



# Dispute Resolution Center Newsletter

## Spring 2020

**Inside this issue:**

<i>The Courts Respond to COVID-19</i>	1
<i>Not Some Two-bit, Imitation Judge</i>	2
<i>Gathering at a Distance: How to Lead a Virtual Memory Circle</i>	2-3
<i>My Virtual Mediation Experience</i>	3
<i>Assumptions about Poverty</i>	4
<i>Cognitive Dissonance during COVID-19</i>	4

**The Courts Respond to COVID-19** by Tom Pullyblank, Court Programs Coordinator

(Note: All updates from the New York State Unified Court System can be found at <https://www.nycourts.gov>)

On Wednesday, March 11, the Unified Court System issued an order requiring all courts to display a poster prohibiting anyone who has possibly been exposed to the COVID-19 virus from entering the court building. Two days later, Chief Administrative Judge Lawrence Marks issued an order canceling some court activities and establishing social distancing practices in courts so that other court activities may continue. By this point, all sports leagues had postponed their seasons, politicians were talking about issuing stay-at-home recommendations, not orders, and schools were preparing to shift their instruction on-line.

Judge Marks issued a second memorandum on Sunday evening. He wrote "Effective 5 p.m. on Monday, March 16, we will be postponing all nonessential functions of the courts until further notice." Judge Marks provided a list of what functions remained essential. Family courts were given some latitude as to what exactly this means, proceeding with "essential matters as the court may allow, e.g., issues related to child protection proceedings, juvenile delinquency proceedings, family offenses, and support orders."

In addition, Judge Marks consolidated all court functions into one building per county. For example, Oneonta City Court is now located at the Otsego County Family Court in Cooperstown, where the family court judges preside. Judge Marks

gave no end-date to the order, but court clerks in two of the counties we serve told me that April 30 was the tentative end-date given to court employees. Along with school closings, which were announced region-wide over that weekend, Judge Marks' order was one of the more extensive ones to be issued amid the growing crisis. Finally, on March 22, Judge Marks ordered that no non-essential petitions would be accepted by court clerks until further notice. These orders resulted in the shut down of referrals to our mediation services.

However, along with other CDRCs throughout the state, we have been creating procedures for virtual mediations and offering volunteers instruction in holding them. Courts throughout New York have also started video arraignments for essential matters, first in New York City and then in the larger courts throughout the state. I am confident that we too are ready to provide our services virtually, at least on a limited and selective basis.

When will mediations resume? When will the family court referral source reopen? No one knows, although most school and government restrictions have a tentative end by the beginning of May. But as we've already experienced, these restrictions, including the court's, could be extended. Chief Judge Janet DiFiore stated in her April 6 message, that "We are working on a plan, which will be announced in the coming days and implemented next week, to expand our virtual operation beyond the limited category of essential and emergency matters." As with so much else during these interesting times, the most accurate response is that we'll have to wait and see what happens.

**Not Some Two-Bit, Imitation Judge**

by Patrick D. Legay, Program Director

As mediators, we may have very different styles, skills, and techniques, but there is one unifying characteristic: our process is necessarily different from the process in Court. In large measure this is the value we offer the Court System and the Community.

*Mediators get people talking.*

We get them talking about what they feel is at issue. What they think is important about it, and why their needs aren't being met. And when they tell us these things, they're also telling the other party involved.

We do this by asking questions. And we keep asking, until finally, we feel we can ask them both to list the possible solutions. Maybe they can't think of any. Maybe they can think of many, but can't agree on which ones would work best. And if that happens, we, as Mediators, investigate: why don't you feel that would work?

Our job is not to make people agree. Our job is to facilitate a productive conversation.

In performing our role, we make sure that the people who can actually resolve their disputes themselves, do so without relying upon the invaluable time and resources of the Court. We do this because we get people talking.

Judges drive the judicial system because they have the expertise and the democratic authority to make judgments. Conversely, we, as the Mediator, are not some two-bit, imitation judge handing down hasty judgments. In fact, it's not our role to make any sort of judgments. What we do is

help people have the conversations they haven't been able to on their own.

When we do this, we're teaching conflict resolution. We're modelling it. All of our services are focused on this. And when we do this, little by little, what we're doing is community building.

Writing this now, during the Covid-19 pandemic, with the emergency shutdown and social distancing measures in place, it is easy to see the place our work has in our communities. Everyone being shut in together is probably going to lead to conflict for a lot of families. People are going to need someone to host these conversations. And perhaps, hopefully, there are some families who have been able to talk out conflicts themselves because they have already gotten that experience from us.

One positive development that has come out of the shutdown—we've ramped up our capacity to conduct mediations and conflict coaching sessions remotely. While social distancing is in place, we will be using Virtual Mediation as the primary method of delivering our services.

But, in the future, when it is safe to do so and the emergency measures are lifted, we will be happy to get back to being present with people. But now we have one more tool available to offer as an alternative for those who need it, those who otherwise wouldn't be able to use our services in person because of distance or accessibility. Maybe we'll be able to help even more people have the conversations they wouldn't have otherwise, so that we may, little by little, person by person, family by family, help build our communities into places where productive conversation resolves disputes locally.

**Webinar Review** by April Rando,  
Outreach & Volunteer Management Coordinator

**“Gathering to Mourn at a Distance— How to Lead a Virtual Memory Circle”** (Sponsored by Ritualwell & Reconstructing Judaism, Instructor: Heather Paul, Rabbinical Student)

The death of a loved one is one of the most difficult experiences of our lives. In normal times, before COVID-19, people could gather to mourn and honor the memory of the deceased. Following ritual mourning practices provide a framework for many people to process grief. It may be finding consolation through prayer and the kind words of friends and strangers. Being able to attend a funeral or a memorial service is part of the process of finding closure.

However, we are not living through normal times. The number of people who may be able to attend a funeral or memorial service is now limited to close family only. How can we mourn and process grief under social distancing? Heather Paul, a rabbinical student at the ALEPH Alliance for Jewish Renewal, and who is also the Assistant Director of the Milton Marks Neuro-Oncology Family Camp in California, has created Virtual Memory Circles to help people mourn

when they cannot be physically together.

What is involved in creating a Virtual Memory Circle? When a request has been made to hold a Circle, the facilitator will need to know who will be attending the Circle. Only those people on the list receive an invitation and a brief description of what to expect when they join the Circle. Those invitees who have responded receive a link and password to connect to Zoom. In addition to sending out the invitation, the facilitator will get some information about the deceased. Was the death expected or sudden? Is the memorial service for an adult or for a child?

Virtual Memory Circles are structured to allow everyone to share their memories of the past and their feelings in the present. It begins with a poem, a prayer, or a song meant to draw people into the space of the Circle. Next, the facilitator identifies himself/ herself, and explains why everyone is gathering. During the introduction, it is important to acknowledge that gathering in a Virtual Circle is not the same as being physically together, and that the facilitator will guide them through the process. The opening statements should include a brief description of what to expect during the Circle.

*(Continued on page 3.)*



**SAVE THE DATE!** COMING SOON! “Virtual Mediation Practice” - The DRC will be planning mock virtual mediation sessions sometime in May. We'll keep you updated!

### **My Virtual Mediation Experience** by April Rando, Outreach & Volunteer Management Coordinator

Last week, I had my first virtual mediation. It was a small claims case that had been referred by a local city court early in March. After contacting the parties, they both agreed to mediate and we had scheduled a time to meet at my office. Then COVID-19 happened, and forced a change of plans. Like many CDRCs, Catholic Charities DRC needed to implement virtual mediation as an option almost immediately. There were a few questions: Would the court approve this? Would the court accept the agreement? Those were legitimate concerns. I contacted the court clerk with these questions, and, although the court would not be able to put any agreement on the record, he was happy that we were going to give this a try.

I contacted the parties and suggested that we try having the mediation via video conferencing on Zoom. At first, both parties were a little unsure. Neither one had heard of Zoom before. I explained that the other option was to wait and reschedule for another time when the office reopens. They didn't want to wait to resolve this dispute, so they agreed to virtual mediation.

I sent them information by e-mail, and sometimes by text message, on how to connect to Zoom and what to expect using this platform. Before we actually had the mediation, I sent the consent form to them by e-mail. The first challenge was that one party did not have a printer, and the other did not have a scanner. The person without the printer was able to go to the business next door, who let her use their computer and printer. The next step was getting their signed consent forms to me. Since the DRC didn't have the capability at the time to do electronic signatures, I had each of them sign, and send me a text photo to my cellphone, which I then e-mailed to myself. I now had both of their signatures.

During the mediation, I changed my opening statement to reflect that this was a virtual mediation. “Mediation is a confidential process. We will not be recording this mediation, and I ask that you do not either. Is there anyone in the room who is not a party to this mediation who might be listening?” Fortunately, no-one else was in the room with the parties. I also asked that we be mindful to present our best selves and try not to speak over each other since it may make it more difficult to understand what each person is saying. For the most part, they were good about not yelling and only occasionally interrupted each other. It was manageable, and they only needed an occasional reminder to wait until the other person had finished. I made sure that I used each person's name to let them know that it was their turn to speak.

After an hour of talking through the dispute, they finally had an agreement. One of the parties, however, could only get cellphone service if she stood outside her house. It was freezing cold, and I didn't want her standing outside while I typed the agreement. I asked them if they would mind me writing a draft of the agreement and then sending it to them by e-mail. After I got their consent, I typed up a draft, put a watermark showing that it was a draft, created a PDF, and

sent it out to them by email.

I reached out to them the next day to schedule a read-through. Although the responding party was fine with the agreement, I explained that any changes made to the agreement would need to be done with both parties together. We were able to set up another date for a read-through. I put up a word version of the agreement, and screen shared it, and together they made a few changes to the agreement. I sent the agreement to them as a PDF, and asked that they send me a signed copy of the agreement via text photo. Initially, I was going to do a virtual swap, but since the parties were still on somewhat friendly terms, the responding party offered to print it and have the initiating party come over to the office to sign the agreement. They sent me a text photo of their agreement. I called both parties and thanked them for being virtual mediation “pioneers.” They were very happy that they were able to resolve their dispute. I forwarded the agreement to the court so that it would be kept in the case file until their new court date in May. At that time, they will be able to confirm that they voluntarily reached an agreement in front of the judge. Overall, it was a very positive experience.

### ***Gathering at a Distance, continued)***

The Circle then moves to sharing memories of the deceased. The facilitator can prepare participants before the Circle to encourage them to write down their thoughts before the Circle happens. They may bring an object, a photo, or anything that reminds them of the deceased, and share their memory. By letting people plan what they are going to say before the Circle happens, it will make it easier for them to express themselves during the Circle.

Once everyone has shared their memories, the facilitator will ask how each person is feeling at the moment. Once everyone has shared how they are feeling, the facilitator leads a guided meditation, followed by a moment of silence to bring the past into the present. A poem or a song can bring people back into the Circle.

The final stage involves another round that focuses on the positive traits or influence the deceased had in the participants' lives, and to share how they can keep the memory of the deceased alive through specific actions. For example, if the person loved animals, a participant might say they will give charity to an animal welfare organization. After everyone has had an opportunity to speak, the facilitator will lead the group in prayer. If the deceased followed a faith tradition, the participants might say the “Mourner's Kaddish,” Psalm 23, or another prayer. Closing the Circle is the most difficult part because it can feel awkward. Close with another poem or song, thank everyone for sharing, and close the Zoom meeting. If you would like to see the webinar for free, you must register with Ritualwell using this link: <https://reconstructionistevents.wufoo.com/forms/z19m4jdl11761v9/>

## Assumptions about Poverty by Travis Williams

What is poverty? Poverty can't be defined by a calculator, a simple graph, or from the dictionary. Poverty is a hardship, a low point in someone's life. It can be not knowing where your next meal will come from or where you'll lay your head that night. For some people poverty can be the biggest accomplishment they could overcome. A lot of people in our nation and overall, the world lives in poverty, all on different levels. A third of the world's population has never used a telephone, meanwhile most Americans carry around the newest model of the iPhone in their pocket. Americans crave a new diet trend while some people just crave being able to eat. Many of us don't stop and think about our luxuries and privileges, one of the simplest being working indoor plumbing. In some countries not everyone has this.

Few people associate the word poverty with the United States, though a lot of Americans endure poverty. Instead of acknowledging it and lending a hand, we turn a blind eye and blame those Americans for living in poverty. We say, "Well they just lack the aspiration to succeed in life! If they just buckle down, they'd be fine! They're lazy welfare abusers!" We make claims that they must have some sort of flawed characteristics or that they didn't spend any time investing into their human capital. Society will also go as far to blame the government, claiming that their policies which are set in place to help those struggling to survive, are said to be destroying families causing them to be the "blight of dependency." The reality is that people trapped in poverty because of their lack of opportunity and/or the bad conditions that surround them. Some are trapped due to discrimination based off the "ism" of our society like ableism, ageism, classism, racism, and sexism. Other factors like disadvantaged schools that lack some opportunities other K-12 programs have to offer, someone working very low wages with little hours, or a person that just doesn't have the resources to break the cycle.

Another issue is society so harshly judges poverty, assuming that those individual characteristics are factual. I think as humans we need to step back and really put some perspective on each individual's reality. By reality I mean not everyone lives a well-protected and safe life, not everyone has those same privileges. Such as some have the ability to attend a private school, to then attend a private Ivy League college, and then get a six-figure salary. Where some people are worrying about being able to afford food or if their lights will be shut off for the third time that year. It's important to acknowledge the personal privilege some may have and not compare it to those who face a different reality than theirs. Then harsh judgments push individuals down even farther. We should question why the 'economic pie' in the United States is cut unequally, why some people get a huge slice, and others barely get crumbs. We shouldn't want to put more restrictions on those in need, we should be up lifting them. I believe that if we started lifting people up, we would start to see more improvements in their realities.

*Travis is a junior at SUNY Oneonta studying Family and Human*

*Development. He is currently taking a class called, "American Families in Poverty." He is no stranger to the effects of living in poverty and the self-determination that it takes to overcome the crippling hold it has on you. He sent me this essay and it was so touching to me I asked him if I could share it. I hope that everyone is as effected as I was. – Dodilee Murray, DRC Case Manager*

## Cognitive Dissonance during COVID-19 by April Rando, Outreach & Volunteer Management

It's been about month since the country began social distancing due to the corona virus. We receive information from the news and from our government leaders everyday about the impact of the corona virus on the country. We also hear the stories of ordinary folk talking about their experiences which doesn't seem to match the narrative that we hear from those in positions of authority. We are told that the United States is a rich nation-with one of the best health care systems in the world, yet our health care workers don't have enough equipment to protect themselves, and there aren't enough supplies and hospital beds to care for their patients. Farmers are dumping milk, smashing eggs and mulching produce as a result of overproduction and the lack of farm workers to harvest and process food. At the same time, we have thousands of people who are facing food insecurity, hunger and malnutrition. How does one work through these disparate and conflicting messages?

In 1957, Leon Festinger, an American social psychologist, wrote a book called, *A Theory of Cognitive Dissonance*. According to Festinger, cognitive dissonance occurs when there is a conflict between attitudes, behaviors, or beliefs, which then creates feelings of discomfort and disorientation. When cognitive dissonance occurs, we need to find a way to regain our sense of balance and resolve the conflict.

What are some ways that we resolve this conflict? One option is to change our attitudes, beliefs, and behaviors, however, this is extremely difficult to do. Quitting smoking, for example, is a difficult habit to break. It takes time and effort to change behaviors. Another option is to acquire new information that outweighs the dissonant information. This requires gathering additional information that either supports or debunks the conflicting information. Finally, we could simply reduce the importance of the conflict and just focus on the moment. These approaches may or may not resolve the conflict. What matters is the action itself. We need to put everything into a cognitive framework that allows us to make some sense of the conflict.

Cognitive dissonance- however unpleasant and infuriating- need not be seen as a problem. By being confronted with conflict, it challenges us to question the message and open ourselves to different perspectives. We do not have to agree, or even agree to disagree. We grow when we wrestle with conflict. We learn new things about ourselves and others. If you are experiencing cognitive dissonance, instead of seeing the conflict as a problem, see it as the mechanism that inspires change!



## WANTED: Community Mediators

Do you know someone who might be interested in becoming a professionally trained, community mediator or a volunteer translator? Please contact April Rando, Outreach & Volunteer Coordinator, (518) 842-4202, ext. 3133, or by e-mail at [arando@charitiesccd.org](mailto:arando@charitiesccd.org).



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