

O/a 12-3-87

IN THE SUPREME COURT OF THE STATE OF FLORIDA
CASE NO. #71,312

IN RE: IMPLEMENTATION
OF FLORIDA STATUTES SECTION
44.301, COMMENTS

FILED

SID J. WHITE

NOV 9 1987

CLERK, SUPREME COURT

By

Deputy Clerk

COMMENTS BY FLORIDA BAR MEMBER CHARLES
EDWIN RAY

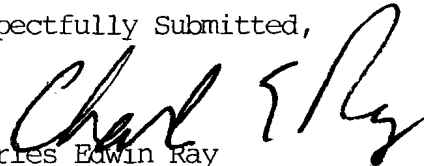
In response to this Honorable Courts' request for comments upon the above listed subject, the undersigned member of the Florida Bar would have the following comments and concerns:

1. As to proposed Rule 1.750, this Rule should be revised to allow the presiding Judge to refer cases to mediation when one or more of the parties is represented by an Attorney and require mediation (except when waived by the Court) only when ALL parties are without representation at the Pre-Trial Conference. My reasons are as follows: Judges in Small Claims Courts are already overburdened with paperwork and many cases should never be sent to mediation, example, your run-of-the-mill Collection case involving an undisputed amount. Attorneys can and will conduct mediation conferences all the time in those instance without the need for formal mediation. Also, to be perfectly honest with the Court, many Collection cases involve Defendant Debtors who are, to say the least, very difficult to work with and mediation simply ties up the Plaintiff Creditors' Attorney Time without any compensation whatsoever. After all, if the

Defendant Debtor really wants to settle a case, a Creditors' attorney would be foolish not to listen to a proposal from the Defendant. But to require a Court to order no mediation in order to avoid a waste of time in most of these cases, puts an undue burden upon your Trial Judiciary. In addition, I think somebody should remember that Clients may pay for Attorneys to attend fruitless mediation sessions. For the record, the County Court in Pinellas County, Florida has had some difficulties with mediation in the past.

Therefore, with all due respect to the committee which has evidently worked long and hard on these recommendations, I would ask that this not require mediation unless otherwise ordered by the Court in Small Claims cases. If this opinion runs counter to Legislative wishes, I would submit that the Supreme Court of the State of Florida, as an independent Branch of Government, is entitled to ultimate decision making authority in connection with Housekeeping matters of Judicial Procedure.

Respectfully Submitted,



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