

# ELDERLAW

## NEWS

New Jersey

Legal News for the Aging and Disabled

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### **Publisher of the ElderLaw News Recognized as 2007 “Super Lawyer”**

Donald D. Vanarelli, Esq., with offices at 242 St. Paul Street, Westfield, NJ, has been selected as a “Super Lawyer” in the areas of Elder Law and Estate Planning. The selection of outstanding lawyers identifies the top 5% of all lawyers in New Jersey who have attained a high degree of peer recognition and professional achievement.

The rigorous multi-step selection process includes peer evaluation, a review of credentials and current bar status, and review and approval from a blue ribbon panel of leading attorneys.

Mr. Vanarelli, a Certified Elder Law Attorney, represents older and disabled persons and their representatives in financing long-term medical care, nursing home issues, qualifying for Medicare, Medicaid and other public benefits, estate planning, probate, guardianship proceedings and special needs planning.

In addition to being board-certified as an Elder Law Attorney by the National Elder Law Foundation, accredited by the American Bar Association, Mr. Vanarelli was recently designated as an Accredited Professional Mediator by the NJ Association of Professional Mediators. Mr. Vanarelli is a founder of the Elder Mediation Center of New Jersey. Mr. Vanarelli mediates cases involving Elder law, Guardianship, Probate, and Family Law.

Mr. Vanarelli is a graduate of Montclair State College and Rutgers’s University Law School . He served as Law Clerk to Hon. Herbert S. Alterman, J.S. C., and as a Peace Corps Volunteer in Nepal. For more information, call (908) 232-7400. ☒

### **Elder Mediation Helps to Reduce the Stress and Confusion of Caring For Aged Family Members**

As baby boomers age and government resources diminish, we will face many difficult choices concerning how we handle transitions during our elders’ later years. Who will handle the finances? Who will take care of the daily necessities? Who makes the medical decisions? These questions can create strained relationships in even the closest families. Geographic distance place increased stress on families regardless of size or socio-economic position. Also, we may become dissatisfied with the services provided by healthcare professionals or facilities or even family members.

One possible solution to help cope with these issues is mediation. Mediation has been widely used for divorce cases and workplace disputes. Trends now show that mediation between family members regarding elder care issues is on the rise. Mediation has become the bridge between family members and third party caregivers so the common goal of providing quality care can be achieved. Families may have difficulty settling elder disputes because of the emotional content that is an inherent part of caring for a loved one. Helping the parties deal with these emotions to reach the real issues is what mediation is all about. A neutral third party who is skilled at listening, diffusing tension, and helping to explain care giving options can help maintain communication and develop a care plan.

### ***What is “elder mediation”?***

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As baby boomers age and government resources diminish, we will face many difficult choices concerning how we handle transitions during our elders' later years. Who will handle the finances? Who will take care of the daily necessities? Who makes the medical decisions? These questions can create strained relationships in even the closest families. Distance can add an even greater complexity to the mix. There was a time when family members lived in close proximity to each other, often in the same town or even house. Now, it's becoming increasingly common for family members to live in different parts of the country. Geographic distance place increased stress on families regardless of size or social-economic position. Also, we may become dissatisfied with the services provided by healthcare professionals or facilities or even family members.

### ***What do we mean by the term "elder mediation"?***

Elder mediation, like elder law, is defined by the client to be served.

Mediation is a voluntary, self-determined process, in which the neutral facilitator works with all the parties to assist them in arriving at their own decisions about how to resolve the issues. The mediator neither takes sides nor judges who is right or wrong, and does not give advice. Discussions are confidential and held in a private, safe setting. Any agreement reached must be acceptable to all participants.

Elder mediation is mediation of any conflict that involves elders, their family members, or others in their lives. The individual who first contacts the mediator may be, but often is not, the elder involved.

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### ***Situations appropriate for elder mediation***

Mediation can help elderly adults discuss issues with service providers and family so that all pertinent parties have input into the discussion. These discussions are focused on both the present and future, giving an equal voice and respect to all parties involved in the discussion. The goal of the mediation is to hear the concerns of the elder, the service provider and the family, and to develop a plan that will address these concerns in the most positive and practical way. Similarly, mediation can provide a forum for siblings to discuss how they will share the responsibilities of caring for their parents. By having these discussions in a safe and controlled environment there is less likelihood that emotions will get out of hand. Mediation can help families discuss the division of labor and the division of finance. It can also help family members discuss financial resources that may be available to pay for care with their parents.

The elder mediator is familiar with and capable of dealing with a variety of issues, including:

Housing/living arrangements  
Caregiving

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- Healthcare planning
- Financial management
- Estate planning & probate matters
- Medical treatment
- Guardianship/conservatorship
- Consumer issues
- Social life and activities
- Spirituality and aging
- Ongoing relationships

***Elder mediation practitioners are knowledgeable in the field of aging***

Elder mediation practitioners are professionals familiar with the aging process and the issues involved. They understand that not all people experience decreased mental capacity as they age. Mediators are connected with the network of local resources and service providers available to elders in the community and have access to the latest updates in the aging field.

They are familiar with elder abuse concerns and report new allegations of elder abuse to the authorities for investigation. Mediation cannot occur between an elder and another person if elder abuse has been reported. Self-neglect does not disqualify a case for mediation.

***The elder participates in the mediation***

Mediators have an obligation to implement all accommodations that allow elders to participate to the fullest degree possible. This sometimes requires the elder to be represented by an attorney or other advocate.

***Elder mediation complements the practice of elder law***

Elder mediation is not a substitute for legal advice. Rather, it is complementary to the practice of elder law. Only the court can provide findings of fact or determination of legal capacity. Frequently, however, family conflicts impede the legal work being performed and in-

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volve issues the law does not address. Mediation can bring these underlying concerns to the surface as the needs and interests of those involved in the conflict are identified. In this time of state budget cuts and fewer court and judicial resources, elder mediation can be a particularly cost-effective alternative to lengthy litigation or repeated court hearings for ongoing disputes.

***Benefits of elder mediation***

Elder mediation benefits elders, their families, attorneys, and others in a number of unique ways. Elder mediation provides an opportunity to explore, in a confidential and safe environment, creative solutions that address a

**Avoid These Eight Common Financial Mistakes**

Written by Joseph Falbo  
Wachovia Securities

broad range of decisions and conflicts that affect an elder's life. Since the elder is often able to participate in mediation, either directly or with the assistance of an attorney or other representative, the elder's dignity is maintained by having a voice in the life choices that are made.

Elder mediation provides an opportunity for elders to talk frankly with family members about values they hold and risks they are or are not willing to take. The elder can acknowledge his or her needs for assistance during mediation without fearing that it will lead to a judge's ruling of incapacity.

If capacity is in question, elder mediation is particularly effective in exploring the least restrictive forms of, or alternatives to, appointment of a fiduciary. If an elder's defense against a finding of incapacity is questionable, or a client's support for a petition for appointment of a fiduciary is somewhat weak, mediation may provide more options than a hearing before a judge.

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The mediation process can help preserve, restore, or even improve relationships. The process provides a non-adversarial model of communication with which to approach future disputes.

Mediation can provide elder law attorneys with a resource to deal effectively with underlying issues that the legal system does not, e.g., intangible values, family history and dynamics, issues of autonomy and safety, interpersonal conflict, quality-of-life choices, etc.

**Elder mediation is relatively new**

Neither the legal profession nor the public at large has as yet fully recognized the value of elder mediation. As more attorneys serving elders understand how this new area of mediation might be the key to moving a complex case forward, they will communicate to the public the values and benefits of elder mediation. ✕

Too many investors make the same mistakes! Here are eight to keep in mind:

**1. Not having enough money on hand for emergencies.** No one expects to lose a job or become ill. But it can happen, and the financial repercussions can be lasting. A prudent strategy is to keep enough money in a separate account to cover living expenses for

up to six months.

**2. Delaying the investment process.** This can cause real damage to your financial future, because time is a great ally when investing.

**Publisher of the ElderLaw News Designated As An Accredited Professional Mediator**

Even relatively small amounts of money can grow rapidly over time.

**3. Keeping too little in stocks.** Many people don't have enough of their money invested in stocks. That's unfortunate. While share prices are certainly known to fluctuate, history has shown that they perform well over time. From November 1926 through 2004, compound annual growth rates were:

Small-Company Stocks	12.9%
Large-Company Stocks	10.4%
Long-Term Government Bonds	5.4%
Treasury Bills	3.7%
Inflation	3.1%

**4. Paying too much in taxes.** Millions of Americans could cut their tax bills each year. Here's how you can cut yours: Contribute as much as possible to your company 401(k) plan. Put money in municipal bonds and annuities.

**5. Buying yesterday's winners.** Last year's best investment rarely turns out to be this year's best investment. Don't buy a security just because its share price has been rising



**LAW OFFICES OF DONALD D. VANARELLI**  
242 St. Paul Street  
Westfield, NJ 07090  
Tel: (908) 232-7400  
Fax: (908) 232-7214  
Email: dvanarelli@dvanarelli.com  
Websites: dvanarelli.lawoffice.com  
-and- elderlawanswers.com/attorney/vanarelli.html

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