



Mediation News

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New Jersey Association of
Professional Mediators
26 Park Street, Suite 2041
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In This Issue

25th Annual Conference.....	Page 1
Editor's Column	Page 2
President's Message.....	Page 3
Advice for New Mediators...	Page 4
NJAPM Posters.....	Page 4
4 Top Traits/Great Mediators	Page 5
ABA Task Force — Research on Mediation Techniques.....	Page 6
NJAPM Liability Insurance...	Page 9
Divorce Apprentice Program	Page 9
Conference Volunteers.....	Page 9
Membership Report.....	Page 9
NJAPM Peer Groups.....	Page 10
Committee List	Page 10
Photo Gallery.....	Page 11

Upcoming NJAPM Events

NJAPM GENERAL MEETINGS

9/26, 10/24, 11/21, & 12/19

6 PM at NJ Law Center, New Brunswick

40-HOUR DIVORCE MEDIATION TRAINING

Rutgers Atrium, Somerset NJ

10/13, 10/14, 10/20, 10/27 & 10/28

40-HR CIVIL MEDIATION TRAINING

Rutgers Labor Center, New Brunswick1

10/28, 10/29, 11/11, 11/12 & 11/18.

6-HR DIVORCE MEDIATION SUPPLEMENT

Forsgate Country Club, Monroe Township

9:00 AM — 4:30 PM, Tuesday, 11/13

NJAPM ANNUAL ANNUAL CONFERENCE

Imperia, Somerset

Saturday, 11/17

6-HOUR & 8-HOUR CIVIL MEDIATION SUPPLEMENT

Location and Dates TBA

Please Visit Our Website For Updates

www.njapm.org

800-981-4800

NJAPM's 25th Annual Conference

Saturday, November 17, 2018

Gary Weiner

"Mediation Techniques and
the Empirical Research"



Douglas Frenkel

"Workshop on
Mediation Techniques"

NJAPM's 25th Annual Conference will focus on mediation techniques. The event, open to all interested parties, is scheduled for Saturday, November 17, 2018 from 8:15 AM to 4:30 PM at The Imperia, 1714 Easton Ave, Somerset, New Jersey.

Conference chair and Immediate Past President, Carl J. Cangelosi, JD, APM will provide introductory remarks. NJAPM President, Gabrielle L. Strich, Esq., APM will then provide an update on the "State of the Association" and will introduce the NJAPM officers and directors.

Featured speaker, Gary Weiner, Chair of ABA Report of the Task Force on Research on Mediator Techniques, and a California mediator and attorney, will present *Mediation Techniques — what exactly are we supposed to do according to empirical research.*

Professor Douglas Frenkel will facilitate a workshop on mediation techniques. He founded University of Pennsylvania's Mediation Clinical Program, is the co-author of *The Practice of Mediation: A Video-Integrated Text*, and served on the ABA Task Force with Gary Weiner.

Following a networking lunch, there will be two breakout sessions, with workshops for civil and divorce mediators.

Session 1 Workshops:

A. Civil mediation: Moderated by Hon. Bradley J. Ferencz (Ret.), panelists Diane Peyser, Esq., Felicia Farber, Esq., APM, and Robert Margulies, Esq., will cover *Why the courts are not sending civil cases to mediation and is there anything NJAPM can do about it.*

B. Divorce mediation: Moderated by Carl Cangelosi, JD, APM, panelists William Donahue, Esq., APM, Anju Jessani, MBA, APM and Lauren LoSchiavo, LCSW, APM will explain *How they draft MOUs.*

Session 2 Workshops:

C. Civil mediation: Felicia Farber, Esq., on *Mistakes lawyers and mediators make in civil mediations.*

D. Divorce mediation: *Family law update* with Hon. Lawrence R. Jones (Ret.).

An interactive ethics presentation with Robert J. Lenrow, Esq., APM, will close the conference.

The member registration fee is \$165. The conference qualifies for 6.0 CPE and MCLE credits, including 1.2 ethics credits. APMs receive 5.4 NJAPM CE hours. The conference also fulfills the AOC's 4.0 hour annual requirement for mediators.

For more information or to register, please visit www.njapm.org.



Mediation News

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Editor's Column by Anju D. Jessani, MBA, APM



On October 1, Gabrielle Strich assumed the role of NJAPM president. She has outlined her priorities in her president's message — the most important of which is increasing member involvement. Please support her and the organization by heeding her message and making the call to join a committee or lead a peer group today.

On behalf of our membership, I thank Carl Cangelosi and the outgoing board and committee members for their service, and welcome the new leadership team. NJAPM is lucky to have so many talented volunteers.

This issue of the newsletter features the announcement of our 25th annual conference on Saturday, November 17. The conference will focus on the theory and practice of mediation techniques, and includes four workshops.

We have included the Report of the Task Force on Research on Mediator Techniques by the ABA Section of Dispute Resolution.

As well as our regular columns and updates from NJAPM committees including membership and peer groups, we include the following articles by NJAPM members:

- Joan Geiger, Esq., APM, answers the question what advice she would give herself if she were starting her practice today.
- Michelle Hart, Esq., outlines the top four traits that effective mediators commonly exhibit in the cases she has observed as an attorney.

This issue includes a collage from the spring Fourth Annual Civil and Divorce Seminar featuring The Honorable Lawrence R. Jones (Ret.), on the intangible aspects of a

successful mediation, a class photo from the NJAPM spring 2018 40-Hour Divorce Mediation Class, and pictures from NJAPM's get-together at the Somerset Patriots baseball game.

What is needed for greater use of mediation, especially for business disputes? Former United Kingdom Court of Appeal judge turned mediator Sir Alan Ward, the current head of the Civil Mediation Council (CMC), has called for the greater promotion and regulation of mediation (see www.cdr-news.com). He also states that the legal community needs to do more to promote the use of mediation. With the outreach speaker program the board is implementing, our members can reach across the aisle to sell the benefits of mediation to the legal community.

We have a vibrant mediation community. Please get involved and see how much you can gain from giving. In that regard, if you have an idea for an original article form our spring newsletter between 650 and 1300 words, please email me a one paragraph proposal. Please also email me photographs from NJAPM events. Please contact me by phone at (908) 303-0396 or by email at ajessani@dwdmediation.org.

Anju D. Jessani, MBA, APM, served as NJAPM president from 2005-2007. Her practice, Divorce with Dignity Mediation Services, established in 1997, has offices in Clinton and Hoboken. Anju also serves on the R 1:40 Economic Roster of Mediators and is the is a lead instructor for NJAPM's divorce mediation training programs. She can be reached at www.dwdmediation.org.

Message from the President

Gabrielle Strich, Esq., APM



I look forward to serving NJAPM and its members for the coming fiscal year, beginning October 1, 2018. The other officers and directors are listed in this newsletter, and I thank them all for agreeing to serve.

Carl Cangelosi is to be congratulated on his achievements and leadership during the last year. Carl stopped the trend of losing money each year, and we broke even this last fiscal year. Carl oversaw multiple informative webinars, live streaming of general meetings, “zooming” for board meetings and an RFP for our management services.

A special note of gratitude to outgoing board members, Amber Leach, Matthew Schwartz, Andrew Smith. I am confident that they will continue to contribute to NJAPM.

I thank all board members who work so hard to keep the organization going. Serving on the board is hard work and often thankless, but it is critical for an effective organization.

I extend my thanks to all the committee members, peer group leaders, and other volunteers who work so hard. As you will see in my column, I have a call to action for even more member involvement.

The question many members are asking me is the status of the website. During this past year, the board worked hard to move the web site development process forward.

When it became clear that the software developer was unable make create a working web site within a reasonable time frame, Suzanne English negotiated the termination of that agreement, saving NJAPM about \$7,500.

Clearly, like many of you, we are extremely frustrated and disappointed. However, we do have plan that will help us move forward.

We need to retain a new software developer to finish up the website to meet the needs of both members and the public. In the interim, people like Marv Schuldiner have assisted with fixes to the old website to keep us operational.

In the upcoming months, the Board will need to vet and vote on a new webmaster and webmaster committee to oversee this effort. Getting a new working web site up, including a search function that has all of the members of NJAPM in it, will be my priority.

As we have “settled down” to a membership of about 300, NJAPM can no longer afford to have its management (back office) company handle everything that needs to be done. Instead, we will need much more volunteer participation from all of you. It will be up to each of you to make this organization viable and benefitting all of us.

A key area in which NJAPM will need volunteer assistance is in education and publicity. We need a speech chair and committee members to create opportunities for speaking opportunities for NJAPM members statewide. We need to reach other organizations looking for speakers. Many of you have already volunteered to give speeches about mediation. NJAPM hopes to match members with speaking opportunities. Members who are interested in participating in this effort should contact Ben Feigenbaum at feigenbaum@gmail.com.

Another key area in which NJAPM will need volunteer assistance is in social media, from Facebook postings, to Tweets to blogs. We thank Robert McDonnell for his many years of contributing as chair of this committee. We are looking

for a volunteer social media committee chairperson and people for the committee itself. This committee will report to the marketing chair, Ben Feigenbaum, so please contact Ben for more information.

We want a civil mediation committee that will interface with the court on its civil mediation and that will review and help develop civil mediation opportunities. While David Reilly has volunteered to chair this committee, a co-chair and volunteers to serve on the civil mediation committee are needed.

We also need to revitalize our general, divorce and civil mediation listserves. In the past, our listserves have been a source for mediator consultation and education. We need a volunteer to oversee the listserves, and at least one committee person to support the listserve chair.

The NJAPM Board wants to be accessible. If you have a concern, please reach out to the person who is handling the area in question with a copy to me. It is my intention that the members of NJAPM will feel the board listens to them.

We want to make NJAPM an even stronger organization, but we need your help. I am hopeful that I will be hearing from almost everyone of you with what you can contribute to this organization. I want to be even more proud of NJAPM.

Gabrielle Strich, Esq., APM, with an office in Cranbury, NJ is qualified to mediate and serve as an attorney in New Jersey and Pennsylvania for family, business, employment and labor, elder and estate, probate and business law cases. She has been a member of NJAPM for over 20 years. Her website is <http://strichlaw.com/> and she can be reached at gstrich@strichlaw.com.

Advice for New Mediators

by Joan G Geiger, Esq., APM



If I were starting my practice today, what do advice would I give myself? Here are some tips I hope you will find helpful.

1. Relax: you will make mistakes. Most mistakes will be small. When you do make a mistake, fess up quickly and move on quickly. To minimize mistakes, take easier cases at first. If you are able to co-mediate with a more experienced mediator, do so. You will both learn.

2. Like all Kinds: To be a good mediator, you have to really like people. You need to "like the unlikable." Most people are at their worst when they are going through conflict. Understanding this can help you be more sympathetic and tolerate impolite, rude or obnoxious behavior.

3. Know the law: While a mediator should not give legal advice, we can give information. If there is clear law on a matter, clients have a right to know what that so they can make an intelligent decision. If the law is unclear, suggest they may want to compromise before spending a lot of time, money and energy to find out what a particular judge in a particular mood will do on a particular day. Encourage them to consult with attorneys to help them understand why a certain position may be difficult to prevail on in court.

4. Think Creatively: To be a good mediator, you have to think in colors. This is not a profession for black and white thinkers. If it seems as though there is no creative solution, suggest everyone take a night to sleep on it.

5. Numbers are your friend: Let the math speak for itself. Rather than telling a client they can't afford something, put the numbers on board and ask them "Is this doable?" For example, if they want to send their child to an expensive college and

you can clearly see the money is not there, ask them to provide the annual "all-in" cost. Put that number on the board and then multiply it by four years. Subtract 529 or other savings for the child, and then subtract loans they expect themselves and the child to take. Multiply the total extra cash needed by the number children in the family. A less expensive school may start to look better and better to them.

6. Rely on third party sources: If they disagree on an issue, has a third party decided this already? For example, if they disagree on the cost of the college go to the school's website for the answer.

7. Offer Options: When clients disagree, give them many options for compromise. For example, if the parents disagree about the non-custodial parent having midweek overnights, could they consider overnights during the summer and/or other non-school nights? Could there be an overnight with the non-custodial parent on the "off weekend"?

8. Listen: Make sure clients feel heard. I explain at the beginning of my first session that I will allow some "emoting" (crying, venting, etc.), but will stop the emoting after a point, since I am not a therapist. I also say that they are free to leave the room for few minutes if listening to the other emote is not helpful.

9. Accept credit cards: It is easier to get paid and quicker.

10. Respond Quickly: Try to answer phone calls, emails, etc. within 24 business hours. It is a good habit and good for your reputation.

Joan G. Geiger, Esq., APM has been an attorney and mediator for over 30 years, with offices in Somerville. She can be reached at www.3winwin.com and joanqq50@gmail.com.

NJAPM Posters

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BUSINESS CONFLICT?

Promised to pay her over time

Expected to be paid overtime

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CUSTODY DISPUTE?

Wants a great relationship with both children

Wants a great relationship with both parents

Wants a great relationship with both children

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FAMILY CONFLICT?

Wants to run the family business

Doesn't want the family business run into the ground

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Four Top Traits of Great Mediators

by Michele R. Hart, Esq.



What is it about mediators who are able to assist clients in reaching settlements more of the time? The ones that lawyers select time and time again? The ones judges tend to assign cases?

I was curious about these mediators. As a mediator myself, I wanted to learn what makes some mediators “great.” To answer this question, in attending the with clients in my divorce and family law practice as an attorney, I took note of what made certain mediators more effective than others.

Here is what I found to be the top four traits that effective mediators commonly exhibited in the cases I observed:

1. Established trust from the very beginning:

The best mediators evoked trust in both parties and the attorneys. As a result, the parties were more open to listening to the mediator’s suggestions for resolving particular issues.

2. Fully explained the court process and likely fees:

The vast majority of parties who come to mediation do not know what could happen if their case does not settle and they go to trial. I found that giving the parties this knowledge helps them see the importance of resolving their case in mediation. The most effective mediators laid out the litigation process in the first meeting with both parties in meticulous detail in a conversational tone.

For instance, the mediator would tell the parties that if no agreement was reached in mediation, they would be ordered to attend an eight-hour intensive settlement conference. If the case did not settle in ISP, and

were scheduled for trial, their lawyers would have much work to do for which they would need to be paid: including preparing trial memos, pre-marking extensive documents in triplicate in trial binders, and spending hours preparing testimony.

Some mediators informed the parties the likelihood of trial dates being scheduled intermittently over the course of several months, and the attorneys might need to order transcripts to refresh their memory of where and how the trial left off. The parties might be informed the likelihood of spending tens of thousands of dollars trying to be right when the judge could very well disagree.

When the mediator finished explaining the lengthy and costly process, the look on each party’s face often registers shock. In many cases, the parties took on settlement with renewed vigor and determination to reach agreement.

3. Used logic that both parties and attorneys could readily buy into:

I recently attended a successful mediation where the only issue was how much to reduce a husband’s alimony payments post-divorce when his income was substantially reduced.

The mediator met first with both attorneys and was able to get buy-in from us so we could present it to our respective clients. He noted since the wife received as alimony roughly 30% of the difference in incomes at time of divorce, he proposed she now receive 30% of the current differential in incomes.

This gave us a helpful logical framework and we achieved agreement in well under two hours.

4. Used effective mediation techniques:

Over the past twenty years of attending mediations, I found the following to be some of the most effective techniques used by mediators:

- Bracketing to help narrow the gap when each party is far apart in numbers. This has proven very effective with an alimony amount.
- Reframing to change the parties’ perspective from adversarial to problem-solving.
- Logrolling by giving something of low-cost for one party but high-value to the other party in exchange for something that’s high-value to the first party but low-cost for the second party.
- Summarizing the issues to be addressed. This demonstrates to the parties that the mediator hears their perspectives and voices their thinking out loud.

Conclusion

Before I trained as a mediator, I attended mediation solely as an advocate for my clients, focusing on the settlement. Now that I am also a mediator, when serving as an attorney and advocating for my clients, concurrently, I am a student and observer of the mediator’s techniques that leads to settlement. This enables me to take away from each mediation the techniques that really work and apply them to my own practice.

Michelle R. Hart, Esq. is a divorce and family mediator and collaborative divorce attorney, with a practice in Morristown. Her website is www.michelehartlaw.com and she can be reached at mhart@michelehartlaw.com.

REPORT OF THE TASK FORCE ON RESEARCH ON MEDIATOR TECHNIQUES ABA SECTION OF DISPUTE RESOLUTION, JUNE 12, 2017

Gary Weiner, Chair of the Report of the Task Force on Research on Mediator Techniques for the ABA Section of Dispute Resolution, will be the featured speaker at NJAPM's 25th Annual Conference on November 17. We have included the Executive Summary of the report for the newsletter in preparation for his presentation, and urge members to view the full report at

www.americanbar.org/content/dam/aba/administrative/dispute_resolution/med_techniques_tf_report.authcheckdam.pdf.

Executive Summary

Whether expressly or implicitly, mediation programs, trainers, and practitioners make assertions about which mediator actions and approaches are "best," often based on untested assumptions and beliefs. The Task Force on Research on Mediation Techniques (hereinafter "Task Force") was formed following substantive panels and informal discussions over several years at the ABA Dispute Resolution Section Conference that led to a sense that the mediation field would benefit from an empirically derived understanding of the effects of mediators' actions. The Task Force was created to learn what existing empirical evidence tells us about which mediator actions enhance mediation outcomes and which have detrimental effects and to disseminate that information to the field, with the ultimate goals of fostering additional empirical research and enhancing mediation quality. The members of the Task Force include mediators, researchers, law professors, program administrators, and other professionals with a range of experience and expertise.

A. Methodology and Overview of the Studies Reviewed

The Task Force cast a wide net to identify studies involving any non-binding process in which a third party helped disputants try to resolve any type of conflict. To be considered relevant for this inquiry, the studies had to contain empirical data examining the effects of one or more mediator actions or approaches on one or more mediation outcomes. The members of the

Task Force identified studies, determined if they were relevant and had sufficient findings to include, and then read and recorded pertinent information on the final set of studies.

Forty-seven studies, thirty-nine involving only mediation and eight involving another process in addition to or instead of mediation, were included in the Task Force's review. The studies covered a range of dispute types, including general civil, domestic relations, labor-management, and community mediation as well as other disputes. A majority of the studies involved court-connected mediation and a single mediator, but there was substantial variation in these and other aspects of the mediation context and mediator characteristics across the studies. In addition to these differences, the studies also differed in whether they examined specific mediator actions or mediator approaches comprised of multiple actions; how those actions or approaches, as well as outcomes, were defined and measured; and the data sources and research methodology used. This variation contributed to differences in findings across the studies and made "apples to apples" comparisons challenging, making it difficult to draw broad conclusions about the effects of mediator actions.

B. Mediator Actions and Mediation Outcomes Examined

The Task Force conceptually organized the wide range of mediator actions and styles examined in the studies into the following seven categories: (1) pressing or directive Actions or approaches; (2) offering recommendations, suggestions, evaluations, or opinions; (3) eliciting disputants' suggestions or solutions; (4) addressing disputants' emotions, relationships or hostility; (5) working to build rapport and trust, expressing empathy, structuring the agenda, or other "process" styles and actions; (6) using pre-mediation caucuses; and (7) using caucuses during mediation.

The Task Force grouped the mediation outcomes examined in the studies into the following three categories: (1) settlement and related outcomes, including joint goal achievement, personalization of the mediated agreement, reaching a subsequent consent order, or filing post-mediation motions or actions; (2) disputants' relationships or ability to work together and their perceptions of the mediator, the mediation process, or the outcome; and (3) attorneys' perceptions of mediation. The Task Force examined the

empirical findings regarding the effects of each category of mediator actions on each set of mediation outcomes, to the extent permitted by the available data, and reports the findings separately for each of these mediator action-mediation outcome pairs.

C. Empirical Findings Regarding the Effects of Mediator Actions on Mediation Outcomes

The Task Force's review of the studies found that none of the categories of mediator actions has clear, uniform effects across the studies—that is, none consistently has negative effects, positive effects, or no effects—on any of the three sets of mediation outcomes. For a majority of the mediator action—mediation outcome pairs, as many or more studies reported mediator actions had no effect on outcomes as reported the actions had an effect (either positive or negative). In addition, for a minority of the action-outcome pairs, even when most studies found a particular action had positive effects or no effects, at least two studies found the action had negative effects. For the action—outcome pairs where these patterns of findings occur, we cannot conclude with confidence that a mediator action will have a positive or negative effect on mediation outcomes, only that the action can have a positive (or negative) effect and, in some instances, could have an effect in the direction opposite that of the majority of the studies.

A summary of the research findings for each category of mediator actions and each set of mediation outcomes follows, ending with overall conclusions about which mediator actions, on balance, appear to have a greater potential for positive (or negative) effects on mediation outcomes

Pressing or Directive Actions. Mediator styles or specific actions considered pressing or directive generally either increased settlement or had no effect, but in some studies these actions were associated with reduced settlement, lower joint goal achievement, and more post-mediation adversarial motions being filed. Virtually all studies found mediator pressure on or criticism of disputants either had no effect on disputants' perceptions and relationships or was associated with more negative views of the mediator, the mediation process, the outcome, and their ability to work with the other disputant. Thus, pressing or directive actions have the potential to increase settlement, but they also have the potential for negative effects on settlement and related outcomes, and especially on disputants'

(Continued on page 7)

REPORT OF THE TASK FORCE ON RESEARCH ON MEDIATOR TECHNIQUES, Cont.

(Continued from page 6)

perceptions and relationships.

Offering Recommendations, Suggestions, Evaluations, or Opinions. Recommending or proposing a particular settlement, suggesting possible options or solutions, or offering some form of case evaluation or other views about the dispute or its resolution generally either increased or had no effect on settlement. These actions were not related to the personalization of mediated agreements, whether a consent order was reached, or whether post-mediation enforcement actions or adversarial motions were filed. Recommending a particular settlement, suggesting settlement options, or offering evaluations or opinions had mixed effects on disputants' relationships and perceptions of mediation – positive, negative, and no effect. With regard to attorneys' perceptions of mediation, these actions generally either had no effect or were associated with more favorable views, with the latter seen especially in Early Neutral Evaluation. Thus, this set of actions has the potential for positive effects on settlement and on attorneys' perceptions of mediation, but has the potential for both negative and positive effects on disputants' relationships and perceptions of mediation.

Eliciting Disputants' Suggestions or Solutions. Eliciting disputants' suggestions or solutions generally increased settlement. These actions also were related to disputants' higher joint goal achievement, reaching a consent order, and being less likely to file a post-mediation enforcement action, but were not related to the personalization of mediated agreements or the filing of post-mediation adversarial motions. Eliciting disputants' suggestions or solutions either had no effect on disputants' perceptions and relationships or was associated with more favorable views of the mediator, the mediation process, the outcome, and their ability to work with the other disputant. Thus, eliciting disputants' suggestions or solutions has the potential to increase settlement and to enhance disputants' perceptions and relationships, with no reported negative effects.

Addressing Disputants' Emotions, Relationships, or Hostility. Giving more attention to disputants' emotions, relationships, or sources of conflict generally either increased or had no effect on settlement, and either reduced or did not affect post-mediation court actions. These mediator actions either had no effect on disputants' perceptions and relationships or were associated with more favorable views of the mediator, the mediation process, the

outcome, and their ability to work with the other disputant. Trying to reduce emotional tensions or control hostility had mixed effects on settlement – positive, negative, and no effect; these actions were not examined in relation to disputants' perceptions. Thus, giving more attention to disputants' emotions or relationships has the potential to increase settlement and to enhance disputants' relationships and perceptions, but also has the potential to reduce settlement. Addressing disputants' hostility has both the potential to increase and to reduce settlement.

Working to Build Rapport and Trust, Expressing Empathy, Structuring the Agenda, or Other "Process" Actions. Working to build rapport and trust with and between the disputants, expressing empathy, praising the disputants, or structuring the issues and agenda generally either increased settlement or had no effect on settlement. Other process-focused actions and approaches, such as summarizing or reframing or using a facilitative or non-directive style, had mixed effects on settlement – positive, negative, and no effect. These various mediator actions generally either had no effect on disputants' perceptions and relationships or were associated with improved relationships and more favorable perceptions of the mediator, the mediation process, and the outcome. Thus, working to build trust, expressing empathy or praise, and structuring the agenda have the potential to increase settlement and to enhance disputants' relationships and perceptions. Other "process" actions have the potential for positive effects on disputants' perceptions and settlement, but they also have the potential to reduce settlement.

Using Pre-Mediation Caucuses. The effects of pre-mediation caucuses depended on their purpose. When used to establish trust and build a relationship with the parties, pre-mediation caucuses increased settlement and reduced disputants' post-mediation conflict. But when used to get the parties to accept settlement proposals, pre-mediation caucuses either had a negative effect or had no effect on settlement and post-mediation conflict. Thus, pre-mediation caucuses with a trust focus have the potential for positive effects, and those with a substantive focus have the potential for negative effects.

Using Caucuses During Mediation. Using caucuses during mediation generally increased settlement in labor-management disputes, but had no effect on settlement in other types of disputes, regardless of whether the goal was to establish trust or discuss settlement proposals. Caucusing

also was not related to disputants' joint goal achievement, the personalization of mediated agreements, or whether disputants reached a consent order or filed post-mediation adversarial motions; but disputants who spent more time in caucus were more likely to return to court to file an enforcement action. Caucusing generally either had no effect or had a negative effect on disputants' perceptions and post-mediation conflict. Thus, caucuses during mediation appear to have the potential to increase settlement in the labor-management context, and have the potential for negative effects on disputants' relationships and perceptions.

Overall Conclusions. Looking at the relative potential for positive versus negative effects, while bearing in mind the substantial likelihood of no effects, the following mediator actions appear to have a greater potential for positive effects than negative effects on both settlement and related outcomes and disputants' relationships and perceptions of mediation: (1) eliciting disputants' suggestions or solutions; (2) giving more attention to disputants' emotions, relationship, and sources of conflict; (3) working to build trust and rapport, expressing empathy or praising the disputants, and structuring the agenda; and (4) using pre-mediation caucuses focused on establishing trust. Some of these actions, however, have been examined in a relatively small number of studies and in only a subset of dispute types, primarily divorce, limited jurisdiction, community, and labor disputes.

The potential effects of other mediator actions appear more mixed. Recommending a particular settlement, suggesting settlement options, and offering evaluations or opinions have the potential for positive effects on settlement and on attorneys' perceptions of mediation, but have the potential for negative as well as positive effects on disputants' relationships and perceptions of mediation. Both caucusing during mediation and pressing or directive actions have the potential to increase settlement and related outcomes, especially in labor-management disputes; but pressing actions also have the potential for negative effects on settlement, and both sets of actions have the potential for negative effects on disputants' perceptions and relationships.

D. Next Steps and Recommendations

The Task Force Report's systematic compilation and analysis of the existing empirical research shows that none of the categories of mediator actions has consistent effects on any of the three sets of me-

(Continued on page 8)

REPORT OF THE TASK FORCE ON RESEARCH ON MEDIATOR TECHNIQUES, Cont.

(Continued from page 7)

diation outcomes and that a substantial proportion of studies report no effects. Accordingly, the research does not provide clear guidance about which mediator actions will enhance mediation outcomes and which will have detrimental effects. This variation in findings across studies demonstrates that drawing conclusions about the effectiveness of mediator actions based on the findings of a single study could lead to recommendations not supported by the overall pattern of research findings and suggests the need for caution in the use of broad statements that “the research shows” that any particular mediator action constitutes practice.”

To further the development of a reliable empirical understanding of the effects of mediator actions as well as the creation of links between researchers and the broader mediation community, the Task Force proposes a number of steps, along with specific recommendations to guide their implementation, some to be carried out by a working group of the ABA Dispute Resolution Section and others by a university consortium of mediation researchers.

Proposed Next Steps. Some of the proposed steps involve the dissemination of this Report and further work with existing studies. An accessible repository needs to be created for the studies reviewed in the Report, and researchers need to be made aware of its existence and encouraged to add new empirical studies of the effects of mediator actions in order to continue to grow the knowledge base. The possibility of establishing an additional repository for the database of study findings created by the Task Force needs to be explored. Additionally, a more nuanced analysis of the studies reviewed in the Report needs to be undertaken to uncover which dispute, context, and methodological factors alter the effect of mediators' actions and account for different findings. This could permit more refined conclusions about the effects of mediator actions in different circumstances and provide guidance for future research. Expanding this examination to a broader set of existing studies with potentially relevant findings, in mediation and other fields, also could inform our understanding of mediator actions and the design of future research. Other proposed steps address future research needs. Developing common terminology, definitions, and measures for mediator actions and mediation outcomes would provide more uniformity and consistency across studies and create a broader set of studies whose findings could more meaningfully be compared and aggregated. In conjunction with these ef-

forts, a research program needs to be developed to test the reliability and validity of mediator action and mediation outcome measures so that future studies will produce more rigorous and meaningful findings. Using the insights gained from these actions, future research needs to examine the mediator action-mediation outcome pairs that have received little empirical attention to date.

The Task Force also proposes developing and expanding links between researchers and mediation trainers, practitioners, and program administrators to create on-going collaboration and exchange of questions and findings. This includes encouraging greater mediator involvement in research; disseminating the findings of the additional analyses of existing research and the new empirical work described above; and developing mechanisms to incorporate those findings into mediation practice, such as through guides for mediator training, performance assessments, quality standards, and feedback mechanisms.

Recommendations. The Task Force recommends that two bodies be established to oversee and implement the above proposed next steps, each with different tasks but consulting and collaborating with the other. One body would be comprised of relevant experts in mediation research and practice appointed by and operating under the auspices of the ABA Section of Dispute Resolution. The other body would be comprised of mediation researchers at a small consortium of universities who would be jointly responsible for implementing the proposed actions that are beyond the scope of the ABA group and for providing reports to that group.

Recommendations for the ABA Section of Dispute Resolution's appointed group include:

- Find additional mechanisms for disseminating the Report
- Oversee the creation of a repository for the studies reviewed by the Task Force, possibly in collaboration with the university consortium
- Oversee the development of research guidelines designed to address the concerns of mediation practitioners, administrators, and users about participating in research, and work to encourage their cooperation with researchers and facilitation of access to mediation
- Oversee the development of a future research agenda and the broad outlines of the research questions to be examined by the university research consortium
- Work to strengthen the links between researchers and mediators, mediation

trainers, and program administrators, and to develop mechanisms to disseminate future empirical research findings about the effectiveness of mediator actions to these groups

Recommendations for researchers in the consortium of universities include:

- Work with the ABA to create a repository for the studies reviewed by the Task Force, and develop ways to make researchers aware of its existence and encourage them to contribute future studies to it; and explore the possibility of establishing an additional repository for the database of study findings created by the Task Force
- Support and/or undertake further detailed examination and analysis of the studies reviewed in the present Task Force Report, as well as other existing relevant research in mediation and other fields
- Work with the mediation community to explain research needs; to develop research protocols and guidelines to address consent, confidentiality, and other concerns; to increase cooperation with and involvement in research; and to disseminate future research findings
- Support and/or undertake the development of more uniform definitions and measurements of mediator actions and mediation outcomes, as well as the research needed to improve the reliability and validity of the measures and methodologies used so that future studies will produce more rigorous and meaningful findings
- Support and/or undertake future research to address the identified gaps and unanswered questions raised in this Report in order to expand our knowledge to a broader set of mediator actions and mediation outcomes

E. Conclusion

The Task Force believes it is critically important for the ABA Dispute Resolution Section to establish a working group, as well as to encourage the creation of a university consortium of mediation researchers, to collaboratively oversee and undertake future comprehensive efforts to deepen our empirical understanding of the effects of mediator actions. The Task Force believes the proposed future steps are essential for the field of mediation to be able to develop a body of empirically derived knowledge about which mediator actions and approaches enhance mediation outcomes, and to use that knowledge to improve mediation practice.

NJAPM Membership Report

by Suzanne English, MA, Membership Chair



A warm welcome to these new members who joined NJAPM from 3/20/18 through 9/15/18:

Ajawavi Ajavon
Marcia DePolo
Frank Falciani
Suyog Gandhi
Margo Hill
Jonathan Katell
Kacey Konwiser Dalton
Lori Lynn
Thomas Margiotti
Diana Marin
Robert Mellman
Steven Schiesel
Harold Steinbach
Bernadette Strout

Networking is one of the best assets a membership in NJAPM gives you. And what better way to welcome new members develop their network while expanding your own than through our new Ambassador Program! Ambassadors welcome visitors at meetings, join them at mealtime, and help make them feel comfortable. This is a great way for new members to become an active

part of NJAPM, and for existing members to mentor those new to mediation. Please contact me if you have an interest in joining the NJAPM Ambassador Program or joining the membership committee.

Another great way to expand your network is through the monthly peer group luncheons. Please refer to the list on the next page. It's just lunch!

If you have an issue or idea that you would like to bring to the board's attention or have questions about NJAPM, I welcome the conversation.

Please join or renew your membership for the period 10/1/18 to 9/30/19. Mail your annual membership fee with the form below to share in the benefits of NJAPM.

Suzanne English, MA specializes in civil and divorce mediation including insurance cases, and child welfare advocacy from her Summit, NJ office. She also serves on the Board of NJAPM. Her email is suzannee@me.com and her phone number is (908) 377-9028.

NJAPM Divorce Mediation Apprentice Program



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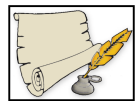
1. Couples needing discounted divorce mediation services
2. NJAPM Accredited Professional Mediators to serve as mentors
3. 40-Hour divorce training graduates desiring hands-on experience

Please Contact Education Committee Chairs:

Risa Kleiner, Esq., APM
risa@rkleinerlaw.com, and
 Anna-Maria Pittella, Esq., APM
pittellalaw@verizon.net
 or, visit www.njapm.org



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Please, Either Attach Business Card and Sign/Date, or Complete and Sign/Date

Membership Type	Before 10/31/18	11/1/18 & Later
Accredited	\$165	\$190
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By using this form to renew your membership, you are certifying that the information set forth in this renewal application, including all attached documentation, is true. You hereby agree to abide by the Standards of Conduct and Policies for the Practice of Mediation in New Jersey, as adopted and promulgated by the New Jersey Association of Professional Mediators.

If you are accredited by NJAPM, by renewing you are certifying that you have completed the required continuing education. NJAPM will perform random audits of CEs and reserves the right to ask for proof of completion of the required continuing education credits. Failure to submit proofs upon request will affect your accreditation.

Dues may be deducted as an ordinary and necessary business expense

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Thank You for Your Help!

NJAPM Peer Groups

by Katherine G. Newcomer, Esq.



Mediators share their insights on cases. You do not need to be a member to attend. Attendees pay for their own meal. Contact the group leader to confirm meeting time and location.

Bergen: Divorce Lunch, 1st Wed. 12:30. Samantha Tintner, MSW, 201-986-9775, samanthaintner@gmail.com. Civil Lunch, 3rd Tues. 12:30. Robert J. Lenrow, Esq., APM, 201-986-1821, ceasefiremediation@juno.com. Meetings at Houlihan's, 65 Route 4 W, Paramus. This is the strip mall after sign for 35 Plaza.

Camden/Burlington/Gloucester/South Jersey: Lunch, 2nd Wed. noon at BorgerMatez law firm. 1470 Rte. 70 East, Cherry Hill. William H. Donahue, Jr., Esq., APM, 609-238-9245, whdonahuejr@gmail.com.

Essex: Lunch on a Wednesday, every other month, starting in September at 12:30 at China Gourmet 468 Eagle Rock Avenue, West Orange. Donald

Steig, MA, CMC, 973-761-6099, dbsteig@alum.mit.edu.

Mercer: Lunch, 4th Thursday, 12:30, at Olive Garden on Rte. 1 South, Lawrenceville, near Mercer Mall. Gabrielle Strich, Esq., APM, 609-924-2900, info@strichlaw.com.

Middlesex/Union: In need of new leader. Please contact Katherine Newcomer if you can co-chair this group. katherinenewcomer@comcast.net.

Monmouth/Ocean: Lunch, 1st Thursday every month, 11:30 AM at Pazzo Rest., 141 W Front St, Red Bank. David Leta, 908-278-6335,

mediation@DavidLeta.com or Anna-Maria Pittella, Esq., APM, 732-842-6939, pittellalaw@verizon.net.

Morris County: Lunch, 2nd Wednesday, 12:30 PM at Hunan's Rest., 255 Speedwell Ave., Morris Plains. Contact Beverly & George Hays, APMs, 973-539-5242, hays.mediation@verizon.net.

Somerset/Hunterdon/Warren: Breakfast, 2nd Tuesday, 8:30 AM, at Readington Diner, 452 Route 22 West, Whitehouse Station. Also, lunch, last Tues. every other month, 11:45 AM, at Panera, 25 Mtn. View Blvd., Basking Ridge. Contact me at 908-625-0043.

katherinenewcomer@comcast.net.

South Jersey Shore: Atlantic & Cape May Counties, 6 PM quarterly at members offices, Carol Goloff, Esq., APM 609-646-1333, carol@golofflaw.com.

Union Civil & Divorce Group: Lunch, 3rd Tuesday every month except July and August, 12:30 PM, at Grillestone Restaurant, 2377 Route 22 East, Scotch Plains. Tony Prinzo, CVA, at unioncountypeergroup@gmail.com, or Amber Leach, MBA, CDF, 917-538-6437, amber@leachmediation.com.

Katherine G. Newcomer, Esq., provides divorce mediation in Morris & Somerset counties. Her website is www.equalitydivorcemediation.org.

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Special Interest: Construction	Carl Peters	609-741-4104	ceppels@verizon.net
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NJAPM 4th Annual Civil & Divorce Seminar

Featured speaker, The Honorable Lawrence R. Jones (Ret.)
Saturday, April 14, 2018, The Imperia, Somerset



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Forsgate Country Club
Sunday, June 3, 2018 (Day 5)

Back Row, Left to Right: Eliot Langsam, LaGaysha Nelson, Darius Marzec, Nikhilesh Tekwani, Melissa Norwicke, Jennifer Adams-Barsch

Row from Back, Left to Right: Jacqueline Matarazzo, Jonathan Katell, Kacey Konwiser Dalton, Carol E. Cashin, Jessica ElGamil, Nicole H. Ryan, Suzanne M. McIntosh, Sherry L. Ziesenheim

Seated Row, Left to Right: Sarah Friedland, Zoe Hicks, Linda Langsam, Alex Ferroni, Diana Marin, Suyog (Yogi) Gandhi, Paul H. Townsend, Instructor, Christine Heer

Floor: Instructors, Anju D. Jessani & Carl J. Cangelosi





New Jersey Association
of Professional Mediators
26 Park Street, Suite 2041
Montclair, NJ 07042

NJAPM Photo Gallery Annual Social, August 7, 2018, Somerset Patriots Baseball

