



## Section Romande

### \*P'tit Déjeuner de la Médiation

\* Sous les auspices de la **CSMC** Chambre Suisse de Médiation Commerciale, Section Romande ([www.csmc.ch](http://www.csmc.ch)) et de l'**Association MédiationS** ([www.association-mediations.ch](http://www.association-mediations.ch))

\* Auprès de et en partenariat avec la **CCIG** Chambre de Commerce et d'Industrie de Genève, 4 bd du Théâtre, 2ème étage ([www.ccig.ch](http://www.ccig.ch))

Nous avons le plaisir de vous inviter à participer au prochain

### P'tit déjeuner de la Médiation

le mercredi 3 juillet 2013 de 8h15 à 9h30

à la CCIG Chambre de Commerce et d'Industrie de Genève, 4 bd du Théâtre, 2<sup>ème</sup> étage.

Nous y accueillerons le médiateur et chercheur australien **Lawrie Moloney** qui fera une conférence sur le thème :

### **Mandatory mediation in a “shared care” legislative environment. Insights from an Evaluation of Australia’s 2006 family law reforms.**

Dans la perspective de l'introduction prochaine de l'autorité parentale conjointe d'office en Suisse et d'un recours croissant à la médiation dans les conflits parentaux, l'expérience australienne avec la médiation obligatoire pré-judiciaire est d'une grande valeur pour nous aider à améliorer nos propres dispositifs dans l'intérêt des enfants et parents concernés.

#### **Bref résumé du sujet de conférence par l'auteur :**

“Recent social developments in Western countries, including changing employment patterns, increasing emphasis on children’s rights and revised understandings about children’s attachments, have resulted in most family law jurisdictions placing greater emphasis on the role of the father following separation. The manner in which this emphasis is applied has varied from jurisdiction to jurisdiction. A few jurisdictions favour the “approximation rule”- that is, they aim to recreate the sort of care time arrangements that applied when the parents were together. Some on the other hand, believe that the best interests of the child should provide the overriding decision-making template, and that any a priori presumption is incompatible with that principle. Others begin with a “rebuttable presumption” about shared parenting responsibilities and consider what arrangements should flow after that presumption has been accepted or rejected.

Australia's 2006 family law reforms created a strengthened presumption of shared parental responsibility. But more controversially, it created a link between that presumption and a requirement for a court to consider (or a mediator to raise the possibility of) equal or substantially shared parental time with the children, so long as this is in the interests of the child. In addition, with some exceptions, the legislation requires parents to make a bona fide attempt to mediate post separation disputes over their children before they are permitted to make an application to the Court.

In this lecture, I examine the extent to which the 2006 emphasis on parental responsibility appears to have influenced post-separation parenting arrangements for a large sample of Australian parents interviewed one year and two years after separation. I also focus on the impact of mandatory mediation - on who uses it, on the extent to which it appears to be "working" and on how mediators are responding to what is popularly seen as a presumption of shared care. Finally, I consider some unexpected outcomes from the legislation. For example, although fewer parents have been litigating over children since 2006, higher proportions of shared care arrangements have resulted from court orders than from other dispute resolution processes such as mediation, lawyer to lawyer negotiations, and direct discussions between parents." (L. Moloney)



*Lawrie Moloney is a Senior Research Fellow at the Australian Institute of Family Studies and an Adjunct Professor in the School of Public Health at La Trobe University – both in Melbourne, Australia. He is a registered psychologist, family mediator and family therapist. Having served as a Director of family court counselling in the early years of the Family Court of Australia, Lawrie then spent 24 years in the university sector, mainly teaching counselling and counselling psychology. He is Editor in Chief of the Journal of Family Studies and has authored more than 200 publications, many related to children, parenting and divorce.*

Conférence en anglais, traduction française assurée

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