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# Close encounters of the divorce kind

Lionel Cranenburgh

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## Case study in mediation

# Close encounters of the divorce kind

**Lionel Cranenburgh**

*Lionel Cranenburgh is the author and inventor of a concept that he has developed on a Space Invaders theme (copyright Cranenburgh and Associates 2006) which he applies in managing conflict in various settings. This article shows, in modified form, how he helps divorcing couples by using one of his Space Concepts Mediation sessions, Close Encounters, to manage divorce. The idea is inspired by Spielberg's Close Encounters of the Third Kind and other Science Fiction genre. The complete Space Invaders by Lionel will be released early next year internationally.*

a win-lose contest.

Rule 1 of my Close Encounters Guide for Mediators is to help both parties to see where they are in the war zone. My ideas are based on an adaptation of Ahrons and Rodgers excellent categories of post-divorce relationships. These involve holding 'confidential consultations' where each party can review their relationship and establish whether they are friends like Luke Skywalker and Han Solo or any fictional space heroes of their choice; cooperative colleagues like Captain Nemo and his crew; fiery foes like Darth Vader and the

thoughtfully for the encounter. This includes conducting a self-assessment as to whether we are hard-wired to use fight or flight. If you can get the parties to see the encounter as an opportunity for addressing critical issues that have built up over years, it could lead to setting goals for the encounter. Space characters are expected to be inventive and this is an opportunity for adults and children to consider creative ways that could break the blame cycle and may save the family. Families do talk after each bitter encounter!

Rule 3 for Close Encounters is to get the parents to imagine that their actions are being viewed by their children 10 or 15 years later in a futuristic setting ('a long time from now in a galaxy far, far away ...'). How will the children see the encounter? How will your different attitudes impact on them? Author Scott in his article 'Co-Parenting' says that the children of conflicting parents, where divorce is bitter, suffer psychopathology of the worst order and distress that will assure them of the need for life-long psychotherapy.

Rule 4 is be prepared to terminate the encounter if the mediation process is likely to prove unsafe for the child, if there are threats to abduct the child or the safety of any party is endangered. The mediator should not accept the encounter if the situation has been assessed as being dangerous to the child. Close encounters require the mediator to take safety precautions when there is evidence of domestic abuse. These include establishing security arrangements or holding separate sessions even without the agreement of all participants.

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If looks could kill both parties would have been guilty of homicide or grave injury. She fired laser-like salvos of caustic words at him while he responded with sharp accusations intended to unsettle her, damage her self-esteem and leave her feeling unworthy as a mother. The effect on the children was to catch them in the crossfire and make them feel that they were in a war-zone as spoils of war.

The estranged wife initially viewed me as *male* mediator between these two parties with as much suspicion as someone from Mars. I was a space invader from the Dog Star Dion intruding from a galaxy far, far away who would help his kind, surreptitiously invade her space and take all spoils for her destructive male partner in

Jedi warrior Ben Obi-Wan Kenobi or any space characters of their choice. The purpose in using the Close Encounters theme in resolving conflict and divorce is that it appeals to children's imagining of who are key players, defuses or normalises the conflict, provides opportunities for parties to use their creativity and look beyond the past. Johnston and Campbell state in their book, *Impasses of Divorce*, that it is a well-established fact that a child experiencing the dissolution of the family structure will do better if the parents are able to reduce the trauma in an already traumatic experience. I have found that involving them in film or fictional analogies is soundly therapeutic.

Rule 2 of my Close Encounters Guide for Mediators is to plan effective tools



trying to improve his or her level of performance. This can promote public confidence in mediation as a process for resolving family disputes.

The phases of the dissolution of a relationship from intimacy, negative intensity and building a structured plan, as suggested by Kubler-Ross, are fairly typical of most divorced couples' relationships. However, in divorce cases, it is important for the mediator to promote the best interests of the child, to increase the self-determination of participants and to demonstrate that he or she has no interest in the outcome. The mediator's commitment is to the participants and the process. This process is also part of the code of practice of Jedi warriors and may reflect our own values.

In preparing for life after divorce a plan for co-parenting and continuing relationships can be developed by the parties with their lawyers. Research by Pearson shows that mediation agreements relating to custody and visitation are not less reliable than agreements generated through lawyer facilitation and court decisions. Life after Close Encounters can be as fulfilling as the parties make it. The oft-forgotten traumatic long-term effect on the child

is frequently the result of warring opponents seeking a win at all costs. The Australian family law courts are insufficiently equipped to deal with divorce as well as efficient mediators are able to in a setting where the participants make the rules.

The parties for whom I mediated went through the phases of dissolution. While the battle raged fiercely the bile flowed bitterly. When reflective sessions and individual reviews by the parties took place using my Close Encounters model, it gave the parties time to consider creative options and they began to see that the new world would be one that they created. I had no interest in the outcome.

An important aspect of the process was that the children had a say.

May the Force be with you! ●

*Lionel Cranenburgh is the author of 'Bridge Over Troubled Water: An Inter-cultural Mediation Approach', 'Protect Your Space with Grace' and 'Close Encounters of the Conflict Kind'. He is an educator, international author and trainer who provides workshops on mediation, career development and workplace issues and has written articles for national and international journals on numerous topics. He can be contacted*

on <[lionelcranenburgh.com.au](mailto:lionelcranenburgh.com.au)>.

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## developments in ADR

■ The **International Coalition of Concerned Mediators (ICCM)** was formed at the *Consolidating Our Collective Wisdom Conference* in October 2006 in Colorado, US. It is a global project that encourages competent direct negotiations between nations, organisations and community groups. It also aims to encourage the use of credible mediation assistance. The ICCM has attracted support from over 600 mediators, and are asking for signatories and support from both mediators and the public. For more information visit: <[www.concernedmediators.org](http://www.concernedmediators.org)>.

■ **CEDR** held the annual **CEDR Excellence in ADR Awards** in London on 28 September 2006. The ceremony attracted a record number of entries and finalists — 21 in total. SJ Berwin was recognized in the *Professions Category* for its long-standing support of mediation through its ADR Group. Also recognized was the Department of Constitutional Affairs for *Innovation*, The Patent Office for *Public Sector*, the International Finance Corporation for *International*, Mediators on Mediation for *Publications*, Batmark Ltd for *Business* and Jayne Singer for *Young Achiever*. For more information on these awards visit <[www.cedr.co.uk](http://www.cedr.co.uk)>.

■ In a statement issued on 25 September 2006, the **National Alternative Dispute Resolution Advisory Council (NADRAC)** has announced its charter will be broadened so that more people can embrace the growing trend towards resolving disputes without going to court. Federal Attorney-General Philip Ruddock said NADRAC would now be able to promote methods such as mediation, arbitration and

conciliation, which all provide cheaper alternatives to litigation.

■ The **United Nations** has launched a new website offering advice and tools to diplomats, mediators and others attempting to resolve global conflicts. The new website includes a 'peacemaker's toolbox' and a database of peace agreements among other resources. This site is part of the initiative by the United Nation's Department of Political Affairs to synthesize existing knowledge about how peace agreements are reached, so that those involved in peacemaking worldwide may learn from past efforts. For more information visit <<http://peacemaker.unlb.org/index1.php>>.

■ **New Zealand** has improved its landlord-tenant dispute resolution processes by adding 17 additional centres for face-to-face mediation throughout the country. It has done this by providing new options to mediate simple disputes by telephone and through legislative changes to the country's *Residential Tenancy Act*.

■ The **Australian Government** has set up the Alternative Dispute Resolution Assistance Scheme (ADRAS) in an attempt to encourage employees and employers to resolve disputes at the workplace in a way that is acceptable to all parties involved. ADRAS is administered by the Department of Employment and Workplace Relations. ADRAS provides government assistance for ADR services to employers and employees involved in eligible workplace disputes. It has been established under the WorkChoices amendments to the *Workplace Relations Act 1996* (Cth). For more information visit <[www.workchoices.gov.au](http://www.workchoices.gov.au)> or contact <[ADRAS@dewr.gov.au](mailto:ADRAS@dewr.gov.au)>.