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**JEFFERSON COUNTY MEDIATION SERVICES**  
**VOLUNTEER COLLOQUIUM MINUTES**  
January 17, 2012

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Volunteers Present: Neila Achter, Judy Archuleta, Marty Atlas, Cheri Baenisch, Barbara Bieri, Floyd Bilderback, Floyd Borakove, Jeanne Busacca, Gary Clextion, Ryan Conery, Lorna Dwyer, Terry Eaton, Don Genna, Anita Gilbertson, Joan Heller, Lee Ann Huntington, Sara Johnson, Julia McVey, Lauren Cabot Oray, Debbie Reinberg, Ronnie Rosenbaum, Deirdre Santoscoy, David Troxel, Mary Zinn

Other Attendees: Martha Ridgway, Richard Stier, Anne Zubrinic

Staff Present: Mark Loye, Julie Carter, Helena Jo Goldstein

**I. Welcome:**

Mark Loye welcomed everyone to the meeting and asked those present to introduce themselves.

**II. Program Status**

- A. Statistics: JCMS just completed a record-breaking year with 1740 cases- up 11 % from 2010. Many thanks to all of our volunteers, who make this possible!
- B. Key Cards: The entire Jeffco Campus is being converted to use cards for entry into buildings, instead of keys. In the near future the lockbox in front of JCMS will be changed to contain a card that will be used to open the JCMS door for after-hours mediations. JCMS is still waiting to learn exactly how this will work. As soon as we know, we will pass the information on to the volunteers.
- C. Please remember to promptly confirm receipt of newly assigned cases when you get the email from Mark – just click reply and say “got it”. If you wish to correspond about something else, please change the subject line of your email. The JCMS staff thanks you for remembering this big time saver for us!

**III. Presentation: Elder Mediation- The Next Frontier**

Moderator: **Floyd Borakove**, Rocky Mountain Mediation

Panel:

**Gary Clextion**, Mediator, Attorney and Shareholder  
Miller & Steiert, PC

**Debbie Reinberg**, Elder Mediator and Geriatric Care Manager  
ELDEResolutions LLC

**Martha L. Ridgway**, Elder Law Attorney and Mediator  
Special Counsel to Hamilton Faatz and Waller, PC

**Ronnie Rosenbaum**, Family Mediator, Facilitator, and Conflict/Communications Coach  
Rosenbaum Associates

The members of the panel introduced themselves, and then described their backgrounds and how they came to the field of elder mediation.

Aging parents can turn a family of origin into turmoil. The catalyst may be a fall, a diagnosis, a financial crisis, or a car accident. Siblings are suddenly thrown back together. Often they have long been living on their own and cultivating a new family. Now they must return to the family of origin to face new issues, but they also bring all their old issues with them- resentments towards a favored child, or a sibling perceived as a bully, etc.

Often the “children” do not like the choices parents are making. This can be anything from giving their money to charity, to a sibling the parents perceive as needing “extra” help, to weeding when it is 110 degrees out. However, if the parents have mental capacity, they have a right to continue making decisions on how they want to live their lives. There can be a temporary loss of physical capacity (for example, after a fall), or a permanent loss of capacity. There can also be a loss of mental capacity, combined with physical problems. The siblings can be particularly unsettled by parents who are now acting like five or six year-olds.

Naturally it would be helpful if the conversation about aging and diminishing capacity could be started before a crisis, but often it is not. Two books that were mentioned as being helpful: Start the Conversation, by Ganga Stone, and They’re Your Parents, Too, by Francine Russo.

**Typical issues that come up when mediating with families and elder issues are:**

Capacity- mental and/or physical

Geography – often the siblings are scattered across the country

Timeliness – initiating and having needed conversations in time

Inclusiveness – determining how to include the elder in the decision-making process, to the extent they are able to and want to participate

Appropriate medical treatment – prolonging life vs. preserving quality of life

Independence- respecting the elder’s right to make choices that others oppose

Finances – how will treatment or caregivers be paid for; how will assets be preserved?

Outreach – how do mediators find families who could benefit from having a trained neutral help them with these issues?

Some statistics about the aging population in Jefferson County are attached to these minutes. It would appear there is a large group of people who could benefit from working with an elder mediator but it is a difficult group to reach. Most people do not want to think about these issues even though they are looming just in the background. The challenge is to get families to consider having a “facilitated conversation” about aging family members before there is a crisis.

## **What is Different about Elder Mediation?**

Healthy children become more and more independent. When writing parenting plans in domestic cases, the parties anticipate the children will eventually emancipate. In elder mediation, planning is geared to the anticipation that the parent(s) will become more and more dependant. For children, there are specific ages when they gain rights (for drinking, driving, voting). There are no bright-line markers for when children have to take over for their parents. There is no specific age at which their capacity becomes too small to drive, or to manage their finances.

There is a whole network of people who are interacting with the elderly. Elder mediators need to involve all of them to reach the best possible resolution. Spouses, children, their spouses, cousins all need to be at the table. It would be helpful if people in the medical field, like hospital caseworkers and discharge planners, would suggest mediation (or the less scary sounding “facilitated conversation”) the first time an emergency or incident occurs, and before there is major deterioration in the situation. People making decisions, whether they be discharge planners in a hospital setting or judges in a guardianship case, need to know their job would be easier if the family dynamic issues were being handled by someone else. (Again, how do mediators reach these professionals?)

## **Capacity Issues**

Sometimes the parent is part of the conversation, but they do not always want to participate. If want to participate, pay attention to the time of day they are most alert, and how long you meet without taking a break. Sometimes the parent has the capacity and/or desire to participate in some decisions and not others. Siblings and other participants may disagree on the parent’s capacity to participate.

There is a difference between functional capacity and financial capacity. Someone may need help with their finances such that it makes sense to have a conservator appointed, even while they retain functional capacity. It can be very helpful to have an evaluation done. A parent may know to 9-1-1 if there is a fire; however, has anyone asked them to demonstrate their ability to do that? Can they read the numbers on the phone in their home? If it is a cell phone, do they know or remember to push send? Are they still able to bathe? Get dressed?

Dementia can cause a parent to destroy their relationship with people who will be a major part of their support system. A visit to a medical specialist in aging issues is a good idea before concluding a parent has (unfixable) dementia. Vitamin deficiencies and drug interactions can cause confusion, dizziness and many other problems. Elder mediation involves a great deal of education. Many families have never heard of a geriatric care manager, a fiduciary, a neuro-psych evaluation. The mediator should have an extensive knowledge of resources and be ready to provide suggestions to fit individual situations.

## **Other Concerns**

Geographic issues crop up in several ways. If people are participating in the mediation/facilitation by phone conference, how do you hold caucuses? Sometimes a sibling who lives at a distance is away for good reasons no one is sharing with you. Even though the other parent may be on site and with the spouse more than anyone, that does not mean they are more accurate than other people at assessing the situation. If one sibling lives near the parent that does not mean they are offering the most accurate assessment of the situation- they may be exerting undue influence on the parent for financial gain or other reasons. As a result, it is important to do extensive intake work- if possible everyone involved should be interviewed. Email questionnaires are good alternative.

Using the co-facilitation model is a great way to bring additional expertise to the table; however, people often do not want to pay for two mediators. In that case, you may need to assign homework so the participants gather the additional information needed for the group to make informed decisions. Some parents may have the attitude, "I'll let the kids deal with it when I'm gone." They should be encouraged to think about the relationship of the siblings (their children) after they are gone. What if they argue and end up in court because nothing was planned? Does the parent really want to think about them fighting like that? Or perhaps it would be better to make some decisions in a transparent way through a facilitated family discussion.

In closing the panel announced that mediators who are interested in elder mediation are welcome to attend the monthly meeting of the Tri-Section Elder Probate Mediation Workgroup of the Colorado Bar Association. The meeting is held at 11 a.m. on the third Thursday of every month at the Colorado Bar Association (1900 Grant Street, Denver). There is currently a pilot mediation program in the Denver Probate court that the group hopes to expand to other counties. The current program is administered by Court Mediation Services (CMS) in Denver, which is doing several trainings to educate mediators on relevant topics, such as Trusts & Estates, Guardianships, etc. For more information you can contact Lisa Hughes of CMS at 303.824.5377 or [Hugh1@msn.com](mailto:Hugh1@msn.com). Other contacts are Christopher Sarson at 303/447-6457 or [csarson@gmail.com](mailto:csarson@gmail.com) or Julia McVey at [jmcvey@mcveylaw.com](mailto:jmcvey@mcveylaw.com)

Mark Loye thanked everyone who attended for participating in the discussion, and wished them a good evening.

- IV. Next Colloquium: Tuesday, May 15, 2012, 6:00 – 8:00 p.m.** in the Open Space Hearing Room (Ponderosa Room). Topic to be announced- suggestions are welcome. Note: there will be no colloquium in March as staff will be busy with two upcoming training- Issues in Domestic Violence for Mediators on Saturday February 25, 2012, and Agreement Writing for Mediators, on Saturday March 10, 20102. There is only limited space in both trainings, so if you wish to attend please send in your payment.

The meeting was adjourned.

Submitted by: *Helena Jo Goldstein*

Helena Jo Goldstein, Programs Manager

Approved by: *Mark Loye*

Mark Loye, Director