



# Mediation News

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Summer 2006

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

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## Save the Date!

Saturday, Nov. 4, 2006  
NJAPM Annual Conference  
DoubleTree Hotel,  
200 Atrium Dr., Somerset, NJ

### *Mediation: Thinking & Learning*

**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

## President's Message

**N**JAPM is thriving and our influence in the state is beginning to show. I cannot remember a busier time for NJAPM than now. Our committees have been busy developing and delivering seminars, conducting a civil mediator membership drive, reviewing accreditation requirements, updating NJAPM marketing collateral, and examining how to enhance member services.

We are investing more time in developing relationships with other organizations include the Dispute Resolution Section of the New Jersey Bar, the Maria Garibaldi Inn of Courts, the New Jersey Association for Conflict Resolution, and the New Jersey Association of The Association of Family and Conciliation Courts. Our members provide mediation services in concert with members of these organizations, and it is important that we work together on initiatives, to our mutual benefit.

In this message, I want to summarize some significant judicial, legislative and organizational changes impacting NJAPM that you might find of interest:

**1. The Supreme Court Committee on Complementary Dispute Resolution, Report and Recommendations Regarding the Compensation of Mediators in Court-Based Mediation Programs.**

The basic issue, as stated by the CDR Committee, is that "the three free hours has caused considerable numbers of mediators to resign from the program, and has unreasonably taxed those who remain on the program rosters." NJAPM is recommending the elimination of any mandated free or reduced fees for mediators. If the Supreme Court elects to continue to require me-

diators to provide services at below market rates, we recommend adoption of a three-county pilot program of voluntary mediation at market rates, with opt-out provisions in place of the present mandatory mediation system.

**2. Final Report of the Evaluation of the Pilot Program for Mediation of Economic Aspects of Family Law, Family Program Subcommittee (FPS) of the Supreme Court Complementary Dispute Resolution Committee.**

NJAPM supports termination of the pilot and creation of a statewide program, believes that the program should be implemented as quickly as possible, and believes there should be a statewide roster of mediators. However, we believe that early placement of mediation rather than after the Matrimonial Early Settlement Panel (MESP) would save clients substantial money and help them avoid the acrimony that litigation can engender. Additionally, as indicated above, we believe that mediators should be paid their market rates.

**3. Assembly Bill A-483 and Senate Bill S-1467, which adds a new cause of action for divorce based on irreconcilable differences.**

NJAPM has responded to the sponsors of this bill. We fully support this change in divorce law. It will make the divorce process less acrimonious, and increase the use of mediation. As mediators, we work with divorcing couples to facilitate a resolution of their issues so they can proceed with an uncontested divorce. We believe that passage of this bill will increase the use of mediation, thus making the divorce process less expensive and reducing the burden of contested divorces on the

(Continued on page 3)



**Mediation News**  
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Association of  
Professional Mediators

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## ***Election of NJAPM Officers***

The following officers were elected to  
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:***

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Carl J. Cangelosi, JD, APM



# President's Message (Continued)

(Continued from page 1)

court system. This bill will not increase the divorce rate. The experience of other states shows that divorce is not any more common where irreconcilable differences are available as a cause of action for divorce – it is just less contentious and less acrimonious.

**4. Assembly Bill A-798 and Senate Bill S-805, the New Jersey Uniform Common Interest Ownership Act, which would establish how homeowners' associations operate statewide.**

NJAPM supports the dispute resolution process in the proposed New Jersey Uniform Common Interest Ownership Act that begins with mediation and moves, if necessary, to binding or nonbinding arbitration. The association does not take a view on other aspects of the bill, such as

board power and limitations, the ability to borrow money and the ability grant easements over common property. 40% of private residences in New Jersey are governed by homeowners' associations, and almost 20% of new homebuyers are required to join community associations. Without affordable and efficient dispute resolution techniques, the perceived benefits of community living will be overshadowed by the potential cost of litigation and will ultimately be reflected in resale prices. A-798/S-805 presents an answer to this problem.

**5. NJAPM Foundation, a 501(c) not-for-profit charitable and educational corporation to complement the activities of the association**

The newly incorporated NJAPM foundation has applied for 501(c)3

status with the IRS. This organization will include the Youth Peace Initiative, other school and youth initiatives, a College Scholarship Fund, and volunteer services. The board of directors of the Foundation will be separate and independent from NJAPM. Please see the update in this newsletter about the NJAPM Foundation, including how to get involved, as well as information about the Foundation's leadership.

This is an exciting time for the organization and mediation, and I hope that your individual practices are also experiencing change and growth. Visit our website at [www.njapm.org](http://www.njapm.org) for updates on these, and other initiatives. Please feel free contact me at [ajessani@dwdmediation.org](mailto:ajessani@dwdmediation.org) or at 908-303-0396 if you have any questions or suggestions. Thank you again for your support of NJAPM

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***NJAPM Members spent a lot of time and energy this winter discussing the "Irreconcilable Differences" bill. Here are the sponsors and the "statement" that explains what the bill will do.***

**ASSEMBLY, No. 483, STATE OF NEW JERSEY**

**212th LEGISLATURE**

**PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION**

**Sponsored by:**

**Assemblyman CHRISTOPHER "KIP" BATEMAN**

**District 16 (Morris and Somerset)**

**Assemblyman NEIL M. COHEN**

**District 20 (Union)**

**Co-Sponsored by:**

**Assemblyman Biondi**

**Note – this is identical bill to SENATE, No. 1467**

**INTRODUCED MARCH 2, 2006**

**Sponsored by:**

**Senator NICHOLAS P. SCUTARI**

**District 22 (Middlesex, Somerset and Union)**

## **STATEMENT**

**This bill amends N.J.S.2A:34-2 concerning the causes for divorce. The bill provides that a divorce will be granted on grounds of "irreconcilable differences which have caused the breakdown of the marriage for a period of six months and which make it appear that the marriage should be dissolved and that there is no reasonable prospect of reconciliation."**

# Working It Out: ADR for Homeowner Associations Makes Sense

by Anju D. Jessani

Disputes involving homeowners' associations often lead to costly and time-consuming litigation - and, often, decisions that neither party finds acceptable.

That is why the New Jersey Association of Professional Mediators, of which I am president, supports the dispute resolution process in the proposed New Jersey Uniform Common Interest Ownership Act (A-798/S-805). The measure, which would establish how homeowner associations operate, includes a dispute resolution process that begins with mediation and moves, if necessary, to binding or nonbinding arbitration.

The professional mediators' association does not take a view on other aspects of the bill, such as board power and limitations, the ability to borrow money and the ability grant easements over common property. Our comments focus only on the aspects of the bill related directly to conflict resolution methods.

Our mission is to support processes that provide quicker and more efficient resolutions to disputes, reduce litigation costs, advance rather than impair relationships and allow for disputing parties to provide their own solutions to their conflicts.

One need only look to recent Appellate Division cases to see a sampling of homeowner association issues that could benefit from improved dispute resolution techniques:

- A homeowner is told he is not allowed to park his van, which he uses for his business as an electrician, in his driveway.
- Homeowners are told by their association that they are responsible for the cost of repairing and reconstructing a dam.
- A group of homeowners question whether a condominium homeowners' association can change the method of calculating maintenance assessments.

- Mobile homeowners are told by their landlord, the owner of the mobile home park, that they need to comply with new lease provisions, including conversion of their heating systems from oil to natural gas, at their own expense.
- Homeowners question whether a seller knew or should have known of the existence of toxic waste sites in close proximity to the condominium development.

Some interesting statistics about the scope of these issues appeared in a Feb. 7 Appellate Division decision, Committee for a Better Twin Rivers v. Twin Rivers Homeowners' Association, A-4047-03T2, in which the court held a private community cannot abridge its residents' freedom of speech. According to the opinion, the Department of Community Affairs estimates that 40 percent of private residences in New Jersey are governed by homeowners' associations and almost 20 percent of new homebuyers are required to join community associations.

Clearly, the issue of improved dispute resolution processes for homeowners' associations impacts a growing percentage of New Jersey's population.

While the primary focus of Committee for a Better Twin Rivers was free speech, another important issue was the homeowners' request for an improved alternate dispute resolution mechanism. However, the court found that the mechanisms provided by the Twin Rivers Homeowners' Association were not inadequate. The court said it was "unwilling to hold that a \$150 deposit to be submitted by a petitioner requesting ADR under the policy unreasonably denies access to ADR, especially in light of the comparative cost of litigation."

From our perspective, most homeowners' association bylaws, including Twin Rivers', do not go far enough in

providing for an ADR process. They should specify qualifications and experience necessary to serve on the ADR committee, outline which conflicts might better be addressed by professional mediators and delineate situations where a homeowner or group could apply for a fee waiver. Time frames should be set for addressing disputes and written communications need to be established so homeowners understand their rights and responsibilities.

And this leads to the benefits of A-798/S-805 to homeowners and association boards. A solution such as mediation should be the first avenue for resolving disputes, especially because parties have a stronger commitment to maintaining their agreements when craft the resolution. Generally, mediation is also faster and less expensive than traditional litigation.

Mediation by a trained, neutral third party can be initiated if a homeowner does not agree with the board's decision, rather than after both parties invest significant sums in the litigation process. And the stepped process to dispute resolution makes sense; if mediation does not work, the bill provides for the next best option of arbitration.

People move to condominiums, townhouses and other planned communities for the lifestyle, security and shared amenities they provide. Without affordable and efficient dispute resolution techniques, including mediation and arbitration, the perceived benefits of community living will be overshadowed by the potential cost of litigation and will ultimately be reflected in resale prices. A-798/S-805 presents an answer to this problem.

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# The Kid's Guide to Working Out Conflicts

Book Review by Jon Linden

Naomi Drew's newest book, *The Kid's Guide to Working Out Conflicts*, presents one of the best exhortations about and explanations of Peer Mediation. Peer Mediation usually refers to the process of mediation between and with Children/Adolescents in school situations. It has been definitively shown, that such programs reduce school violence by providing an outlet, or a forum to discuss and resolve conflicts.

Most mediation books are replete with industry jargon. This is often helpful in distinguishing one style or type of mediation from another. However, Ms. Drew recognizes clearly that it would NOT have been productive for her to include such jargon here. In contrast, she uses "plain language" to explain complex mediation concepts. Her writing is concise, simple, and yet incisive. Concepts are explained, put in context and supported by examples that the author has encountered. She writes in a way that allows both parents and kids to fully understand what schools are trying to achieve through a Peer Mediation Program. Her occasional use of vernacular

can be charming. For example, one of her 'mantras' is, "stop, breathe, chill."

Ms. Drew introduces the concept of "Team Earth," as a way of emphasizing that Peace must be a key objective of developed societies. She sees Peer Mediation as a way for all people to endow their children with the concept of "World Peace." While the book talks about Peer Mediation in America, it clearly looks toward all cultures.

Throughout the book, Ms. Drew provides actual examples of Peer Mediation and how it can be applied to today's school environment. The examples show how resolutions emerge out of intense conflict. Her strategies include targeted communication and the creation of empathy. The book shows us how to reap the potential benefit of a conflict resolution platform in the school environment. She also frequently references a large survey she conducted and quotes kids whose experiences demonstrate the benefits of Peer Mediation.

Adult mediators and writers of mediation books often ignore the fact that

most common problems are related to an inability of parties to communicate effectively without escalation of the underlying conflict. Ms. Drew shows how to do it

## Conclusion

This book is suitable for people of almost all ages. It is a highly significant contribution to the literature, not just of Peer Mediation, but of Mediation in general. Would it be that all people were to read her book, life would be so much more conflict free than it is today.

While use of the tools Ms. Drew introduces are dependent on people recognizing and overcoming internal prejudices, it surely helps people try to do that. If there is one book on mediation that you buy this year, try to make it this one.

**Jon Linden is an accredited member of NJAPM. He can be reached at 908-580-0744. This review has been abstracted from an article first published by mediate.com in January, 2005.**

## NJAPM Foundation Established

by Ben Feigenbaum

The NJAPM Board of Directors has, from time-to-time, considered proposals designed to further the goal of educating the public and increasing public awareness of the mediation process. In the course of those deliberations it became increasingly clear that even if NJAPM were to dedicate a substantial portion of its operating budget to any such programs, the statewide impact would be negligible – a drop in the ocean. The Board concluded that a much more effective approach would be to provide start-up financial support for a 501(c)3 charitable corporation, qualified to obtain tax-deductible contributions from individuals and corporations and funding from philanthropic institutions.

NJAPM Foundation was incorporated

on March 16, 2006. Its Board of Directors are:

- President – Gale S. Wachs
- Secretary – Bennett Feigenbaum
- Directors:
  - Copeland G. Bertsche
  - William H. Donahue, Jr., and
  - Jill Sarah Moscovitz

**NJAPM  
Foundation  
was incorporated  
on March 16, 2006.**

The formal application to the Internal Revenue Service for 501(c)3 tax-exempt status is in preparation. After filing, IRS processing may take several months. But that is no impediment to program development and contacting potential funding sources. A major program under development is a much larger version of the current NJAPM Youth Peace Initiative under professional management. Also under consideration will be TV and radio and print media public awareness and education campaigns, and awards to law and graduate students for academic excellence in dispute resolution.

If you are interested in working with the Foundation on either funding initiatives or program development, please contact any Foundation board member.

# AFCC Issues Parenting Coordinator Guidelines

The Association of Family and Conciliation Courts (AFCC) is both an international and interdisciplinary professional association dedicated to the constructive resolution of family disputes. This includes lawyers, mediators, psychologists, child custody evaluators, social workers, parenting coordinators, and others professionals, researchers, and academics. In 2005, the AFCC issued Guidelines for Parenting Coordination. A brief summary of these guidelines is included below.

Parenting coordination is a child-focused alternative dispute resolution process in which a mental health or legal professional with mediation training and experience assists high conflict parents to implement their parenting plan by facilitating the resolution of their disputes in a timely manner, educating parents about children's needs, and with prior approval of the parties and/or the court, making decisions within the scope of the court order or appointment contract.

The overall objective of parenting coordination is to assist high conflict parents to implement their parenting plan, to monitor compliance with the details of the plan, to resolve conflicts regarding their children and the parenting plan in a timely manner, and to protect and sustain safe, healthy and meaningful parent-child relationships.

**Guideline I:** A PC shall be qualified by education and training to undertake parenting coordination and shall continue to develop professionally in the role.

**Guideline II:** A PC shall maintain impartiality in the process of parenting coordination, although a PC is not neutral regarding the outcome of particular decisions. Impartiality means freedom from favoritism or bias in word, action, or appearance, and includes a commitment to assist all parties, as opposed to any one individual

**Guideline III:** A PC shall not serve in a matter that presents a clear conflict of interest.

*In 2005, the AFCC issued Guidelines for Parenting Coordination. A brief summary of these guidelines is included below.*

**Guideline IV:** A PC shall not serve in dual sequential roles. A. A PC shall not serve in multiple roles in a case that create a professional conflict.

**Guideline V:** A PC shall inform the parties of the limitations on confidentiality in the parenting coordination process. Information shall not be shared outside of the parenting coordination process except for legitimate and allowed professional purposes. A PC shall maintain confidentiality regarding the sharing of information outside of the scope of the parenting coordination process, which is obtained during the parenting coordination process, except as provided by court order or by written agreement of the parties.

**Guideline VI:** A PC shall assist the parties in reducing harmful conflict and in promoting the best interests of the children consistent with the roles and functions of a PC.

**Guideline VII:** A PC shall serve by parent stipulation and/or formal order of the court, which shall clearly and specifically define the PC's scope of authority and responsibilities.

**Guideline VIII:** A PC shall facilitate the participants' understanding of the parenting coordination process so that they can give informed consent to the process.

**Guideline IX:** A PC shall fully disclose and explain the basis of any

fees and charges to the participants.

**Guideline X:** A PC will communicate with all parties, counsel, children, and the court in a manner which preserves the integrity of the parenting coordination process and considers the safety of the parents and children. The PC will have access to persons involved with family members and to documentary information necessary to fulfill the responsibilities of the PC.

**Guideline XI:** A PC should attempt to facilitate agreement between the parties in a timely manner on all disputes regarding their children as they arise. When parents are unable to reach agreement, and if it has been ordered by the court, or authorized by consent, the PC shall decide the disputed issues

**Guideline XII:** A PC shall not engage in marketing practices that contain false or misleading information. A PC shall ensure that any advertisements regarding qualifications, services to be rendered, or the parenting coordination process are accurate and honest. A PC shall not make claims of achieving specific outcomes or promises implying favoritism for the purpose of obtaining business.

We refer our members to the AFCC website located at [www.afcc.net](http://www.afcc.net) for a complete copy of these guidelines, as well as information about AFCC.

*Editor's Note:* Parenting coordination is becoming an increasingly popular activity among New Jersey mediators and other professionals. The recent court decision in this regard has made the issue even more timely. The most comprehensive statement about this activity appears on the AFCC website. It is a lengthy, 29 page document.

Anju Jessani, who is about to publish an article comparing mediation to parenting coordination with *The American Journal of Family Law* (with Parenting Coordinator, Laura James), excerpted the most important parts of that document for the above synopsis.

# Mediate That!

Carl Cangelosi, JD, APM, Moderator

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 New Jersey have alimony guidelines?

Paul Kreisinger, Esq. will present the position against, and I will take the position for alimony guidelines.

**Paul—**

Alimony guidelines? Are you kidding?

Where are they sanctioned? Use of guidelines would be an abrogation of the responsibility to find alimony suited to each party's lifestyle and economic means. This cannot be done by a simple-minded formula of .30 times the difference in the parties' earnings.

N.J.S.A. 2A:34-23b calls for the application of 12 factors, plus a 13th wild card factor ("any other factors which the court may deem relevant"). Application of alimony guidelines bypasses the difficult work of reconciling the incomes and overheads of each party. Here's the in-chambers conference: "What does she make? What does he make?...sounds like it's in the neighborhood of \$35 to \$40,000 per year. That's not how it is supposed to be done; it does a disservice to both payor and payee.

There is no justification for using a rule of thumb to affect the economic lives of litigants. The Child Support

Guidelines are rooted in statistically sound data on the cost of raising children in New Jersey. There is no basis for alimony guidelines.

Alimony guidelines may afford some guidance. Like a full moon, they could serve the limited purpose of illuminating the economic landscape and provide a starting point for discussion. But they cannot serve as a substitute for the drawing of an income and expense analysis, and fitting the needs of the parties to the means available.

So why have lawyers or mediators? Use a calculator and apply the formula.

Alimony guidelines treat the parties as if families were formulaic, cases disposable, and neither worth the time, thought or expense.

**Carl—**

1990 and Child Support Guidelines are adopted in New Jersey. Paul Kreisinger rails that they are simple-minded, bypass difficult economic analysis, and are a disservice to the litigants. It's new and I'm against it.

Face the facts: judges do it; MESP's do it, lawyers do it... Take the difference between the incomes and apply a factor somewhere between 30-36 percent. And don't forget lots of other states have alimony guidelines.

So let's make it official and put it into a guideline. Here are the reasons why. Alimony guidelines would:

**Reflect reality**—Enough said.

**Promote mediation and self-determination**—Divorcing couples

want to know what to expect. They want some predictability as to the result if they litigated. Guidelines, whether child support or alimony, provide predictability. Having a benchmark, would encourage couples to resolve the alimony within mediation.

**Promote consistency in litigated cases**—Judges have too much discretion in awarding alimony. Why should there be some much variance by county or by judge? That's simply not fair and creates the impression that the judicial system is arbitrary.

**Lower legal expense**—Some mediators are reluctant to discuss alimony with their clients and insist that they go to attorneys to hear what we all know is the alimony reality. Guidelines would eliminate this unnecessary expense.

Don't forget. I'm only talking about guidelines. Couples should still do their budgets to detail their individual needs and resources, just like they do with child support. And the guidelines would be rebuttable in court, to avoid unfairness, just as with child support.

*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 email at ccangelosi@njmediation.org.*

*Paul Kreisinger is an attorney/divorce mediator in Bergen County, with offices in Ho-Ho-Kus and Rutherford; he can be reached at 201.251.2300, or by email at pkreis@ix.netcom.com.*

## AOC Civil Mediators Committee

The NJAPM Board of Directors has approved establishment of the AOC Civil Mediators Committee. The Committee is charged to foster communications, share case experiences, compare AOC operations in the counties, and propose programs, projects, activities and tasks to further develop and expand civil mediation oppor-

tunities for NJAPM members who are on the AOC roster of civil mediators.

The idea to create such a committee was conceived by Ed Peloquin. The committee is co-chaired by Ed and Ben Feigenbaum.

All NJAPM members who are on the AOC civil roster are automatically members of this new committee. Any

other NJAPM member can become a member of the AOC Civil Mediators Committee on request.

Ed and Ben invite your input on organization and operation of the committee, and on what programs, projects, activities and tasks it should focus on. One question is whether we should create a listserve for AOC civil mediators, separate from the existing civil listserve.

# Lehr v. Afflitto: A Cautionary Tale

by: Holly M. Friedland, Esq.

Editor's Note: In the following article, attorney and mediator, Holly Friedland, tells much of the backstage story of Lehr v. Afflitto. Included in the article is a detailed discussion of confidentiality and privilege, both pre and post-UMA. She also provides guidance on what she is doing differently as a mediator, as a result of Lehr v. Afflitto.

I remember it like it was just the other day. I was sitting in Courtroom 8 at the Morris County Courthouse, making conversation with other attorneys while the calendar was called. One of the attorneys was telling me a tale of woe involving a case that had recently gone through mediation; how it had been scheduled for an uncontested divorce hearing but that it was then converted back into a case management conference, which was why she was in court that day. Little did either of us know that we were about to witness the start of a case that would send chills down every mediator's spine.

When her case was called, my friend proceeded to counsel table where she was informed that, in spite of the fact that there was no signed agreement, in spite of the fact that her client stated there was no agreement, and in spite of the fact that her client was not present to be heard, the court would be proceeding with the uncontested divorce hearing that day and would be incorporating the terms of a letter which had been issued by the court appointed mediator to counsel into the Final Judgment of Divorce. The rest, as they say, is now history.

In order to fully appreciate what happened, we must first go back a few months to when the parties first commenced mediation through the Economic Mediation Pilot Program. After completing two sessions, the mediator wrote a letter to counsel listing 13 items to which he believed the parties had agreed, although he noted he still needed to "tweak" them. He also set out three items that remained unresolved and inquired as to whether the parties wished to return to

mediation.

Shortly after receiving the letter from the mediator, Ms. Lehr's attorney, Mr. Laufer, notified the court that the parties had an agreement and requested that the matter be scheduled for an uncontested hearing. Shortly after this letter was sent, Mr. Afflitto's counsel Ms. Grather, notified Mr. Laufer that, in fact, there was no agreement and stated that her client wished to return to mediation. Mr. Laufer in turn wrote to the court and advised that the matter should no longer be considered uncontested and that the uncontested hearing scheduled for July 13, 2003 should be converted to a case management conference. We all know what happened then.

After Judgment was entered, Mr. Afflitto appealed the decision, claiming that there was no agreement and that a Harrington hearing should have been held. The Appellate Court agreed, and the case was remanded for a hearing.

At the hearing, Mr. Afflitto made the decision to subpoena the mediator to testify. He initially did so with the stated intent of establishing what instructions had been given to the parties during mediation, not as to whether or not there was an ultimate agreement. In doing so, both attorneys attempted to carve out a limited waiver of the confidentiality provisions of the Order to Mediation.

The mediator testified that he did not recall the parties reaching a final settle-

ment. He also testified that while he indicated in his letter that the parties had "agreed" to certain terms, the "agreement" was subject to review by the parties attorneys. Despite the Mediator's testimony, the court found that the parties had entered into a binding agreement, stating that the language of the mediator's letter "strongly implies that there was an agreement." Once again, the decision was appealed.

In rendering its decision to reverse the trial court's findings, the Appellate Court focused its attention primarily on two key issues. First, the Appellate Court asked whether or not the mediator should have been permitted to testify at all. Second, the Court asked whether the letter issued by the mediator should have been considered a binding agreement. The answer to both questions was emphatically no.

On the issue of the mediator's testimony, the Court relied primarily on the language of R. 1:40-4(c) and the Uniform Mediation Act (UMA). On multiple occasions, the Court pointed out that, under both the Rule and UMA, not only would the parties be required to waive confidentiality before a mediator would be allowed to testify in litigation, the mediator also possesses a privilege not to testify which must be **expressly** waived.

It is interesting to note that while the Court found that there were some situations in which a mediator's testimony could be appropriate, it warned against such waivers, stating that the success of the mediation process in our courts hinged on the assurance that what is said and done during mediation will remain confidential. Ultimately, the court found that there had not been an express waiver of confidentiality in this case and that the trial court erred in permitting the mediator to testify.

The court then turned its attention, albeit briefly, to the issue of whether or not the letter issued by the mediator could be considered by the Court to be an agreement. The mediator testified that both parties had been specifically advised that there would be no agreement unless

*(Continued on page 9)*

***Little did either  
of us know  
that we were  
about to witness  
the start of a case that  
would send chills down  
every mediator's spine.***

# Lehr v. Afflitto: A Cautionary Tale (Continued)

by: Holly M. Friedland, Esq.

(Continued from page 8)

and until there was a writing signed by both of them. The Appellate Court never ruled on the court's finding that the mediator's letter served as an agreement, choosing instead to resolve the issue on other more technical grounds.

The issues in Lehr II have been rendered moot by the passage of the UMA, however the Appellate Court's decision does raise two interesting issues as "food for thought." First, is there ever an appropriate time for a mediator to voluntarily waive privilege and agree to testify in the litigation? Second, as mediators, do we take sufficient steps in our own practices to ensure that the letters and statements that we issue to our clients are not subsequently held to terms that they did not agree to?

The general consensus of mediators I polled was that they did not think it was ever a good idea for a mediator to testify in litigation. Most would resist any attempt made by a party to try to compel them to do so. Several mediators provided me with samples of the language from their retainers to the effect that neither they, nor any of their records, would be subject to subpoena. One sample went even further, providing that, in the event a party attempted to subpoena the mediator or his records, they would be responsible for the payment of the mediator's legal fees and costs to oppose their efforts. I agree with my fellow mediators on this point. In order for mediation to be successful, parties must believe that what they disclose or agree to compromise will not be held against them later. The only way they can believe this is if they are told, repeatedly, that anything they say will be held confidential and that their mediator will not betray that confidentiality.

On the issue of the contents of Memoranda of Understanding, it seems that no matter how many times we say it, parties still operate under the belief that once something is in writing it is a done deal. Unfortunately, the Appellate Court in Lehr II stopped short of holding that Memoranda of Understanding and Letters

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are not considered binding or that mediated outcomes are not binding until a formal agreement is prepared and signed by the parties. The burden must, therefore, fall on us as mediators to make sure that we are clear on this issue.

We must make sure to protect ourselves and our clients from being forced into an Agreement that they never actually agreed to. The only way we can do this is by stating as clearly as possible, in writing, that there is no binding agreement until it is contained in a formal document signed by parties. It should be included in all of our retainers, and it should be the first sentence of every substantive letter that we send to our clients. It should also be found in the opening paragraph of any Memoranda of Understanding we prepare.

I'm sure we all include language in our Memoranda stating that they are not binding until placed in a Property Settlement Agreement, but do we state so in our engagement letter? Is the language in our Memoranda strong enough to drive this point home? I know that after this case was decided, I reviewed my firm's files. I have since changed the language I use in Memoranda to provide the following:

These proposed resolutions are not, in fact, agreements, and they will not be considered to be agreements until they are reduced to writing in the form of a property settlement agreement

and signed by both parties. This point is very important, and it bears repeating that there is no agreement until the parties show that there is an agreement.

Perhaps I have taken the wording of the Memorandum a step too far. Perhaps, by including this language I am making it too easy for some of my clients to back out of a good thing. I would rather that outcome than be faced with a situation in which a party is forced into an "agreement" they never actually agreed to.

In the end, the lesson we take away from Lehr is a cautionary one. The lessons to be learned are these: First, to paraphrase Frankie Valli: "Mediators don't testify." Second, they call it "magic language" for a reason.

## References

- Lehr v Afflitto, 382 N.J. Super. 376, 379 (App. Div. 2006)
- Harrington v Harrington, 281 N.J. Super. 39 (App. Div.) certif. Denied 142 N.J. 455 (1995)
- Lehr v Afflitto, A-6412-02T2 (May 7, 2004)
- Lehr v Afflitto, Supra., 382 N.J. Super. at 388.
- Lehr v Afflitto, Supra., 382 N.J. Super. at 390.
- N.J.S.A. 2A:23C-1 to -13.
- Lehr v Afflitto, Supra, 382 N.J. Super. at 393. (Emphasis of the court)
- Lehr v Afflitto, Supra., 382 N.J. Super. at 395.
- Big Girls Don't Cry, Frankie Valli (1962)

***Holly Friedland is a Member of the Firm at Celli & Schlossberg, L.L.C.. Her practice focuses primarily on the areas of Family Law and related issues. She has been approved for admission to the roster of Mediators of Economic Aspects in Family Law Cases in Morris and Sussex Counties.***

# Divorce Case Update

prepared by Carl Cangelosi, JD, APM

**Rodriguez v. Crane, App. Div.**—The motion judge made no findings of fact or conclusions of law and provided no statement of reasons why the particular determinations were reached. In remanding, the court notes its concern with the judge's apparent delegation of ultimate decision-making authority to the court-appointed Parent Coordinator, as well as the award of counsel fees. *January 12, 2006*

**Lehr v. Afflitto, App. Div.**—The court reverses the Family Part order enforcing a purported settlement reached during a court-ordered mediation session, after a plenary hearing conducted in accordance with *Harrington v. Harrington*, pursuant to the Appellate Division's remand of May 7, 2004. It was error to allow the court-appointed mediator to testify. This violated the mediation confidentiality provisions in *Rule 1:40-4(c)*. And even without the testimony of the mediator, the Family Part's finding that the parties reached a settlement was not supported by substantial credible evidence, especially since both parties stipulated they failed to settle three significant issues. *January 19, 2006*

**Dolce v. Dolce, Sr., App. Div.**—On the father's motion, the Family Part emancipated the parties' 18-year old son, who had dropped out of high school, despite a provision in the parties' property settlement agreement establishing age 23 as the emancipation date. The appellate panel reverses, concluding that, although a parent cannot bargain away a child's right to support -- because that right belongs to the child, not the parent -- nothing in the law, and no principle of public policy, prevents a parent from freely undertaking to support a child beyond the presumptive legal limits of parental responsibility. *February 7, 2006*

**In Re Child of Robinson, etc., Ch. Div.**—Under the Artificial Insemination Statute, N.J.S.A. 9:17-44(a), a child conceived through artificial insemination and borne

to a same-sex married couple should be accorded, from the moment of birth, the certainty of parentage, with its resultant rights, benefits and protections. The non-birth mother is acknowledged as the other parent of the infant borne to the birth mother of this couple. *January 18, 2006*

**Strahan v. Strahan, App. Div.**—The trial judge was correct in vacating the temporary restraining order against the defendant husband and dismissing the plaintiff wife's domestic violence complaint based on harassment. The wife alleged that, during an argument about a \$1.7 million transfer from the parties' joint account, the husband yelled and cursed at her, had "spit coming out of his mouth," and had his finger in her face, "forcing her to back up". There was substantial credible evidence to support the Family Part's conclusion that the husband's only purpose was to have the wife return the money that she had unilaterally transferred from their joint account and that he did not have a purpose to harass. The wife's reaction to the husband's efforts to have her return the money did not "provide a valid basis for inferring" that the husband's purpose was to harass her. Contrary to the wife's argument, the Family Part did not abuse its discretion by excluding testimony from three of her witnesses. *February 10, 2006*

**Barblock v. Barblock, Jr., App. Div.**—Defendant Joseph Barblock appeals the Family Part's order allowing his ex-wife, plaintiff Paula Barblock, to remove the parties' two minor children from New Jersey to the vicinity of Buffalo, New York. The Family Part found it unnecessary to conduct a plenary hearing before granting plaintiff's removal application because there was no "genuine issue of fact . . . bearing upon a critical question" under the removal standards to warrant a full-blown hearing. Although a plenary hearing is usually required to resolve contested re-

moval applications, no such hearing was required here. Plaintiff wanted to move to the Buffalo area so that she could be closer to her extended family, to attend school full-time, and to live and work permanently in that region. Defendant opposed plaintiff's removal application, alleging among other things, that the move would interfere with his parenting time, that the plaintiff's family was hostile towards him, and that the schools in the Buffalo area were inferior to those in Wayne, New Jersey. Defendant retained no expert, offered no alternative visitation plan, and did not seek to have the children interviewed.

The trial court established that the removal statute N.J.S.A. 9:2-2, applied to this case it then determined that since the plaintiff had primary custody of the children, it would apply the standards of *Baures v. Lewis*, 167 N.J. 91 (2001). *Baures* requires the removal to be granted where the proofs demonstrate that (1) there is a good faith reason for the move and (2) that the move will not be inimical to children's best interests. Although the defendant asserted that he and his ex-wife shared certain parenting functions and therefore the court should have conducted a plenary hearing, we find that the court appropriately applied the *Baures* test because the record clearly shows that plaintiff was the primary caretaker. Defendant did not provide adequate support in his opposing certification to demonstrate that he was a true joint caretaker with day-to-day responsibilities for the children commensurate with those of the plaintiff. Furthermore, defendant did not assert that he was ready, able, and willing to take on the role of primary caretaker if plaintiff chose to relocate to Buffalo without the children.

There is ample proof to meet the two prongs of *Baures*. Plaintiff provided good faith reasons for wanting to move to the Buffalo area and furthermore the defendant did not show that plaintiff's desire to move was pretextual or malicious. Additionally, the record was bereft of proof

*(Continued on page 11)*

## **Divorce Case Update (continued)**

**prepared by Carl Cangelosi, JD, APM**

(Continued from page 10)

that plaintiff's relocation would be inimical to the children's best interests. Defendant did not identify any specific harm to the children, other than speculation.

The Family Part's order is affirmed, but caution that in doing so we do not encourage trial judges to forego plenary hearings in removal cases in the common situation where there are genuine issues of material fact. February 21, 2006

**Bodnar v. Sperendi, App. Div.**—While defendant's verbal ministrations to plaintiff -- his former girlfriend -- were unwanted and continued, despite plaintiff's attempts to discourage them, the panel cannot conclude, as did the trial judge, that they rose to the level of serious annoyance contemplated by N.J.S.A. 2C:33-4c to qualify as an act of domestic violence. This is especially so because plaintiff admitted that defendant never uttered any threats, and she felt no alarm or anxiety about her safety. The final restraining order entered against defendant is reversed. February 24, 2006

**Steele v. Duffy, App. Div.**—The appellate panel disagrees with the trial judge's conclusion that defendant's course of conduct toward plaintiff -- his former paramour -- constituted domestic violence, where, for about three months after plain-

tiff ended the relationship, he telephoned her and left messages on her answering machine, stopped by her work area at their shared place of employment, and visited her home uninvited. The series of acts, which the judge described as harassing communications, consisted largely of communications by telephone that had ceased, and visits that had ended long before plaintiff sought protection. Although there were two letters that were left for plaintiff more recently, there was nothing harassing about either of them. February 24, 2006.

**Makara v. Marino, App. Div.**—The motion judge was correct in denying the mother's request to compel the father to pay part of Catholic school tuition for their 7-year-old son and in awarding the father the tax exemption in odd-numbered years. As to Catholic school tuition, the judge found no basis under the New Jersey Child Support guidelines for the child to attend private or parochial school, other than the mother's own wishes. While she had the right to make that choice, she must bear the cost. As to the income tax exemption, the judge's decision was equitable and within the court's discretion, by offsetting funds which had been paid to the mother for daycare but

which she never obtained, and which the father would never otherwise recoup. March 20, 2006

**Beisser v. Beisser, App. Div.**—Finding that ex-husband had not complied with the parties' 2000 New Jersey divorce agreement regarding the former marital residence, the Court affirms the decision requiring him to buy out his ex-wife's interest in the property for \$331,000, or that he move out of the house on a date certain to permit the house to be sold to third parties, who had offered \$440,000. The Court rejects his arguments that (1) she was only entitled to one-half of what the house was worth in 2000, despite the 4-year delay, during which time its value more than doubled; and (2) that he should be permitted "sweat equity." April 7, 2006

**Platt v. Platt, App. Div.**—Averaging the husband's income for a 5-year period to determine his alimony and child support obligations was appropriate because he was employed by his own corporation and was solely responsible for determining his salary. He had substantially decreased his salary in a manner inconsistent with corporate profitability in the 2 most recent years, immediately after filing his divorce complaint. April 10, 2006

### ***Have Insurance?***

**As a service to our members, NJAPM now offers Professional Liability Insurance.**

**Policies are available to all general and accredited members of NJAPM.**

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**for Arbitrators and Mediators Liability Insurance**

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**For further information or to obtain forms, please visit our website at [www.njapm.org](http://www.njapm.org),**

**or contact NJAPM Treasurer, Armand Bucci, at**

**[armandbucci@alum.drexel.edu](mailto:armandbucci@alum.drexel.edu) or 856-663-2237.**

## Editor's Column: Robert Karlin, PhD, APM

### On Divorced Women Putting Their Lives Back Together.

**W**e all know that people's view of the future influences what happens in divorce mediation. There are many aspects to such futures, and as a long time therapist I thought I would share a perspective that is important, but outside most non-therapist mediators' professional experience. This time I'll talk about women, post-divorce. Men may be featured in the next column.

Many women are unduly pessimistic about future relationships, both before and after divorce. Given years of marriage, they can not imagine starting over. The idea of dating can be terrifying. Along with all the problems of time, energy, and money involved in being single (or a single mother), there are a number of emotional issues that are natural after a divorce, whether one was the initiator or the non-initiator. Among these many issues are thoughts and feelings about relatedness and sexuality.

There are far more questions that arise in this regard than I can discuss in a brief column. For example, "Where would I find the time?" "How and when will I ever feel comfortable with a man again?" "What are the "rules" now?" Then there is attractiveness. Adult women remember their own youth and may feel unattractive, especially when compared to younger women. Combine this with the (untrue) urban legend that women in their thirties and beyond will never find any man, never mind a sexually attractive, decent man, and you have a formula for never trying to meet people or beating a swift retreat when you do try.

Of course, one can choose not to try again. While for some this is a fine choice, others adopt this posture in quiet despair. In fact, they have given into anxiety, depression, and a lack of knowledge about how to go about meeting new men.

With a little help, such despair can be avoided. Over the last 30 years, I have usually had one or two recently separated or divorced women in my therapy practice. *With only one exception, all have*

*wound up in good relationships with good men.* And while there has been the occasional second divorce, the large majority seem to be happily growing older with the person they met and (usually) married. Most competent therapists can tell you the same story. But there are markers on the road and some rules of thumb that are obvious after one has worked with a number of such patients.

First, *a final decree of divorce makes a difference; divorced people meet different people than do those who are still in the midst of a divorce.* This is important for mediators to understand. Our ability to move a divorce forward quickly has some uncounted benefits in this area. The people one meets while one is separated, but still married, may be good and interesting people. They are also people who are willing to get into a relationship with someone who is married. Moral concerns aside, such people tend to lead more problematic lives and be more involved in their own melodramas than those who won't date someone who is divorcing rather than divorced.

Second, most women come to divorce with the sense that there is no one out there, certainly not for them. Incredibly, when a woman is available and really open to a new relationship, guys fall out of the woodwork and into her path. Don't ask me how that happens, but it does. Perhaps it is the places one goes, the way one sits or moves, the way one's pupils get larger with excitement. I don't know how it happens, but my clinical experience says that it has happened far too often over the years to be coincidence.

For some women, being available may involve going to church or making a new circle of friends. For others, it may involve advertising availability in an alumni magazine or on an internet dating site. (There are now lots of books on safe internet dating and for the right person, when combined with common sense, they can be helpful.) Mostly, it involves a state of mind that demands getting out there and kissing a few frogs in the process of meeting the right man.

It takes awhile to become really available. You don't get there before letting go of the man to whom you were married.

Feelings for him may remain and co-parenting goes on, but the ex-husband must be past not present tense in a sexual and emotional life. One must also let go of the quasi-relationships that may have formed on the way. In sum, the divorced woman must be able to say clearly, to herself and others, "I really want someone new in my life and I want a serious relationship with him."

Incidentally, that doesn't necessarily mean marriage. As one moves from women in their 30s to those in their 40s, 50s, 60s and so on, long-term, monogamous relationships without marriage become more common. As does retaining separate residences and finances. Unsurprisingly, "kids" in their forties may be more supportive of Mom's or Dad's "significant other" if it is clear that their inheritance is not in any danger.

Third, how does one avoid making the same mistake again? Some people (though far from all) find themselves attracted to someone who seems similar to (or the polar opposite of) the person they thought they were marrying, and from whom they just got divorced. To some degree, attraction is not a choice; it is something that happens to you. On the other hand, how one handles attraction is a choice. Talking over this choice with a therapist can be quite helpful.

The take home message for mediators is that a final decree of divorce is as important in this area too. Further, the middle class, 45 year-old mother with kids aged 12 and 17, can have a social life and real relationship, whenever she is ready. As can the childless 38 year old. As can the 66 year old grandmother of five.. A good therapist can help with that along with the other transitions to a single life. Finally, and perhaps most important for mediators, learning that one doesn't have to be alone forever may make ending a failed marriage easier and less terrifying.

**Robert Karlin, PhD, APM is an Associate Professor of Psychology at Rutgers University, and an NJAPM accredited family/divorce mediator. He can be reached at 609-924-7019 or by e-mail at [bkrln@aol.com](mailto:bkrln@aol.com).**

# Membership Committee Hosts New Member Orientation Session

by Robert McDonnell & Pat Westerkamp

**O**n March 22, 2006, the Membership Committee hosted an orientation session for new members of NJAPM. The orientation, held in conjunction with the General Membership Meeting, was very well attended and provided new members with an understanding of how they can utilize the many resources of NJAPM, and also gave sight into how their professional organization functions for its members. NJAPM President Anju Jessani introduced the session which was moderated by the Membership Committee; Robert McDonnell and Claudia Cohen and Patrick Westerkamp.

New members were introduced to the goals of NJAPM, such as how the organization fosters awareness of mediation, provides information to the public about mediation, sponsors training and educational opportunities, and upholds standards and a code of ethics for its members. The management structure of the Association was also discussed. It was noted that, other than the back-office support provided by a professional management organization, all officers, directors and committee chairs serve in their capacity as volunteers. Notably, several

NJAPM officers and committee chairs were in attendance at the orientation.

The benefits of attaining the status of Accredited Professional Mediator were discussed. Accreditation Committee Chair, Tom Hanrahan, gave a brief overview of accreditation and provided helpful insights into the process. The upcoming training and educational programs for both civil and divorce mediators were discussed and previewed. An updated listing of coordinators of the regional peer breakfast or luncheon group meetings was distributed.

There was a discussion of the website and the appropriate uses of the various listserves, which provide means for group communications with peers and other mediators. Webmaster Carl Cangelosi was introduced to new members.

All new members were provided with information on their NJAPM officers and directors, along with the names of all committee chairpersons. Importantly, new members were asked to consider participating on one of the many NJAPM committees, and it should be noted that several new members did indeed volunteer to join a com-

mittee and participate in their new organization.

For those not able to attend the March 22 new member orientation, a copy of the material presented is available on the NJAPM website at [www.njapm.org/pg/member/Newmemberorientation13006.pdf](http://www.njapm.org/pg/member/Newmemberorientation13006.pdf).

We start our fall program with our September 20, 2006 General Meeting. The General Meetings start at 7:00 PM. However, all new members and guests are asked to arrive at 6:30 PM for an informal orientation by the Membership Committee.

In the event that new (or existing) members have questions about NJAPM, contact information for the Membership Committee is as follows:

**Claudia Cohen**  
(908 654-4303)  
cecohen@comcast.net

**Robert McDonnell**  
914-329-1156 or 973709-0188  
rjmcdonnell@optonline.net or  
rmcdonnell@alliance-mediation.com

**Patrick Westerkamp**  
732-866-7919  
mediatorpat@verizon.net

## *"A Mediators Prayer"*

*(Suggested by Tom Hanrahan, Mediationworx, LLC)*

*by Mary Stewart, Queen of Scots*

*Keep us, Oh God, from pettiness; let us be large in thought, in word, in deed.*

*Let us be done with fault-finding and leave off self-seeking.*

*May we put away all pretense and meet each other, face to face, without self-pity and without prejudice.*

*May we never be hasty in judgment and always generous.*

*Let us take time for all things; make us to grow calm, serene, gentle.*

*Teach us to put in action our better impulses - straight forward and unafraid.*

*Grant that we may realize it is the little things of life that create difficulties; that in the big things of life we are as one.*

*Oh, Lord, let us not forget to be kind.*

*Amen.*

*I think I'll have all parties sign it before I start!*

## Members Tell All

prepared by Judy Shemming

**A**dam Berner spoke at a panel presentation at the Association of the Bar of the City of New York on May 8th, 2006 on the topic, *What You Need To Know About The Matrimonial Commission's Recent Recommendations Concerning The Use of ADR*.

**Siobhan Fay** writes: I am getting married (for the second time) to a neuropsychologist, Dr. Richard Filippone, (his second marriage too!) on June 9th in Rhode Island with a small dinner party and ceremony, overlooking the cliff walk in Newport. We met working together in his private practice in Bergen County., where I currently consult, and we are planning on moving to Princeton Junction in early August.

Privately, my specialty is counseling parents in high conflict custody and parenting time disputes pre and post divorce. I have also just arranged an advanced mediation training for court mediators in the state and our president, Anju Jessani, has graciously accepted to be the first trainer! If all goes well, I would like to invite other private mediators to share their skills with the court staff, of course for a fee! I'll keep you posted.

**Ben Feigenbaum** has been elected Chair of the New Jersey State Bar Association's Dispute Resolution Section.

**Anju Jessani** says, my stepdaughter, Tara Purasson, who has manned NJAPM's conference booth for the past four years, will be attending Northeastern University in the fall. She is planning to major in Music Industry Management.

**Bob Karlin** says, my daughter, Elizabeth, was admitted to Northwestern University and is on the waiting list for Harvard. My younger daughter, Sarah just completed 10<sup>th</sup> grade at a new school while pursuing new vistas in musical

comedy. My grandson, Ari Silverman, was admitted into the kindergarten class at Columbia Grammar in NYC. (That's just about as difficult as getting into Harvard.) Finally, three articles of mine were accepted recently by scientific journals or books for publication. All three are on clinical or experimental aspects of psychotherapy.

**Tony Limitone** reported that he, Charles Abut, and Bob Margulies were recognized by *New Jersey Monthly* as some of New Jersey's Superlawyers in its April 2006 issue. Tony also reported that his article on "Arbitration and Mediation of Employment Disputes" was published in *Employment Litigation in New Jersey*, (C. Jacob, ed.)(LexisNexis, 2006).

**Peter Scarpato**, President of Conflict Resolved, LLC and a featured speaker on Mediating Insurance and Reinsurance Claims at NJAPM's May 13, 2006 Advanced Mediation Techniques Workshop, has just become a Certified Umpire for ARIAS-US, for which he has been a Certified Arbitrator for years.

**Judy Shemming** says, my daughter, Kelly, is graduating with highest honors from Marist College and will be working for IBM after graduation. My youngest daughter Kristina will be attending TCNJ, where she will be playing soccer. My daughter Katie just finished her first year as a kindergarten teacher in Jamesburg.

**Barbara Weisman**, received the prestigious Professor Boskey Award for ADR Practitioner of the Year at the April 19th meeting of the Dispute Resolution Section meeting. Barbara is the immediate past-president of the section, and has a civil mediation practice in Verona, New Jersey.

## Annual Divorce Mediation Seminar

by Judy Shemming

**W**hat's a great way to spend a rainy spring day? Those of us who attended the Annual Divorce Mediation Seminar on April 22<sup>nd</sup> found it to be an informative and entertaining way to spend a rainy day. (I am sure you saw the emails!) The topics such as bankruptcy and matrimonial law, alternative ways to intervene with parents, and a "skit" about the differences between litigation and mediation were well presented. The seminar closed with a great presentation on alimony.

The "hot" topic was coaching and its relevancy/relationship to family mediation, presented by Nan Wise, LCSW, ACSW, an "Internationally acclaimed expert on Life, Love, Health and Happiness Coaching". She is the author of "Outrageous Intimacy" and even if we didn't quite agree with her style, she was entertaining.

There were a few lucky males in attendance. I wish I could remember who said something like, "I haven't seen odds like this since I visited my mother-in-law at the assisted living home where the women outnumber the men by 10 to 1".

The luncheon was tasty and a good time was had by all. Our hats go off to Carl Cangelosi and Joan Geiger, the organizers of the seminar, for a job well done.

*Become an active member of the Association. Join a Committee. Contact the Chairperson of the Committee you would like to join.*

*This is a new column. We are planning on publishing it about once/year. Sometime during this year, something good will happen to you. Or you yourself will do something great.*

**DON'T BE A WALLFLOWER. SHARE YOUR NEWS WITH US!**

Contact Judy Shemming with news to share at [JAShemming@aol.com](mailto:JAShemming@aol.com)

## Committee Chairpersons

Committee	Chairperson(s)	Telephone	E-mail Address
Accreditation	Tom Hanrahan	973-616-6601	njmediator@optonline.net
Annual Conference	Gale Wachs Anju Jessani	908-256-6505 908-303-0396	mediatornj@aol.com ajessani@dwdmediation.org
Executive Committee	Anju Jessani	908-303-0396	ajessani@dwdmediation.org
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	732-382-6070	gene@finkrosner.com
Membership	Bob McDonnell Claudia Cohen	914-329-1156 908-654-4303	rjmcdonnell@optonline.net cecohen@comcast.net
Newsletter	Bob Karlin	609-924-7019	bkrln@aol.com
Nominating Committee	Gale Wachs	908-256-6505	mediatornj@aol.com
Peer Consultation /Mentoring	Bill Donohue	856-854-0303	onedonohue@aol.com
Programs	Carl Cangelosi	609-275-1352	ccangelosi@njmediation.org
Organization Development	Ben Feigenbaum	973-682-9500	limg@att.net
Youth Peacebuilding Coalition	Bill Donohue	856-854-0303	onedonohue@aol.com
Website	Carl Cangelosi	609-275-1352	ccangelosi@njmediation.org

## Organization Development Committee merged with the Marketing Committee by Ben Feigenbaum, Committee Chair

The operations and responsibilities of the NJAPM Marketing Committee have been merged into a newly created Organization Development Committee with a broader scope of responsibilities. Ben Feigenbaum chairs the new Committee.

The new Organization Development Committee has three major areas of responsibility:

1. To promote the concept and process of mediation. Mostly by supporting and working with the NJAPM Foundation (see accompanying article).
2. To promote the NJAPM organization: (a) to the public by press releases and letters to editors, by operating a speakers' bureau, and by working with the NJAPM Webmaster on the content of

the public sections of the NJAPM website; (b) to government, working with the legislative and judiciary liaison committees; (c) to business and social service organizations; and (d) to prospective members working with the Membership Committee and working with the Webmeister on the content of the members-only sections of the website.

3. To promote business for accredited professional mediators by advertising and by a mediator referral service.

The new committee decided to change its name because "marketing" meant so many different things to so many people that it caused confusion and misunderstanding as to the scope and responsibilities of the committee.

The concept of marketing is reasonably well understood in the setting of a commercial business offering a product or service. Not so clear is what a professional organization, such as NJAPM, is "marketing" and to whom. Adding to the confusion was that many NJAPM members not surprisingly believed that the marketing committee was to provide advice and support to members on how they could more effectively build their individual businesses, a subject that was not within the purview of the marketing committee.

Organization Development was no one's favorite name for the new committee. Suggestions for a name that better describes and encompasses its scope of responsibilities would be most welcome.

## **NJAPM Welcomes New Members**

**( Joining Jan. 1, 2006—May 1, 2006)**

**NJAPM welcomes the following  
new General Members:**

Edith D. Annin, BA  
Jeffrey Samuel Apell, JD  
Melissa H. Biren  
Maura Busch, JD  
Alberto Caballero, Esq.  
Yildiz Dural, PhD  
Donald J. Franklin, PhD  
Debra L. Gallant, CPA  
Maria P. Imbalzano, Esq.

Deborah Ann Josell, LCSW  
Lorraine Kostinas, MA  
Patricia A. McKenna, Esq  
Christopher Perillo  
Martin Rosenfeld, J.D  
James Paul Sasso  
Peter A. Scarpato  
Michele Walter, JD  
Douglas J. Widman, Esq.

**We congratulate these newly  
“Accredited Professional  
Mediators” on their achievement:**

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