

DUTY OF CARE FOR FAMILY DISPUTE RESOLUTION PROFESSIONALS

BY MARY JO FRANCHI-ROTHECKER LL.B, M.B.A.

ON MAY 16TH, 2016 I ATTENDED THE ONE DAY COURSE TITLED: **DUTY OF CARE FOR FAMILY DISPUTE RESOLUTION PROFESSIONALS: LEARNING HOW TO IDENTIFY, ASSESS AND MANAGE RISK IN YOUR FDR PRACTICE.** THIS COURSE IS MANDATORY, EVERY TWO YEARS, FOR MEDIATORS, ARBITRATORS AND PARENTING COORDINATORS.

THIS YEAR I RECEIVED THE REQUIRED TRAINING FROM HILARY LINTON OF RIVERDALE MEDIATION AND OF MEDIATE 393, WHICH PROVIDES DISPUTE RESOLUTION SERVICES IN THE TORONTO COURTS. HILARY IS A VERY KNOWLEDGEABLE AND CHARISMATIC SPEAKER AND SHE ENHANCED THE WORKSHOP WITH ADDITIONAL DYNAMIC AND INTERESTING SPEAKERS. THE MOST INTERESTING, FOR ME, WERE BALDEV MUTTA AND AMANDEEP KAUR OF THE PUNJABI COMMUNITY HEALTH SERVICES. THEY GAVE AN EXCELLENT PRESENTATION ON THE CULTURAL DIFFERENCES, OF THEIR COMMUNITY, WHICH WOULD AFFECT MEDIATION OR OTHER DISPUTE RESOLUTION PROCESS. BECAUSE WE HAVE THE PLEASURE OF SERVING CLIENTS OF DIVERSE CULTURES, THIS PRESENTATION WAS VERY VALUABLE IN EXPLAINING THE EXTENDED FAMILY DYNAMICS WHICH WOULD INFLUENCE DECISION MAKING AND THE POWER IMBALANCES OF MANY SOUTH ASIAN FAMILIES.

THE PURPOSE OF THIS COURSE IS TO MAKE SURE ALL DISPUTE RESOLUTION PROFESSIONALS HAVE ADEQUATE TRAINING IN SCREENING CLIENTS FOR DOMESTIC VIOLENCE ISSUES AND POWER IMBALANCES. AT DETERMINATION MUST BE MADE, BY THE PROFESSIONAL, ON WHETHER OR NOT THE PROPOSED PROCESS IS LIKELY TO BE EFFECTIVE, FAIR AND SAFE FOR BOTH PARTIES AND THEIR CHILDREN. SEVERAL SCREENING TOOLS WERE DISCUSSED FOR THEIR EFFECTIVENESS BUT THE CLEAR MESSAGE WAS: NO TOOL IS FOOL PROOF. EVEN THE MOST HIGHLY TRAINED PROFESSIONAL, USING THE MOST UP TO DATE SCREENING TOOL, CAN MISS THE SIGNS OF DOMESTIC VIOLENCE AND THE RISK OF SERIOUS HARM OR HOMICIDE. HILARY STRESSED THE IMPORTANCE OF FINDING ANY

SIGNS OF STRANGULATION OR CHOKING BY EITHER SPOUSE; THE AVAILABILITY OF WEAPONS; PRIOR THREATS OF DEATH OR HARM; ALCOHOL OR DRUG ABUSE; PROBLEMS WITH EMPLOYMENT AND/OR MENTAL HEALTH CONCERNS ABOUT EITHER SPOUSE. THE STATISTICS AND PUBLICATIONS, WHICH ARE NOW AVAILABLE ON THESE INDICATORS, ARE IMPRESSIVE AND CONVINCING.

THE SCREENINGS MUST BE CONFIDENTIAL AND MUST BE CONDUCTED BY THE SAME PROFESSIONAL ON BOTH SPOUSES. A NEW CONSIDERATION, FOR ME, WAS THAT THE SCREENING IS NOT INTENDED TO BE A FACT-FINDING EXERCISE. IT IS INTENDED TO BE A PROCESS TO DETERMINE AND MANAGE RISK AND TO BE SUPPORTIVE TO BOTH SPOUSES. THERE ARE COUPLES WHO WILL NOT BE ASSISTED BY THE MEDIATION OR ARBITRATION PROCESS AND THEY SHOULD BE REFERRED TO OTHER SERVICES.

I ATTENDED THE COURSE, NOT ONLY BECAUSE IT IS MANDATORY, BUT ALSO BECAUSE I WANTED TO LEARN ABOUT POWER IMBALANCES, WHICH ARE MORE SUBTLE. THESE INCLUDE FINANCIAL POWER, ACCESS TO EACH PERSON'S BEST ALTERNATIVE TO A NEGOTIATED AGREEMENT, PRIOR NEGOTIATING EXPERIENCE AND OF COURSE, THE HISTORY OF DECISION MAKING AND POWER AND THE COUPLE'S RELATIONSHIP. NOT A GREAT DEAL OF TIME WAS SPENT ON THESE POWER IMBALANCES BUT WE STUDIED THE 2012 CASE OF THE OAKVILLE FAMILY, WHERE THE WIFE WAS MURDERED AND THE POLICE SUBSEQUENTLY KILLED THE HUSBAND WHO WENT ON A BUMPER CAR STYLE DESTRUCTION EXERCISE IN THE POLICE DEPARTMENT PARKING LOT.

THEY LEFT THREE SONS, AGES 12, 10 AND 7. THE MURDER OF THE WIFE, AND THE VIOLENCE OF THE HUSBAND, SHOCKED ALMOST ALL OF THE PROFESSIONALS: LAWYERS, POLICE, DOCTORS, ASSOCIATES AND FRIENDS. ONLY THE FATHER OF THE DECEASED WIFE SENSED

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THAT A TRAGEDY WAS LOOMING. HILARY HAD US PERFORM A INVESTIGATION OF THE COURT FILE, RELATED DOCUMENTS AND NEWSPAPER ARTICLES TO SEE IF WE COULD FIND ANY SIGNS THAT THIS DOMESTIC VIOLENCE WAS ABOUT TO OCCUR. AND, THE SIGNS WERE THERE — SUBTLE, NOT VISIBLE TO THE EYE, BUT INDICATORS THAT FORMED A PATTERN OF RISK. THIS EXERCISE WAS NOT INTENDED TO FIND FAULT WITH ANYONE INVOLVED IN THE CASE BUT WAS INTENDED TO SHOW HOW CAREFUL WE MUST ALL BE AND HOW ATTUNED TO EVEN THE SMALLEST OF CLUES THAT SOMEONE MAY BE AT RISK AND THAT A FAMILY CAN BE DESTROYED.



FOR MORE INFORMATION ON THIS TOPIC,
MARY JO FRANCHI-ROTHECKER CAN BE REACHED AT
289-997-0912 OR VIA
MJFR@ACCENDUSGROUP.COM

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