



Conflict?

You've got options!

PROFESSIONALS COMMITTED TO COOPERATIVE CONFLICT RESOLUTION

**In This Issue:**

President's Message	Page 1
Anita Jones Retires	Page 2
Spring Conference	Page 4
Recent Court Order	Page 5
Save The Date	Page 6

**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 September issue:

August 15, 2012

FMI: MAMBulletin@aol.com

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

**The President's Message**

By Peter J. Malia, Jr.

Did you know that the standard residential Purchase and Sale Agreement used by the Maine Association of Realtors contains a mediation provision in paragraph 17? Furthermore, did you know that any dispute arising out of the Purchase and Sale Agreement requires mediation to take place through the Maine Residential Real Estate Mediation Program (MRREMP)? Finally, did you know that MRREMP is a subsidiary (for lack of a better term) of the Maine Association of Mediators? The Program Administrator is Eliza Nichols. Eliza will be making a presentation to the Maine State Bar Association Real Estate section to promote this program. She has also circulated a memorandum regarding this program to all members of the Maine Association of Realtors. For more information, please contact Eliza using the contact information found on our website.

The Meeting and Events Committee is gearing up for another Skills Training Program this summer or early fall. Stay tuned for more information on that, as well as our annual meeting which is tentatively scheduled for November 1, 2012. If you have suggestions for an upcoming program, please contact chair Todd Ketcham using the email for [admin@mainemediators.org](mailto:admin@mainemediators.org) or me at [pmalia@hastings-law.com](mailto:pmalia@hastings-law.com)

In the meantime, the Association's Board of Governors continues to meet on a monthly basis and discuss not only the day to day association affairs, but also larger topics such as a revival of the Ombudsman Program. We are also in the process of updating our membership list, both for email addresses and for listings on our website. This is a good time to please check your listing on the website. If your information (in particular your email address), is not up to date please contact Administrator Lisa Fourre, immediately.

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Unfortunately I was unable to attend our Maine Association of Mediators' Spring Conference on May 10 due to a death in my family. However, from feedback I understand all involved were generally quite pleased with the program. I would like to thank Stacey Mondschein Katz for chairing the Spring Conference Planning Committee, as well as Todd Ketcham, Maria Fox and Anita Jones, who also served on the Committee. I would also like to thank all of our sponsors who made the Spring Conference possible.

Your Board of Governors continues to work hard to provide members and program attendees with frequent opportunities to improve your mediation skills, as well as network and collaborate with your peers. If you are interested making a contribution by joining a committee or becoming a candidate for the Board of Governors, please contact either Maria Fox or me. I hope to see you at an upcoming program!

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## Anita Jones, co-founder of Community Mediation Center and longtime Maine mediator retires

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Anita Jones of Portland started mediating in 1993 after taking a USM course called Mediation, Negotiation and Facilitation which she quickly followed up with an advanced course on the same topic. She and several other area mediators shortly thereafter started a Community Mediation Center that was unique in having a victim-offender mediation practice—something which is less available today after the Center's closing in the early 2000s. Anita's practice in recent years has centered on serving with the Court Alternative Dispute Resolution Services (CADRES) and private clients.

An active Maine Association of Mediator's member, Anita served several years as a Board of Governors member including two different terms as president. She served for many years as a board member of the New England chapter of Alternative Conflict Resolution (NE-ACR). Her retirement activities are happy ones: she is travelling, serving on the board of the Tate House Museum, spending time with nearby grandchildren and attending to property she owns in New Hampshire. While she won't sit in formal mediation sessions again, she believes she will find the skills useful for other community work she undertakes.

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We asked Anita for a story—something that she has carried with her since the start of her career. She immediately offered the following:

*“The one that comes to mind is my first court mediation in Biddeford. In those days we did mediations in the basement of the old courthouse. It was really a basement. There were those tiny basement windows, spaces that were dark and awful, but one room had been spruced up for us so we did mediations down there.*

*The first one, wouldn't you know, was where one of the parties was without an attorney. The woman had an attorney and her spouse did not. The room was just full of tension from the hostility. I could feel it. He sat, arms crossed, with eyes shooting daggers. She acted timid but she had an attorney so I was not too worried about her. The exchanges between them were awful and barbed. I remember the feeling of being overwhelmed by the hostility in the room. I was shaking when I left, even while driving home. I said to myself: ‘You have to have a thicker skin. You are doing this work to try to make a difference. These people are what they are; it's their problem, not yours. Don't let it get it to you or you can't do the work’. This [inner dialogue] was a huge turning point for me. If you're tangled in the weave, you can't see where the openings are. Staying out of the fray is important. By the end of my time as a mediator, I was totally comfortable with being in a room with hostility. One thing that's helped is I try to siphon some of [the anger] off in introductory moments when I meet separately with them: I let them vent. Another thing to do is recognize and acknowledge the hostility and anger that is getting in the way. That [mention] actually goes a long way to move the mediation forward. Everyone knows it if you've studied mediation, but eventually it comes automatically to anyone who becomes more practiced. A mediator's holding open the possibility that even someone who is very, very angry or very, very hurt can come to a different place with the other person is important.”*

If you would like to share good wishes, send to [MAMBulletin@aol.com](mailto:MAMBulletin@aol.com) and we will forward to Anita.

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## Spring Conference Well Attended and Well Critiqued

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The MAM spring conference brought more than seventy attendees to the Freeport Garden Inn on Thursday, May 12. The day-long event was a typical format of a keynote address followed by three different morning workshops, lunch, then an afternoon plenary session and closing. In lieu of a formal report, we randomly pulled six conference evaluations from the more than sixty evaluations returned and share the comments below. The numeric feedback is a 5 to 1 scale with 5 as “excellent” and 1 as “poor”:

### Evaluation #1:

The keynoter provided a good, global overview of approaches in different contexts and in different settings. **Rated: 4**

I wished the workshop on employment mediation had been longer (should and could have been longer). **Rated: 4**

Perhaps a brief session (role acting) by presenters regarding a sample session and approach. **Rated: 5**

### Evaluation #2:

Enjoyed keynoter’s storytelling – would like more tie-in to the work we do. **Rated: 4**

Good overview from employment mediation panel; Maria Fox a good moderator. **Rate: 4**

Plenary afternoon session slow at times. **Rated: 3**

### Evaluation #3:

Wonderful, extremely interesting experiences. Had trouble hearing keynoter at first so microphone was very helpful. **Rated: 5**

Each of the special education (school law) panelists complemented the other panelists very well in terms of information and experience. **Rated: 5**

Afternoon was great presentation even with one video-tech problem, but that was ok. **Rated: 4**

### Evaluation #4:

I liked the keynoter’s stories, the examples stayed with me and made his point(s) **Rated: none provided**

Good balance on the elder mediation panel; moderator did a nice job. Important to hear the lawyer’s view on transfer of property. **Rated: 4**

Liked the afternoon plenary session’s group activity discussing options. Could see how quick response and then talking it over helps to consider better options. **Rated: 5**

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### Evaluation #5:

Keynoter had poor voice clarity and themes seemed out of context. **Rated: 3**

The elder mediation panel did fairly well touching on important facets of complex practice. **Rated: 4**

Afternoon speakers gave a great presentation; they are real pros. **Rated: 4**

### Evaluation #6:

Keynoter's comments were universal; great speaker, great message. **Rated: 5**

I was a panelist on a workshop and greatly enjoyed the other panelists' presentations. **Rated: 5**

Loved the afternoon session! Specifically, role plays that weren't typical role plays. **Rated: 5**

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## Recent Court Order and Maine Foreclosure Diversion Program

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We hope to devote more news about Maine's Foreclosure Diversion Program and the practices of its mediators in a future issue. In the meantime, we recently came across a court order showing how one court addressed its concern that there has been a thwarting of the intent of the Maine law which requires borrowers and lenders to deal in good faith as they pursue options to the foreclosure statute to resolve the debt at issue.

### RBS Citizens v. Miller, RE-11-375(Superior Ct. Cumberland)

In a case where the court has already once imposed sanctions on RBS Citizens, the mediator has filed a report of further noncompliance documenting that dilatoriness on the part of RBS Citizens has delayed the mediation process and the possibility of resolving this case by a loan modification and that RBS Citizens has then taken the position that delay and inaction on the part of RBS Citizens requires the defendants to update their financial information.

This happens all too frequently.

1. As a sanction, the court now orders that RBS Citizens shall not be entitled to receive any interest for the period from August 1, 2011 (the date the complaint was filed) to and including the date that a loan modification agreement is reached or a judgment of foreclosure is entered. This means that whatever the eventual result of this action, no interest shall accrue on the loan during the period in question. Moreover, RBS Citizens may not require additional interest as a condition of any loan modification.

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2. In the event of foreclosure, RBS Citizens shall be precluded from seeking any deficiency judgment from the defendants.

3. In the event of any other documented instances of noncompliance with the mediation process or any other documented instances of delay or inaction by RBS Citizens that results in detriment to defendants, RBS Citizens shall be ordered to show cause why this action should not be dismissed with prejudice and why additional monetary sanctions should not be imposed.

The entry shall be: Sanctions imposed.

The Clerk is directed to incorporate this order in the docket by reference pursuant to Rule 79(a).

Dated: June 1, 2012

Thomas D. Warren.

Justice, Superior Court

*Save the Date!*  
*Calling all MAM members*  
*to the MAM Annual Meeting*

**DATE: Thursday, November 1, 2012**  
**PLACE and TIME, along with more details**  
**and directions, provided closer to date**

#### MAM Board of Governors

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##### Contact MAM

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