



# Mediation News

Volume 9, Issue 1  
Fall, 2005

New Jersey Association  
of  
Professional Mediators

203 Towne Centre Drive  
Hillsborough, NJ 08844

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## Upcoming Events:

*Board of Directors meeting  
September 30, 2005*

*Basic Divorce Mediation  
Training Course: 40 Hours  
October 15, 16, 28, 29 & 30*

*Annual Conference—  
Professionalism, Profit,  
and Pragmatism  
November 12, 2005*

*All events held at the Doubletree  
Hotel, Somerset, New Jersey*

## President's Message

**T**his past year has been particularly productive for NJAPM. In October, Senator Robert J. Martin and Assemblywomen Linda R. Greenstein, the primary sponsors of the Uniform Mediation Act, helped us get off to a great start. They participated as our keynote speakers for NJAPM's 11<sup>th</sup> Annual Conference. As 2004 came to a close, New Jersey became the 3<sup>rd</sup> state to pass the UMA, thanks, in part, to the efforts of many of our members.

In early 2005, NJAPM launched 40-hour divorce and 18-hour civil training courses. The response was extremely positive and as a result, the Association will offer both basic training courses twice a year.

The basic civil training course was presented on three consecutive Thursdays in September. The basic divorce training will be held on October 15, 16, 28, 29, and 30. For more information, please visit our website, [www.NJAPM.org](http://www.NJAPM.org).

In April, NJAPM co-sponsored a training conference on the UMA. Attendance was at capacity and for the first time, the Association recorded the seminar. If you were unable to attend and would like to purchase the CD, contact Carl Cangelosi at [ccangelosi@njmediation.org](mailto:ccangelosi@njmediation.org) or at 609-275-1352. All conference and training seminars sponsored or co-sponsored by NJAPM are offered to members at a discounted rate.

In addition to discounted admission to NJAPM sponsored seminars, a key

benefit of membership is free admission to our bimonthly general meetings (non-members pay \$20 for each meeting). This past year we presented a diverse range of topics including a "hands-on" training session on Excel spreadsheets, a presentation of stress-reduction techniques, a review of child support software and an overview of insurance company policies and practices in civil mediation.

Our meetings keep members current on mediation practices, offer networking opportunities with other mediators and help to develop practice skills and techniques.

Other highlights of this past year include:

**In April, NJAPM co-sponsored a training conference on the UMA. Attendance was at capacity and for the first time, the Association recorded the seminar.**

- Annual civil and family mediation seminars each attracting more than 40 attendees.
- Booths promoting NJAPM and the use of mediation at both the New Jersey Psychological Association and NJEA conferences.

• Addition of general members to the NJAPM website, and updating of accredited member detailed listings. We also enhanced meta-tags for web search engines.

- Development of a generic NJAPM PowerPoint presentation available to members for their own presentations.
- Providing feedback to the AOC on the family economic pilot program and the need to eliminate the free three-

*(Continued on page 11)*

## Letters to the Editor

## *Officers And Directors 2005-2006*

We are soliciting your views on issues that interest you and are timely.

You may want to write about the 3-free hour rule for the court's mediation program.

You may have suggestions for programs at the general meetings.

Whatever the topic, just write. We can't guarantee that your letter will appear or that we will follow The New York Times rules for letters to the editor, but the letters should be an interesting addition to the NJAPM newsletter.

Send your letters to:

Gale S. Wachs  
Editor  
MediatorNJ@aol.com

### *NJAPM President*

Anju D. Jessani, MBA, APM

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Armand Bucci

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Jenny D. Puchta, CPA, APM

Michael J. Wolf, JD, APM

# Dealing with Mistakes

By Michael J. Wolf

**M**istakes are preventable, but they are also inevitable. What you and the parties do before making a mistake can help prevent the preventable ones, and minimize adverse impact after the inevitable mistakes occur.

Consider including a section in your standard Agreement to Mediate that helps establish norms or a "relationship compact" between you and the parties. Consider including some of the following items if you think they can make a difference:

**Acknowledge that mistakes will occur and allow for mistakes.** This often requires doing more than adding a sentence to an Agreement to Mediate. Early in the mediation process, help parties talk about whether judgment, blame, punishment or condemnation has been the norm when mistakes occur. If so, establish and implement a plan to change those behaviors during the mediation process. This can consume scarce mediation time, but in addition to enabling parties to achieve substantive agreements, the value of such behaviors sometimes transcends the issues that brought the parties to mediation.

**Value and commit to good communications,** including an agreement to CYA (Check Your Assumptions) and ACBD (Always Consult Before Deciding). Establish a "no surprises" ground rule and create a specific process for rumor control.

**Treat each other with respect** regardless of the circumstances.

**Agree to resolve mistakes jointly.** This sends a powerful message and can strengthen the overall problem solving relationship.

**Be honest.** Some people wait until others find out before reluctantly admitting a mistake. Some people will not even acknowledge making a mis-

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## Accept responsibility after making a mistake and ask the parties to do the same.

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parties be forthright about mistakes they made and the role they played.

**Accept responsibility** after making a mistake and ask the parties to do the same. Others often respect a person more for doing so.

**Apologize.** Strive to own the negative impact of a mistake on other person(s) or the situation. Ask the parties to do so, too. This can be very powerful. You then can help parties more effectively work with affected persons to alleviate the problem or damage.

**Learn.** Help the parties discuss what worked and did not work in the specific situation surrounding the mistake in order to learn how to avoid or minimize future problems. Then develop new norms or review and recommit to existing norms that may have been violated.

**Let go and move on.** Let yourself and others off the hook. Do not punish. Address the problem as outlined above, and then allow the slate to be wiped clean. This can be very difficult for some people, but they are the people for whom this recommendation is most important.

**Go directly to the source** for resolution and encourage others to do the same. Some people silently harbor negative assumptions and judgments, while others complain to everyone but the source of the mistake. By the time it gets back to the source, the problem is wildly out of control. Encourage others to stop complaining to people who are not in a position to or may not want to help resolve the matter.

**Honor a code of personal behavior.** Be respectful, honest, and descriptive when you show parties how to confront the situation and not the person. Expect no less from the parties. Use "I" statements and gently describe your perceptions rather than "the truth." Stop long enough to actively listen, and listen more than talk. Avoid negative characterizations and conclusive statements – these usually fuel the fire.

**Avoid assigning motive** or meaning to the mistake until after checking out assumptions with the source.

**Share feelings and describe impact.** Quietly – and sometimes privately – share your feelings and how the mistake affected you and/or others. If you made the mistake, acknowledge others' feelings and how the mistake affected them. Do this using "I" statements. Express a genuine desire to resolve the situation, as opposed to accusations and a desire to punish.

**Share responsibility** for creating and implementing a response to the mistake. This can be a powerful asset to the parties' institutional and interpersonal relationships, and can strengthen their ability to address issues and problems in the future.

*Michael J. Wolf, JD, APM is counsel for dispute resolution technology to the National Mediation Board in Washington D.C., and an adjunct professor at Pepperdine University's Strauss Institute in Malibu CA. He lives in Cherry Hill, NJ.*

# *State v. Williams*

by *Hanan Isaacs, Esq., APM*

**O**n July 26, 2005, the New Jersey Supreme Court issued a 5-2 decision in *State v. Carl Williams*. The majority opinion, written by Justice Zazzali, held that Mr. Williams's need for the mediator's testimony did not outweigh the public's interest in mediation confidentiality. The Court grounded its analysis on the Uniform Mediation Act's balancing test for evidentiary use of mediation communications, and explicitly followed the New Jersey State Bar Association's and the mediation community's requests for statutory interpretation. The dissent, written by Justice Long, did not disagree with the majority on statutory analysis, but felt that Mr. Williams had made a sufficient showing of need to overcome the general prohibition on mediator testimony.

Mr. Williams, a defendant in a Superior

Court aggravated assault case, wanted the mediator to testify for the defense. The alleged victim, Mr. Bocoum, while in municipal court mediation, had admitted to picking up a shovel during a fight in which the defendant cut the alleged victim with a machete. The mediator had heard that admission, and was prepared to testify for the defense, which could have been key self-defense evidence. The trial judge heard the mediator's proposed testimony outside the jury's presence, and then barred the mediator from testifying before the jury. The trial judge found that Supreme Court Rule 1:40-4(c) does not permit an exception to the rule against mediator testimony, even when balanced against a defendant's sixth amendment right to defend himself at trial. The Appellate Division affirmed. The Supreme Court granted certification on the mediator tes-

timony issue 10 days after the UMA-NJ became law. The Supreme Court also granted amicus curiae status to the New Jersey mediation community, to brief the Supreme Court on this important issue.

*State v. Williams* is the first decision issued by a state high court interpreting the Uniform Mediation Act. Justice Zazzali's opinion is extremely well written, and is likely to be cited by other courts around the country.

If you have any questions about *State v. Williams* and its possible application to mediation in a particular situation, please do not hesitate to let me know.

*Hanan Isaacs, Esq., APM, is a Past President of NJAPM and a sole practitioner in Princeton, New Jersey. He can be reached at 609-683-7400.*

## ***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 will meet from **5:30 PM to 7:00 PM**

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

(Dinner reservations must be made in advance.)

**September 14, 2005, January 18, 2006,**

**March 15, 2006, May 17, 2006, September 20, 2006**

### **Board of Directors Meetings**

All meetings of the Board of Directors will be held from **8:39 am to 12:00 Noon** at the

Doubletree Hotel, Somerset, New Jersey

**September 29, 2005, December 8, 2005,**

**February 2, 2006, April 6, 2006, June 8, 2006**

# The Mediator's Toolbox

Book Review by Jon Linden, MBA, APM

## *The Conflict Resolution Toolbox*

By Gary Furlong  
**Diagnostic Models –  
 “Pragmatic Mediation”**

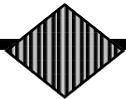
**F**urlong's new book may be a milestone in the application of mediation theory to the practice of mediation. His objective is to introduce “Models” or “Maps” that will provide the mediator with a diagnosis of the conflict and a course of action to move toward resolution.

Furlong is quick to say, “There is no magic formula that resolves all disputes.” This statement surely gives him an element of immediate credibility. In addition, the author notes that in his study of many 40-hour basic mediation courses, “Mediation training seems to be focused solely on face-to-face skills and simple steps for conducting the mediation itself, and does little to teach the participants about diagnosing the root cause of the conflict.”

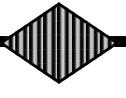
In order to overcome the deficiencies of most training programs, he suggests that actual diagnostic models can be used to help the mediator “diagnose” and then “determine next course of action” using these “roadmaps to resolution.” He defines 8 different models in his book, which he describes as:

- The Circle Of Conflict
- The Triangle Of Satisfaction
- The Boundary Model
- Interests/Rights/Power Model
- The Dynamics Of Trust
- The Dimension Model
- The Social Style Model
- Moving Beyond Conflict

To illustrate these “Models” Furlong uses a general case study to illustrate how different “lenses” or perspectives on mediation methods can yield very similar results. In addition, it is interesting to see how certain models, which the mediator may have felt had little productive or pre-



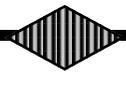
**... he suggests that actual diagnostic models can be used to help the mediator “diagnose” and then “determine next course of action” using these ‘roadmaps to resolution.’...**



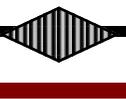
dictive value, can in fact be the most precise “Models” to use for “Diagnosis and Treatment.”

These models will be recognizable to many of us who have studied the theory of conflict resolution. For example the social style model is helpful in identifying the type of personalities of the parties in the conflict and uses the classification system with only 4 basic personality types: analytical, driving, amiable and expressive. This is a helpful way for a newer mediator to understand the character and personality of the parties.

The interests/rights/power model is primarily based on Fisher and Ury's negotiating techniques. It emphasizes primarily interests, rights and power, without necessarily addressing the un-



**The interests/rights/power model is primarily based on Fisher and Ury's negotiating techniques.**



derlying core reasons for the conflict, if the desired result can be achieved without dealing with those issues.

The dynamics of trust model is an “attributional” model and focuses on the manner and character of how the parties “attribute” circumstances to conditions about which they usually have incomplete or erroneous information. Often the attributions assigned by parties are misplaced or completely misdirected. This model helps the mediator build trust between the parties and reach for a resolution.

The one thing that was a little lacking in the book were models that dealt with “severed” or “terminal” situations in a relationship. Only two of the models really even dealt with this circumstance at all, and only one, the “Moving Beyond Conflict” model dealt with it in detail. Since many mediations involve severed relationships, especially in labor and employment, this is a minor deficiency, yet the one model does address it in very deep detail. The book should be considered a seminal work in the manner in which mediators can approach conflict resolution, and what to focus on for the highest potential degree of successful resolution to the conflict.

*Jon Linden is an accredited business/commercial mediator and a frequent contributor to Mediation News. He can be reached at Proactive Intervention, L.L.C., in Warren, NJ, 908-580-0744 or by email: jilisman@aol.com.*

# Mediate That!

Carl J. Cangelosi, JD, APM

In each newsletter we will take an interesting/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:*

***Are the NJAPM civil and divorce listservs being used properly or should there be new policies governing their usage?***

I asked for volunteers on this questions and no one apparently thought that the existing policies should be revised. So I have decided to present both sides—sort of.

## Carl

The civil and divorce listservs serve a very valuable function for the members of NJAPM. It enables everyone to engage in a free exchange of facts and opinions on just about any subject relating to mediation. This is valuable for several reasons.

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**I look forward to the frequent digests of new cases that I receive through the listservs.**

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First, it is educational. I look forward to the frequent digests of new cases that I receive through the listservs. I get a good flavor of which way the courts are going on important issues and this helps me be a better mediator. Other times members will give information about taxes, mediator strategies, etc. I find these useful.

Second, I enjoy the varying opinions on hot topics. The recent exchange on the 3 free hour rule is such an example. There were strongly argued positions on all sides. It was stimulating and provided good information for our organization and the courts.

Of course, not all e-mails are valuable. Some are repetitious, boring, or, in extreme cases, offensive. For the most part, that's just part of having a free exchange of ideas. What I might find boring might be interesting to others. Some days I use my delete button frequently. But that is a small price to pay for participating in the listservs.

There are a few occasions where a member has violated the listserv policies but they have been rare. In my opinion, the listservs are working just right. I just wish they were used more.

## Carl

I don't favor a change in NJAPM's policies but I do favor peer-enforced rules of etiquette. Here are my suggestions for such rules and how they should be enforced:

**Be courteous**—There is no reason at any time not to be courteous in using the listservs.

**Be brief**—Sometimes e-mails go on and on. It would be helpful if people edited their e-mails just like they would a letter.

**Don't send last-word e-mails**—If there has been a complete exchange of ideas that you have participated in, there is no need to send that last e-mail just to have the last word.

**Don't be repetitious**—Again, don't be repetitious.

**Keep on point**—If an exchange is about taxes, keep to that subject. If you

want to start a new subject, start a new thread.

Now as to how this should be enforced. I don't think any set of policies could be drafted that could capture the above and still be workable. However, you as participants in the listservs can exert peer pressure.

Let's say an individual continually gets off-point when using the listserv. You could send a private e-mail, **NOT USING THE LISTSERV**, directly to that person. (If you use the listserv to exert peer pressure, you're violating the "be courteous" rule.)

If enough people do that, it probably

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**I don't think any set of policies could be drafted that could capture the above and still be workable.**

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would have the desired effect. If the person doesn't get the message, well, there is always the delete key.

*Carl Cangelosi is an accredited civil and divorce mediator with offices in Princeton and Plainsboro. He can be reached at the New Jersey Mediation Group, 609-275-1352 or by e-mail at ccangelosi@njmediation.org.*

# *NJAPM's Listserv: Get in Touch and Stay in Touch*

**N**JAPM is dedicated to serving the needs and interests of mediator members. We have created a listserv to allow practitioners to share their professional concerns and exchange practice information. For your benefit, we have listed the policies and procedures for using the listservs.

## LISTSERV POLICIES

The following are terms of the agreement between you and the New Jersey Association of Professional Mediators with respect to the use of the various listservs. By using the listservs, you acknowledge that you have read, understood, and agree to be bound by these terms.

## COMMENTS BY USERS ARE NOT ENDORSED BY NJAPM

NJAPM does not necessarily endorse, support, sanction, encourage, verify, or agree with the comments, opinions, or statements posted on its listservs. Any information or material placed online, including advice and opinions, are the views and responsibility of those who post the statements, and do not necessarily represent the views of NJAPM.

## USE OF THE SERVICE BY YOU

You agree to use the listservs to further the goals and purposes of NJAPM, and you will not knowingly use the listservs to the detriment of the organization or any of its members.

You agree not to use any obscene, indecent, or offensive language or to place on these services any material that is defamatory, abusive, harassing, or hateful. Further, you may not place on these services any material that is encrypted, constitutes junk mail or unauthorized advertising, invades anyone's privacy, or encourages conduct that would constitute a criminal offense, give rise to civil liability, or that otherwise violates any local,

state, national or international law or regulation. You agree to use these services only for lawful purposes and you acknowledge that your failure to do so may subject you to civil and criminal liability.

You are responsible for ensuring that any material you provide to these services or post on a forum or listserv, including but not limited to text, photographs and sound, does not violate the copyright, trademark, trade secret or any other personal or proprietary rights of any third party or is posted with the permission of the owner's of such rights. Material on these services is for your personal use only. These services may contain copyrighted and other proprietary information.

## MATERIALS POSTED BY OTHERS

You agree that NJAPM is not responsible, and shall have no liability to you, with respect to any information or materials posted by others, including defamatory, offensive or illicit material, even material that violates this agreement.

## ADDITIONAL RULES

NJAPM may, from time to time, post additional rules of usage that apply to specific parts of these services. Such additional rules will be posted in a relevant part of its website, and will be clearly identified. Your continued use of these services constitutes your agreement to comply with these additional rules.

## LIMITATION ON OR DENIAL OF USE

NJAPM may limit or deny access at its discretion to anyone who uses the listservs excessively, which shall include repetitive use on the same topic or subject matter, or otherwise misuses or abuses this benefit.

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## **NJAPM**

*does not necessarily endorse, support,  
sanction, encourage, verify, or  
agree with the comments, opinions,  
or statements posted on its listservs.*

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## *Committee Chairpersons*

<b>Committee</b>	<b>Chairperson(s)</b>	<b>Telephone #</b>	<b>E-mail Address</b>
Accreditation	Tom Hanrahan	973-616-6601	mediationworx@optonline.net
Annual Conference	Anju Jessani Gale Wachs	908-303-0396 908-256-6505	dwd2@mindspring.com mediatorNJ@aol.com
Executive Committee	Anju Jessani	908-303-0396	dwd2@mindspring.com
Judiciary & Organizations	Ed Bergman	609-921-1502	ejb@gear3.net
Legislative Relations	Ed Peloquin	732-940-0520	ejfp@aol.com
Liaison: Garibaldi Inn and DRS	Michael Wolf	210-392-1699	michaelwolf@comcast.net
Long Range Planning	Tony Limitone	973-539-6122	anthonylimitone@verizon.net
Mediator Ethics Review Board	Gene Rosner Greg Cannarozzi	732-382-6070 201-261-6444	gene@finkrosner.com 1800probono@msn.com
Membership	Bob McDonnell Claudia Cohen	914-329-1156 908-654-4303	rjmcdonnell@optonline.net cecohen@comcast.net
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Peer Consultation /Mentoring	Bill Donahue	856-854-0303	onedonahue@aol.com
Policies & Procedures Manual	Gail Cookson	973-736-4600	moondance149@att.net
Programs	Carl Cangelosi	609-275-1352	ccangelosi@njmediation.org
Marketing	Jenny Puchta	732-706-9478	njmediationctr@aol.com
Speakers Bureau	Jon Linden	908-580-0744	jilisman@aol.com
Youth Peacebuilding Coalition	Bill Donahue	856-854-0303	onedonahue@aol.com
Website	Carl Cangelosi	609-275-1352	ccangelosi@njmediation.org

*Learn more about NJAPM by visiting our website at  
[www.NJAPM.org](http://www.NJAPM.org).*

*Attend our meetings and become a part of  
the NJAPM community of mediators.*

*Contact a Chairperson to join a committee.*

# Professional Liability Insurance

## For NJAPM 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.

The price and the policy are the same as is currently offered  
by the Association for Conflict Resolution (ACR).

However, the service charge for New Jersey  
is \$25 compared to the \$50 charge for ACR policies.

A basic liability insurance policy for a family mediator  
who mediates less than 20 hours per week would cost  
\$350 + \$25 + 3% tax for \$100,000/\$300,000 coverage

or

\$438 + \$25 + 3% for \$250,000/\$500,000

or

\$569 + \$25 + 3% for \$500,000/\$1,000,000

These figures are based on \$1,000 deductible per claim.

For further information or to obtain forms,  
contact Armand Bucci at: [armandbucci@alum.drexel.edu](mailto:armandbucci@alum.drexel.edu)

Or phone him at 856-663-2237

(Forms are also available on the [www.NJAPM.org](http://www.NJAPM.org) website)

## Recent Family Law Cases

prepared by Carl J. Cangelosi, JD, APM

**Weir v. Weir**, App. Div.—Defendant-wife’s appeal from the final judgment of divorce is rejected, including her assertion that the judge erred in awarding her too little in both alimony and child support, refusing to impute income to plaintiff, who defendant argued had deliberately dissolved his lucrative cash pizza supply business and became a salaried employee of a distributor in order to avoid his obligations for both alimony and child support; the court is convinced that any alleged inconsistencies and past financial machinations by plaintiff were taken into account by the trial judge in the ultimate determination. March 10, 2005

**Entress v. Entress**, App. Div.—Family Part judges must refrain from entering judgments and orders appending transcripts that purport to set forth the terms and conditions of the parties’ agreement. Rule 4:42-1(a)(4) requires a “separate numbered paragraph for each separate substantive provision of the judgment or order.” March 22, 2005

**Nie v. Zou**, App. Div.—The Family Part did not err by denying the defendant ex-wife’s claim for alimony where the court found that the parties’ incomes were “substantially the same” and that the defendant did not need the plaintiff ex-husband’s assistance to enjoy a lifestyle that was similar to the one that she enjoyed during the marriage; the Family

Part’s formulation for child support met the requirements of N.J. S.A. 2A:34-23 and the Child Support Guidelines where the court found that the “variable nature” of the plaintiff’s income and bonuses required an accounting twice a year. March 30, 2005

**Mani v. Mani**, Supreme Ct.—Marital fault is irrelevant to alimony, except in two narrow instances: (1) cases in which the fault negatively affects the economic status of the parties; and (2) cases in which the fault so violates societal norms that continuing the economic bonds between the parties would confound notions of simple justice. April 6, 2005

**Maiorisi, etc. v. Danella**, App. Div.—The court dismisses the appeal of the defendant-father, who sought to continue the parties’ joint legal custody arrangement, but asked the Family Part judge to designate him as the primary residential custodial parent, instead of the plaintiff-mother. The motion judge found the motion premature, because defendant had failed to abide by a paragraph of the parties’ property settlement agreement, which indicated that the parties should attempt to resolve any issues between themselves before seeking court intervention; she directed the parties to attend parenting classes, and to negotiate within twenty days, directing counsel to report back to her on the status

of the negotiations, failing which, she would refer the matter to mediation.

**Lande v. Lande**, App. Div.—The trial court was wrong when it refused to terminate the ex-husband’s alimony. The ex-wife was cohabiting with her paramour as man and wife with all but the marriage certificate. By intentionally failing to provide her paramour’s financial information, she prevented the alimony termination motion from being properly considered. If she wants the alimony reinstated, the missing information must be provided. She will have the burden of proving her alleged financial dependence on her ex-husband. May 25, 2005

**Guzzo v. Guzzo**, App. Div.—On the plaintiff-husband’s appeal, the court affirms the Family Part judge’s: (1) computation of the permanent alimony award to the defendant-wife, whose psychiatric problems prevented her from fully supporting herself, ruling out rehabilitative alimony; (2) establishment, as the marital dissolution date for equitable distribution purposes, the date of the filing of plaintiff’s divorce complaint, which alleged extreme cruelty on the basis of defendant’s having had an affair with a co-worker; and (3) finding, on defendant’s counterclaim for divorce, that plaintiff, too, engaged in acts of extreme cruelty by engaging in internet sex and pursuing relationships with the women he met

## Recent Family Law Cases cont...

online. May 27, 2005

**Schwefringhaus v. Schwefringhaus**, App. Div.—The ex-husband is entitled to discovery and a plenary hearing on his application to terminate alimony based on the ex-wife's cohabitation. The case is remanded based on prima facie evidence that the ex-wife is cohabiting with two unrelated males, is sexually involved with one, and receives financial contributions from both. , *May 31, 2005*

**Feldman v. Feldman**, App. Div.—In the context of joint custody, the primary caretaker has the sole authority to decide the religious upbringing of the children, and the secondary caretaker shall not enroll the children in training and education classes for programs in a different religion over the primary caretaker's objections when exercising visitation rights. The secondary caretaker is not barred from having the children exposed to religious services or holidays. *June 9, 2005*

**Randazzo v. Randazzo**, Supreme Ct.—A trial court has the discretion to order the sale of marital assets prior to a final judgment of divorce when the circumstances of the case so justify. *June 28, 2005*

**Duchemin v. Duchemin**, App. Div.—Wife was in fact cohabiting when the parties signed their agreement. However, her ex-husband did not learn of her cohabitation until two years later.

The cohabitation and its concealment constituted bad faith and justified a retroactive termination of alimony, requiring her to reimburse to him the alimony he had paid her. Moreover, she was not entitled to any offset for the tax credits he received for paying the alimony. *July 8, 2005*

**Suess, Jr. v. Gonzalez**, App. Div.—The Family Part judge aptly denied plaintiff's motion for a reduction of child support based on a finding that his underemployment was temporary in nature, and properly rejecting his claim that the passage of three years without being able to find another job in his field of expertise constitutes a "presumptive change in circumstances." Other than his conclusory comment that he has attempted to find similar work, he provided no specifics about his job search efforts. *July 13, 2005*

**Conod v. Hall**, App. Div.—Although the appellate court agrees with defendant that there was no testimony or record to justify the finding that he broke his son's arm, or that he was initially responsible for the problems in their relationship, the court affirms the judgment entered against the defendant-father for 44% of the college expenses of the parties' son, despite their estrangement, and despite the fact that defendant and plaintiff had no contact, and plaintiff gave defendant no information

about the son's college plans. The court notes that defendant did not attend court-ordered therapy sessions, and rejects his arguments on appeal that the trial court: (1) did not properly consider the plaintiff's failure to abide by the terms of the parties' agreement; (2) erred in denying his request for a *Newburgh* hearing; (3) erred in his analysis of the *Newburgh* factors; (4) made incorrect and inadequate findings of fact; and (5) erred in denying his request for counsel fees. *July 21, 2005*

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## President's Message Cont...

(Continued from page 1)

hours that mediators currently provide to the AOC.

- Expansion of county peer group monthly meetings with member orientation presentations by our membership committee at many of these meetings.
- Development of a policies and procedures manual
- Approval of up to 4 continuing education credits annually for co-mediating with a candidate for accreditation.

We look forward to a very productive year again. But we need the help and support of our members. Please share your ideas and your time with us. To contact a committee chairperson, see page 8.

Thanks for your participation and continued support.

## *NJAPM Welcomes Newly Accredited Members*

**T**he New Jersey Association of Professional Mediators is pleased to announce the accreditation of 6 members. Accreditation is granted for a period of one year.

Renewal after the first year is granted only to members of the Association in good standing and only upon satisfaction of continuing education requirements and approval of the Board of Directors. Accredited members are required to have 10 hours of

continuing education every year.

We are happy to welcome the following Accredited Professional Mediators into the NJAPM family and we look forward to having them become active participants in the association.

The following member has been accredited as a Divorce and Family Mediator:

Anna-Maria Pittella, Esq.

The following members have been accredited as Business/Commercial mediators:

Edward J. Bergman, Esq.  
Robert J. McDonnell  
Jenny A. Puchta, CPA  
John Sands, Esq.  
Risa S. Wasserman, Esq.

**New Jersey Association of Professional Mediators  
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