



PROFESSIONALS COMMITTED TO COOPERATIVE CONFLICT RESOLUTION

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**Our Mission**

The Maine Association of Mediators is a nonprofit organization of diverse professional interests seeking to broaden public understanding and acceptance of alternative forms of dispute resolution. The Association strives to enhance professional skills and qualifications of mediators, arbitrators, and other neutrals through training, educational development and promotion of standards of professional conduct.

**Submission deadline**

for March issue:  
 February 19, 2013  
 FMI: MAMBulletin@aol.com

[mainemediators.org](http://mainemediators.org)

**The President's Message**

By Peter J. Malia, Jr.

At the Board of Governors' annual retreat, which took place on December 6, 2012 at the Portland Regional Chamber of Commerce office in Portland, we said goodbye to five outgoing board members: Chris Causey, Dick Romeo, Sheila Mayberry, Jan Tockman and Stacy Mondschein Katz. Each of these board members performed an incredibly valuable service to the Maine Association of Mediators over the past two years, and in some cases, for a much longer period of time. We will miss all of them.

We were fortunate, however, to welcome five new members to the board. **Chris Neagle** is a Portland lawyer and mediator at Troubh Heisler, where he specializes in commercial and residential real estate transactions. Chris also founded an ADR company in 2002 called Real Estate Resolutions, LLC.

**Bill Michaud** is also a lawyer/mediator based in Portland. Bill previously served as a superintendent of schools in the Scarborough school system, as well as the Principal of Westbrook High School. Bill now has a solo practice of law in Portland, and he mediates small claims cases and forcible entry and detainer proceedings.

**Steve Wessler** was our keynote speaker at our spring conference in May. Steve is a human rights educator, trainer and advocate. He works with schools, colleges, nonprofit organizations, healthcare institutions, law enforcement agencies, workplaces, and communities to prevent bias, harassment, discrimination and violence.

**Meredith Richardson** works as a mediator, facilitator, guardian ad litem, parenting coordinator and collaborative lawyer in Maine and New Hampshire. Meredith's office is located in Kittery.

**Elaine Bourne** is the project coordinator of the community mediation program for Volunteers of America, NNE. Previously, Elaine served as the first fulltime admissions director for the University Maine School of Law from 2006 to 2008. At Volunteers of America, NNE, Elaine has (among other things), developed programs for volunteer mediators.

We are excited to have such a talented and diverse group of dispute resolution professionals join the Board, and we are looking forward to a tremendous year in 2013. Our meetings and events committee is already getting to work, and our first program is scheduled for March 7, 2013 from 8:30 a.m. to 10:00 a.m. in Portland. Stay tuned for more details. As always, feel free to contact me if you have any questions or issues that you would like to discuss pertaining to the Maine Association of Mediators.

## Challenging Behaviors and Children: A New Year Approach

By Samantha Sawyer, M.A. CCC-SLP

As we head off for ski weekends, prepare for February school break or entertain an energetic grandchild, opportunity for new interactions is often present. The following is excerpted and adapted from the website Brightening Connections at <http://brighteningconnections.com/category/general/challenging-behaviors/> and reprinted with permission.

A child with challenging behaviors cannot absorb any lessons you are trying to teach in-the-moment. Her brain can be likened to that of a fire, raging out of control. In order to make repairs we must first put out the fire. Rather than pursue a strategy to apply after the explosion has occurred, consider a proactive technique to prevent the brain from reaching that burning-hot chemical state called fight-or-flight.

Build in “animal walks” throughout your day. These provide deep input into the muscles and joints so that the brain and body get a heavy dose of “happy chemicals.” In the morning invite your child or grandchild to slither like a snake to the closet to pick out her clothes or to the cupboard to help set the table. She may hop like a bunny to the lunch table and crawl on all fours like a bear afterward to get ready to leave the house. Invent new animal walks like a lame dog with an “injured” leg or an ostrich by grabbing your ankles and stepping around the room.

It is a joy seeing what kinds of new animal walks children come up with. The natural silliness of it all invites laughter, which releases dopamine so the brain naturally is flooded with happy chemicals that bond you to one another.

On the other hand, incessant talking (no, not talking about your child!) can irritate our kids’ nerves - the same exact nerves that make up the nervous system – and cause them to feel disconnected and punchy. Now, who wants to play nice or enjoy a special outing when their auditory system is constantly getting bombarded with language? Not our kids!

As you prepare for your relaxing stay-cation or out of town holiday, keep the directions and commands to a minimum. Instead, tell your young child two or three things to pack and stay quiet as he does it. When you talk a little less it models what you desire him to do - talk a little less. It allows his auditory system to take a break so his bright mind can practice skills of memory recall, imagination and/or simple stillness. Plus, it allows you to use a favorite behavior-calming strategy: “save your breath.”

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*“When I was a boy and I would see scary things in the news, my mother would say to me ‘Look for the helpers. You will always find people who are helping.’ To this day, especially in times of ‘disaster,’ I remember my mother’s words and I am always comforted by realizing that there are still so many helpers – so many caring people in the world.”*

– Mr. Rogers

Maine Association of Mediators pays tribute to the many helpers and caring people in Connecticut’s Sandy Hook village and Newtown.

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Want to provide even more opportunity for integration of children's brains and their senses? Purchase or check out a library audio with environmental sounds such as rain, birds and water or rhythmic music with a defined beat such as chants, ethnic music and gentle drumming. If February's school break finds you skiing or sunning on a southern beach near water, draw your child's attention to the crackle of the lodge's fire or the rhythmic flow of the ocean.

## Mind P's and Q's (of Pensions)

by Michael E. Gallagher, A.S.A., M.A.A.A.

In the specialized world of actuarial science, two small letters stand out as the central figures in some very basic expressions. The probability that someone (aged  $x$ ) might survive for a particular period (length  $t$ ) is usually represented as  ${}_t p_x$ . Conversely, the probability that that same person might die within the same period is represented by  ${}_t q_x$ . Since actuaries tend to appreciate a nice clean equation, and since there really are no other alternatives,  ${}_t p_x + {}_t q_x = 1$ , which means that it is a certainty that a person age  $x$  will either live to age  $x + t$ , or die before then.

What that could mean in the context of divorce mediation and the disposition of the asset representing the interest in a pension plan is that simply deciding what happens to the pension is only half of the equation.

Since a pension is only paid if the plan participant is alive (remember the  $p$ ?), it may be a disservice, especially to the non-participant spouse, to ignore what can be a significant benefit that becomes payable only upon the death of the participant. Hence, we must remember the  $q$ !

Although most pension programs include some type of survivor benefit, they are by no means all the same. And there are two separate periods of time to consider.

In many cases, especially with corporate pension plans, if the plan participant dies prior to retirement, a surviving spouse would at least be entitled to what they would have received if the participant had retired the day before and elected to have the pension paid under the optional form which provides for a continuation of at least 50% of the benefit to that survivor. If the participant was not married at the time of death, there may not be any survivor benefit payable to anyone, especially if the divorce judgment did not include a provision that the former spouse would continue to be treated as a spouse for the purpose of this survivor benefit.

If the participant dies after retiring, survivor benefits depend on the form of benefit payment that was elected at the time of retirement. In corporate plans, the legal spouse at retirement must approve of any form other than the (usual) 50% continuation form. Once payments have commenced, the election cannot be changed. A major exception to this rule is that some plans

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(primarily government plans) require that the death of a retiree's spouse negates this election and eliminates the survivor portion of the retirement benefit scheme.

So, in minding the *p*'s, all that needs to be done is to settle the pension asset by allocating the pension. However, unless the settlement also includes an assignment of any survivor/spouse benefit, (and considers both the pre- and post-retirement aspects of survivorship), there may not have been a proper minding of the *q*'s!

*Mike Gallagher is an independent consulting actuary specializing in providing expert pension advice to family law practitioners. He can be reached by mail at Gallagher Actuarial Services, P.O. Box 297, Sebago, ME 04029-0297, by telephone at (207) 650-6405, or by email at [actuary@galactser.com](mailto:actuary@galactser.com). Additional information can be found at <http://www.galactser.com>. This article, which has been author reviewed and updated, initially appeared in The Bulletin issue for Jan-Feb 2008.*

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## Harvesting Ideas from MAM Board of Governors Annual Retreat

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**Lisa Levinson** of Constructive Conversations facilitated the Maine Association of Mediators annual board of governors retreat on December 6, 2012. While the following "ideas under consideration" are only two sections of her multi-sectioned report, these are key areas. What do members and interested readers think? Give us your feedback by emailing to [administrator@mainemediators.org](mailto:administrator@mainemediators.org) or [pmalia@hastings-law.com](mailto:pmalia@hastings-law.com) with subject line "Retreat Ideas Feedback." We value your views! Thank you.

### Meetings and Events Ideas Under Consideration

- Explore using more web-based meetings and events and how other states and organizations do this
- Investigate developing a survey for MAM members to identify topics for meetings and time/venue preferences, and involve more northern Maine mediators
- Add one meeting for northern Maine to existing schedule
- Expand one meeting to three hours so more worthwhile for those traveling distances and offer web-based option as well
- Hold annual meeting at annual conference as lunch program to involve more people in the meeting
- Explore having after hours events for more social and networking opportunities for members

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- Coordinate with other states (such as NH) to share costs and/or alternate conferences to attract mediators from both states and have a larger conference

### **Practice Quality Ideas Under Consideration**

- Coordinate with the Board of Overseers to determine when MAM's ombudsperson process is appropriate for attorney mediators, and develop process for referrals to MAM for this process
  - Develop plan for disseminating program to consumers
  - Take lead on doing research on certification, including what other states are doing and ACR certification process. Make recommendations for MAM.
  - Tie ombudsperson program to certification/quality issue
  - Develop ombudsperson panel and panel training
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## **MAINE ASSOCIATION OF MEDIATORS ADMINISTRATIVE ASSISTANT POSITION OPEN**

### **MAM seeks a part-time administrative assistant for its statewide organization.**

The work, performed from a virtual office, is anticipated to require up to 25 hours per month and compensated at a minimum of \$20 per hour (final offer dependent upon applicant qualifications). Duties include collecting and handling mail from a Portland box, telephone calls and emails, managing web site changes and announcements (including eblast announcements), updating the membership database, sending timely membership renewal notices, and assisting at event sites and with event registration processes. Basic bookkeeping skills include filing tax forms, paying bills and preparing monthly financial reports. On site event registration, typically in southern Maine, is required on as needed basis but attendance at monthly meetings not required. The position reports to the Board of Governors through its President.

### **Job Requirements and Application**

Demonstrated experience with office procedures and technology; excellent communication and collaboration skills; ease with self-starting and efficient planning required. Non-profit organizational experience preferred but not required.

By or before February 6, 2013, please submit a resume with references to [pmalia@hastings-law.com](mailto:pmalia@hastings-law.com) or FAX with cover sheet to P.Malia at 207-935-3939. No phone calls please.

## Blind Tasting

### *Mediators Test Their Inner Oenophile*

By Paula Craighead

At the annual meeting on November 1, MAM members filled vacancies on its board of governors (see President's Message) and were thoroughly engaged by speaker Craig McEwen (see previous Bulletin's interview). Members and guests then enjoyed a social hour that included a blind wine tasting of three bottles of only one varietal, each bottle containing differing alcohol contents of 12.5% or 13% or 14% alcohol. By law, a bottle of wine must list its alcohol content on the label. Some wine experts believe the so-called 'big' wines (typically 14% and up) are often inferior to wines with lesser alcohol content because grape character or terroir may be more distinctive at lower alcohol levels. The event's tasting challenge was to guess whether the varietal identity could be determined according to provided descriptors for malbec, merlot and cabernet sauvignon. The exercise also allowed tasters to reflect on any taste differences of a single varietal at differing alcohol content. After the vote tally, most mediators and guests participating correctly guessed the varietal was a malbec. Most also preferred the taste of the lower alcohol malbec.

*Save the Date!*

*Calling all mediators to the  
first MAM program of 2013*

**DATE: March 7, 2013**

**TIME: 8:30 – 10:00 a.m.**

**Topic and directions to Portland venue  
provided closer to date**

#### MAM Board of Governors

##### Officers

Peter Malia, President

Elaine Bourne, Secretary

Chris Neagle, Treasurer

##### Board Members

Diane Edgecomb

Matthew Caras

Paula Craighead

Maria Fox

Karen Groat

Todd Ketcham

Bill Michaud

Meredith Richardson

Steve Wessler

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