type of case well knows that this is an extremely fact sensitive case dealing with factual issues ranging from the medical condition of the testator, to his state of mind on the day he signed the will, to the nature of the relationship between the testator and the beneficiary alleged to have exerted undue influence (was there a “confidential relationship”), to whether there were “suspicious circumstances” surrounding the execution of the will. All these facts, as well as others, are relevant in terms of assessing the strengths and weaknesses of a party’s case and, making an informed decision as to whether and on what terms to settle the matter.

If this case were to stay in the litigation process, these facts would have to be revealed through counsel using formal discovery methods set forth in the court rules. And with the exception of self-serving certifications and depositions, the parties themselves would have little, if anything, to say in the matter. Needless to say, in a fact sensitive case such as this, the process for “discovering” the facts would be very time consuming and extremely expensive. If, on the other hand, this case went to mediation, the very same facts necessary to assess the merits of the case and settlement objectives of the parties could be “discovered” or revealed by the parties themselves while sitting in the same room at a fraction of the time and cost. Moreover, if docu-

(Continued on page 9)

Mediate That!

by Carl Cangelosi, JD, APM

In each newsletter we will take an interesting and/or controversial topic and have the pros and cons argued by two members. If you have an interesting issue that would be appropriate for this column, please e-mail me at ccangelosi@njmediation.org.

This issue's topic is:

Should NJAPM establish an advanced level of accreditation?

Tony Limitone, Esq., APM will present the position for, and I will take the position against.

Tony—While mediation is a profession, it is also a craft. It is a profession because mediators rely on a specialized body knowledge. It is a craft because mediators can master the field only by exercising repeatedly the necessary skills and techniques

Since at least the Middle Ages, most crafts have had three skill levels: 1) apprentice, 2) journeyman, and 3) master. The apprentice is learning the craft, while the journeyman has mastered the basics of the craft, but does not have the broad range of practical experience to claim mastery of all of the craft's facets. Masters, on the other hand, have the requisite long and broad experience.

So it should be with mediators. The apprentice phase is completed through the basic training and the first few cases. Accredited Professional Mediators have

Should NJAPM establish an advanced level of accreditation?

satisfied the requirements for journeyman status. They have broader experience and demonstrated ability to use their skills effectively. But where is the "master" classification? There is none.

If we are to adopt a higher classification, what should the standard be? I suggest two components. First, we need more classroom training; at least 18 hours and probably significantly more. Second, the master mediator should have much more experience. One hundred cases would seem to provide sufficient experience so the mediator can claim a mastery of the craft.

Carl's concerns about this type of standard are not without validity. However, few people without an aptitude for mediation as a career would have the necessary tenacity to satisfy these requirements. Therefore, most "master mediators" would also be "good" mediators.

Carl—Higher standards always seem appealing. The problem is establishing a link between the criteria that might be used for the advanced level of accredi-

tation and actually being a good mediator. After all, the purpose of achieving basic accreditation or some higher level of credentialing is not to give the mediator a string of letters to add after his/her name, but to give the public assurance as to the quality of the mediation services that they will receive.

The criteria we use now are basic training, number of cases handled and case summaries. I can only assume that advanced credentialing will involve more training, more cases handled, and years of practice.

But do these equate with being a good mediator—I don't think so. A poorly skilled mediator who has been practicing for years is still a poorly skilled mediator. Taking more training does nothing more than indicate a willingness to spend time and money attending classes.

One method that I could support would be credentialing by peer review. This would involve a panel of unquestionably well-qualified mediators who would review the applicant's qualifications on paper and actual observed performance.

The problem with this approach is that it would be time-consuming, obviously subjective, and potentially open the association to endless disputes with applicants denied the advanced credential. So, let's leave the system as it is. It's not the best, but it does work.

Is Your Probate Case Ready For Mediation? (Continued)

(Continued from page 8)

ments were needed from third parties (such as medical records, bank statements or the will notes from the attorney who drafted the will), the parties can easily agree to continue the mediation on another day and allow for these documents to be obtained. In other words, the "discovery" necessary to make the case "settlement ready" can be handled quite effectively and efficiently in mediation through the cooperative efforts of all the

parties. I have often heard mediators say that they can achieve (in terms of information exchange) in two hours with both parties present what might take six months to obtain through the formal discovery process. I think that is often true.

To summarize: a key ingredient to any successful settlement is a full disclosure of the relevant facts and documents. Mediation can be an appropri-

ate and cost effective vehicle through which the exchange of information can take place. When used to its full advantage, the mediation process represents far more than the "last stop" before trial. Instead, it is a legitimate process available to the parties and their counsel at any time during the conflict. Mediation is likely to yield a satisfactory result for all concerned at a cost (financial and emotional) considerably less than litigation.

Mock Commercial Mediation October 25th at NJ CPA Society Conference

by Philip Zimmerman, CPA, APM

The Bergen Civil Mediators Peer Consultation Group presented a mock mediation at the New Jersey CPA Society Litigation Support/Valuation Services Conference on October 25 at Pines Manor in Edison, NJ. It was presented for the first time at the Peer Consultation Group's September 19th monthly luncheon meeting held at Green's Grill in Hackensack, NJ.

NJAPM members, Bonnie Blume Goldsam, Tom Hanrahan, Robert McConnell,

George, CPA, CLU, ChFC and Producer/Director/Narrator – Philip Zimmerman, CPA, APM.

Here are the facts: Prosando is a distributor of business and computer equipment based in Argentina. Prosando entered into a five year contract with HighTech, a Silicon Valley computer manufacturer. Prosando agreed to establish a distribution network for HighTech Futura A and B computers throughout South America. One provision of the contract gave High-Tech a limited right to terminate the contract if Prosando failed to develop a distribution network within one- and- a half years of the signing. Neither party was to be responsible for loss of profits upon termination of the contract.

One year after the contract was signed, HighTech discontinued the Futura line of computers and introduced the Century series. During the first two years of the contract Prosando established only four distributorships, all in Chile. Two and a half years into the contract, HighTech, without prior warning, terminated the contract on only 30 days notice. Upon receiving notice, Prosando initiated litigation in California and claimed \$10 million in damages for breach of contract, fraud, loss of business reputation, lost profits, and actual reliance damages. High-Tech counterclaimed \$126,000 for equipment shipped but not paid for.

This mediation demonstrated how an otherwise complex business dispute, with claims of over \$10 million, which would have cost more than \$1 million to litigate and would end in a win/lose result, may be settled with the assistance of a trained and experienced mediator, who could be a CPA, an attorney or another professional with subject matter experience. The settlement arrived at by the parties with the assistance of the mediator was for a pay-

ment of \$1 million dollars and the granting of exclusive distribution rights for all HiTech computers in Chile and Argentina. HiTech avoided the risk of losing in litigation and being ordered to pay up to \$10 million dollars to Prosando and its own legal fees of about \$500,000. It also obtained an existing distribution network in two countries that it needed to complete its distribution network in South America. The mediation ended with a win/win solution and the maintaining of a mutually beneficial relationship.

There also were illustrations of several advanced mediation techniques, which are applicable to both matrimonial and commercial mediation.



**NJAPM members,
Bonnie Blume Goldsam,
Tom Hanrahan, Robert
McConnell, Terri Reicher
and Philip Zimmerman
presented the mock
mediation.**



**NJAPM members, who
practice either commercial
or matrimonial mediation,
may be interested in how
the illustrations of
commonly occurring legal
concepts such as breach
of contract, fraud and
estoppel, may affect a
pending litigation.**




Terri Reicher and Philip Zimmerman presented the mock mediation. Anju Jessani also participated in the September 19 presentation. Other roles were performed by members of the Bar and the CPA Society. The mock mediation uses the realistic business facts of Prosando versus HiTech. These facts were prepared by and are being used with the permission of the International Institute for Conflict Prevention and Resolution (CPR). The roles in the mediation were filled as follows: Mediator – Tom Hanrahan, Esq., APM, Counsel for Prosando – Terri Reicher, Esq., Prosando President – Marshall Morris, CPA/ABV, CFE, Hi Tech Council – Bonnie Blume Goldsam, Esq., APM, Hi Tech Senior Vice Pres. – Robert McConnell, MS, APM, Valuation Expert – Lloyd F.

Editor's Column—Robert Karlin, PhD, APM

Shouting Mediation from the Rooftops

Listening to a taped discussion of the 2005 ICLE Summer Law Institute, an introductory program for new family lawyers, I was surprised to hear the speaker telling the newbies that she was, so far, ignoring the requirement to inform clients about ADR. Incidentally, the speaker was telling the new family lawyers about court rules.

Now, the *New Jersey Lawyer* (9/21/06) indicated that the New Jersey Supreme Court is insisting more strongly that divorce lawyers provide information about complementary dispute resolution alternatives to their clients. "According to newly added paragraph (h) of Rule 5:4-2, all parties' first pleadings in a divorce case must include an affidavit signed by clients saying they have been informed of the dispute resolution alternatives and received written information about it. The Supreme Court Committee on Complementary Dispute Resolution is creating a new version of the written materials, but until they're ready, lawyers are to provide existing brochures from the vicinages or professional organizations."

Sounds good – solves little or nothing.

The problem has two aspects. First, I strongly suspect that when asked about mediation/ arbitration/ other ADR procedures, the ordinary divorce attorney will treat any request for information as I do inquiries about services that fill out documents for a *pro se* application for a divorce. I tend to say, "Some people use such procedures, but, in my experience, it is a very risky way of dealing with a very difficult situation. If it were me, I'd rather protect myself and use a tried and true method." None of my prospective clients has ever, to my knowledge, gone out and bought a Barnes & Nobles kit nor utilized a "Divorce for \$295" docu-

ment service. Second, at least as far as divorce mediation goes, with the exception of those of us employed by the courts, I think the courts will not be much help in the long term. That is a shame, but it is also politics as usual.

In some ways, mediation is revolutionary change, not an evolutionary one. It is a **much** better way to get divorced. It is much less expensive, emotionally and financially. Mediation results in agreements that don't wind up back in litigation. Mediation results in parenting schedules with which people can live. Mediation increases the civility people need to co-parent on a long-term basis. Mediation gets you back to productive work and productive parenting long before litigation. Of over 35,000 divorces in NJ last year, about 350 of them were actually decided by a judge. All the rest settled. There is no data, but I suspect that many of those settlements were done using cookie-cutter solutions on the courtroom steps. All the preparation for trial and the relational devastation it engenders were entirely wasted. *We have a better mousetrap. Why doesn't the public know about us?*

One answer is that we don't tell them about mediation. We are a well-kept secret. Divorce mediation is often perceived as late-in-the-game marital counseling. We have to let the secret out of the bag, our light from under the bushel basket -- make up your own metaphor.

My day job involves teaching about 350 Rutgers undergraduates each semester. These students learn about quantitative methods in Psychology. My examples often involve divorce

mediation. At the end of the course, I guarantee that, while they may not long remember the definition of the standard error of the mean, they will remember the benefits of divorce mediation. Similarly, all incoming clinical psychology Ph.D. students go through my first year psychotherapy seminar and they all learn about divorced mediation. (Incidentally, there are four instead of eight new Ph.D. students this year. The University budget cuts have not cut to the bone, but well into the bone!)

In any event, I have been thinking about how to get the word out. **YOU SHOULD TOO!** Then follow up with whatever time you have available (I know it is limited) and tell people about mediation. If you want your practice to grow and grow, we need to let people know how terrific we are. And the particular kind of mediation doesn't matter. As Ed Peloquin said when proposing making a mediation video-tape, "Tell them about mediation, mediation, mediation, and mediation."

In this regard, our MACRO posters will arrive soon. These are cartoons advertising mediation. They were created by the Maryland mediators group that spoke at the September NJAPM General Meeting. The cartoons illustrate a number of humorous situations in which mediation, both civil and family, is effective. They appear on letter sized paper. We will be asking everyone to put them up in supermarkets, community bulletin boards, and every other legitimate venue we can. Please help. But realize that until the public thinks "Dispute Resolution Professional" when they get in a serious argument as they think "Google" when they need information, we haven't done our job.

**Learn more about NJAPM
by visiting our website at
www.njapm.org.**

**Attend our meetings and become a part of the NJAPM family.
Contact a Chairperson to join a committee.**

Book Review

by Jon Linden, APM

Beyond Reason
by Roger Fisher & Dan Shapiro

“A Framework For Use Of Emotions In Negotiation & Mediation”

This book by Fisher and Shapiro shows the versatility and brilliance of the Harvard Negotiation Project. After decades of teaching us that negotiation and also mediation is a matter of focus on “process, interests, needs and substance” we are now told that emotions have a unique and powerful influence upon the negotiation and the results of the negotia-

tion.

Emotions are extremely hard to quantify and they are surely not rational. Emotions come, they are there; they are physiological and psychological reactions to environmental situations. These things are not just reactions to physical environment; but they are in fact, very much reactions to things that are said and ways that they make us feel. In this book, Fisher and Shapiro try to help utilize emotions in the negotiating process by giving a framework on which to base the use of emotions. The framework is simple, because there is only so much time one can invest in this monitoring and still focus on substance. Nonetheless, the model is useful and should be taken seriously.

The model is based on the negotiator or

mediator having an awareness of five critical core concerns that are basic to all human beings. These core concerns are as follows:

- ◆ Appreciation
- ◆ Affiliation
- ◆ Autonomy
- ◆ Status
- ◆ Role

If the Mediator/Negotiator is attuned to these five core concerns and meets them with confidence and empathy, the potential for successful outcome is much greater than would be if these factors were ignored. I recommend this book highly to anyone who is reading this newsletter.

Committee Chairpersons

Committee	Chairperson(s)	Telephone	E-mail Address
Accreditation	Tom Hanrahan	973-616-6601	njmediator@optonline.net
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Website	Carl Cangelosi	609-275-1352	ccangelosi@njmediation.org

Divorce Case Update

Prepared by Carl Cangelosi, JD, APM

A*nderson v. Anderson, App. Div.*—Appellate Division approves the binding arbitration agreement under which all economic issues were resolved by neutral arbitrators. The parties agreed the arbitration award would not be appealable under the arbitration statute, common law or the Alternative Dispute Resolution Act. Moreover, the parties mutually selected arbitrators experienced in New Jersey family law. Thus, review is limited and, barring corruption, fraud, undue means or a violation of public policy, the final outcome will not be set aside. June 13, 2006.

Brush v. Brush, App. Div.—The parties had previously agreed that an increased number of overnights with the father would not affect his child support obligation. So, the appellate divisions agreed with the trial court that not considering this a changed circumstance was fair. However, the trial court improperly determined that the father's loss of his job and his employment in a new job — which paid \$35,000 less than the job he had when the parties divorced — did not constitute changed circumstances. There was no factual support for the trial court's belief that the father could earn more than the \$80,000 annual salary that he received at his new job, and there was no basis for the trial court's finding that his new salary was only temporary. June 30, 2006

J.R. v. L.R., App. Div.—On the biological father's appeal from a Family Part order that required that he and his daughter's psychological father each pay \$75 per week in child support, the Appellate Division held (1) that the biological father was properly ordered to submit to genetic testing, even though he was not aware of his 12-year-old daughter until shortly before this action commenced and even though he wanted nothing to do with her, (2) that equitable estoppel did not apply to make the psychological father solely responsible for the daughter's support in the absence of interference by the psy-

chological father with support from the biological father, and (3) that, although the biological father had the primary support obligation, it was proper for him to share the obligation with the psychological father because the biological father could not pay the entire amount of support. July 17, 2006

Zhang v. Cheng, App. Div.—While the trial judge denied the Hong Kong-resident defendant's motion to dismiss for lack of jurisdiction, finding that she had been properly served under the Hague Convention, he properly dismissed the divorce complaint of the New Jersey based plaintiff based on forum non conveniens, since the parties' children attended school in Beijing, China, and much of the parties' property is located in Asia, where plaintiff himself travels extensively for business. August 7, 2006

Prudential Ins. Co. of America v. Caputo, et al., App. Div.—This case involves competing claims to a decedent's life insurance proceeds by his adopted daughter from his first marriage -- for whom he was to maintain life insurance under his New Jersey divorce judgment -- and his second ex-wife and her son, who he named as beneficiaries of the same policy during his second marriage. The threshold issue is which document governs: the New Jersey divorce judgment or the life insurance enrollment form? The appellate panel agrees with the motion judge's grant of summary judgment to the adopted daughter. She is entitled to prevail because she was not emancipated at the time of decedent's death, and his child support obligations to her continued to that time. August 14, 2006

Keno v. Pilgrim, App. Div.—It was error for the family part judge to emancipate the parties' 20-year-old daughter based on her inadequate college grades. Early struggles at school do not make a child "independent" under New Jersey family law principles. Rather, the child

may rely on her parents even more than in times of success. The judge also failed to make adequate findings as to the father's ability to contribute to his daughter's college expenses, and the *Newburgh v. Arrigo* factors should be considered on remand. August 15, 2006.

Ciancio v. Ciancio, App. Div.—The trial court denied the motion of the unemancipated 20 and 19 year-old children to appeal the order denying their father's motion for change of venue and certain other issues. The issues were previously addressed and decided. The children's interests in adequate financial support are well able to be expressed by their parents under the existing New Jersey divorce docket. The children have no standing to present these issues. August 31, 2006

Tommaso v. Topolski, App. Div.—Under their Property Settlement Agreement, they had agreed to use a Parent Coordinator to mediate parenting time disputes. The ex-wife claimed the ex-husband refused to sign the Parent Coordinator agreement. The trial judge ordered the Parent Coordinator provision to be enforced. The ex-husband did not demonstrate any changed circumstances to justify departing from the "clear, unambiguous and counseled provisions" of the Agreement; the decision below is affirmed. September 5, 2006

Milberg v. Milberg, App. Div.—The Appellate Division concluded that the parties' prenuptial agreement was unenforceable based on the totality of the circumstances, including the disparity in their earning potential, their marriage of more than 16 years, and the ex-wife's pregnancy at the time it was signed. September 5, 2006

Divorce Rule Changes

Under a new Rule amendment, you may now apply the New Jersey Child Support Guidelines to children over 18 who commute to college. Previously, the Guidelines were inapplicable to children over 18 attending college. New Jersey Court Rules, Appendix IX-A, Item 18, September 25, 2006. Thanks to Charlie Abut for forwarding this one!

Effective September 1 there are also new court rules that are important in divorce cases. These include 5:5-2(f), Marital Standard of Living Declaration (which is shown below); 5:5-6, Participation in Mandatory Post-MESP Mediation; and 5:5-9, Procedures concerning the Entry of Certain Final Judgments. You can find the full text with the following link: www.judiciary.state.nj.us/rules/r5-5.htm

Here is the one on the Marital Standard of Living Declaration:

In any matter in which an agreement or settlement contains an award of alimony, (1) the parties shall include a declaration that the marital standard of living is satisfied by the agreement or settlement; or (2) the parties shall by stipulation define the marital standard of living; or (3) the parties shall preserve copies of their respective filed Family Case Information Statements until such time as alimony is terminated; or (4) any party who has not filed a Family Case Information Statement shall prepare Part D ("Monthly Expenses") of the Family Case Information Statement form serving a copy thereof on the other party and preserving that completed Part D until such time as alimony is terminated.

We have this one thanks to Kathy Trenner, who distributed the new rules at the last Princeton peer group luncheon and to Carl Cangelosi for following up and getting the information to the newsletter in electronic form.

No Cause For Rejoicing: Lawyer Candor... (Continued)

(Continued from page 5)

proach to dispute resolution and problem solving."

C. "Who would have thunk it?"

Lack of candor in mediation is nothing new. Deflating "puffed up" positions, building trust that inspires truth, and politely establishing that the mediator is "nobody's fool" are all part of the job. While Opinion 06-439 is a step back for ADR, it should have little, if any, daily impact. As more law schools emphasize dispute resolution training, and offer courses on principled negotiations, I think that the move toward candor remains positive.

D. Misleading behavior has its own risks.

Misleading behavior during mediation may lead to difficulty enforcing or the actual revocation of any resulting settlement agreement, not to mention disciplinary complaints. A hint to an attorney who is approaching the boundaries of Rule 4.1(a) may have a curative effect.

E. A final note.

Under Model Rule 3.3 attorneys are held to higher ethical standards before "tribunals," such as courts. In 2000 an ABA Commission considered, but rejected, including mediation within the definition of "tribunal." Accordingly, even mediators who serve in court-annexed programs are not presently owed a higher level of candor.

Hypnosis and the NJ Courts

by Robert Karlin, PhD, APM

A good deal of your editor's research career was spent studying hypnosis. Because it is a spectacular phenomenon that refuses to be easily explained, hypnosis research has attracted very good researchers, including Sigmund Freud. It is also a robust phenomenon and is easily reproduced in laboratory settings. So, we know a good deal about what hypnosis can do and what it cannot do.

One thing it cannot do is reliably increase memory. During hypnotic age regression procedures, many people will fantasize about the past and later, after hypnosis is long over, confuse those fantasies with memory for real events. In the forensic context, this can result in witnesses remembering things that not only did not happen, but could not happen (e.g. recognizing a face seen at night from 250 feet under poor lighting conditions). Since hypnotically influenced testimony is often vivid, detailed and certain, this has led to serious miscarriages of justice.

In *State v. Hurd* (1979), the New Jersey courts accepted the suggestion of Martin Orne, MD, PhD that hypnotically influenced testimony be accepted only under very specific conditions. Those conditions became known as the Orne Guidelines. Unfortunately, Martin, my friend and teacher, was wrong. By 1985 Orne knew his guidelines often failed to prevent serious errors. As a result, until his tragically early disability and death, Martin wrote and testified that hypnotically influenced testimony should be kept out of court entirely.

In its recent reversal of a conviction in the Alexander case, the New Jersey Supreme Court reached the same conclusion, at least in regard to criminal cases. Speaking as a behavioral scientist, the whole process by which the court reached its conclusions, both in 1979 and 2006, was entirely admirable, with both decisions being reassuring examples of judicial thoughtfulness, attention to the relevant science, and common sense.

Membership Committee Hosts New Member Orientation Session

On September 20, 2006, the Membership Committee hosted the latest orientation for new members of NJAPM. Held before the General Member Meeting, and the presentation by the Maryland Mediation and Conflict Resolution Office (MACRO), the meeting provided new members with information about how the Association meets the needs of its members, and how new members can best utilize the resources of the Association. NJAPM President, Anju D. Jessani, welcomed the new members, after which Membership Committee members Claudia Cohen and Patrick Westerkamp provided the overview and answered questions.

New members were introduced to the NJAPM goals and shown how the Association fosters awareness of mediation and provides information to the public. The management structure of the Association was reviewed and new members were introduced to those officers, committee chairs and directors in attendance. The benefits of attaining the status of Accredited Professional Mediator (APM) were discussed by Accreditation Chair Tom Hanrahan, who provided an overview and described how members can best approach the process of attaining the "APM" credentials. Many new members are experienced mediators already participating on the Administrative Office of the Courts (AOC) roster for civil mediation, and were interested in how that experience can be used to meet the require-

ments for NJAPM accreditation.

There was discussion about the NJAPM website and the listserves available to all members. Webmaster Carl Cangelosi provided helpful information about these resources.

New members were provided with information about the many committees that support the goals of NJAPM and help it attain those goals. It was noted that all NJAPM board and committee members serve as volunteers. New members were asked to consider the option of joining a committee to help NJAPM function more effectively.

For those new members not in attendance at this new member orientation can obtain a copy of the material presented by visiting the NJAPM website at: <http://www.njapm.org/pg/member/Newmemberorientation13006.pdf>. Another orientation will be held in the Spring of 2007.

In the event that any members have questions about NJAPM, please contact one of the members of the Membership Committee:

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ccohen@comcast.net

Robert McDonnell
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Patrick Westerkamp
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NJAPM Welcomes New General Members 5/1/06-9/1/06

Robert E. Anderson
Robert P. Beakley, Esq.
John O. Bennett, III
Felice E. Busto
Alberto Caballero, Esq.
Richard N. Campisano, Esq.
Joseph H. Cerame
Sal B. Daidone, Esq.
Joel M. Ellis, Esq.
Luidgi A. Faubert, CFP
Robert A. Fineberg
Lisa A. Firko, JD
Todd M. Galante
Joseph A. Gervasi, Esq.
Elaine Goldsmith
Deborah Gonzalez, JD
Richard W. Gramlich
Lisa E. Halpern, Esq.
Diana K. Harris
Glenn A. Harris
Katherine D. Hartman, Esq.
Kristina R. Haymes
Maria P. Imbalzano, Esq.
Adrienne Isacoff
Susan M. Joseph
Rona Z. Kaplan, Esq.
Curtis Knazick, CPA
Franz Kolar
Harvey Levine, Esq.
Gary McLean
Nicholas C. Montenegro
Raymond S. Papperman
Bonney Jeanne Parker, MA
Lewis J. Pepperman, Esq.
Dr. Andrew Raleigh
Victoria Rehrer, JD
Michael L. Rosenberg
Anthony Serra, Esq.
Richard M. Sevrin, Esq.
Stephanie Smith
Nicholas Stevens, Esq.
Herbert M. Strulowitz, Esq.
Louis P. Verrone, MBA
Jayne M. Vogler, Esq.
Leigh R. Walters, Esq.
Irene C. Warshauer, Esq.
Paul I. Weiner
Nina Weiss
Mark A. Welge

Newly Accredited Members

We congratulate the following members who have been accredited as Business/Commercial Mediators:

Charles C. Abut, Esq., APM
Victoria Joanna Airgood, Esq., APM

Visit NJAPM's website at njapm.org for more information about the Accreditation process or contact Tom Hanrahan, Chairman of the Accreditation Committee at njmediator@optonline.net.

Mark Your Calendar

NJAPM Committee Meetings/General Membership Meetings

All Committee Meetings and General Membership Meetings will be held at the
New Jersey Law Center in New Brunswick.

Committees meet from **5:30 PM to 6:30 PM**

An option for dinner is provided from **6:30 PM to 7 PM**

General Membership Meetings follow from **7:00 PM to 9:00 PM.**

(Dinner reservations must be made in advance.)

**December 6, 2006, February 21, 2007, April 18, 2007,
June 20, 2007, September 19, 2007**

Board of Directors Meetings

All meetings of the Board of Directors are held
from **8:00 AM to 12:00 Noon** at

The Doubletree Hotel

200 Atrium Drive

Somerset, NJ 08873

**November 30, 2006, January 31, 2007, April 4, 2007,
June 6, 2007, September 27, 2007**



**New Jersey Association
of Professional Mediators
203 Towne Centre Drive
Hillsborough, NJ 08844**