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November 25, 1987

PARKER L MCDONALD
CHIEF JUSTICE
SUPREME COURT OF FLORIDA
SUPREME COURT BUILDING
TALLAHASSEE FL 32399-1925

Dear Justice McDonald:

I am writing this letter in my capacity as President of the Florida Association of Professional Family Mediators regarding the Final Draft of the Proposed Supreme Court Rules for the Implementation of Sections 44.302, 303, 304, 305 and 306. While we have requested to make an oral argument on December 3, 1987, during the hearings on the Rules, I wish to share with you our organization's position.

We wish to commend the committee for drafting a most impressive and comprehensive approach toward developing standards and rules governing mediation and arbitration. Particularly with regard to the educational and professional standards for mediators and minimal mediator training requirements, the proposed Rules closely parallel our organizational standards. Our main concerns with the proposed Rules relate more to the procedural issues covered in the Rules. I will elaborate on each of the specific sections of the Draft that require comment.

p.1 - 1710 (a) Sheer logistics of scheduling for both parties and the mediator often preclude the possibility of completing several mediation sessions, if required, within a 30 day period. A 60 day period with an extension of 30 days would be much more realistic.

p. 2 - 1720 (d) While virtually all mediators agree that counsel for both parties be permitted and, indeed, encouraged to communicate with their clients, it is counterproductive for counsel to attend mediation sessions. The attendance of counsel in the mediation sessions sets up a potentially adversarial milieu for the mediation session and would be very difficult to overcome by the mediator. I cannot imagine an attorney who is aware of the process of mediation wanting to be present during mediation sessions. A possible compromise would be counsel attendance during an orientation session and at a final session.

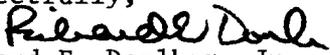
p. 5 - 1760 (b) (4) In addition to mediation training certified by the Supreme Court, we ask that you seriously consider adding the Academy of Family Mediators. This national organization is recognized as the major professional mediation organization. It sets high standards for family mediators and provides continuing education, certifies basic 40 hour training programs that meet its standards. Most professional mediators are members of this organization.

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p. 5 - 1760 (b) (5) We are unclear about how the Chief Judge of the Circuit Court would certify mediators, particularly non-lawyer mediators who may practice outside of the court system. For several years, bills have been introduced in the Florida Legislature to license mediator at the same level as the standards in the Proposed Rules. In anticipation of the passage of such a licensing bill, would it be possible to use the licensing mechanism as a method of certifying "licensed" mediators.

We appreciate your attention to our comments. Again, we wish to thank the committee for their hard work and diligence in drafting an overall excellent set of Rules for mediators and arbitrators for the State of Florida.

Respectfully,


Richard E. Doelker, Jr., Ed.D., LCSW
President, Florida Association of Professional Family Mediators
Associate Member, Academy of Family Mediators

RED/cr

c: David Strawn
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