



The UCCR News

Volume 10

Summer 2003

“When am I Divorced?” by William Downes

Family mediators are often asked by their clients, “When am I divorced?” We reply, “You are divorced when a judge signs your decree of divorce.”

“Oh! When do you prepare my decree of divorce?” The family mediator might reply, “I don’t prepare you decree of divorce. Your attorney must do all the legal work to finalize your divorce.”

The confused client responds, “I don’t have a lawyer. Can my husband and I retain one lawyer to represent both of us?” “No. A lawyer can only represent one party in the divorce.”

“You mean we both have to hire a lawyer to get a divorce. We came to mediation to avoid hiring lawyers.”

Clients wonder why so many professionals must be involved in the divorce process? What is wrong with one stop shopping? Can attorney mediators process the divorce papers after the mediation process has concluded? Can mediators prepare divorce papers for clients if a lawyer carefully reviews the paperwork?

These and other challenging ethical questions are being considered by Bar Ethical

Panels around the country.

In December 2002, the Utah State Bar’s ethics advisory opinion committee issued its first opinion clarifying permissible and impermissible conduct between family mediators and family attorneys. (Utah State Bar Ethics Advisory Opinion Committee Opinion 02-10 issued December 18, 2002). The ethical question was raised when a family mediator requested an attorney to review court papers prepared by the mediator. The mediator asked the attorney to make necessary corrections to the paperwork. Thereafter, the parties would file the legal papers with the court.

The ethics advisory opinion committee had to answer the question: Was the preparation of legal papers by a mediator, who was not a member of the Utah State Bar, the unauthorized prac-

tice of law? Further, was the attorney who advised the mediator assisting in the unauthorized practice of law?

The ethics advisory opinion committee relied on opinions from Utah and surrounding states in deciding that non-attorney mediators may not

prepare legal papers to be filed for their clients in a divorce action. The preparation of court documents is the practice of law. Similarly, an attorney may not advise a non-lawyer mediator how to conform

legal papers to proper form without having an attorney-client, advice-giving relationship with the one of the parties.

The opinion did discuss ways that attorney and mediators may work together. (Cont. Pg. 3)

The Utah State Bar ethics advisory opinion stated that “non-attorney mediators may not prepare legal papers to be filed for their clients in a divorce action.”

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Reflections of a Mediator: by Sue Petty

The finish line was nearly in site...only 1.5 miles to go. I was going to finish my first marathon. I was determined to cross that line even if I had to crawl to get there.

But my right leg was injured. As I stopped by the side of the road to stretch it out, people in cars drove by on Bluff Street and encouraged me, "You're almost there." "You can do it." "You can do it." In fact, the whole experience of the day was one of support and cheer from people I did not know, but felt connected to. Their support made all the difference.

From the beginning, people lined the road of the 26.2 mile run. Ranchers and their families came out at 6 a.m., offering "high fives", energy, and encouragement. In one town, a large group greeted me with water, energy drinks, signs, and cheers. At the aid stations, I received ice and a quick rub down on my from a volunteer. A lady and her daughter stood and dipped wash cloths in cold water and handed them to me as I passed. A group of high school boys were faithfully and loudly cheering all the runners on as if they were cheering at a championship football game. These were total and complete strangers to

me, but members of a community who, for 26 years, have come together to host the St. George Marathon.

Stretching did not help my right leg. It would not move. But once again, I was surprised by the generosity of this community. The high school boys that I had passed earlier were now running along with an older gentleman. (I would find out later that it was one of the boy's father). They all stopped to see what they could do to help me out. That's when two of them, Clay and Winston, became my human crutches and my coaches. I put my arms around their strong shoulders and walked with them.

Soon after we began walking my daughters, Cheri and Cami, found us on Bluff Street. They had finished about 2 hours earlier and knew something was wrong when I didn't come in at my predicted time. It was so good to see them. Cami began walking in front of me, cheering me on and counting steps with me as Cheri walked behind me, lifting my right leg with each step. We were on the final stretch to the finish line when a car pulled up along side us, playing the theme from *Chariots of Fire* and **Rocky** full blast.

We counted out 100 steps and then rested, then 200 steps and rested. By now most of the

crowd had gone, but people came out on their lawns and offered their cheers and help.

I crossed the finish line 7 hours, 34 minutes and 57 seconds into the race and was number 4,227 to finish out of 4,227. A month later I discovered that my leg was broken; I guess that's why it wouldn't move.

I finished a marathon with a broken leg. It was only possible with the help and goodness of the community members of St. George, the strangers and loved ones who showed up to help me complete this goal.

The spirit of community is present at the St. George Marathon. For me, it celebrates the goodness that shines from each of us as selfishness disappears and acts of giving and service take over. The emotions of joy, pain, satisfaction, and peace are all present. My emotion... GRATITUDE. There I was reminded that indeed, we do belong to each other.

Sue Petty is a mediator and Director of Training for Utah Dispute Resolution. She graduated from the U of U's ADR Certificate Program in 1993, and has been mediating and training for the last ten years. She was one of two recipients of UCCR's Peacekeeper Award in 2003. She may be contacted at Utah Dispute Resolution, 801-532-4841.

MEDIATOR STORIES!

This column is devoted to relating experiences of mediators. We want to hear from you and include your story. Help by sending in your narrative with changes made to protect confidentiality. We will edit for space and notify you when it will be printed. Please keep the article to 250 words or less and include your name, address, phone, email, fax and one sentence about your experience with conflict resolution.

If you have a mediator story for the UCCR News, contact Barbara O'Brien at 801-685-UCCR



Salt Lake Peer Court

A Program of the Utah Law-Related Education Project

645 South 200 East, #101, SLC, UT 84111

Phone: (801) 322-1815 Fax: (801) 322-4498

Email: slpcourt@xmission.com

Salt Lake Peer Court Is Seeking Adult Volunteers

Salt Lake Peer Court is seeking adult volunteers for the 2003/04 school year to work with high school students as they adjudicate, mentor, or mediate youth offenders. In an alternative approach to juvenile justice, high school students provide positive peer influence to hold youth accountable for their actions, and strengthen their ties to school and community.

When: Thursday Evenings, 6:00 - 8:00 PM

Where: Matheson Courthouse, 450 South State Street

For Information, Please Call: Kathleen Zeitlin - (801) 322-1815

“When Am I Divorced?” (Cont. from Page 1)

- An attorney may advise a mediator regarding issues that typically arise in a divorce.
- An attorney may explain options for the parties to consider in resolving their dispute.
- An attorney may publish “How to” manuals regarding divorce including draft forms to use. The mediator could distribute these forms to the clients for their use.
- An attorney can advise a mediator as a consultant about the mediator legal obligations in a difficult case. For instance, a mediator may obtain advice-

from an attorney about the mediator’s obligation to report suspected child abuse.

The ethics opinion also advised attorneys that it is impermissible to draft divorce documents without advising the parties as to the relevant law. In other words, an attorney may not serve merely as a scrivener. Attorneys, when drafting legal papers for clients who successfully resolved their divorce in mediation, must fully advise the client of the relevant legal standards that the court would employ in resolving issues in the case.

The ethics opinion advisory

committee has under consideration whether there are circumstances under which an attorney mediator may draft legal papers for mediation clients. A decision is expected from the committee in the next several months.

Are a variety of professionals necessary to competently assist parties achieve their goals in a divorce? The answer is “sometimes yes”. But if these professionals work collaboratively, the process need not be expensive and clients are informed by professionals with the necessary expertise.

Upcoming Events & Trainings

- *2003 UDR Basic Mediation Training. (801) 532-4841. September 4, 5, 8, & 9. \$600*
- *UCCR Peace Tree Forum. Friday, September 12, 2003. International Peace Gardens*
- *ABA Dispute Resolution Section Training. "Opportunities in Mediation and Arbitration." September 12, 2003. Washington, D.C. www.abanet.org*
- *UCCR Advanced Mediation Training. September 25, 2003. Law and Justice Center, Salt Lake City, Utah*
- *ACR Annual Conference. October 15-18, 2003. Orlando, Florida. www.acresolution.org*

UCCR BOARD ELECTIONS!

Board Election Ballots have gone out! Remember to cast your vote and return the ballots by August 31, 2003. Election results will be announced at the Peace Tree Forum to be held on September 12, 2003. They will also be published in the next newsletter.

UCCR Symposium Roundtable Feedback

By Michelle Roybal

For the second year, UCCR was pleased to host a Round Table discussion at the annual symposium which focused on the growth and development of UCCR as an organization. Early on Saturday morning at 7:30 a.m., many UCCR members demonstrated their commitment to UCCR and issues in our ADR community by showing up. We hosted six tables with over 50 people contributing their ideas. We discussed the following topics as they relate to UCCR: the website, the newsletter, membership services, education and training in ADR, service projects and community involvement, building an ADR practice, and diversity and inclusiveness in membership.

We were pleased to note that several of the same contributions were mentioned again and again; we hope to take these suggestions and implement them as soon as we possible. Currently, the UCCR Board is reviewing all of the suggestions and ideas for their feasibility. We received a an array of comments and want to incorporate as many as possible.

Thank you for your dedication to the improvement of our collective ADR practice and the growth of UCCR as an organization. We hope to include many of you as volunteers on the upcoming projects mentioned at the Round Table!

If you would like further information about the Roundtable feedback, please contact Barbara O'Brien at 685-UCCR (8227).



Mosten to Present Workshop: “Creative Interventions in Challenging Cases”

The Utah Council on Conflict Resolution, Utah Dispute Resolution, the ADR Section of the Utah State Bar, and the Collaborative Family Lawyers of Utah have invited Woody Mosten to present a day of advanced mediation training on Thursday, September 25 (See more information on Woody Mosten on the following page).

The cost of the Advanced Mediation Training is \$150. All UCCR members, UDR volunteers, ADR Section members and Collaborative Family Lawyers will be offered a \$25 discount.

To support UDR volunteers, UDR is of-



fering a \$50 scholarship to the first twenty UDR volunteers that enroll in the training. To qualify for the \$50 scholarship, a UDR volunteer must have mediated three cases during the last twelve months. To reserve a spot in the training, we must receive your check for \$75 by September 1, 2003. Keep in mind that we can only offer the scholarship to the first twenty UDR volunteers that enroll in the training. UDR volunteers should call UDR’s office (532-4841) to enroll in the training.

Others wishing to sign up for this training should contact UCCR’s Administrator, Barbara O’Brien, at 685-UCCR (8227) or by email at members@uccr.net

UTAH COUNCIL ON CONFLICT RESOLUTION

Cordially invites you to the Third Annual

PEACE TREE FORUM

Friday, September 12, 2003, 4:00pm-5:00pm

International Peace Gardens, 1060 South 900 West, Salt Lake City, Utah

Peace Tree Forum and Reception

Aikido Presentation: Stephen Nicholas-Aikido Master

Please join us in honoring the UCCR 2003 Peacekeepers

Sue Petty and Brian Florence

Sponsors: Utah State Bar/ADR Section; Snell and Wilmer; Babcock, Scott and Babcock

Committee Members: Francine Mahak, Diane Hamilton, EvaJean Pickering, Sue Petty, Kathy Elton, Michelle Roybal, Vivia Baldwin, Russ Osguthorpe, Michelle Hawes, Kent Scott

For Information 801-685-UCCR (8227) or members@uccr.net

Utah State Courts Restorative Dialogue Program Seeking Community Volunteers Statewide

The Utah State Courts Restorative Dialogue Program is looking for trained mediators to volunteer to facilitate Victim Offender Mediations, Restorative Group Conferences, Truancy Mediations and Peacemaking Circles. We currently need volunteers in the First District (Logan & Brigham City areas), Second District (Weber & Davis Counties), Fifth District (Cedar City and Beaver areas) and Sixth District (Richfield area).

Volunteers will receive training in Restorative Justice and learn the practical application of Restorative Justice principles in the Juvenile Justice System. Unlike the traditional retributive justice system, restorative justice provides a framework where victims, offenders, schools and community members are part of a process that allows for face to face interaction and dialogue in discussing the impact of crime and truancy and ways to repair the harm done when crime is committed.

If you are interested in attending the training and becoming a volunteer please contact Bart MacKay (801) 578-3974 or Marilyn Patterson (801) 578-3938, marilyn@email.utcourts.gov

A Biography of Woody Mosten, Esq.

Woody Mosten, Esq., will be the featured presenter at a UCCR Advanced Mediation Training on September 25, 2003.

Woody Mosten, a highly respected mediator and lawyer from the Los Angeles area, is a founding partner of the law firm of Jacoby and Meyers in charge of litigation.

He began his law career in 1972 and began mediating in 1979. His mediation experience is diverse and extensive, including construction, employment, businesses and family disputes. He has mediated many cases in the entertainment industry such as rock band disputes over royalties, mismanagement and fraud cases.

He is recognized for his work providing access to justice as well as in dispute resolution. He received the ABA's Legal Access Award and the 1999 Peacemaker Award from the Southern California Mediation Association. He has also contributed to the growth of mediation practice in the California legal world by being a charter member of the Los Angeles County Bar Dispute Resolution Section and chairing numerous committees for the ABA Dispute Resolution Section.

Woody is the author of several books including *The Complete Guide to Mediation* (1997) and *Unbundling Legal Services* (2000), both published by the American Bar Association.

About mediation practice, Woody says "I believe that with the proper information and facilitation,

people in conflict can take control of their own lives and settle their disputes with dignity and affordable fees. Most disputes originate from a good relationship that has gone sour: business partners start a company with friendship and dreams; a husband and wife take their vows hoping to be together forever; an employee takes a job hoping for a secure and lucrative career. With the use of my legal knowledge and mediation experience, I enjoy helping people resolve their differences and move on to more profitable and satisfying chapters in their lives. I honor the empowerment and control that both parties and their lawyers seek in mediation. Settlements must work after the mediation—they must not be built on sand. "

More About UCCR 2003 Peacekeeper Award Winners

Did you know?

Brian Florence - 2003 Peacekeeper

- Lived in Japan for two years during high school and it was a significant academic turning point in his life.
- Graduated from Weber State College, 1965 and University of Utah Law School, 1968.
- Was a Hinckley Institute of Politics intern in 1967, with five democrats in the State Senate.
- Is involved with numerous national legal associations including the American Board of Trial Advocates, which is limited to 1% of lawyers in any State.
- Practiced law for thirty years as a legal advocate before he “saw the light” and gave up the adversarial practice of law.
- Has limited his law practice to me-

diation, collaboration and special master practice for the last four years. He has conducted over 1700 mediations.

- Wants to “fade into the sunset” with fishing pole and golf clubs at homes in Montana and Nevada.

Sue Petty – 2003 Peacekeeper

- Born in Utah, raised in Southern California and met her husband, Mike at Southern Utah State College in Cedar City.
- Is an avid runner, completing numerous 5K and 10K races and one marathon. She believes self-determination, desire, preparation and endurance are personal skills needed for running and that the competition is only with herself.
- Has a woodworking shop at her home and builds furniture and decorative objects.

- Sings and performs at various venues. Teaches the “oldies” to the boys at Decker Lake, which they perform at a graduation program. Her singing class is a ‘perk’ at Decker Lake.
- Finds the most joy and pleasure in her family life with Mike and their five children All family members are singers and regularly perform. Singing was perfected when their VW Beetle radio broke down and they became the radio with their singing.
- Is a contented gardener with one-half acre to tend and loves to scratch in the earth and enjoy the daily surprises her garden brings.

Please join fellow UCCR members at the Annual Peace Tree Forum September 12, 2003 (See page 5 for details).



**Relationship Workshops:
Harnessing Our Relationships,
Self Exploration**

A four week workshop held one evening per week, in which participants will be encouraged to explore their relationships with themselves as well as others.

Workshop facilitators: Sue Click, Domestic Mediator and Circle Facilitator & Kathy Elton, Mediator and Restorative Justice Practitioner. Guest trainers include Diane Hamilton, Vivia Baldwin, and Mary Lee Brighton and her wild mustangs. For more information call (801) 230-8437.

Mediating In Cases Involving High Emotion

November 7-9, 2003
St. George, Utah

In the Fall of 2003, an extraordinary training opportunity will be offered. This training is not only for your personal renewal, but will be a unique and creative training experience that provides the foundation for the work of mediated dialogue in cases involving high emotion.

The Training Team: Kathy Elton, Mediator; Dr. Scot Russell, Psychologist; Mary Lee Brighton, Horse Whisperer and her wild mustangs. For more information call (801) 230-8437.

OUT BEYOND IDEAS OF WRONGDOING AND RIGHTDOING,
THERE IS A FIELD. I'LL MEET YOU THERE.

WHEN THE SOUL LIES DOWN IN THAT GRASS,
THE WORLD IS TOO FULL TO TALK ABOUT.

IDEAS, LANGUAGE, EVEN THE WORDS *EACH OTHER*
DON'T MAKE ANY SENSE.

RUMI
(PERSIAN, 1207-73)

The Utah Council on Conflict Resolution

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*Please send your ideas or articles for the
UCCR newsletter to Diane Hamilton via email:*

dianehamilton@sisna.com

If you would like to join UCCR, please
contact Barbara O'Brien at
(801) 685-UCCR (8227)

Visit www.uccr.net for a variety of sub-
stantive articles on dispute resolution.