

family

SUMMER 2006

MEDIATION news

*A Publication of the Association for Conflict Resolution,
a Professional Organization Dedicated to
Enhancing the Practice and Public
Understanding of Conflict Resolution*

THE QUARTERLY NEWSLETTER OF THE FAMILY SECTION

Feature Article

IN MEMORIAM

**Lynn Carp Jacob
(1943-2006)**

We are sad to announce the passing of yet another pioneer family mediator who quietly set many innovations in motion for our field. Lynn Carp Jacob was a leader in mediation and was instrumental in establishing mediation in her home state of Illinois. She helped to start the Mediation Council of Illinois as a board member and then served as its President for two terms. She was also on the AFM board and later became President of that organization. She was able to resolve organizational and client problems through a quiet process of rational thought, discussion and helping people to let go. As a therapist/mediator, Lynn was able to make a successful career mediating financial issues as well as parenting issues. For a long time she was the only non-attorney mediator to make a living doing mediation in



Chicago. She had a core group of attorneys who consistently referred cases to her because she was so very talented. Lynn also always kept an active therapy practice as a social worker and worked with the well-respected Chicago Center for Family Health. Along with Carl Schneider, Lynn co-mediated at the Divorce Mediation Service at Lutheran General Medical Center in

Park Ridge, Illinois - a group that produced two Presidents of the Academy of Family Mediators - (the other was Burt Zoub)! Together with Carl and Zena Zumeta, Lynn presented many workshops in the early 1990s - on marketing a practice and on step-families, the latter a subject dear to Lynn's heart on which she presented many times and published articles in the professional literature. Lynn also started one of the few successful internship programs in mediation in the country and kept it going for many years.

Zena Zumeta remembers Lynn as "a mediator who very quietly became known for her excellence, reliability and thoughtfulness. She mediated out of her home - first, out of her basement, and later out of an office in the back of her house. Lynn's style of mediation was

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Association for Conflict Resolution (a merged organization of AFM, CREnet and SPIDR)
1015 18th Street, NW, Suite 1150, Washington, DC 20036
Phone: 202-464-9700 Fax: 202-464-9720
www.ACRnet.org

**ASSOCIATION FOR
CONFLICT RESOLUTION**

*A merged organization of
AFM, CREnet and SPIDR*

1015 18th St., NW
Suite 1150
Washington, DC 20036
202-464-9700
202-464-9720 (fax)
www.ACRnet.org

EDITORIAL STAFF

Publisher

*Association for
Conflict Resolution*

Editor

Don Saposnek

Family Section Chair

Susan Edwards

Columnists

*Clarence Cramer
Chip Rose*

Contributors

David Hall

ACR Publications Manager

Emily E. Welty

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Family Section 2005–2006 Advisory Council

Susan Edwards, *Family Section Chair*,
svemediates@comcast.net

Clarence Cramer, *Ethics Committee Chair*,
Clarence.Cramer@co.pinal.az.us

Julie Denny, *Secretary and Publications Chair*,
juliedenny@resolutionsforyou.com

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sabel@igc.org

Ken Neumann, *Conference Committee Co-
Chair*, kenneumann@juno.com

Mary Ann Lawson, *Training Chair*,
malawsc@juno.com

Don Saposnek, *Family Mediation News Editor*,
Ex-officio member, dsaposnek@mediate.com

EDITOR'S NOTES

Dear Readers:
This issue of Family Mediation News brings sad news in announcing the passing of one of our own, Lynn Carp Jacob. All the elders from AFM remember Lynn and her important contributions to our field and to our humanity. We memorialize her memory in the cover article of this edition.

To feed our spiritual and inspirational needs, we are reprinting excerpts from Professor David Hall's keynote address to our Family Section Conference in Cape Cod. Professor Hall was the Dean and is currently a distinguished professor of law at Northeastern University's School of Law and author of *The Spiritual Revitalization of the Legal Profession: A Search for Sacred Rivers*. With so many lawyers (particularly family lawyers) expressing discontent and disillusionment with the way that law is currently practiced, this timely book offers theoretical as well as practical ways to elicit the sacred in lawyering. Professor Hall has encouraged all law schools to systematically highlight "the values and spiritual foundations of future lawyers," and improve legal education and ethical standards of the profession.

The focus of his book seems to be another elegant example of "an idea whose time has come." Clearly, the fields of mediation and collaborative practice have arisen as necessary alternatives to the destructive approaches of the traditional legal system for resolving family disputes. Andy Shepard, the Editor of the Family Court Review, and Peter Salem, Executive Director of AFCC,



Donald T. Saposnek, Ph.D. is a clinical child psychologist, family therapist, child custody mediator and trainer. He is the author of *Mediating Child Custody Disputes: A Strategic Approach*, and is on the Psychology Faculty at the University of California, Santa Cruz.

the organizers of the FLER (Family Law Education Reform) project (see www.afccnet.org/about/fam_law_tf.asp for full report), point out that "family lawyers should have different ethical responsibilities than lawyers in traditional civil and criminal cases, including a responsibility to discuss alternative dispute resolution with their clients and an obligation to 'do no harm' to their clients' children."

Some people have trouble dealing with the concept of "spirituality," especially when thinking in terms of the law, because they see the two as oxymoronic. However, newer movements and recent writings have begun to integrate the concept into practical applications for our work. I remember Zena Zumeta's insightful definition of spirituality as "connectedness." I believe this is the essence of all this change in the field—helping disputants understand the benefits of seeing how they are connected with one another rather than helping them brutally disconnect and obliterate the dignity of the other.

I'm reminded of two apt quotes:

"War does not determine who is right; war determines who is left."

—Chinese Proverb

"Military power wins battles, but spiritual power wins wars."

— General George C. Marshall

This issue of Family Mediation News also has Chip Rose discussing the connectedness of mediation and collaborative practice and noting their overarching commonality of being client-centered. Finally, Clarence Cramer asks "What Would You Do?" in response to an ethical dilemma involving a mediator who is told bilateral secrets by each of the parties to a divorce. How can the mediator manage to keep them together in the process while they are actively strategizing to disconnect from one another and risking sabotaging the process?

I leave you with one last African proverb to contemplate:

"He who forgives ends the quarrel."

Enjoy,

Don Saposnek

Editor

Family Mediation News

Editor's Extra Note: Because of space constraints, an abbreviated Memoriam for Lynn Jacob and an excerpted selection from David Hall's speech are presented here. The full Memoriam of Lynn Carp Jacob and the full text of Professor Hall's Keynote speech can be found at the ACR Family Section website, at: www.mediate.com/acrfamily/pg39.cfm.

EXCERPTS FROM KEYNOTE ADDRESS TO 2006 ACR FAMILY SECTION CONFERENCE

MAKING SPIRITUAL WAVES AND BREAKING OLD PATTERNS

by David Hall

Northeastern University School of Law

...I am not a mediator, even though I have taught and studied various alternative dispute resolution approaches. So I come to you tonight, not as an expert in your field, but as a partner in our collective quest to better understand and handle conflicts. I come not with new groundbreaking theories, but with a deep respect and appreciation for the work you do, and the role mediation plays in our quest to create a more peaceful and productive world. I sincerely believe that there is a precious and common thread that binds lawyers and mediators, and it is this deeper commonality that makes it appropriate for me to speak to this distinguished audience.

I first want to applaud the work of the Family Section of the Association for Conflict Resolution. You play such a critical role in the life of this society. The work you do as mediators of family disputes is central to our growth and survival as a society. ...On a larger scale, so many of our most challenging social problems are the product of the inability of families and individuals in families to effectively navigate internal and external conflicts. To make matters worse, as a society we have not made the economic, educational, emotional and health needs of families a priority on our national agenda. Thus, the combination of these larger social



Professor David Hall returned to the faculty at Northeastern University School of Law after a distinguished career as an administrator in the law school and the University, first as Dean of the Law School from 1993-1998, then as Provost and Senior Vice President for Academic Affairs at from 1998 until July 2002. His two major contributions were in the area of diversity and Practice Oriented Education. Through his leadership of

these key initiatives Northeastern made tremendous strides in becoming national leaders in two of its fundamental educational values

David Hall lectures and conducts workshops nationally on topics of social justice, leadership, diversity and spiritual values in professional life, and is author of *The Spiritual Revitalization of the Legal Profession: A Search for Sacred Rivers*, published by the Edwin Mellen Press. He was quoted by Harvard Law Professor Charles J. Ogletree, Jr., as "one of the most important leaders in legal education today."

inequities and these personal inadequacies create an enormous challenge for the future of the family.

...It is from that place of reverence and respect that I speak to you tonight, about "making spiritual waves and breaking old patterns."

...Waves are very beautiful to watch and for some, very exhilarating to ride. Yet the real power of this movement that occurs upon bodies of water is that it symbolizes change. Though this force of change can sometimes be destructive, it is our faith that we can use and harness this energy for good that keeps bringing us back to the ocean.

Yet waves are primarily the product of wind, for it is strong winds blowing on the surface of the ocean that creates this majestic movement. And the wind, (this internal and external breath of life) in many traditions symbolizes the spirit. So the question before this Section is not whether you can make waves within your profession and in society. The question is, what will be the source for this change? What will be the ultimate power that you use to create these societal waves?

As indicated in the introduction, one of my areas of concentration as

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IN MEMORIAM: Lynn Carp Jacob

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like no one else's; she had a way of making suggestions to people on how to get out of their entanglements without anyone believing she had taken sides. One of her frequent phrases was 'If I had a vote, I'd...'. Who else do you know that could get away with that intervention? She took "normal" interventions and turned them inside out to find something that worked to help her clients. I remember her mentioning that there was one client she worked with who could not hear what his wife was saying. Most of us would ask "Could you tell me what you heard your wife saying?" Instead, Lynn asked "Why don't you take my chair and I'll take yours? Then, tell me what you would do to get me to understand what [your wife] was saying." Wow – who else would even think of that, much less be able to make it work? I will miss Lynn's wisdom and knowledge. She was someone I regularly turned to for advice on difficult cases. I will also miss her equanimity in all situations and her firm rational mind in solving problems. But most of all I will miss having her available to play with at conferences, meetings, and whenever I go to Chicago.

"Lynn's greatest focus was always her family, and she never let her very successful career as a therapist and mediator interfere with her family time. Though her children were grown and out of the house, she was very involved in their lives and made frequent trips to see her grandchildren. It is so sad that they won't have her as they grow up. Lynn, thanks for all you gave to me. I only hope I use it well and pass it on."

Being a positive person and committed to quality and excellence, Lynn was clear-eyed and direct.

Carl Schneider shared, "Lynn was a family person - always telling a story about her latest visit to her children, Max and Jenny. She was also a private person with a clear sense of reserve. Publicly, she kept close counsel regarding her lymphoma with which she struggled on and off for more than six years, though she was personally helpful to many in the mediation community who have dealt with life-threatening illnesses.

"Lynn was deeply wounded when Herb, her husband of 28 years, died. Herb came from a long line of rabbis (thirteen generations, if my memory is correct), and the most memorable Seder I ever shared was with their family. Herb was a scholar at Northwestern University who, among many things, had written a fine book on divorce law, *The Silent Revolution*. Lynn and Herb enjoyed a satisfying, nurturing marriage and, after his death, she continued to make her family the center of her life. There were always visits and vacations – Oregon, Galapagos, Snowmass, Costa Rica, Florida and Alaska.

"Being a positive person and committed to quality and excellence, Lynn was clear-eyed and

direct. Never sentimental or showy, she would just pitch in and help get the job done. She had little tolerance for incompetence. When I wasn't sure what to do or how to handle a problem, she would give firm advice that I couldn't argue with. I have seen Lynn yearly for the last twenty years. We always got together for dinner at some fun place, when I trained in Chicago. I just returned from Banff and the Canadian Rockies where I had always wanted to vacation. Lynn had been there several times and I would enjoy her telling me about it. I was looking forward to talking with her about what a fabulously beautiful spot it indeed was. We won't get to have that conversation."

Barbara Landau writes, "Lynn and I go back MANY years to when we were on the AFM Board together and celebrated our 50th birthday - with Zena and Marilyn in grand style in Washington. When life threw her impossible curves, she found the gem in the pile of manure, and you found yourself laughing with her, and crying at touching moments. She was so courageous and so appreciative of the way her husband, Herb, planned for his death in a way that really honored her and his family. Lynn was never a victim, never wallowed in self pity—she was a class act!

"Lynn was crazy about her kids and grandkids (including Herb's family) and very connected with her parents. She was a wonderful, generous, thoughtful, and, given the circumstances, an undemanding mom, who valued her independence, but was filled with

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THE CREATIVE SOLUTION

The Center Ring

by Chip Rose

What's in a word? How do we talk about mediation and know we have a common understanding of the term? How do we distinguish the conceptual, structural and applied differences among mediation, collaborative law and litigation in a meaningful way? When I first began offering workshops for converts to the collaborative movement, some in the field dismissed the value of the training by labeling it "mediation" training, rather than collaborative law training. Even in our own field, practitioners freely opine on the merits of differing styles of mediation or the comparative approaches that mental health and legal professionals bring to the process. What I find annoyingly absent in such discourse is a clear standard that sufficiently anchors such comparisons.

For example, when I am talking to collaborative professionals in Texas or Florida who criticize "mediation" for being ineffective, I have to be aware of the fact that the predominant style of mediation in those jurisdictions is heavily influenced by the role attorneys play in representing their clients. By contrast, many (if not most) family law mediators in California work directly with clients who often choose not to involve lawyers in the process. Conversations between mediators who work directly with clients facilitating interpersonal, relational disputes, and those mediators who work primarily with



Chip Rose, J.D. has a private mediation practice in Santa Cruz, CA, and is currently providing training throughout the United States and Canada on the emerging practice of collaborative family law.

A standard that is
of and about the
clients considers a
framework that
addresses the
common and
individual needs
that clients bring
into the process.

attorneys settling civil/commercial disputes, reveal two profoundly different professional cultures. So how would a lay person listening to such conversations about "mediation" have any meaningful frame of reference with which to compare the two? By what standard should the lay person distinguish among the relative effectiveness of facilitative, transformative and evaluative styles of mediation and how do we, as dispute resolution professionals, help them with that task?

I propose the concept of "client-centered" as a standard. I define "client-centered" as being *of, about and for* the benefit of the clients. A standard that is for the benefit of the clients recognizes the value of taking the clients as they come into our offices. It accepts them as they are when they come into the process: angry, hurt, doubting, skeptical, protective, vengeful, inconsiderate, self-absorbed, fearful, co-dependent, etc. We are able to work past offensive personalities and boorish behaviors by maintaining the respect that each client deserves, the importance they attach to the issues and the circumstances for which they seek help. We are able to begin caring about them and focusing on the development of a process that allows them to address their concerns successfully. We are addressing issues that are for the benefit of the client when we educate them about the consequences of acting out their relationship antipathies while ignoring the needs of their children to love each of their parents.

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IN MEMORIAM: Lynn Carp Jacob

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joy when she had chances to bring the family together for vacations. I will remember Lynn with great fondness - she was a real *mensch!* Lynn, I am sending you my love.”

Brigitte Bell commented: “...A single phrase kept running through my mind, over and over. It is a phrase that I always have and always will associate with Lynn, who taught it to me just as she taught me so much else. It is a simple phrase, three little words that say so very, very much about Lynn and her life’s philosophy: “Life goes on.” These particular words, which Lynn must have said to me at least a thousand times (which tells you how much teaching I needed!), exemplify her relationship with me and probably with a lot of you, with fellow board members, interns, colleagues and also clients. They mean “don’t get upset,” “we’ll figure it out,” “we’ll make it work,” “we’ll make do,” “it will be all right,” “don’t panic.” Whatever the problem, Lynn wasted no energy in wringing her hands about it, worrying, finding fault, placing blame or bemoaning injustices. She went straight to the heart of the difficulty or problem and put her mental energy into figuring out how to proceed (and over the years, let me tell you there were many—lost syllabi, computer crashes, deadline issues, missed trains, missed appointments, tuition issues, and lost flip charts). The problem was always about the clients or the issue or the students—never about her. Even though she was always a critical part of every solution, she never made herself the center of anything. She was self-effacing, smart, gentle, kind and incredibly helpful to

So life will go
on, as she
taught us
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so well. But it
won’t be the
same without her.

anyone who called on her for help in any domain of life. She applied this approach in all her professional lives: as a therapist, mediator, board member, committee member, teacher, consultant and writer. Lynn taught by her example. “We cannot have too many good mediators” she would say, and then she would do whatever was necessary and possible to help bring that about.

So life will go on, as she taught us so wisely and so well. But it won’t be the same without her. We’ll make do, we’ll find a way. But the world will be missing one incredibly wonderful, kind, gentle, smart, person, and so the rest of us will just all have to try harder to show that we have really learned what she so much wanted us to learn. Life will go on.”

Diane Neumann recalls, “Lynn was my mentor—my savior during those first overwhelming months when I became a board member. At every conference and board meeting, we shared a room. Before a meeting in Utah, she convinced me to go hiking, “You’ll love it.” Needless to say, I wasn’t expecting 100 degree temperatures and high-in-the-sky red mountains. Luckily, she kept the trip short—she was

always very considerate. That was Lynn. Our times together were nonstop conversation about life, love and the meaning of being a mediator. She saw the best in everyone and, though people casually attribute that trait to so many others, Lynn had the trait in abundance and under trying circumstances. Being friends with Lynn was a wonderful example that people with different ways of living and being in the world can enjoy each other and thrive on those differences. I will miss her.”

Steve Erickson recalls, “I remember Lynn as someone who was entirely honest and straightforward. I think that is why I liked working with her on the old AFM board. It is a rare person who can tell you the truth about important things without making it hurt. So many people are afraid to address the truth. I expect that is why she was such a good therapist and such a good mediator, because Lynn had that gift. The world of family mediators is privileged to have had Lynn as a role model and friend.”

Larry Fong recalls, “One of my fondest memories was in 1992 when Lynn came to the First International Conference for Mediators in Dublin, Ireland. In the car, driving around Ireland, with Michael Williams and John Haynes, we all shared our thoughts, perspectives and beliefs about life, and our conversations, which remain private to date, enriched my life. We had a spirited debate on the role of the mediator and domestic violence. These discussions were formative in assisting ACR in the

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ETHICAL DILEMMAS

Ethical Dilemmas: What Would You Do?

by Clarence Cramer

We received additional responses to the FMN Winter Ethical Dilemma where Janet is mediating a case in which the divorcing couple has agreed on a parenting plan for their three children, but does not agree about some of the asset distribution. That dilemma and the additional responses are printed later in this column.

What would you do in the following situation?

New Summer 2006 Dilemma:

The following is a letter from one of our readers, asking for comments on the particular dilemma below:

Dennis and Mabel have been married for 24 years. They have two girls, an 18-year-old who just started college and a 16-year-old high school student. Mabel wants a divorce because, she contends, Dennis is very controlling and she is feeling emotionally suffocated. Dennis does not want the divorce at all and is resisting Mabel's every effort to proceed with the divorce. They attended mediation and signed the Agreement to Mediate, which states that the mediator may, with the clients' permission, meet with either party separately and that the separate meetings will be confidential unless the client gives the mediator permission to disclose the information. Dennis calls and tells the mediator that he intends to continue in the mediation process, but only for the purpose of delaying



Clarence Cramer is Chair of the Family Section Ethics Committee, and Director of Family Services of the Conciliation Court in Coolidge, Arizona. He can be reached at: mediator@co.pinal.az.us

the divorce. He states he will not do anything to move the process forward and that he does not want this information revealed to his wife. Mabel calls the mediator a few days later to say she knows Dennis is stashing away large sums of cash in a box hidden in the basement. The younger daughter found the box and told her mother about it. Mabel does not want this information disclosed to the husband. What is a mediator to do when the Agreement to Mediate calls for full disclosure of all financial issues and when one (or maybe both) parties are using the mediation process as a chess board?

What would you do?

Please email your response to Clarence Cramer at: mediator@co.pinal.az.us, or mail it to 119 W. Central Ave., Coolidge, AZ 85228. Please include your name and your city and state/province.

Winter 2006 Dilemma – The Facts (reprinted here):

Janet is mediating a case where the divorcing couple has agreed on a

parenting plan for their three children, but does not agree about some of the asset distribution. The husband, an amateur coin collector, wants to keep the small coin collection, which is part of the community property. He produced a recent written valuation of \$3,000 from a local coin shop. The wife, knowing how attached the husband is to the coins, wants a straight trade of her share of the coin collection for one of their vehicles, which is valued by the Kelly Blue Book at \$5,000. The husband refuses. The session ends and the couple agree to return next week.

Later that day, during a discussion with her husband who collects coins as a hobby, Janet mentioned the small collection and described the coins. All information she shared with her husband was rendered anonymous. Janet's spouse is familiar with the coins and stated that, at a minimum, even in poor condition, the coins are worth \$7,000.

The couple returns to Janet's office to continue with the mediation process. Eventually the

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IN MEMORIAM: Lynn Carp Jacob

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Lynn was the consummate colleague... a gentle and quality trainer and mentor.

policy for domestic violence. Lynn was never afraid to voice her opinion and also never one to hold anyone hostage to their own thoughts or perspectives. When we had differing ideas, perspectives and beliefs, she always approached me in a kind and respectful fashion in wanting to learn more about these differences. I always respected Lynn for that and I am sure many others did the same.

While in Ireland, Lynn and I shopped together for sweaters. She picked one for her husband, and I picked the identical one for myself. We laughed that we actually had similar tastes, and whenever I look at the sweater today, I only think of our good times together at that special time in Ireland. For those who did not know Lynn, you missed out on a very special person."

Michael Williams remembers, "One day, years ago, when Lynn, John Haynes and Larry Fong were visiting Ireland, I drove them into the beautiful Wicklow countryside. After a walk (in which Lynne and I had a close-up view of a beautiful cock pheasant, preening, quite unconscious of our presence) we stopped for lunch in a small, unassuming country pub. We were

talking shop (what else?) and Larry was describing, in his soft Canadian voice, a couple he had worked with where the husband completely dominated the wife. (I hope he'll forgive me if I get details wrong.) Lynn's voice wasn't loud, but it was clear, the Illinois accent carries, and there was one of those slight lulls in general conversation in the pub just as she opened her mouth and voiced her very strong opinion about the man's actions; there was a long silence in the pub, until someone, in a very quiet voice, asked for more stout. Lynn often had strong opinions and always had the courage voice them."

Muriel Kuhs said, "Lynn not being here is difficult to imagine—she was our role model, our colleague, our friend. Lynn got me involved in mediation, through training and by example. She was always good to talk with, professionally and otherwise. Even in complex situations in our cases, her insights were invaluable. She made sense! Lynn's passing is a great loss to everyone. My sincerest condolences to Lynn's family. "

Margy Powers reports, "Lynn was a strong force in the mediation community in Illinois in the early days. She was also seen as a driving force with the Mediation Council of Illinois. She was a trail-blazer and became the first social worker to become president of the organization. Her commitment to family mediation and her many contributions are greatly appreciated and she will be missed."

Forrest "Woody" Mosten writes, "Lynn was the consummate colleague. Lynn took the lead in

In future years, when we and future generations talk of the field's inspiring pioneers, Lynn Jacobs will forever be front and center.

inviting me to Chicago to co-facilitate her on-going interdisciplinary practice group. I can attest that Lynn was a gentle and quality trainer and mentor. The participants of that group not only felt satisfied with their professional growth under Lynn's tutelage but many had evolved into outstanding mediators in their own right with successful private practices. As a life-long learner and model of humility, Lynn was continually bringing in other professional colleagues to give her mentees added perspectives. Although it was "her group," I can still feel the collaboration and power-sharing that Lynn modeled when I visited. Lynn modeled by listening and giving – true peacemaking skills.

Lynn was never overly impressed by her own talent or importance—actually she was most vibrant and excited when talking about her children, Jenny and Max, and her grandchildren. Lynn lived for her family— yet modeled a non-insular

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Ethical Dilemmas: What Would You Do?

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husband and wife agree that he will keep the coin collection, she will keep the vehicle, and she will pay him an additional \$800 due to the discrepancy in values. What would you do?

READERS' RESPONSES

I have really enjoyed your column and feel it is critical for us to talk to each other about ethical dilemmas. Thank you for your efforts. My response to the Winter 2006 dilemma is that when a one-sided statement of value is offered by one client, either as that client's opinion or as someone else's opinion, I always ask the other client questions along the line of: "Do you have enough information to decide if this value is acceptable? Would you like (client offering the value) to give you more information about the source of his/her opinion so you can investigate it further?" If I question the value myself, I do not think it is unethical for me to ask additional questions about the source of the opinion, so long as I do not express my own belief about its accuracy.

Linda Scher
Portland, Oregon

My answer to your Winter 2006 dilemma is that, in relation to this mediation with these clients, Janet has a piece of information that (a) is no more than an expression of opinion, (b) may or may not be reliable, and (c) most importantly, was not within her role as a mediator to seek or get. She should not mention it to her clients, act on it or be influenced by it in any way.

In my view, a mediator should discuss his or her clients only with a trusted mentor or consultant and

should limit information about clients to what is essential if the clients - or other clients - are to benefit from the mentor's input. I think Janet should consider whether she acted in breach of client confidentiality when she discussed their affairs with her husband. If she accepts that she has breached client confidence, as I hope she will, I think she should ask herself whether her error was more serious because the person she talked to was also a coin collector and whether the danger that he would identify her client was increased.

Clarence, you present the opinions of your correspondents, but so far as I recollect, never your own. This makes the column additionally intriguing.

Michael Williams
Dublin, Ireland

I think Janet should let the mediation stand, as the parties did their own bargaining and agreed to something they think is fair. As in every case, the parties have the ability to check the facts and data and do their own due diligence. It is not up to the mediator. The parties settled the conflict; let it stand on its own. Unless they asked for the mediator's opinion (and then this is an issue that is debated), it is not needed in this case, nor is the extra knowledge Janet has about the value of the coins by way of her husband who never even saw the coins or the vehicle.

Madge Woods
Los Angeles, California

First of all, unless Janet's husband is an expert (or nearly so) I would not rely on his opinion. Why would I choose to believe that husband's

appraisal is contrived?

Second, I would caucus with the husband before the start of the next session and "test" him on the valuation issue, telling him what my knowledgeable spouse said. I do not believe that confidentiality has been breached by mentioning the coins to my spouse.

I would remind the husband that, in the beginning, one of his goals was a "fair" division of assets and debts. I would ask him, if the coins were in fact undervalued, if he would consider that to be fair. I would explain that if the wife's attorney found out that the coins were intentionally undervalued, that some or all of the property settlement could be set aside. I would ask him then how this situation could best be managed. At some point, I would suggest that perhaps the best way to manage the situation might be to break the deadlock by agreeing to the wife's terms. If that approach isn't successful, I would advise the husband that it would at least be fair to offer the wife the opportunity to have her own appraisal done. If she declines, case over.

In short, there's not enough value at stake to blow up an entire agreement. Take a reasonable swing at it and let it go!

David W. Peck
Cincinnati, Ohio

Agree or Disagree?

Do you agree or disagree with the responses to the Winter Ethical Dilemma? Please let me know by sending your comments to Clarence Cramer at: mediator@co.pinal.az.us, or mail them to 119 W. Central Ave., Coolidge, AZ 85228. Please include your name and address.

The Center Ring

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A standard that is of and about the clients considers a framework that addresses the common and individual needs that clients bring into the process. It challenges us to help them identify the profundity of their shared goals, which I call “macro” goals. Macro goals are sufficiently aspirational to elicit responses from the clients that are mutual and positive. These goals are often made evident by the answers they give to questions such as:

- Would it be your goal to go through this process in manner that is as beneficial to your children as possible?
- Would it be your goal to reach a settlement that is the best agreement that you can possibly achieve through any process?
- Would it be your goal to go through the divorce process in a manner that feels safe and subject to your approval?
- Would you like to have control over the process, its cost and its outcome?

A macro goal is one that is guaranteed to produce affirmative responses. Clients are all too familiar with their disagreements over the specifics—the “micro” issues. How much financial support will be available? What will the co-parenting agreements be? How will the family business get valued? What will happen to the house? Forgotten in the negative atmosphere of a dissembling relationship are the profound values that are still shared by them—their love of their children, their desire to feel free from the fear of uncertainty, their desire to achieve their best result.

Being client-centered requires assessing client needs with respect to process and substance.

Being client-centered requires assessing client needs with respect to process and substance. It begins with identifying their capacities to be effective in defining objectives and in their approach to attaining them. It ends with an achievement of success as they would measure it. It speaks to every facet of a facilitating, transforming or evaluating approach. The role of the professional is multi-faceted and includes learning about the clients and helping the clients learn to achieve what they consider maximum success. Maximum success is both practical and aspirational. It raises the highest standard while allowing the clients to reach “the best possible settlement” in the context of their finite circumstances. **FMN**

IN MEMORIAM: Lynn Carp Jacob

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and community approach toward helping other families. Her home was open and gracious and as a visitor at her table, one also felt at home and part of her family.

Lynn’s contributions to the field are certainly legendary and more than deserving of this special issue. Yet it is her personal generosity and gentleness that are imprinted in my memory and that I miss most. In future years, when we and future generations talk of the field’s inspiring pioneers, Lynn Jacob will forever be front and center.” **FMN**

In lieu of flowers, donations may be made in the memory of Lynn C. Jacob to either Jewish Women International:

(<https://mmm1914.dulles19-verio.com/jwiorg/index.htm>)

or the Leukemia and Lymphoma Society:

(<http://www.leukemia-lymphoma.org/>).

Call for Submissions to Family Mediation

You are invited to submit content (and accompanying graphics) to the newsletter in the form of unpublished articles, general interest columns, news updates, Section news, calendar information and letters to the editor.

Submission Procedures

Please submit unpublished articles that provide pertinent and engaging information, research results, practitioner tips, and/or examples of programmatic success in the area of family mediation. The editor will review sub-missions on a rolling basis and will recommend for publication those entries that provide fresh ideas and perspectives. The author will be asked to provide a photo to accompany the article, preferably via email. Authors will also be asked to sign a Permission to Publish agreement.

News updates, Section information, calendar information, and letters to the editor are also welcome. All submissions should be emailed with complete contact information (name, address, phone, fax, email, professional affiliations) to Don Saposnek at dsaposnek@mediate.com.

MAKING SPIRITUAL WAVES AND BREAKING OLD PATTERNS

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a scholar and teacher focuses on the intersection between the practice of law and the illusive and controversial concept called spirituality. I argue in my book, *The Spiritual Revitalization of the Legal Profession: A Search for Sacred Rivers*, that the legal profession is by nature a sacred calling, and that lawyers are engaged daily in a spiritual enterprise, whether they understand it or not. I reach this conclusion not because lawyers are given license by the state to practice their craft, and certainly not because of how the public views lawyers. This controversial conclusion is a product of what we are called to do, and not the regulatory regime that governs the practice of law. This sacred mantle should be bestowed upon lawyers because we, like all of you in this room, live daily in the minefields of moral ambiguity. Lawyers, like mediators, are invited into the most vulnerable and sacred places where people dwell. Mediators and lawyers are given a sacred trust to safeguard the precious needs and unrealized dreams of those we serve. So, if conflict is symbolic of hell, then those who help to resolve it, mend it, heal it, and lead others through it, can be heavenly guides.

Though my book was written primarily for lawyers, I believe it is equally applicable to mediators. For in the deeper sense of the word, mediators are spiritual guides. You are not neutrals caught in the middle of right and wrong. You create personal and collective mirrors that allow people to get a deeper and sometimes uncomfortable glimpse of the power and limits of their hearts and minds. When your work is done

Mediators and lawyers are given a sacred trust to safeguard the precious needs and unrealized dreams of those we serve. quote here

well, you not only allow participants to better understand what they are contributing to the conflict, but through reframing the issue and encouraging them to move beyond the prisons of their story, you permit them to see the other person not as the embodiment of evil, but as someone like them wherein good and evil reside.

...So, I am not so subtly suggesting that if you want to make waves in the profession and the society that are truly transformative, then you must more systematically tap into the spiritual resources and powers that lie all around you, inside you, and are so endemic to the work you are called to do. Just as insights from the fields of psychology and sociology have greatly enhanced and enriched the art and science of mediation, so can the domains of religion and spirituality. Like those other fields, spirituality, and certainly religion, is not a panacea. These gifts and insights can be abused, manipulated and corrupted. We have had

numerous example of this in our own lifetime. Yet, let us not throw out the baby with the bath water.

...I define spirituality as consisting of two components. The first is a consistent attempt to live one's life and conduct one's work by the highest values humanly obtainable. The second is a sincere commitment to search for the sacred. For many, this second aspect is captured by our incessant yearning to have a close and meaningful relationship with God. For others, it is an attempt to extract from life the deeper meaning and purpose for one's existence. However one gives content to this second component, it must contain a transformative power that exists within our being and that we believe exists within life itself. Though this definition can be consistent and compatible with one's religious beliefs, it is not restricted to any particular religious tradition.

When I examine the work that you are called to do as mediators, and especially as mediators of family disputes, I see enormous synergy between your task and this definition of spirituality. Embedded in the Model Standards of Practice for Family and Divorce Mediation are some of the highest values that each mediator must strive to live by. For you realize that the mediator who operates in a values vacuum is a dangerous third party neutral, for there are tremendous abuses of power and people that can occur when we operate without a clear set of values and beliefs. Yet I would argue that your model standards, like the ABA model rules are merely

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MAKING SPIRITUAL WAVES AND BREAKING OLD PATTERNS

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a floor. Abuses of them can easily go undetected, unreported and unenforced. These standards must rest on a foundation of deeper values that each mediator nurtures and cultivates on a daily basis. There must be some practice, some process, some ritual or tradition that each of us pursue to assist us in our quest to embrace, internalize and abide by the values we articulate. That process is an important aspect of spiritual development whether we use the label or not.

The second aspect of my definition is a search for the sacred. You are searching for the sacred in the mediation process when you strive to get the parties to reach a deeper understanding of the conflict; a more sincere understanding of the relationship and a more honest understanding of themselves. If all we strive to do is to secure an agreement that both parties are willing to sign, then we have added very little to the choices that conflicted people have in the society. If mediation is truly different, then you must provide the parties with something that they can't find in the traditional arena. You must be a sensitive guide into the uncharted territories of human pain and spiritual possibilities.

The search for the sacred is clearer for the enlightened mediator; for she understands that it is the whole person, and not just the legal issues which she is called to serve. Some of you know instinctively that you are healers, striving to empower people to heal themselves. Your work is a reflection of one of the unique aspects of sacred searches. For if you are honest with yourselves, then you know when you commence any mediation session, that you have

The work you
do is not
just work
of the mind.
It is work of
the heart. It
is work of
compassion and
sensitivity.

embarked upon a journey to a land that is not fully mapped out, and you are guiding vulnerable people through a process that you can't completely control or determine. Thus faith, not fear must be in abundance in your healing kits. Even more so than lawyers, you must have the internal courage to live with uncertainty, ambiguity and messiness, which are the building blocks of human conflict.

If mediation, and especially family mediation, is to reach the next level of credibility and acceptance, then you must be willing to make some spiritual waves, and you must be willing to break some of the barriers that have imprisoned your work.

On the micro level, you make spiritual waves when you come to the meditation process centered, whole and free of the personal biases, baggage and blinders that this society so easily places upon us. Your training and education will not ensure that you are bringing the best self to the mediation table or circle. Though each of us may have

various paths we pursue in order to prepare ourselves for this journey, it is vital that we don't neglect the soul of the mediators as we prepare the mind of the third party neutral. When those you serve can qualitatively feel that the process you conducted touched the essence of who they are, you will know you are making waves. When they leave not only with an agreement, but with tools and insights that can guide them through their life's journey, then you are making waves and breaking down old barriers.

The work you do is not just work of the mind. It is work of the heart. It is work of compassion and sensitivity. It is the work for which spiritual legends and lessons are made. It is written in scripture, "Blessed are the peacemakers, for they are the children of God." Peacemakers are the offsprings of divine principles when they preserve life and hope in a world destined for destruction. Blessed are the peacemakers, for they can see beyond human limitations and embrace the endless potential and possibilities of the human spirit. Blessed are the peacemakers, for they instinctively understand the immeasurable damage and consequences of war - not just the wars fought with missiles and bombs, but the internal wars fought with missiles of self hate, and the external wars fought with bombs of anger and abuse. They realized what Sri Mata Devi said in a speech to the United Nation, "Peace is not just the absence of war and conflict: peace must be fostered within the individual, within the family and within the society.

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MAKING SPIRITUAL WAVES AND BREAKING OLD PATTERNS

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Simply transferring the world's nuclear weapons to a museum will not in itself bring about world peace. The nuclear weapons of the mind must first be eliminated." This is the small but sacred peacekeeping work that you are called to do, one person at a time.

So to be peacemakers you must come to the mediation arena, spiritually grounded. You must come wrapped in armor that can't be seen, imbued with powers that can't be fully understood. You must be the peace that you hope to create in your work and in the world. As one of your workshop topics indicate, you must first "harmonize the world within," if you want to bring harmony to a conflicted and chaotic external world.

Your job, your calling would not be as critical if you only had easy disputes and easy people to mediate. But you face impasses, you find yourself sometimes between a rock and a hard place; between difficult people and hard circumstances. In those moments, what skills, insights and values can you bring to the table? From what rivers do you draw the power to guide the process and the people to a higher level of understanding? Dividing up the house is difficult, deciding who has custody is challenging, but trying to heal the destructive patterns of abuse, denial, neglect, and low self esteem are the real challenges facing your Section. Can you ride this wave; can you break down those barriers?

But the greatest wave you can make that can change the oceanfront of this society, is when you see yourselves not mere participants in the end game of family disputes, but when your

practice is also focused on empowering families to stay out of crisis, by equipping them with the tools ahead of time so that they develop stronger and more productive families. Family meditation is a process for the beginning of relationships, not just at their end. This is the greater spiritual mandate facing this profession. How can you equip people so that so many of them don't end up in the dispute resolutions centers we call courts, jails and mental institutions?

If the insights, tools and skill you possess are appropriate at the end stage, then they are appropriate at every stage of life.

... There are families in this society whose children are in jail or in a grave because they couldn't effectively navigate the conflicts that existed within their schools, communities or home. There are families in poverty because they can't mediate the conflicts that exist between their needs and this country's other priorities of waging wars and supporting the rich. There are families still imprisoned behind barriers of racial hatred, that prevents them from seeing the worth and value of those who are different from them.

Who will respond to these needs? Who will create the social waves that bring change in these desert places? I believe that these challenges are as much a part of your calling as divorce and custody matters. Some of you may argue that this is beyond the scope of what you signed on to do. But from a spiritual perspective, this is the essence of what you are called to do. For peacemakers do their best work when there is no war. True peacemakers journey to lands where

they are strangers. True peacemakers take on issues that do not belong to them. For they intuitively understand, that "Injustice anywhere is a threat to justice everywhere." And destructive and neglected families anywhere in this society are a threat to families everywhere.

... The people you serve live behind barriers of fear, anger, distrust and hurt. You cannot reach them, nor help them break through these walls, if you approach them with windless waves. It is the spirit that dwells within you and them, and which guides your work, that gives you the greatest potential to usher in change. So embrace this power, harness it for good, and in the process you can leave this world better than you found it.

... That is the great wave, the tsunami of justice, peace and prosperity that we must wash this society and world within. Let us together, mediators and lawyers, create and ride this wave. If we do, then our living and our work will not be in vain. **FMN**

Contact information for the author is:

Email: d.hall@neu.edu

Website:
www.sacredrivers.neu.edu

*[Ed. Note: The complete Keynote Address of Dr. Hall can be read on-line at:
www.mediate.com/acrfamily/pg39.cfm.*

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