

Maine Association of Mediators

December 2007 Bulletin



Maine Association of Mediators
Professionals Committed to Cooperative Conflict Resolution

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Another New Year, And yet

By Acting President, Anita B. Jones

... Not just any new year for the Maine Association of Mediators. I predict this will be a busy year of reflection and action; examining and rebuilding; fellowship and learning for our professional organization.

The Board of Governors met all day in early December, ably facilitated by a new practitioner on the scene, **Amy Burchstead**. Every single person but one was able to be present; out-going members, newly elected members, and those continuing on the Board. (For a list of BOG members for 2008, see page 4.) It was a great turn-out and there was lots of good energy and good ideas in the room.

We said there and I'll repeat here, that we owe a big debt of gratitude to **John Alfano**, our Immediate Past President, who in December of 2005 stepped bravely into the vacancy created by the abrupt stepping-down of the President elected just a month previously. John picked up the responsibilities and carried the organization forward through a couple of years of immense changes in structure and operating procedures – a daunting task. We thank you, John, for preserving our organization with your willingness to assume the leadership under trying conditions, and for continuing in your new role as past president to add continuity to the BOG, and to recruit articles for the *Bulletin*.

Many thanks also to our out-going BOG members, **Tobey Williamson, Carol Corwin, and Bambi Magaw**; and a big welcome to in-coming members **Mary Beth Paquette, Colleen Newcomb, and Peter Malia**. This promises to be an interesting year.

After four years off the board, I'm back in the saddle again looking forward to engaging with our members and the Board in planning worth-while learning activities, keeping an eye on legislation relating to the field, and rebuilding the strength and relevancy of the organization. Here's to a new year filled with passion, fun, and learning!

Anita Jones

PROPOSED CHANGES IN CONFIDENTIALITY RULES THE TOPIC OF FEBRUARY MEMBERSHIP MEETING

A statewide Membership Meeting will be held on **February 6, 2008 from 10 to 12** at Mediation and Facilitation Resources, 11 King Street in Augusta.

The speaker for the meeting will be Peter, L. Murray, Esq. Members may remember that he spoke extemporaneously at the Symposium sponsored by CADRES in October, 2007 after one of the panelists, Prof. Frank Sanders of Harvard Law School, spoke on confidentiality in mediation.

Peter Murray is a Consultant to the Advisory Committee of Rules of Evidence, Chaired by Matthew F. Dyer. His topic will be proposed changes being promulgated by the Committee on Rules of Evidence regarding what information is allowable in court hearings, including matters discussed in mediation.

Mr. Murray wrote the book, *Maine Evidence* with Richard H. Field and is a Visiting Professor at Harvard Law School.

This topic will be of compelling interest to mediators, as it has a direct bearing on what we say and how we think about confidentiality in mediation. Come to hear what changes are being proposed. Ask your questions and have your say about this topic of vital interest to us all

Come at 9:30 for coffee and a chance to chat with colleagues before the meeting. See you there!

**HAPPY NEW YEAR
EVERYONE !!**



RUMINATIONS ON THE PROCESS OF BECOMING A MEDIATOR

Peter S. Plumb

Many lawyers, particularly as we begin to get along in years, relish the thought of developing a mediation practice. Since the first thing everyone advises you when you announce that you would like to become a mediator is “don’t quit your day job,” I thought it might be useful, if only for anecdotal purposes, to pass along my own saga. The bottom line is that it has been fun, sometimes difficult, and slow.

With the advent of Rule 16(b) a few years ago, I decided to give mediation a try. First I started with a one week (40 hour) course with CDR Associates in Denver, Colorado in late 2001. That was followed in May 2002 with another 40 hour course with Gosselin, Reitman and Ainsworth, in Maine.

Along the way I signed up to be a volunteer mediator for the Community Mediation Center in Portland. While time consuming, these cases were a lot of fun and definitely out of my normal line of work! One of the earliest was a neighborhood dispute over a barking dog on Peaks Island, followed shortly by another dispute about an overly frisky cat in a Portland residential area. A variety of landlord/tenant and employment discrimination cases followed.

By 2003 I had accumulated enough formal training and actual mediation time to be placed on the CADRES list. I sent out letters to lawyers practicing in the areas in which I wished to focus - real estate, trusts and estates, and general business disputes. Gradually some work has begun coming my way on a reasonably regular basis.

What I have learned throughout all of this, however, is that “mediation” viewed in the context of civil litigation tends to be a somewhat different kind of animal than “mediation” in many other settings, be they small claims, victim/offender, landlord/tenant or domestic relations. Lawyers involved in civil litigation in the areas I prefer to focus on, tend to select a relatively small number of experienced lawyer/mediators. Since I, too, frequently need to choose a mediator, I have found that the criteria for selecting a mediator does not necessarily follow the precepts which are heavily accentuated in any formal training for mediators: i.e. a mediator must be absolutely neutral and should never express his or her opinion except to avoid a serious miscarriage of justice. My own experience has been that lawyers (and inferentially their clients) will prefer to select a lawyer/mediator (or a retired judge) who: (a) has a good working knowledge of the law in the area that the case involves; (b) is a seasoned lawyer who has been “around the bush” enough times to understand and predict the range of likely outcomes of a case; and (c) is willing to work hard to get the case settled, which, if necessary, can involve some specific expressions of opinion when appropriate. Many lawyers frankly appreciate the willingness of a mediator to be quite firm with a recalcitrant client whose expectations cannot be justified. This can be a far cry from what I was taught, but it does seem to be the reality in the world of pending or threatened civil litigation.

It also seems true that almost without exception the lawyers who are the busiest mediators in the Portland area still maintain very busy non-mediation practices for the bulk of their productive time. As they say, “don’t quit your day job,” but for me at least the process has been well worth the time and the effort.

THE HISTORY OF COURT MEDIATION IN MAINE

The History of Court Mediation in Maine: Empowering Litigants to Resolve Their Disputes is the title of a new book, written by Don Kimmelman, a MAM member and a CADRES mediator. This history is in two parts. Part One details the history of court mediation in Maine from its origins in the mid-1970s until the death of its first director in 1988. Part Two highlights the important events which follow and summarizes the expansion of court mediation into the Court Alternative Dispute Resolution Service (CADRES).

To get your copy, send a check for \$15 (\$12 plus \$3 for mailing) to Don Kimmelman, 285 Eastside Road, Sorrento, ME 04677. Questions? Email him at donaldkimmelman@yahoo.com.

An As Yet Unmarked Milestone

By Anita Jones

In putting together a time-line for the December BOG Retreat, I discovered something very interesting. **2007 marked the fifteenth anniversary of the incorporation of this organization.** It went unnoticed amid the activities of the year, but I didn't want it to go unmarked altogether.

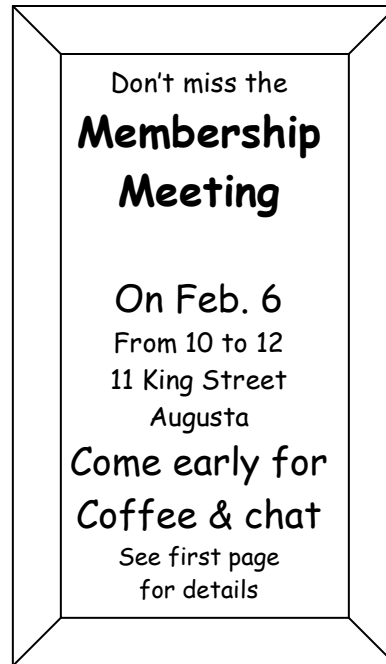
In 1992 **David Plimpton, Shari Broder, Hank Warren, Joanne Fryer** and others gathered together to begin what was called until last year the **Maine Association of Dispute Resolution Professionals.** The membership at that time included not only mediators, but arbitrators, early neutral evaluators, facilitators – anyone who solved people's problems in an "alternative" way, although mediators were in the majority.

They incorporated and obtained non-profit IRS status in 1992 and in the next year had established **Standards of Professional Conduct**, our ethical base, derived from existing standards by **Joanne Fryer** and other from other regional and national mediation organizations. The membership tripled in the first year.

By 1996 the first By Laws were voted in, and in the following year, 1997, the new **Recommended Standards for the Practice of Mediation** were finalized by a small committee consisting of **Jacqui Clark, Paul Charbonneau** and a few others. This is the document fondly known as "the grid" because of its landscape-oriented pages and columns of information. The Recommended Standards is a guide for not only practitioners as to entrance expectations, continuing education, supervision and accountability, evaluation and behavior and ethics, but for volunteer mediators, mediators in agencies providing mediation, and mentoring or training agencies.

In 2000 the **Ombuds Process** was established as a way to address customers' dissatisfactions with mediators in agencies, in private practice, or elsewhere. This process was designed by **Diane Kenty** with a committee and was intended for use by clients in any mediation situation. Then in 2002 a set of **Legislative Principles** was written primarily by **June Zellers** as a guide for the organization as it kept an eye on legislation having an impact on the field coming from Augusta. In 2003 a comprehensive **Three Year Strategic Plan** was developed, and a Marketing Plan drawn up under the leadership of **Susanna Liller** which has guided the organization until recently and ended with the hiring of our Administrator, **Roger Moody.**

The organization has had a good run for its first fifteen years. Let's see what it can do this year to keep up the pace!



Limited Member Survey Conducted

In September of 2007 John Alfano, MAM President at the time, asked three past presidents to make calls to non-renewing members to see what thoughts they had for the organization. Twenty names or so were taken by each caller and about 60% were reached.

Many just needed a reminder to renew. Some had moved on to other work.

Several people had suggestions or thoughts about the directions MAM might take, changes they would like to see, or a focus they would recommend changing.

The Board of Governors is taking these ideas seriously and would welcome yours as well.

If you would like to contact the Board, write to us at PO Box 8187, Portland, ME 04104, or email Anita Jones at abjones@maine.rr.com.

Want to see your words published? Your ideas expressed?

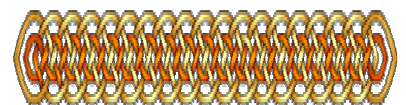
Send us an article for these pages!

Reflect on your practice; or, give us your thoughts on one of the newly adopted Standards of Practice For mediators.

For a copy of the above, email

Anita Jones at
abjones@maine.rr.com

We'd love to include your article in the next *Bulletin*





2008 Board of Governors

Acting President	Anita B. Jones	Colleen Newcomb
Acting Secretary/Treasurer	Diane E. Kenty	Peter Malia
Immediate Past President	John Alfano	Mary Beth Paquette
Maine Bar representative	Jane Clayton	Sheila Mayberry
Community mediation rep.	Tracy Quadro	
Membership Chair	Tamar Mathieu	
Professional Development	Will Van Twisk	

MISSION

The Association is a non-profit 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.

Maine Association of Mediators 2008 Calendar of Events

Jan. 16	BOG meeting 9 to 11
Feb. 6	BOG 8:30 to 9:45
	10-12 MEMBERSHIP MEETING
Mar. 5	BOG meeting 9 to 11
Apr. 2	BOG meeting
May	CONFERENCE
