

# International Commission on Couple and Family Relations

## Helping Families through Separation and Divorce: Collaboration, not Confrontation, in a Plural Society

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# Successful strategies within the legal community on reducing family conflict

## How to get “buy-in”

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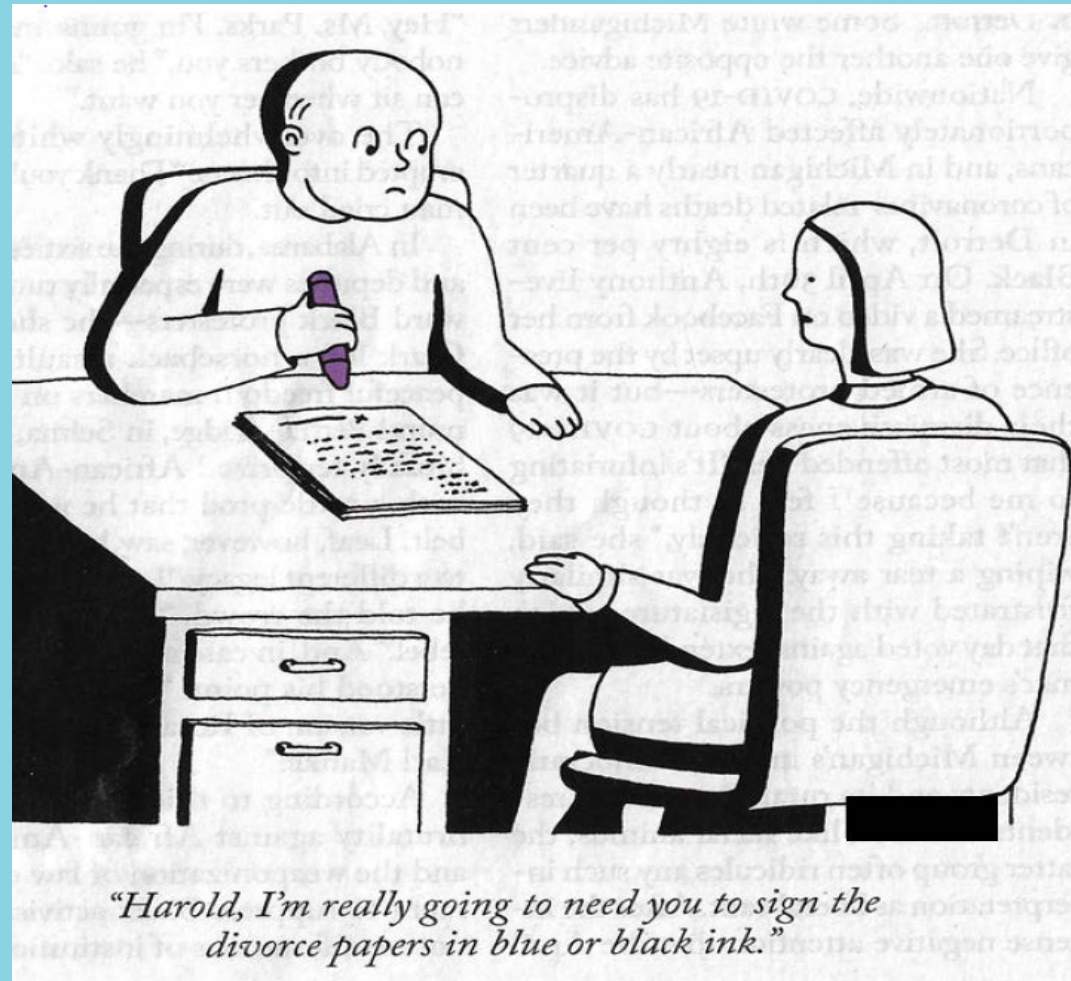
# Welcome. Bienvenue.

- Vielen Dank für die Teilnahme an diesem Programm, wir wünschen, wir könnten uns persönlich treffen.
- Üdvözöljük a programban, bárcsak személyesen is velünk lehetnénk.
- Bienvenue au programme que nous souhaitons être avec vous en personne.
- Bienvenue au program que nous souhaitons être avec vous en personne
- Welcome to the program, we wish we were with you in person

# Program goals: add to our resources for **helping** individuals and families

- Disengage in positive ways
- Progress through feelings of hurt, fear, anger, humiliation, shame, depression, anxiety, and acting out
- Create functional post-separation, post-divorce relationships

# Understanding ...



# What are the legal and social frameworks with regard to custody, access, and support after a separation/divorce?

- Courts of original jurisdiction
- Collaborative law
- Arbitration (non-binding custody, child support)
- Mediation
- “Back channel” (clergy, elder)

# How does this framework influence the intensity of conflict between separated parents and their children?

- Litigation = intensity (victor/vanquished)?
- Mediation = less intense
  - Who helps manage stress?
  - Bias (implicit, actual)
  - Imbalance of power
  - Interpersonal violence
  - Different cultural norms

# Accepting responsibility

- Nemesis
  - The distributor of fortune neither good nor bad in due proportion to what was deserved
  - “Give what is due”
  - Truth and Reconciliation





# How do legal and social frameworks affect the social situation of parents?

- Money = access to resolution forums (private judges?)
- Access to public courts limited (frustration)
- Lack of experience (judicial, personal)
  - Communicating
  - Problem solving
  - Working with professionals

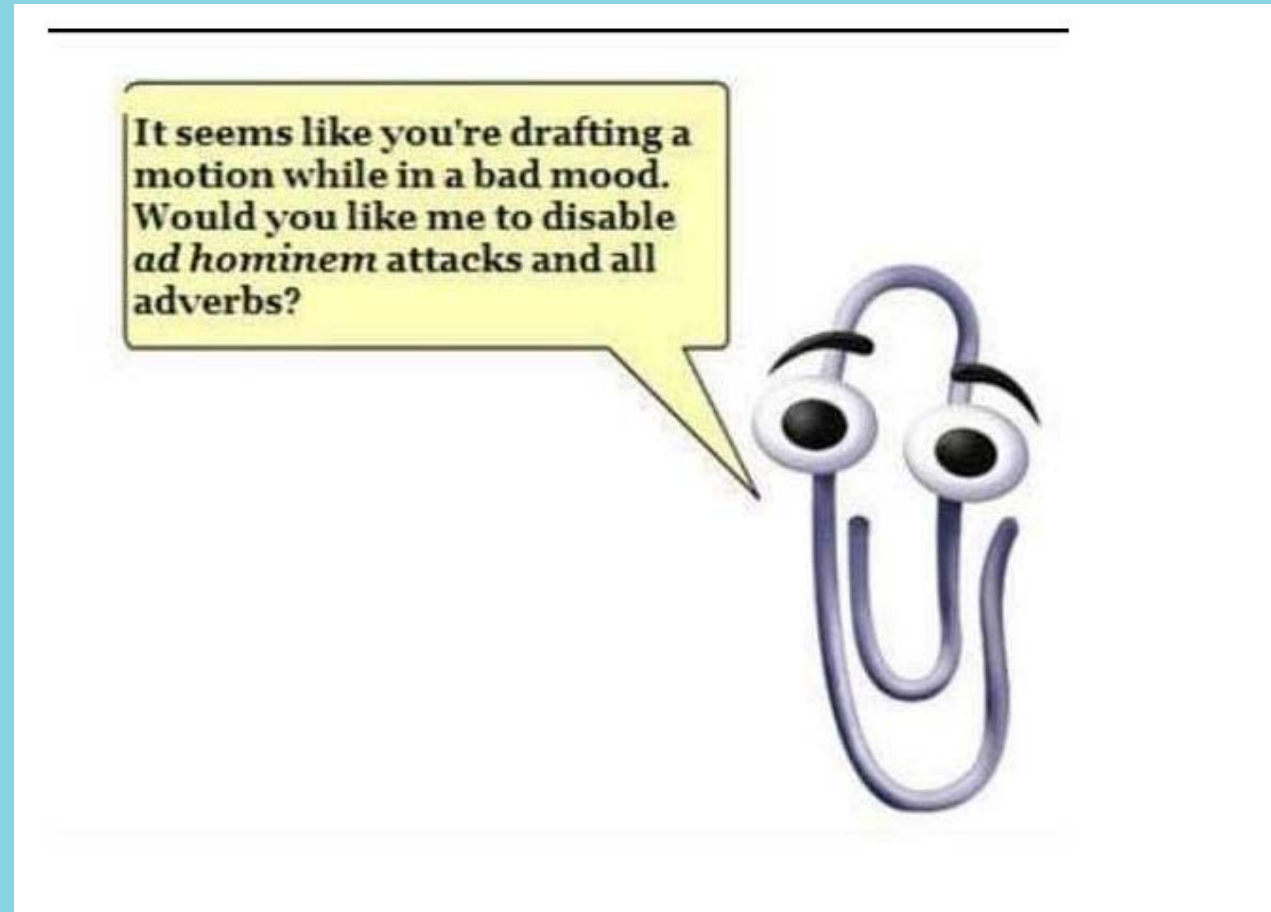
# What is the role of (pre-trial) mediation for an amicable settlement in divorce?

- Mediation is *essential*
- Early mediation is *important*
- Mediation as forum for education, normalization

# Tip

How to be proper advocate (in writing) w/o raising anger levels?

# Clippy's advice...



# What is the role of (pre-trial) mediation for an amicable settlement in divorce/separation?

- Mediator selection

- Mediator as educator (empowers both sides to make informed decisions)
- Balances power (shares time)
- Compassionate, empathetic equally to both sides
- Effective project manager
- Goal oriented: each party emerging healthy and whole.

# How can pre-trial mediation procedures be shaped to have significant positive role?

- Mediation orientation (on line)
- Pre-mediation education
  - Introduce active listening
  - No “you messages”
  - Adult to adult communications
    - No “one-ups”
    - No “one-downs”

How can pre-trial mediation procedures be shaped to have significant positive role? **Transformative words?**

Maybe not...

1. “Should”, “must”, “have to“
2. There is no point!
3. I am outraged!
4. Nothing ever works!

Maybe ...

1. “Could”, “want”, “choose to“
2. I feel frustrated



FP

@FaciePrima

Literally all I do as an attorney:

No.

No.

Seriously, no.

Like, how did you even think this was a good idea.

Stop immediately.

No, that doesn't make it okay, either.

No.

Stop.

Stop it, you can't do that.

No.



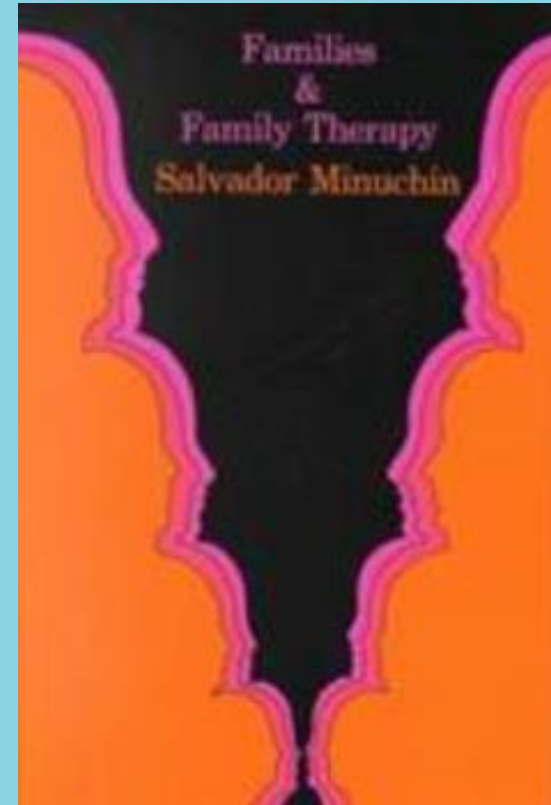
# What kinds of distinct mediation structures for pre-trial conflict resolution exist and are helpful?

- Mediation types



# Resources

- Salvador Minuchin
- Families and Family Therapy

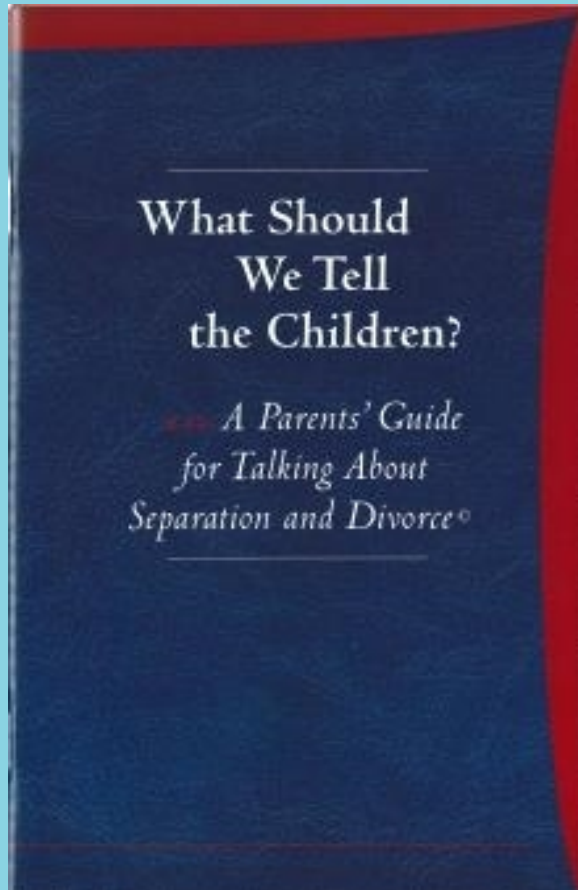


# Resources



- Brief, informative, factual, and fair
- Encourage clients to minimize conflicts, try to remove conflicts, offer amicable resolutions in writing
- <https://www.highconflictinstitute.com>

# Resources



- Professor Mary Kay Kisthardt  
University of Missouri Kansas City  
School of Law
- Dr. Joan Kelly
- <https://aaml.org/page/Bookstore>

# What methods have proven useful for determining the child's wishes/best interests in divorce proceedings?

- In camera interviews
- Court appointed therapist
- Private therapist (confidential, communications not disclosed)
- GAL (not privileged).
- Minor's counsel

# What solutions exist to strengthen the protection of children's interests?



- <https://www.unicef.org/child-rights-convention/convention-text-childrens-version>
- Soberlink
- Locator (Interpersonal violence)
- Our Family Wizard (tone meter)

# How successful is collaboration between lawyers, courts and social workers in helping families before? Examples of interdisciplinary practice?

- Association of Family and Conciliation Courts (AFCC)
- As consultant (ethical questions)

# How can consonance (Einklang, Konsanc) after separation be supported?

- Professionals assisting parents in monitoring their conduct pre and post process
- Parent Coordinator: AFCC
  - <https://www.afccnet.org/Portals/0/AFCCGuidelinesforParentingcoordinationnew.pdf>
- Post-process emotional support (therapy) and education
- Support for attorneys and mental health professionals



# How can consonance (Einklang, Konsance) after separation be supported? Example

- Clearwater Clinic
  - outpatient mental health clinic that specializes in DBT therapy, integrative trauma interventions, and assessment for all age groups.
  - <https://www.clearwaterclinic.com/about-us>
- DBT
- CBT

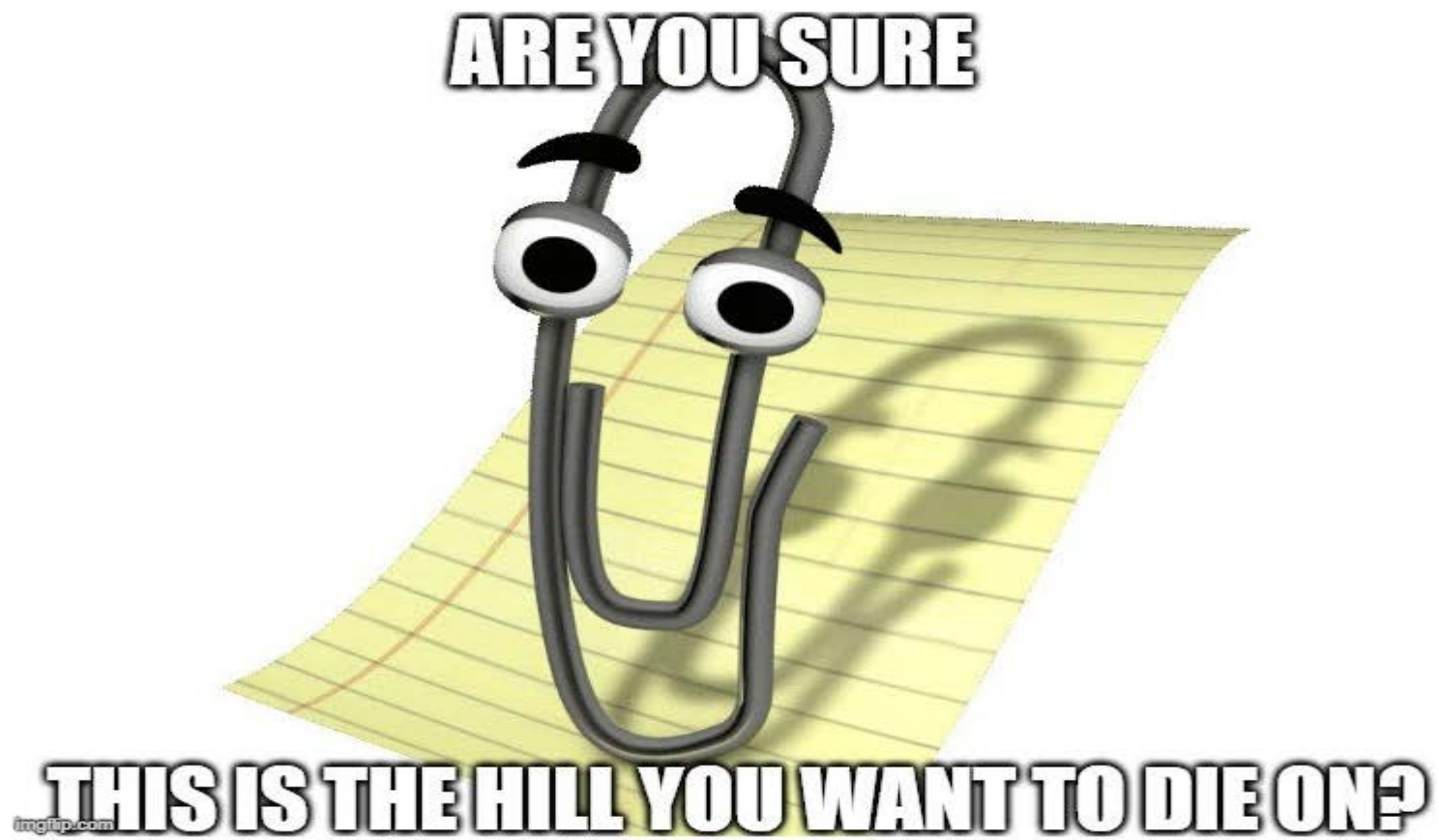
# How can consonance (Einklang, Konsance) after separation be supported? Example

*Chomos v Hamilton*, 2016 ONSC 5208 (CanLII)

- Be nice to Fluffy

# How can consonance (Einklang, Konsance) after separation be supported? Examples

- “Can’t we all just get along?” Rodney King
- Continue therapy
- Continue parent coordination



# What should the role of the grandparents be?

- *Troxel v. Granville* (2000) 530 U.S. 57, 147 L.Ed.2d 49, 120 S.Ct. 2054
- Keeping children in touch with maternal and paternal grandparents (maintaining friendship with former in-laws?)
- Keeping good relations with extended family, friends

# What are the legal and political needs for future development?



- ADR taught in school
- Active listening taught in school

Until next time...

Vielen Dank!