



## “Mediator Certification Update”

By Marilyn McKnight

Divorce mediation these days is a profession without direction. Anybody can refer to oneself as a divorce mediator, take out an ad, hang up a shingle, and go into business, without any training in mediation. There are constant reminders of the importance of certifying family mediators, beginning with divorce mediators. There has been a troublesome lack of clarity as to what is good divorce mediation practice. Many practitioners still believe they are mediating when they use coercive tactics, work most closely with the lawyers representing clients, advise clients on what is best for them, keep the clients separated from each other, use experts to advise rather than inform, and not trust the clients to make their own decisions. Of course, professional family mediators who adhere to the Family Mediator Standards of Practice bristle when they have clients report their experiences with such so-called mediators.

The Professional Mediation Board of Standards (PMBS), formed in 2014, is working to legitimize the mediation profession, and it has been meeting bi-weekly to work on developing the certification criteria for divorce mediators. We decided to name our corporation the Professional Mediation Board of Standards because we believe this best describes our work, which is to develop the profession through a competency-based certification process. We almost have completed our Mission and Vision Statements, By-Laws, Policies and Procedures Manual, and our non-profit status—activities that are the necessary steps to create a Standards Board and

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certification process.

We began as volunteers on a Certification Committee of The Academy of Professional Family Mediators (APFM) discussing how the certification of divorce mediators would take form. We solicited proposals from companies that develop certification processes and tests, and we identified the necessary qualifications of family mediators to be eligible to take an examination. We also began to think about important elements of that examination. The discussions were rich and thoughtful, and we were optimistic that the process would be fully developed in the near future.

With the Board of PBMS now more formally organized, our next tasks include raising funds to expedite the approval of our IRS non-profit application. Once approved, we will need to identify resources to employ a test development company and begin the process of a job analysis to determine the criteria for testing family mediators. We have discussed the importance of the knowledge base of family mediators and the skills necessary to perform all of the tasks of mediating a divorce.

So, when the PMBS finally rolls out its competency-based certification of mediators, the public will begin to know these

differences in mediation practice and mediator competence and will be able to make well-informed decisions when choosing to employ a family mediator. Defining the family mediation profession has been far too long a time in coming, and we intend to give it the respect it deserves as a separate profession in the field of conflict resolution. Moving forward, we invite you to let us know your thoughts and questions.

The PMBS will lead a workshop session at the upcoming APFM conference in October, 2015 in which you may meet the board, ask your questions, and provide your input, comments, and recommendations.

We look forward to hearing from you!  
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# The Professional FAMILY MEDIATOR

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### *The Professional Family Mediator*

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### Editorial Policy

In efforts to present a wide range of perspectives on the many issues facing family mediators, the views expressed by each contributing author are intended to encourage consideration and debate but do not necessarily represent the views of the Academy of Professional Family Mediators or its editorial staff.

### Legal Disclaimer

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## Editor's Notes

### "TYPOS Becoming REALITY"

By Don Saposnek

#### Dear Readers,

What is the difference between mediation, meditation, and medication? This spoof question was asked by our colleague, Jim Melamed, in one of our earliest Mediation Bloopers videos that Chip Rose and I produced together. It was based on the frequent spelling errors that writers make using these commonly typographically interchanged words. Another such error is the erroneous interchanging of the words, marital and martial, as in "One of the martial assets to be divided..." There is irony in them, thar words...when marital affairs become martial affairs...as these matters turn into the high conflict divorces that we so often see. Moving this further along, when I began doing mediation training workshops in the early 1980s, using Aikido as a metaphor for strategic mediation, reviewers noted that I was teaching the mediation of marital disputes with martial arts. And, thus, another word meld adds to the mix—when orthographic errors blend with family tragedies.

Over time, I have noticed that what used to be typos have turned into actual joint-word usage. For example, after my many years of editing out these errors in drafts sent in for publication, Zena Zumeta sent in a proposal for a spirituality workshop titled "Meditation in Mediation." At first, I thought it was a typo, as I was editing the conference program for one of our early newsletters for AFM. But, upon calling Zena and asking her about the error, she told me that it was no error; moreover, she had not even noticed the ironic word fun in it. For her, it was a very serious title for a very serious workshop. In fact, her workshop was the first of what turned in to become the Spirituality Section of ACR.

Then, some years later, another workshop presenter (name forgotten) titled his workshop something like "The Importance of Knowing about Medications in Mediation Clients." That word gag in our Mediation Bloopers video spoof had suddenly become un-funny, as this third word association became a reality. That is the way with humor. I've always said that humor is on the edge between what we know as

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current reality and what we imagine could be in the future. We laugh to release the cognitive dissonance and tension created by two juxtaposed ideas that co-exist in the punch-line of the joke, but not yet in reality. Once the "future" idea crosses over that line and becomes the current reality, there is nothing funny about it any longer.

So, now, having corrected all the funny typos in the submitted drafts, I now present to you the edited articles for our Spring Issue of TPFM. As our featured article, we feature an overview and update on the Certification efforts of our sister corporation, The Professional Mediation Board of Standards. Marilyn McKnight, the President of the organization, reveals the current status and the upcoming tasks the Board needs to complete. For those of you who want to know more detail about its progress, the Board will be holding an informational session at our annual conference to also gather your input.

Next, we have our President's Message Column, in which Chip gives an overview of the recent changes in the composition of our Board, as we continue to freshen up our membership and position ourselves on the next platform for growth of our increasingly vital family mediation organization. Following this is Bill Eddy's Column, The Ethical Edge, which explores an important and sensitive topic that is not much represented in the professional literature, or in national conference presentations—the assessment of client competence to do mediation. The real-case dilemma that Bill presents, hopefully, will stir you to respond to him with your ideas of what you would do; it is, indeed, a fascinating issue. Our Columnist on The Legal Stuff Matters, Larry Gaughan, next presents "Creative Options Based Upon Substantive Trade-offs." This very substantive piece explores the key issues and presents suggestions for utilizing lawyer negotiations in a collaborative manner, in order to reach a creative and workable outcome on matters financial. Larry continues to challenge us to go beyond technique to real substance in our facilitations of divorce settlements.

Chip then returns with his latest creative solu-

tion. In this issue, he reminds us how anxious our clients get when discussing the tax implications of their marital dissolution. He offers creative ways for us to help clients deal effectively with taxes, and he emphasizes the need for clients to cooperate with each other to maximize the minimization of their tax liabilities.

In closing, we present Ada Hasloecheer's last lesson on Mojo Marketing and Management; "Networking 101-7 The Dreaded Elevator Speech." Indeed, I literally mean that this is her last lesson, for Ada has chosen to end her term as the reigning Queen of Marketing for The Professional Family Mediator. Because of other pressing professional responsibilities, Ada needs to move on (Ada, we will miss you and your New York spirit, dearly! Thank you for all your inspiring ideas and your support for us giving those "elevator speeches"). At Ada's recommendation, we will be filling her slot with a series of articles (and maybe a Column) on the use of "Social Media" for mediators. While many mediators already use forms of social media, others will benefit by getting up to speed with the power of these tools.

And last, along with the Board, I encourage you to send in your proposals to present at our October conference in Washington, D.C., and to send to me relevant articles that may be of interest to our readership for publication consideration.

I leave you with this thought:

"People think I'm successful because of what I know; but my success really comes from how I deal with what I don't know."

---Ray Dalio,

Founder of Bridgewater Associates,  
the largest hedge fund in the world,  
valued at \$169 billion.

Enjoy.  
Don Saposnek  
Editor

*The Professional Family Mediator*

## President's Message

By Chip Rose, J.D.

According to the Dictionary of Proverbs, the refrain, *March winds and April showers bring forth May flowers*, is a saying that dates back to 1886. That optimistic phrase offers the hope of rebirth and renewal that comes with the changing of the seasons. This past fall and winter have been seasons of change for APFM, as various board members have transitioned off the board and other talented members with new energy have taken up the mantle. Some of this transition has delayed the timing of the enormous effort necessary to put on the upcoming annual APFM Conference, October 22-25, 2015, in Washington, DC. Pulling together all the disparate pieces required for such an undertaking, the Conference Committee, co-chaired by Marilyn McKnight and Virginia Colin, with the aid of a conference management company, is in high gear. Working with the Conference Committee for the first time, I have a new appreciation for the amount of time, effort, and energy that was put in by Ken Neumann, who was past chair for our first three very successful conferences prior to his stepping down from that position. We should all show our support for the tremendous gift of time and effort that this committee and its members contribute for the benefit of the organization by coming to the conference and networking with our fellow colleagues.

I recently sent out a reminder regarding the Call for Proposals for Workshops, Pre-Conference Institutes or other presentations. I encourage you to seize this opportunity to share your knowledge and experience with all our members by submitting your proposals as soon as possible. My first time presenting was in 1991, when Don Saposnek invited me to join him in making the first of our Mediation Bloopers series that we subsequently showcased in successive plenaries at AFM conferences. Two years later, I presented my first substantive workshop, on Mediating Financial Issues, at the AFM conference in Washington D.C. some 22 years ago. Seems like only yesterday. For any of you who have not presented before, I know the feeling of trepidation that attaches to the idea of standing in front of your colleagues and feeling slightly intimidated. I encourage you not to let that anxiety prevent you from putting in a proposal. We all have experiences, process approaches, and especially the lessons from failures

which can benefit all of us when we share, discuss, and interact. One of the great unknowns about presenting—really teaching—is the fact that teaching requires us to become a “student” of our own work. The level of development of the mediation model that I employ would never have come into existence if I had not engaged in as much “presenting” as I have over the years. So, send us your proposals, and become a contributor to the success of the conference and of our field.

Meanwhile, other committees of APFM are in high gear. The several board members who also serve on the Professional Mediator Board of Standards working on certification continue building the foundation for the establishment of a certification process designed and created by professional mediators. For those of you unfamiliar with this undertaking, it is a development that the Board committed to in the face of increasing regulation of mediators driven by legislation proposed by bar associations, often reflecting a bias towards the legal system and its procedures for the governing of professional mediators. The goal of the PMBS Board is to create an approved methodology for the certification of mediators that will be embraced by any legislative body seeking to regulate the profession in their jurisdiction.

The Membership Committee, chaired by Stacey Langenbahn, is working in parallel tracks to up-

date and revise the membership contact interface on the website. This includes modernizing the methodology that allows members to renew their APFM membership on-line, as well as continuing to develop meaningful membership benefits. The complexity of the design and technological updates necessary to have the website function-

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ing in a manner that makes it easy for members to contact us has required a number of us on the Board to undertake an education in Information Technology that has been challenging, to say the least. The Training Committee, chaired by our APFM secretary, Bob Horwitz, is already implementing the first of a series of Webinars whose goal it is to bring education and training to the screen of your computer, substantially reducing the cost of programs, while enormously enhancing ease of access.

These are some of the activities in which your Board continues to be engaged for the purpose of growing our services to you—our members—and in furtherance of promoting and expanding the profession of Family Mediation. Please Mark Your Calendars to join us in D.C. October 22-15, 2015.



## A Call for Submissions to *The Professional Family Mediator*

We invite you to submit previously unpublished articles related to family mediation, including clinical insights, innovative programs, research studies, practice ideas, news updates, and letters to the editor with your responses to any of our published articles or columns. The editor will review submissions as they come in and will consider for publication those submissions that offer unique and innovative ideas for practicing family mediators. Please send your materials by email to the Editor, Don Saposnek, at: [dsaposnek@mediate.com](mailto:dsaposnek@mediate.com). Authors should include name, city and state/province, and other materials as requested by the Editor. If an article is selected for publication, the author will be requested to sign a Permission to Publish agreement and submit a photo and a brief Bio.

## The Ethical Edge “Mental Health Competency in Mediation”

By Bill Eddy

What would you do in this situation?

I was scheduled for a fifth mediation session with a couple I had seen over several months. The case was moving slowly. The husband was a successful business man preparing for retirement, and his wife of approximately 40 years had been a homemaker throughout the marriage. He was very protective of her. He suggested that she was not good at math and hinted that she may have had some cognitive limitations which would require a carefully constructed agreement, especially to protect the funds she would be receiving from the financial settlement. He was concerned about her limited financial decision-making abilities and about other people in her life who might take advantage of her. She smiled a lot and seemed to understand and agree with these discussions.

Before the fifth session, our mediation center’s paralegal informed me that the wife had obtained an attorney that she wanted included in the session. I, of course, always encourage both parties to meet with attorneys for consultation and possible representation during the divorce. Apparently, the wife had followed up on that idea (We had given her our list of about a dozen “mediation-friendly” lawyers, but the lawyer that the wife found was not on our list.). Within the policy of our usual procedures, that anyone attending a session had to have the approval of both parties, I told our paralegal to ask the husband if he agreed to have the wife’s lawyer attend the mediation session. The husband agreed. The lawyer was someone I knew, as we had opposed each other as attorneys on several court cases and one collaborative case, years before – most of which turned into good settlements.

But, when I met the attorney at the start of

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the session, she was quite critical of me for having held any sessions without insisting that there be a lawyer in the room with the wife during the mediation sessions. She expressed shock that I had done this, given that the wife may have had limited capacity, and given that I was a mental health professional, as well as a lawyer and mediator. She was concerned that I had not made any arrangements for a competency assessment to be conducted on the wife before even discussing preliminary issues with her.

I had intended to have her work with a lawyer after we had a tentative settlement, because it appeared to me that the husband was sincerely interested in her welfare and in her having a secure life, going forward. I believed that a lawyer, at that point, would have addressed any competency questions before she signed anything. My concern was that a lawyer early on would escalate the case, since I was concerned that the wife would not be able to manage a lawyer.

The outcome of the case was that they dropped out of mediation after that session. I heard that they spent many months with the wife’s lawyer doing her “due diligence,” with a lot of discovery about the husband’s finances. They eventually reached a settlement, after the husband also obtained a litigation attorney. I don’t believe they found any improprieties on the husband’s part.

Here are my questions:

1. Do you think that, when there is the appearance of a possible cognitive/competency issue, a mediator should require the

potentially disabled party to obtain a lawyer from the start?

2. Do you think that this is a judgment call, and that the mediator should consider whether the other party appears to be taking advantage, before making such a requirement; essentially waiting until there is the appearance of a power imbalance issue?

3. Would you recommend or require a cognitive/competency assessment by a mental health professional before proceeding with the mediation?

4. Or, would you require such an assessment before finalizing and signing a settlement that you carefully developed in mediation, without a lawyer or an assessment?

I would love to get some feedback on this issue. I don’t have a clear answer yet myself. Please send your thoughts to [billeddy@highconflictinstitute.com](mailto:billeddy@highconflictinstitute.com) by June 15th. Thanks! Bill Eddy

tpFM



## The Legal Stuff Matters

### “Creative Options Based Upon Substantive Tradeoffs”

By Larry Gaughan

There is one area of the adversarial practice of family law that, at times, leads to practical, and even cost-effective settlements. This is a situation where two skilled divorce lawyers work cooperatively to help their clients reach an agreement that is based upon some mutually beneficial tradeoffs. Often, the success of these negotiations is based mostly on the attorneys’ substantive understanding of the possible tradeoffs, rather than upon any other conflict resolution strategies.

The most common tradeoff of this kind is between the marital home and retirement assets. The issue is often one of determining the relevant valuations on each side, for purposes of the tradeoff. Figuring out the equity in the house usually involves answering these three common questions: (1) What is the fair market value of the house? (2) Should there be a subtraction from the FMV for attributed sales costs (what the realtor’s fee and closing costs would have been in the event of a sale to a third party)? (3) Does either party have a separate property interest in the house that would affect the amount of marital equity? These questions also apply if the tradeoff is between the marital home and a vacation or rental property.

If the retirement asset is a tax-deferred defined contribution account, such as an IRA or 401k, the problem is that, in most cases, the house equity is not taxable, and the balance in the retirement account is pre-tax. Occasionally there may be a possible capital gains tax on a second home, or beyond a party’s \$250,000 exclusion in the marital home, but, by contrast, withdrawals from most retirement accounts are fully taxable. So, how do we determine what the taxes are likely to be on those future post-retirement withdrawals? A common discount figure is 30% for future federal and state income taxes, but there are various reasons why this “guesstimate” may not be accurate in a particular case.

It is even “iffier” if the retirement asset is a defined benefit pension plan. With a retirement account, the issues include whether part of the

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balance is separate property, and in calculating any tax discount. With a retirement plan, there is much more room for speculation, because its ultimate value depends upon a variety of issues, including the employee’s date of retirement, date of death, salary at or near the time of retirement, any post-retirement cost-of-living adjustments, the extent to which the plan is a marital asset, and, of course, the issue of a tax discount (since all the future retirement payments are usually fully taxable). Usually, most or all of this information cannot be ascertained at the time of the negotiations. In addition, there is a discount that is customarily applied when one calculates the present value of a future series of payments, since the hypothetical present value account that is calculated would appreciate in value until it starts to pay out.

There is available software that can do a present value calculation of a pension plan, but these calculations require the parties to agree upon a set of assumptions that may turn out to be wildly inaccurate in the future. These would be based upon standard life expectancy tables (which vary by the gender and age of a party) and other agreed upon adjustment factors. Another option is to refer the valuation issue to a pension expert, who will do a more sophisticated version of the same process. Even so, where both parties are genuinely interested in the tradeoff, some objective standard is better than none. Another option is to see if the pension plan administrator has done valuations of the pension for other purposes, such as the amount of a lump sum payment that might be traded for a buyout of the rights to a series of periodic payments.

The same issues come up in another common tradeoff, which is between one or more defined contribution retirement accounts and a defined benefit pension plan. For these tradeoffs, however, there is no need to discuss a tax discount, since there are pre-tax assets on both sides. One problem is that it doesn’t take much of a

monthly payment to have a greater value than what looks like a fairly substantial retirement account. A retirement plan that pays \$2,500 per month can easily have a present annuity value of more than half a million dollars.

There are two things that both parties need to understand about these kinds of tradeoffs. The first is that since values used in any of the above tradeoffs are open to legitimate speculation, and since courts pride themselves on avoiding speculation (except in custody cases!), judges generally don’t have the power to order such tradeoffs. The second is that the parties can agree to make the tradeoffs based upon inexact or speculative figures, and in real life they often do.

There is also room for tradeoffs in the common situation where the party with the main family income derives it from his or her closely held business or professional practice. Again, there is an initial issue of valuation. Professional valuations of these entities are often arranged. However, these also are subject to subjective considerations and positions based upon such matters as the standards used for valuation, the methods of division, the extent of the marital property interest, and possible future capital gains tax issues. Valuation can be based upon standards that focus on assets, on earnings, on a hypothetical sale, or even on intrinsic value. In court, it is not unusual for judges to hear quite different valuation figures from the competing experts. The use of impartial experts to deal with valuations often makes sense in mediated cases.

It is not unusual for the discussion of a business or professional practice as marital property to be linked to the issue of spousal support. One frequently hears complaints of “double dipping” when these issues come up together.

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# Mojo Marketing and Management

## Networking 101-7

### *“The Dreaded Elevator Speech: The Delivery and DONE!”*

By Ada Hasloecheer

In the last article, we walked through the bones of writing a good, solid elevator speech. It’s important to write it out first so you can memorize it to the degree that it becomes familiar (but not rote), and you begin to get comfortable with the words. You want to feel easy and relaxed when you express yourself – more conversational than “speechifying.” This familiarization can only be achieved by rehearsing and practicing over, and over, and over again until it gets into your very DNA!

To recap a bit:

1. For the most part, the elevator speech, or pitch, needs to be short and sweet.
2. You want to give the listener(s) a solid enough understanding, in the shortest amount of time, of who you are, what you do, and why they should want to do business with you.
3. Although what you say is important, it’s the enthusiasm and passion with which you say it that will have the lasting impact.
4. The core of the pitch can (and should) be expanded and modified if you are speaking to someone one-on-one, rather than standing in front of a group where you are asked to introduce yourself briefly.

#### The One-On-One Version

When speaking conversationally with someone you have just met during the cocktail hour, you can give your 30 second spiel, but it can come across as a bit tight and/or stilted. And, it doesn’t really leave much room for interaction. It’s as if you are speaking at someone instead of with them.

You want to make statements that are open-ended, inviting people to ask questions about you and your practice. In return, you will want to ask people about themselves and their practices. If you’re doing this right, the questions and answers will be a natural outcome of your conversation.

The chance that you will walk into a room of strangers is probably slim to none. Most likely,

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you have been invited by someone you know well, to attend a networking or organization meeting. If your host is attentive, she will introduce you around to the people she knows and break the ice for you. If your host is not particularly attentive, or you fear in advance that she may not know the level of your anxiety, tell her before the event. And then, just before you walk into the room with her, remind her again that this tends to be a nerve-wracking experience for you, and you would appreciate it if she would stay close, at least until you get your “sea legs.”

I’ve done that scores of times for people I’ve invited – even those who are outgoing and easy in a crowd. If you haven’t noticed, I fall into the “outgoing and extrovert” type of personality. It’s hard for me to “get” the breathtaking, overwhelming experience that introverts suffer when confronted with a room full of strangers. I see a sea of faces and I can’t wait to meet someone new, engage in conversations, develop a potential new colleague, and perhaps make a new friend! But, I do understand and have compassion for those who are terrified of these events, so I never leave them to their own devices. If you fall into the “terrified” category, you must tell your host, beforehand.

People tend to assume that everyone is just like they are. If you are fearless, you think everyone else is, too. If you are fearful, you think everyone else is, too. If your host is a gregarious, outgoing sort, she is not going to understand that leaving you alone for even 5 seconds will send you into an apoplectic fit, running for the nearest door.

Now, when your host (I’ll call her Beth), introduces you to someone, it will be very relaxed and informal. It may go something like this:

“Beth: Jackie, I’d like to introduce you to Paul.

Paul, Jackie is a divorce and family mediator. We’ve known each other for many years and I’ve referred numerous colleagues and friends to her. She has helped them separate as amicably as possible, keeping them out of the litigation system, which helps them save a lot of money too. (She just gave Paul your elevator speech – you’re home!).

Jackie, Paul is a financial advisor and I’ve known him for many years as well. He’s a whiz at financial planning, and what I love the most about him is that he simplifies very complicated issues in a way that people can understand them. I wanted to introduce you to each because you have a lot in common.

Paul: Nice to meet you Jackie. What a fascinating line of work you’re in! Beth’s right, we do have a lot in common. Tell me, where is your practice and how did you get into this line of work?

Jackie: Nice to meet you too. Yes, it is fascinating – I love it. And, in fact, we do have a lot in common – we’re both helping people deal with very complex issues. My practice is in Billings and I’ve been mediating families since 2005. How I got to this point in my life as a mediator is a sort of an interesting, winding journey and I would love to share it with you and hear about how you came to your profession. How long have you been a financial advisor and where do you practice?

Paul: About 15 years now. And I’m also in Billings. Oh – I see the event is about to begin. Let’s exchange business cards. I’d like to give you a call tomorrow and schedule a lunch so we can continue this conversation. Sound good?

Jackie: Sounds great!”

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## *“The Legal Stuff Matters” Cont. from Pg. 6*

The issue is about fairness to both parties, since the entity in question generally has value, even when it depends mostly or entirely upon the personal involvement of the owner. As a marital asset to be divided, such an entity raises issues that are different from those relating to spousal support, although we can acknowledge that often neither of these can be fully negotiated without reference to the other.

Spousal support can also be traded off against house equity or retirement assets, or simply “bought out” in exchange for a cash payment. There also can be agreements for future changes in spousal support, based upon whatever formula the parties might agree to, or upon a step-down plan. In the former, there might be an agreement on a formula for future modification, such as 30% of the payer’s monthly income less 50% of the recipient’s. The latter might involve a fixed decrease every two or three years or so until a future date when there is no spousal support. As with the tradeoffs discussed in this article, judges generally do not have the authority to order future changes in spousal support in advance. But these can be done in an agreement, and often are.

Even when it comes to child support, tradeoffs are possible. A common issue arises where one parent seeks more time with the children, and the other parent is agreeable, provided it does not reduce the child support (Many of the state child support guidelines have provisions whereby the amount of child support may vary depending upon the amounts time each parent spends with the children,). There is a problem with trading off child support since state law generally reserves the rights of courts to modify child support in the future, based upon material changes in circumstances.

Most states in America do not give the courts the jurisdiction to order parents to support the college education of their children. If the parents agree to do so, of course, those agreements are enforceable. So, this becomes another possible tradeoff. For example, the parties may agree that a parent will support certain defined college expenses of a child in exchange for a decrease in his or her payments of spousal support at that future time. A much more common tradeoff is each parent’s agreement to be responsible for certain college expenses in trade for the other parent’s agreement to do the same, either equally or in

proportion.

Some of the best mediators for the above issues come from a background of financial planning or accounting. Many divorce lawyers are also comfortable in handling these issues in the role of mediator, especially where they have had creative experience in their attorney negotiator roles in similar cases. This article is intended to help mediators who do not have this kind of background and experience become aware of some of the creative possibilities.

The advantage of these kinds of negotiations in divorce settlements is that they are collaborative (“win-win”) in nature. This is clearly an area where divorce mediators need a good working knowledge of the various considerations involved in the substantive options. The legal and technical tradeoff options often trump the conflict resolution skills in these cases. Perhaps this is even better illustrated by realizing that the substantive tradeoffs are the most relevant conflict resolution skills for these kinds of cases.

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## *“Mojo Marketing and Management” Cont. from Pg. 7*

And so it goes.

If you recall, in one of my first articles I mentioned how truly fascinated people are when they find out what we do. If Jackie was worried about what she was going to say, Beth provided her elevator speech. Paul’s immediate interest and prompts, sparked an easy ebb and flow of conversation. Even if Jackie didn’t give her exact elevator speech, important information was imparted right away, and enough so that there was a lead in to make a date to get more acquainted. It was apparent to both parties that there was something of significance to be explored in more detail. And, it really happens exactly this way!

What is vitally important, but difficult for me to get across in this exchange, is the non-ver-

bal interaction of the back and forth. Those non-verbal cues, the body language, can say more than your words:

1. A firm and warm handshake when being introduced;
2. A genuine smile during the greeting;
3. Good, solid eye contact – always;
4. Speak up (you may be in a noisy place), and speak slowly enough for the person to hear and understand you without straining;
5. A heartfelt and perhaps humorous thank you to your host for making the introduction.

All of this is happening in split seconds! But, that’s all it takes to make that first impression. Don’t look around the room or over the shoulder of the person you’re speaking with trying to find someone else you may know, or an escape route. People know the instant

you stop listening to them. It’s rude.

These cocktail hour/pre-event networking times really don’t last that long. If you feel the need to disengage, wait for a good moment to do it, like a pause in the conversation, and say:

“I’d like to continue this conversation, but someone I’ve been waiting for just arrived and I need a moment to speak with him before the main event begins. Will you excuse me?” OR:

”Before the event begins, I must use the ladies room – will you excuse me for a moment?”

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## “Mojo Marketing and Management” Cont. from Pg. 8

People understand, and they are not offended. Also, keep in mind that we’re there to make an initial contact and to continue the conversations in more detail at another time. We want to mix and mingle and meet as many people as we can. That’s the deal – everyone knows that.

### The Group Version

The elevator speech you make to the group is a slightly different kettle of fish. In the last article, I also cited a straightforward example of the 5 lines you could easily say to introduce yourself to a group:

1. My name is Jackie Jones.
2. I am a divorce and family mediator.
3. I worked in the court system and saw the effects that a litigated divorce had on families.
4. I have a private practice in Billings, Montana.
5. I help couples separate amicably, cost effectively, and with the best interests of the entire family in the forefront.

It might help you to remember that you are not the only one nervous about speaking in front of people; practically everyone is. Public speaking is still one of the top 5 fears of most people. Just pay attention as people stand up and take their turn during the “round robin” and learn from them – the good, the bad and the ugly! Chances are, you will not be the first person to speak, so you can really see what goes on. Here is the usual faux pas list:

1. People don’t stand up when introducing themselves, despite the instructions to do so. This means you can’t see them, and you probably can’t hear them either;
2. Not speaking up! You are there to let people know who you are. If they can’t hear you, they will give up trying, and you lose a potential client or referral. Why waste your time and theirs?;
3. Speaking at a rapid pace and/or mumbling your words (similar to #2 above);

4. Failure to thank the person who asked them to the event;

5. Saying too much. I know it’s hard to imagine this, especially if you are scared sh-tless just belching out your 5 lines! But there are people who go on and on and on with an unprepared spiel and just “um” their way through it, or talk about things that are not appropriate for the time allotted, annoying the event planner who is attempting to time the presentation for the evening.

So what are the hallmarks of your 30-second elevator speech to a group when your time comes?

1. Stand up and smile. Yes – smile at everyone and make a little eye contact around the room, in as welcoming a way as you can muster. There is something that eases your heart and will make you less afraid if you smile. There’s research on that!

2. Speak up. I know I keep saying this, but there is nothing worse than trying to understand someone who’s talking when you can’t hear them. You don’t have to shout, but you still want to be heard. Gauge the size of the room and the number of people you are addressing, and guide yourself accordingly.

3. Speak slowly. However you normally speak, slow it down, even if it feels weird to you. And, it will! So practice this until it feels not weird. Enunciate your words so that one word doesn’t spill into the next – which tends to sound like muttering. Remember – you only have to say 5 sentences. Make them count!

4. After you stand up, briefly look around the room and smile; thank your host for inviting you. If someone did not invite you, and you were brave enough to attend on your own, say something like: “Good morning (good evening) and Happy Spring. My name is Jackie Jones, and this is my first time here.” There will usually be a hurrah of welcomes by the group. Continue smiling and say “Thank you for such a warm

welcome.” Then say your next 4 sentences, and finish with “I look forward to meeting everyone.” Take your seat.

5. Now, take a deep breath and congratulate yourself! Don’t forget to listen to the rest of the introductions because there may be someone out there whose acquaintance you will want to make, once the event is over. This is a business event – we’re here to do business.

6. Don’t rush out when the event is over. Linger a bit. Give people a chance to come up to you and engage you in a conversation, ask for your business card, etc. Or, go up to someone who was of interest to you during the introductions.

So there you have it – easy peasy, right??! Come on – you know it’s not that bad. I will say this, it takes time to get comfortable in these settings and like everything else, the more you do it, the easier and less daunting it becomes. Practice, practice, practice and, when you are finished---practice some more!

Next up – Social Media. You will have a new guide, as Ada will be taking leave as a columnist.

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# Upcoming APFM Webinars

APFM is offering FREE webinars. Log-on / dial-in instructions will be sent by email to those who register.

## **CURRENTLY SCHEDULED WEBINARS:**

**Topic: Marketing Divorce Mediation Services 201 – Beyond the Basics**

**Presenter: Anju D. Jessani**

**Date and Time: May 20, 2015 12:00 p.m., Eastern Time (US and Canada)**

**To Register, go to: <https://mediationmarketing.eventbrite.com>**

The focus of this one-hour webinar is for individuals interested in learning and sharing marketing mediation techniques. The webinar will build on the marketing modules from introductory divorce mediation classes. In the seminar, I will first focus on your business plan and goal-setting, including identifying your two- and five-year goals, and defining success. I want to focus on what services you might provide, and how to improve product quality. In today's market, bad quality products, no matter how they are marketed (e.g. Yugo, Pinto, Vega) will fail. I will talk about ethics—e.g. Should I take this case; Can I provide this service? In addition to talking about web sites and blogs, I will touch on social media, including LinkedIn, Twitter, Facebook etc. I will also talk about networking organization, how to improve your 45 second elevator speech, and your Unique Selling Position (USP), and more.

### About Anju

I have an MBA from The Wharton School. Prior to starting my mediation practice in 1997, I held various positions in financial services, including with JP Morgan and Price Waterhouse. I am an Accredited Professional Mediator by New Jersey Association for Professional Mediators, and an Advanced Practitioner with the Association for Conflict Resolution. I have taught the marketing component of the 40-hour divorce mediation twice a year for both ICLE and NJAPM since 2005. I admire Woody Mosten, Tammy Lenski and other marketing mediation gurus, and will include tips from them in the webinar.

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**Topic: Identifying, Assessing and Managing Safety Risks for Private Mediators, Arbitrators, and Clients.**

**Presenter: Hilary A. Linton**

**Date and Time: Jun 10, 2015, 4:00 p.m. Eastern Time (US and Canada)**

**To Register, go to: <https://mediation0610.eventbrite.com>**

The purpose of this one-hour webinar is to help professionals who are providing dispute resolution processes to better understand the risks they and their clients may face when undertaking negotiations. The presentation features a powerful video, case studies, reference to statistics and research, and some basic best practice tips for professionals. Although most of the materials were created in the family law context, several of the case studies involve civil disputes, and the content is applicable to all areas of practice.

### About Hilary:

Hilary is a Toronto lawyer who, as a partner in a law firm, litigated a wide range of civil and family cases. After 15 years of court work, she turned her focus to non-adversarial dispute resolution processes. In 2001, she established Riverdale Mediation Ltd., and began building a practice that specializes in designing conflict resolution processes that meet the unique needs of each party.

# Mentorship Group Now Available

Join APFM's Mentors and Mentees Group! Never feel alone again. APFM now has an exclusive, members-only resource for answers to your questions about mediation practice, ethics, and how to handle difficult clients.

Membership in the mentorship listserv is open to all current, paid members of APFM.

This mentorship group is designed to provide an open forum for APFM members to communicate with other members regarding all aspects of their mediation practice. This includes requests for information, ideas, and requests for specific support regarding the challenges mediators face in their professional practices.



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Go to

[https://www.linkedin.com/grp/home?gid=8192552.](https://www.linkedin.com/grp/home?gid=8192552)

## Training Announcement

Our renowned Board Members, Marilyn McKnight and Steve Erickson will be presenting a workshop in Singapore at a conference titled, "Transforming Society: Trends and Models in Community Leadership and Social Development," put on by the International Consortium for Social Developments, in conjunction with SIM University, and to be held July 7-10, 2015.

For more information, go to:

<http://icsd2015.unisim.edu.sg/>



**SAVE THE DATES:**  
**APFM Annual Conference**  
**OCTOBER 22-25, 2015**  
**Washington, DC.**

