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This memorandum is uncorrected and subject to revision before
publication in the New York Reports.

4 No. 183 SSM 16
Richard M. Hauzinger,
 Respondent,
 v.
Aurela G. Hauzinger,
 Respondent,
Carl R. Vahl, Esq.
 Appellant.

 Submitted by Steven L. Abel, for appellant.
 Submitted by Steven H. Grocott, for respondent Aurela
G. Hauzinger.
 Association for Conflict Resolution, et al., amici
curiae.

MEMORANDUM:

 The order of the Appellate Division should be affirmed,
with costs, and the certified question answered in the
affirmative.

 Plaintiff husband executed a signed waiver releasing
the non-party mediator from maintaining mediation

confidentiality, and insofar as defendant wife seeks disclosure of matters pertaining to the mediation, she too is deemed to have waived mediation confidentiality. Further, the mediation agreement provided that if both parties consent, the mediator may communicate with an attorney for either party and release documents to third parties. The mediator's claim that a qualified privilege exists, pursuant to CPLR 3101 (b), in maintaining mediation confidentiality is without merit where the privilege has been waived. Under these circumstances, the courts below did not abuse their discretion by ordering disclosure. We do not address what, if any, mediation confidentiality privilege exists under CPLR 3101 (b).

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On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, and certified question answered in the affirmative, in a memorandum. Chief Judge Kaye and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

Decided June 26, 2008