

# family

FALL 2008

# MEDIATION

# news

THE QUARTERLY NEWSLETTER OF THE FAMILY SECTION

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

Feature Article

## Lights, Camera, Action: Divorce TV!

By Wally Marcus

**H**ave you ever dreamed of starring on your own television show? Do you want to educate the public about divorce mediation and collaborative practice and increase your name recognition, thereby increasing your practice? If so, public access television is for you. The best part is that it is free. "Public Access TV," also called cable access, community access, community television, and PEG (Public, Education and Government), is a system that provides television production equipment, training and air time on a local cable channel to members of the public, so they can produce their own shows and televise them to a mass audience. If a public access show appeals to you, the first step is determining if you have public access in your area. You can check online at



**Wally Marcus** is the host of "Divorce TV" on Access Tucson. He is a founding member and the first president of the Connecticut Council for Divorce Mediation. Wally is an advanced practitioner member of ACR and has a mediation practice at the Center for Divorce Mediation with his wife, Mary G. Marcus, Ph.D., in Tucson, Arizona. You can contact him for more information and tips at: [Walter.Marcus@Center-Divorce-Mediation.com](mailto:Walter.Marcus@Center-Divorce-Mediation.com).

[www.ourchannels.org/alpha.htm](http://www.ourchannels.org/alpha.htm) or <http://www.videouniversity.com/pubaccess.shtml> for public access stations or check the website of your local cable provider. Once you have located your station, check its policy on programs, facilities, equipment, and training requirements. Public access programs are designed to educate the public, not to obtain clients or business for a profit-making enterprise. So, the advertising you will be able to do is limited

to noting that your public access program is funded in part by your practice. By hosting a program on a regular basis, however, the public will become familiar with you and more likely to contact you and your practice for services.

Your public access station or cable company will offer training opportunities that teach you how to produce a show and how to use the

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Dear Readers:

I recently saw a boat at the harbor with its name painted on the side, "Donde Estamos?" (Translation: "Where are we?") Aside from the sheer wit and irony of this as the name of a sailing vessel, as well as an apt question regarding our economy these days, this question also seems to sum up nicely the state of our knowledge in the conflict resolution field. I have been thinking about how we, in our various organizations, describe what we do: The Association for Conflict Resolution has the goal of "...enhancing the practice and public understanding of conflict resolution"; the Association of Family and Conciliation Courts' goal is towards "...improving the lives of children and families through the resolution of family conflict"; and even the International Academy of Collaborative Professionals asserts as its goal, "...to create client-centered processes for resolving conflict." All of these major organizations claim to be fostering conflict *resolution*.

However, both Bernie Mayer (in his current writings) and Jay Folberg (in his past writings) have asserted that conflict *management* is all that is really possible in most family and divorce cases. The very nature of the ongoing relationships within families, whether together or apart, is such that conflict is an inevitable and recurring phenomenon—it is omnipresent and is, at best, *managed* to varying degrees of satisfaction, at any given time. As a recent example of this, the mom of an intact, but struggling, family with whom I recently worked in therapy told me, with proud



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amusement in her voice, that their two children (an 8-year-old girl and 6-year-old boy) frequently play dolls together; they pretend to be a divorced couple, called "The Bickersons" and they "co-parent" their dolls together. Conflict is, indeed, hardwired into family life.

So, how can we back up our claims to "resolve" family conflicts through our varied methods of intervention? Do we really have any solid empirical evidence to support this assertion? Would it not be better "truth in advertising" to simply assert that we "help families to more effectively *manage* their conflicts"? I believe this issue deserves some serious consideration and debate.

But, while we are pondering this issue, let us continue to learn more of our craft by reading the enclosed articles. In this issue of *Family Mediation News*, we present Wally Marcus' feature article on how you can develop your own promotional TV show to enhance your practice. Chip Rose's "Creative Solution" focuses on Martin Buber's classic "I-Thou" concept applied to mediation work. Clarence Cramer's "Ethical Dilemma" in this issue deals with a mediator who plays on the edge of questionable ethics with a therapist colleague by using a strategy of "I'll scratch your back; you scratch my

back." Then, sadly, we offer two heartfelt "In Memoriam" articles honoring long-time colleagues, Sharon Pickett and Betty Manley, who passed away just months ago. And, after a pithy letter to the editor that questions the actions of one of our most respected columnists, Chip Rose, followed by his response, we offer an article from another of my students, Zak Forrest, who, based upon his own childhood experiences with his divorced parents, writes on how long-distance co-parents can preserve their child's emotional health by using creative techniques during travel transitions.

Lastly, I leave you with this quote:

Marriage is "the enforced study of a fellow creature."

—William Butler Yeats

Enjoy,

Don Saposnek

Editor

*Family Mediation News*

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## Divorce TV

*Continued from page 1*

equipment. You don't need to be a "techie" to learn the skills of production, but learning requires a significant time commitment. The training I had for my own show, which consisted of learning to use audio, video, and lighting equipment to tape a show, and a sophisticated software program called "Final Cut Express" to edit a show, was a 30-hour commitment. Many stations do not require you to use the studio or their equipment. If you have a video camera that can record a high quality tape, you may be able to record your show in the field and just submit the tape.

Public access stations have to allocate their resources. They do not charge for televising programs but they have a finite number of hours to televise programs and a finite number of cameras, editing stations, and personnel to assist production facility users. At my local public access station, Access Tucson, each producer is given a "virtual" budget of \$10,000 every 12 months. Equipment and studio time all have a value. When I use a resource, I am charged the value against my budget.

Once you are a production and editing pro, the next step in public access production, before your first guest arrives in the studio, is deciding how to actually produce the show. A show that requires a small crew to film is ideal because the fewer the people, the less concern about the show not going on because one cameraman is missing. My local station, Access Tucson, has an innovative studio called "the anchor desk." It allows a trained producer to produce the program by himself using a desk with only four buttons to control all

the aspects of the production, including camera, sound, titles, and a telephone for call-ins. I can tape the show or "go live" using the anchor desk, without relying on a crew at all. I like taping, because live television is unforgiving. If a guest shows up late or there are some flubs during the show, live television will show it all. Being able to edit a show is reassuring to me, but the ratio of finished, edited show to actual run time can be as much as 60 to 1, meaning that for every minute of finished show, it takes one hour of editing. If your station does not have an "anchor desk," you will need a crew to help you produce the show. Volunteers are usually available or you may want to produce the show with a group of colleagues.

Next, you will need to line up a guest. Start by asking someone you know to serve as a "guinea pig." This will give you experience and let you tell future possible guests that someone else has appeared on the show, which makes it easier to get people to commit. Most people associate public access television with a cure for insomnia, not as a competitor to the major national networks, so you may need some leverage to acquire good guests. Once a guest says yes, I then send them a detailed e-mail confirming the dates and times, attire, and what to expect. The color of the guest's attire is critical because we use a blue curtain as a backdrop and a process similar to that used by local television weather reporters. If the guest wears blue, the guest will disappear on the screen. In the e-mail, I also ask my guests to send me 10 questions they would like me to ask them. This makes them more

comfortable and makes my preparation easier. I make the interview conversational and encourage guests to give examples and anecdotes. Dry facts make for a boring show. I wanted to get away from the "talking heads" format by using clips from other media, but since rights and permissions are costly, I had to abandon my plan.

Once you have your guest, you need to make sure that you place an interesting background behind you and your guest. A blank wall or a shelf of law books will not jazz up a talking heads format. Credibility is not what is needed in a background; your guest and you will provide that by your conversation. The background is also an opportunity for you to "brand" your show. My logo, a checkerboard of red broken hearts, and the show's name, "Divorce TV," serve as my show's background. I use PowerPoint slides for my introduction and conclusion, with a voice-over for information about my guest, which I air a few times during the show. PowerPoint slides can be used for any charts or graphics that the guest may want to show. You can also use a photograph on PowerPoint if you interview a guest via telephone, as I did when I interviewed our esteemed ACR colleague, John Fiske, who was in Massachusetts as I was doing my show in Arizona. Viewers appreciate knowing who is talking during the half-hour program they are watching, and so I display at the bottom of the screen, the names of guests, the topic of the show, and the website at which they can obtain more information. Guests appreciate this too because it gives them recognition.

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## “I-Thou”

By Chip Rose, J.D

When I was in college, a professor of mine introduced me to Martin Buber’s classic work, *I and Thou*. To say that I understood Buber’s dialogical philosophy would be a self-aggrandizing act of Trumpian proportions. However, there was something so compelling in the simple eloquence of the title and concept that it has always stayed with me. Buber’s “I-Thou” relationship refers to the mutual, holistic existence of two beings who meet one another in a concrete encounter of their authentic existence, without any qualification or objectification of one another. And, for each of us familiar with that book, it has been the germination of many thoughts about the inner and outer self and it relates so well to our particular kind of work.

On the grand scale that is politics, magnified and disseminated non-stop through the 24-hour news cycle that passes for modern journalism these days, the daily blather of the recent presidential election had me once again returning to the concept of “I-Thou.” As predictably as gravity brings down whatever is thrown up, political campaigns in our culture—and especially those on the national, presidential level—will turn negative, with each side casting aspersions and mud in the direction of the opponent. This recent campaign only seemed more vitriolic and mendacious than those



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of the past. In fact, this tradition goes back even to the eighteenth century and our earliest experiments in electoral democracy. As such, it represents the essence of the opposite of authenticity inherent in Buber’s “I-Thou” relationship. Buber calls this the “I-It” relationship, in which an individual treats other things, people, etc., as objects to be used. During one particularly negative day this fall, it struck me how similar were the behaviors of the major presidential candidates to those of the clients with whom I had worked that day. The lessons for our clients are there for the taking.

One of the most frustrating aspects of the campaign was the amount of each candidate’s time taken up with his obsession to describe, characterize, attribute, label and blame the other, rather than focus on his own individual thoughts, feelings, policies, proposals and values. One of the behaviors seen in mediation that is quite deconstructive to the process is the tendency of clients to do the same. It is quite predictable that, as a mediator, when you invite a client to tell you something about his or

her circumstances, you are quite likely to hear more negative comments about the silent party than meaningful self-reflective comments about the speaker. Human nature tempts us to lay the blame for our relationship problems at the feet of the other party to the relationship. Yielding to this temptation is a far cry from adopting a strategy for success in relationship negotiation.

In order to minimize this tendency of clients to focus on the negatives of the “Thou” rather than on the positives of the “I,” a mediator needs to take steps to individuate the process. Each of us knows all too well that neither party in the relationship has the power to make the other think, feel or want differently. The truth of this observation can quickly be ascertained and brought to a client’s attention by asking a simple question: *“How successful have you been at trying to change the other person during the marriage?”* “Never” is the almost guaranteed response. After pointing out that the rate of success is likely to

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## Divorce TV

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As the host of your show, you may choose to use a teleprompter, but I find that, like John McCain, the teleprompter is not our friend, because it leads to a stiff delivery unless we are very experienced teleprompter users. Clip a lavalier microphone to the guest, as well as to yourself, to ensure that everything said will be picked up by the audio equipment. These microphones are quite small and unobtrusive, so much so that you must remind your guest not to say anything at the end of the show until the microphones are turned off or your guest may create a Jesse Jackson or Bill Clinton moment and inadvertently say something not intended for your viewers. Something will always go wrong, so learn

to accept this and do not be panicked or discouraged by it. On one occasion, I left the studio doors open and had background sound of muffled voices from the hallway fed into the microphone. On another occasion, because the studio clock was not working, I did not know how much time I had left in the show and had to wing it.

Building an audience is the hardest part of any public access show. There is no way to know the number of viewers or their demographics. Publicizing the public access show is another of the producer's tasks. The public access station or cable company may have a website with a program guide, but local newspapers often will not list specific public access shows. So, to

try to build an audience, I send out press releases, post flyers in libraries and grocery stores, blast e-mail everyone I know, and encourage my guests to promote the show. I have a dedicated website for the show (<http://divorcetvaz.googlepages.com>) on which I post information about each show with information and a photo of the guest.

Creating a public access show is a challenging, but stimulating, project. It offers great reward because it has allowed me to interface with interesting colleagues in the community and to work in a new way to change the culture of divorce.

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## The Creative Solution

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remain unchanged during mediation, then the mediator can ask the clients if they would be willing to go about the process in a way that has proved more successful. Recognizing the futility of continuing with an approach that has never worked, clients will usually respond positively to an invitation to try something different.

There is a metaphor to which most can relate that summarizes simply, succinctly, and sensibly the need for individuation. Mediation is not one process in which the two parties participate, but rather, it is two processes occurring simultaneously, and, metaphorically, the parties are in contiguous backyards separated by a short

fence. By participating, each is saying I will do my part in front of you, if you will do your part in front of me. For the privilege of getting to see all that takes place in the process of the other, the price that one has to pay is simply to stay out of the other's backyard. Practically speaking, this means no talking over the fence except in a respectful exchange of information or opinion. This is nothing more than reinstating boundaries that may have existed at the beginning of the relationship, but which have long since been disregarded.

Backyards reinforce the need for and the appropriateness of "I" statements. Implicit in the notion of speaking only for oneself is the related concept of responsibility. A

key ingredient in creating a durable agreement is each party taking ownership of what he or she brings to the table and focusing on how he or she can contribute to maximizing the resolution. When each party takes responsibility for the "I" and looks to the backyard of the other for concerns, needs and interests that informs him or her of creative alternatives, the process begins to move into another dimension of possibilities for a successful agreement. Encouraging each client to be responsible for the "I" and respect the "Thou," is both a simple and effective method for leading the clients in the direction of success.

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# Ethical Dilemmas: What Would You Do?

By Clarence Cramer

## New Fall 2008 Dilemma

*What would you do in the following situation?*

Sybil, a family and divorce mediator in private practice, has been mediating on a full-time basis for the past five years. About two months ago, Sybil hired Jon, also a family and divorce mediator. Jon signed an employment contract, with all the standard business clauses, for a one-year trial period.

Business has been slow of late, and Sybil is worried about income, especially contributing adequately to the college funds for each of her three children. With the downturn in the economy, Sybil is concerned that business may not get back to "normal" for some time. In an effort to increase her client base, Sybil has arranged an individual meeting with Wanda, a local and successful marriage, divorce and family therapist.



**Clarence Cramer** is Chair of the Family Section Ethics Committee, Co-chair of the Family Section Training Committee, and Director of Family Services of the Conciliation Court in Coolidge, Arizona. He can be reached at: Mediator2@cox.net.

Sybil explains to Wanda that she would make it a part of most, if not all, of her mediation sessions, to have Wanda come in during the mediation and explain the divorce process, pitfalls of child custody disputes when children are directly involved, and how therapy could help families in divorce, families who were never-married and those in post-divorce situations. Sybil states that Wanda could charge her regular fees for this service, and, furthermore, Wanda should gain a significant number of referrals for her own therapy practice. In turn, Sybil requests that Wanda refer all

potential mediation clients to her.

When Sybil explains the arrangement to Jon, he is uncomfortable with the reciprocal referral process, among other things. He knows he has a one-year employment contract but is not sure he wants to work with Wanda, at this point.

### What would you do?

Please e-mail your response now to Clarence Cramer at: Mediator2@cox.net or mail it to 119 W. Central Ave., Coolidge, AZ, 85228. Please include your name and address. **FMN**

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## A Remembrance of Sharon Pickett

By Carl Schneider

My wife, Sharon Pickett, 58, died of breast cancer on August 30, 2008 in Bethesda, Maryland. Sharon had a rich, professional work life. Before she came to work in mediation, she was director of communications for three national nonprofit organizations and then was a communications consultant for many progressive nonprofit organizations, including the Sierra Club, the Union of Concerned Scientists, the Center for International Environmental Law, and Physicians for Social Responsibility.

Sharon was hired by ACR's first executive director, Daniel Bowling, to work with staff on a wide range of projects before and after the merger. She helped create *ACResolution* magazine and edited every issue from its founding until she resigned when she was diagnosed with a recurrence of cancer last September. Because of Sharon's work for more than a decade helping environmental NGOs, ACR established the *Sharon M. Pickett Award* this year to honor an ACR member who had advanced the cause of environmental protection through the effective use of alternative dispute resolution (Alice Shorett received the first award, this year). Sharon's own mediation work, however, was primarily in the areas of family and divorce mediation. She worked as a co-mediator and trainer with the private enterprise, Mediation



Sharon Pickett  
1949-2008

Matters. After a long personal and professional partnership, Sharon and I were married on December 27, 2007.

In Maryland, Sharon was a certified mediator with the Maryland Council on Dispute Resolution and was instrumental in developing its performance-based certification process as a member of MCDR's Certification Committee. MCDR also has established its own *Sharon M. Pickett Award for the Promotion of Excellence in Mediation*. For all her dedicated work in protecting the environment, preserving world peace and empowering women, her life's greatest joy and achievement was raising her beloved daughter, Tassie. Her deepest regret was knowing she would not be able to be here to love and support her two beautiful grandchildren, Shannon and Connor. For those who knew Sharon for all her professional contributions, it was her *spirit* that touched people. Her easy-going, kind, compassionate, and gentle

nature was combined with a fierce love of life and a wonderful combination of funny-crazy and serious-bright sides. As a friend said, "She was a lover"— she loved life. And, we were all better people when we were with her. I know I feel so very lucky to have been with her.

Pushing for any possibility, Sharon was determined this past year to overcome her disease. She dedicated herself to do everything possible to live. She engaged the cancer with everything she had— chemo, alternative treatment, meditation, friends, prayer, wisdom, love and discipline. And, she never stopped. Two days before she died, when she could only get up out of bed with great difficulty, she insisted I take her for a chemo treatment. She did all this not from an angry place, but with humility and her quiet dignity and from a place of gratitude to which she returned again and again. That was Sharon. In the face of all that was happening to her, I never heard her complain. She just persevered, undeterred, even buying Christmas presents from her wheelchair for her family a week before she died.

The last TV show Sharon ever saw was Barack Obama's acceptance speech. She said, "I want to live to see him elected."

Sharon had a quiet presence. Perhaps the people who best knew and appreciated Sharon were staff at ACR who had the privilege of

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## A Remembrance of Sharon Pickett

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working with her. Heather Prichard, former Director of Communications at ACR and close friend of Sharon's, tells how, at her birthday party, Sharon commented on the sunflower wrapping paper: "You know why the sunflower is my favorite? No matter how dark the day is, sunflowers work to find a ray of light, however narrow, and literally turn their faces toward it. They're able to live fully and beautifully, regardless of circumstance." Heather told Sharon that she was writing an essay about their friendship, using her "Turning toward the Sun" theme, and Sharon said, "That's the perfect title. Will you speak at my funeral and share those thoughts with my friends? That's how I'd like to be remembered."

Mark Sawchuk, former ACR Publications Manager who worked with Sharon, said, "You could always count on her for wisdom—her wisdom came from her incredible capacity to seek out life in all of its richness, and never to shy away from a challenge. An

academic dean, a magician's assistant, a mediator, a grandmother, and a rock musician, Sharon wore more hats in her life than most of us could in several lifetimes." Jen Druliner, former ACR Program Manager, captured so well Sharon's spirit: "You're a wonderful inspiration in the category of living with no regrets, and with a great generosity of spirit, and a healthy dose of not taking oneself too seriously, combined with innate dignity. You're a keeper, no doubt!" Another friend of Sharon's who also was dying of cancer sent her a quote from Camus. Sharon left a handwritten note when she died asking that it be in her memorial service. "*In the depth of winter, I finally learned that within me there lay an invincible summer.*" That is the quote on the memorial bench for Sharon in Newburyport, MA, where Sharon had a second home.

My wedding toast to Sharon was the Bergman song:  
"What are you doing with the rest of your life?  
North and South and East and

West of your life?

I have only one request of your life.  
That you spend it all with me."

And she did, "For better or worse...till death parted us." For me, without question, these last months of her life were the best year of mine.

We loved to exchange greeting cards. One I gave her in her last month said: "Life is short, but it is wide." Sharon's life was short, but very wide. Sharon and I listened to books on tape as we went to bed. In these last few months, it was *Lady Chatterley's Lover*. Melos, the gardener, at the end, when he and Connie were separated, says in a letter to her, "I have so much of you here, 'tis a pity I can't have all of you."

Sharon, 'tis a pity we can't have all of you. But we are grateful we have so much of you.

*A memorial web page for Sharon can be viewed at:*

<http://sharonpickett.legacy.com/lmw/Homepage.aspx>.

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### Call for Submissions to Family Mediation News!

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 submissions 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 e-mail. 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, e-mail, professional affiliations) to Don Saposnek at [dsaposnek@mediate.com](mailto:dsaposnek@mediate.com).

## “Eat Dessert First”

### A Tribute to Betty Manley

By Jerry Bagnell



Betty Manley  
1943-2008

Many of us in the field of mediation who knew Betty Manley remember her as a vibrant person whose divorce mediation training programs were well received throughout the world. Betty had one interesting prerequisite for all of her prospective students: She would not accept any students who had been separated or divorced within the two years preceding the training. She made it clear that you had to have clinical objectivity about your own life before you could facilitate any conflict resolution in someone else's life. She also presented each graduate with a rose and took pictures of each class. She sent a picture to each of her students with a reminder to review the video of his or her mediation role-play each year on the anniversary of his or her training to see if each had improved his or her skills or had fallen back on bad

habits. Her personal touch formed a bond with her students that lasted well beyond the five days of the training.

Some of us got to know Betty on a more personal level and soon discovered that she was “indefatigable,” to use one of her words to describe herself. It seemed as though the harder she worked, the more energy she generated. When Betty was not presenting trainings, she enjoyed spending time at her home in St. Simon's Island, Georgia, or at her cabin in the mountains. She was also the proud proprietor of “Elizabeth's Cottage,” her home, as well as a bed and breakfast in midtown Atlanta. It was always a featured stop during the area's annual parade of homes, a local festival.

Many of us knew the refreshingly quirky side of Betty that became more apparent after her heart transplant. While Betty had always focused on enjoying each moment of life, she seemed more intent to do so, as she put it, “Now that I have a second chance to enjoy life.” Betty had always enjoyed a glass of fine wine. The medication she had to take following her transplant limited what she could drink, but when the moment was right, she would order what she wanted, regardless of the cost. She used to comment that there was no point in waiting for a special occasion since,

now, every moment was such an occasion. Betty emphasized how important it was not to postpone opportunities to enjoy life. She said that too many of us focused on what we could afford, how much time we had available, or how busy we were in our lives. From Betty's perspective, a missed opportunity could not be made up and would be lost forever. She said she never wanted to have to say, “Maybe I should have done that,” or “I wonder what it might have been like.”

Ironically, the picture above of Betty was taken with a glass of wine in her hand and is a moment that she cherished because she was not able to enjoy wine as much after her transplant. What the picture does not say is what Betty said as the picture was taken, “Here's to life and living every minute of it. Eat dessert first!” For me, the picture captures the Betty I knew and loved.

When Betty and I presented a training together in Wilmington several years ago, we had an opportunity to spend some quality time together. Betty drove from Atlanta in a convertible that sounded as though it would die any minute. She insisted on driving it to the training each day and made sure I had plenty of bottles of Sun Drop for her to drink. She said she was

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## A Tribute to Betty Manley

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“Each time I saw Betty’s sincerity, commitment and the mediation skills she conveyed, I smiled. She was truly a person who lived into her authentic self.”

certain “they” could make any road trip she chose to take. She laughed when I asked about the loud muffler and said, “At least folks can hear me coming.” She spoke about how she wanted to do more training overseas while she “still had the strength to do so.” It was hard to imagine Betty not having the energy to do whatever she chose to do. She was always as alert and upbeat at the end of a training day as she was at breakfast before the day began.

The weekend that my wife, Amy, and I spent with Betty in August 2002 was the first time we saw Betty speak seriously about her situation. She was so excited about having met Larry Hagman at the Transplant Olympics, an annual international sports contest of participants who are healthy transplant patients. As she sipped her wine, she smiled and mentioned that he had a liver transplant. She was very interested in focusing on her potential, not her shortcomings. She relished the opportunity to compete, and she won several awards at the Transplant Olympics.

Betty always emphasized the importance of listening to others since the worst feedback, in her

opinion, was no feedback.

Below are some remembrances of Betty shared by friends and colleagues:

Christie Coates – “A very sweet, smart, and dynamic woman.”

Rosemary Romero – “I hope to be as dynamic as she was. I was impressed with the 1000% that she gave to things she cared about.”

Naomi Eckhaus – “She celebrated her good fortune these last nine years by living her life to the fullest...even without wine. I think of her now and then, when something related to mediation crosses my path, and I remember the zest she brought with her into a room.”

Charlotte Kiffer – “I certainly learned from her approach to life to enjoy every moment you have, while you have it.”

Margie Powers – “Each time I saw Betty’s sincerity, commitment and the mediation skills she conveyed, I smiled. She was truly a person who lived into her authentic self.”

Betty Manley was a truly remarkable lady. She was an inspirational trainer, a valued colleague, and a consistently dependable friend. Her sincerity and warmth lit up a room. She was never pretentious but was always genuine. Her influence on others has left a legacy that will be remembered for many years to come. Our profession has lost a significant member. Though we may be somewhat diminished by her absence, we will be inspired by the way she lived her life. I, for one, will strive to emulate that joy of always living in the moment.

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Though I don't know Chip Rose, I have heard he is a lovely man. So, [it is] with dismay and anguish [that] I am responding to his "The Creative Solution" column, which was subtitled "Pushing the Envelope" and published in the Winter 2008 issue of *Family Mediation News*.

Mr. Rose lists four examples of "pushing the envelope" which, in this case, is the ethics envelope. He could have introduced his topic with something like: "I decided to see just how unethically I could behave as a mediator before being called before the Ethics Committee" or "Screw the basic principles of mediation, like impartiality and empowerment." He starts by explaining that there is not enough room in the article to describe the circumstances around his choice to push the envelope in the ways that he did. He states that the point of the article goes beyond those details, yet for me the point he was trying to make in his article was eclipsed by what I perceive as him not pushing the envelope, but instead setting the envelope on fire and watching the ashes burn and blow in the wind. New mediators read these columns, take instruction from the seasoned mediators, and follow their lead. I believe that this article was irresponsible and damaging to the field of mediation.

*His first envelope:* To have dinner with a disputant and send the bill to the other party during the mediation process can, in my mind, have absolutely no explanation that could make it [an] appropriate action [for a mediator]. Basically, Mr. Rose went out on a date with one client and the other footed the bill. Giving Mr. Rose the benefit of

the doubt, I thought, well, there must be some circumstance that makes it okay. Perhaps the other disputant is the owner of the restaurant and was covering the bill in barter. Even if that were the case, Mr. Rose should not have broken bread with one disputant. I don't care if they never mentioned the content of the mediation, the divorce or the other person (the one who was paying the bill). In a structured caucus environment, that is considered acceptable for the very reason that the mediator also meets with the other party. But, to have dinner with one and bill the other is, nope, not acceptable. Now, if Mr. Rose was playing the readers and didn't disclose some facts and circumstances that even I might find acceptable, then I find his article even more offensive. To do something so outrageous and then not explain the circumstances is manipulative and just plain irresponsible.

*Second envelope please:* Giving one disputant a gift at his or her birthday (at the end of a session while the mediation process continues) is siding with one party, [regardless of] whether it is real or perceived. This is plainly a violation of our commitment to impartiality. And, if the other person's birthday is after the mediation ends, do you fix it by sending a present later? No, of course not. You just don't do it. What if the birthday girl or boy was the mediator's relative or close friend and a gift would have been given had they not been in mediation? Mr. Rose should have described those circumstances to the readers and how he approached the issue (hopefully talking with both parties before giving the gift). There

is the other question about whether or not to mediate for relatives and friends, but we do not have to address that question here since it was not an explanation offered by the author.

*Third envelope:* Have you ever heard a divorce litigation client describe how, before or after a court appearance, his or her attorney and the attorney for the spouse talked about their golf game the previous weekend, or joked about some other inane topic leaving the client feeling unprotected, unrepresented and ripped off? Well, for a mediator to accept a gift from an attorney for one of the mediation participants at the end of a session while the mediation continues is, to me, just as insensitive and cruel. Does the client whose attorney did not give the gift now go to his or her lawyer and ask him or her to give the mediator a gift...to evenly bribe the mediator? And, of course the client would be billed. Well, that's one way to enhance your Christmas stash.

*And the final envelope number four:* Delaying the drafting of an agreement to prevent a client from being able to sign the agreement that Mr. Rose felt was an "unconscionable settlement agreement" (in Mr. Rose's words) is his last of the four highly questionable examples of "pushing the envelope." Substituting our judgment for that of our clients' is not the job of mediators. That is the responsibility of an arbitrator or judge, and as mediators we are neither. If a mediator feels that he or she must protect a client from "bad" decisions, why did the mediation continue to the point of

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## Letter to the Editor

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agreement? It seems to me our obligation is to discontinue the mediation, or, at least require attorney review. A mediator is an impartial facilitator who respects his or her clients and their choices to make “lousy” decisions by not manipulating the process. We will never know what another person’s life has been like; we can never really fully know why people give up what they give up. If we are to mediate effectively, we cannot be judging constantly whether or not the reason for a client’s decision is valid or not. We can ask them questions to help them evaluate whether or not their reasons are valid and will last the test of time—in fact, that is our responsibility. But our role does not include the manipulation of the circumstances and the substitution of our decisions as if our clients are children. The manipulation of people because of so-called valued life and mediation experience is really the claiming of a superior intelligence that allows for treating people disrespectfully.

So, maybe all those valued years of experience has made Mr. Rose a bit cocky, maybe he has lost his compass, maybe he has forgotten his role, [or] maybe he needs a refresher course in ethics. [M]aybe he should just go back to practicing law and then he can tell his clients what to do—he appears to be more comfortable on that end of the spectrum.

*(Respectfully submitted as a private practice attorney-mediator and not as a representative of the New York State Council on Divorce Mediation.)*

Christine Hickey  
Syracuse, New York

### *Chip Rose’s Response to Christine Hickey’s Letter to the Editor*

Fourteen years ago, I began my column, “The Creative Solution” with the idea that it would create a dialogue; it looks like I’m finally achieving my goal. I understand Christine Hickey’s concerns and appreciate her taking the time to verbalize them. I would like to clarify some of the questions that she raises.

First, I am comfortable that I have not “lost my compass” (and, I really like the metaphor). I did intentionally write some “headline” circumstances to grab readers’ attentions, and though my editor was concerned that it was definitely “pushing the envelope,” I decided that this extraordinary example of a mediation process merited sharing with my colleagues. While, because of space limitation, the many unusual circumstances of this case were beyond detailing, I sought to merely highlight the edges of coherent ethical practice. However, here I would like to address a few of Christine Hickey’s specific concerns:

As to the dinner example, let me explain that it was an extension of the mediation session that day and done with the encouragement of all parties and counsel. It allowed me to continue the facilitation process in a less formal environment, which is what that party needed. It was clearly not a “date.” Second, the birthday gift was given in conjunction with all parties and counsel stepping outside of our professional roles; the mediation had been ongoing for more than two years, and all of the participants had enjoyed the occasional interregnum in the facilitation

process in which we had regularly celebrated the birthdays of both clients and counsel on both sides of the case. Third, during one of my trips to the mediation site, I received a gift from my attorney co-mediator, not from a party or counsel. It occurred during a visit that was personal, not professional, although that visit was followed by one of the eighteen scheduled sessions, each of which consisted approximately of three days of mediation. After somewhere in excess of 60 days in mediation over two years, the relationships became an important and strategic part of the process. Fourth, the delaying of the draft until the party being victimized had moved away from the victimizer is the one event that created the greatest conflict for me, in terms of ethical challenges. I don’t quarrel with Christine’s observations about it, because it was a judgment call, and a very difficult one, at that.

Again, space limitations restricted putting the examples into the appropriate context for a full ethical discussion about those specific actions. I chose to dramatize the examples for the purpose of getting the readers’ attentions to consider the focus of the column: to examine how we as mediators make process decisions that are both difficult and ethically challenging in the discharge of our professional roles.

Chip Rose  
Santa Cruz, CA

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# Development through Transition: Generating Opportunity for Children of Long Distance Divorce

By Zak Forrest

**M**y parents divorced when I was nearly three and they shared joint physical custody until I was four, when my mother made the decision to leave the San Francisco Bay Area. She and her new partner moved to a small island in southeast Alaska—more than 2,000 miles away from my father. Three years later she moved even further away, to Vermont. These moves presented me with the challenge of traveling long distances *alone, from the age of four*. Like most divorcing parents, they were stepping into uncharted territory with little knowledge of how to smoothly transition their child into new, long distance living situations. Looking back, I can see that our success as a family lay at the intersection of nature and nurture, an amalgam of temperament and deliberate tactics to assuage the impact of long distance travel after divorce.

Regardless of whether children of divorce are irreparably harmed or able to mature into adulthood unscathed, children of divorce are defenseless against their parents' decision to separate and the resolutions they choose thereafter. The lifestyles that parents choose often suit their own needs and neglect the well-being of the child. Children forfeit continuity and stability when required to travel long distances and adapt to their parents' new living arrangements. However, there are methods of



**Zak Forrest** recently completed his undergraduate degree with honors in psychology from the University of California, Santa Cruz. He is currently gaining experience in the field before attending a graduate program in clinical psychology. Zak supplements his income teaching golf. He can be contacted at zakforrest@yahoo.com.

communication that elicit opportunities within this potentially destructive situation.

All children, including myself, who are forced to adjust to their parents' post-divorce resolutions, will fall along a spectrum of behavior and personality. At the ends of this continuum are two types of children: On one end is the innately easygoing, optimistic child; on the other end is the fussy, temperamental kid who has always struggled to adjust, since his first diaper change. Although my family's arrangement was painful at times, I have always been an optimistic guy with the ability to find opportunity within the challenges of long distance separation. Though my parents did not know it at the time, their brilliant nurturing strategies in combination with my optimistic nature eased a potentially hazardous situation. They developed protective techniques that lessened the impact of travel on their child, techniques that can be used in the car en route to the airport, and at the gate before boarding the plane. These techniques include the following:

- Make the car ride a sacred time.
- Maintain control and composure.
- Show empathy.
- Use pep-talk and positive reframing.
- Make peace with the other caregiver.
- Praise appropriately.

**Sacred time:** If you do not live next door to an airport, you are lucky, because traveling a distance to the airport is the perfect time to talk with your child. Take the scenic route to prolong the drive, if necessary. The topic of conversation can be reflections of the good times spent together during the visit. Take turns sharing the most memorable moments. Reminiscing and knowing that the fun times will not be re-lived for months might be painful for both parent and child, causing one or both to cry. Tears are all right; it is a way for the child to receive confirmation that time spent with the parent was meaningful to him or her, as well. The child is less likely to feel alone as a victim of the

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## Development through Transition

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situation if he knows it is difficult for the parent, too. Think of this car ride as a parent-child date without siblings or stepparents. Get a babysitter for any sibling not traveling and make sure step-parents do not tag along.

**Composure:** It is important for parents to be true to their emotions while keeping composure and control of the situation during transition. It can be alarming for children to witness their parents losing control, placing them in the unfamiliar, reversed role as caregiver. Children forced to take on such responsibility grow up too quickly. In losing reliance on the parent as a safety net, they may lose their ability to relax and just be children.

**Empathy:** Acknowledging the difficulty of the situation creates a safe space for both parent and child to express their feelings freely. This practice of empathy through validation can be done by repeating the child's words in a compassionate tone. If the child feels as though he or she is not being heard, it may exacerbate the fear of traveling *alone*. Therefore, it is imperative that the child feels understood by his or her parent when apprehensively entering a transition. Even if he or she has made the trip before and appears non-apprehensive, the child may, in fact, feel quite anxious. Many children will refrain from showing their true emotions in such a situation, not wanting to disappoint their parents, especially if they seek the approval of the nonresidential parent, as children of divorce often do.

**Pep-talk/Positive reframing:** Each parent needs to identify the positive attributes of his or her ex-spouse and their importance and communicate this to the child,

before departure. Parents can present opportunities in this less than ideal situation by highlighting the positive aspects of the household to which the child is transitioning. Since children do not have decades of life experience informing them that divorce is tragic, they can form new affirmative perceptions of their experience of what it means to have split-parents, if given proper guidance. Underscoring the positive is not lying, nor is it sugar-coating, it is simply a way to provide a young child with an alternative perception as he or she forms a schema of what it means to come from divorce.

**Make peace with the other caregiver:** If a parent is truly invested in the well-being of his or her child, that parent must be invested in the well-being of the other parent. Harbored resentment toward the other parent is likely to surface when communicating with the child. The sooner parents are able to make peace thoroughly with each other, the more effective their communication will be as a binuclear family. Remember, the trip is difficult enough as it is, and your child is making it because of your divorce. It is not the child's responsibility to defend the other parent, especially during times of stress while transitioning between homes. Badmouthing the other parent during transitions may cause the child to feel as though he or she is switching sides between opposing teams and might cause the child to create emotional distance from the parent left behind and, potentially, could set the child up for a lifetime of resentment.

**Praise:** Lastly, praise your child for making the trip. The need for traveling is not an obligation of the

child, it is an accomplishment! Any appropriate behavior the child exhibits must be recognized, for it is not a child's duty to behave magnanimously within the adversity that divorcing parents place upon him or her when they choose to live far apart. Many children who do not receive feedback on how they are handling the situation may feel isolated from their peers who live in nuclear families, or in geographically close binuclear families. Reassure the child that his or her uniqueness stems from the child's exceptional ability to cope with the difficult situation, rather than being cast as a victim of divorce.

Although the child's temperament is an integral part of his or her ability to adjust, parents can use the above techniques not only to attenuate the impact of travel on children but to develop positive familial relationships. Parents must remember that when they make the choice to divorce, they are forcing the child to adapt to a shockingly unfamiliar lifestyle. Therefore, it is the parents' responsibility to ensure that their child adapts smoothly and successfully. With meticulous deliberation and positive regard for the situation, parents can transform this potentially damaging circumstance into an opportunity for growth of relationships and expansion of individual character. Parents must take control and direct these critical moments to facilitate the child's state of well-being. Because these are the child's formative years during which profound experience shapes development, the wise parent will construct each transition with composure, empathy, praise and care. All members of the family will benefit.

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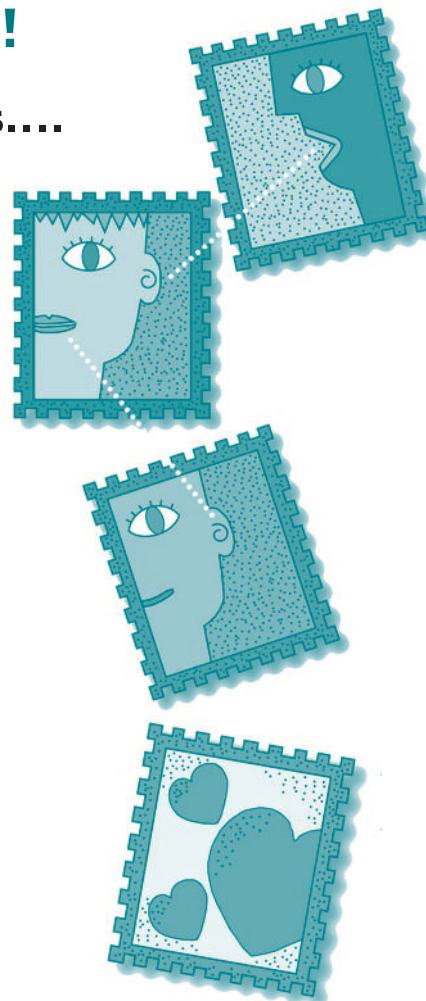
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