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JAN 20 1990
CLERK OF THE COURT
Deputy Clerk

Re: Amendment to Florida Rules of Civil Procedure 1.700-1.780
(Mediation)

In my opinion, it would be an error to implement the changes proposed to Rule 1.760 (b)(3), (b)(4) and (c). Several questions and problems come to mind.

First, no mechanism exists for insuring that certified mediators would be available and willing to supervise trainee mediators. Depending upon "good will" in what is essentially a competitive economic marketplace is unrealistic.

Second, how would clients be obtained? Would the uncertified trainee-mediator be responsible for getting clients? If so, how? Could judges order mediation to uncertified trainees and how likely is it a judge would be so inclined? Would participants be informed they were being ordered into mediation with an uncertified trainee? What problems would that engender?

Third, what role would the certified mediator play if he was unhappy with the way the trainee-mediator was handling mediation? Would he interrupt, take over or do nothing?

Fourth, what training do certified mediators have in training other mediators? Probably, most certified mediators have little or no training in that area and are not properly equipped to serve in that role.

My fifth criticism of the proposed changes concerns part (d). If the changes are implemented, the effective date for deeming mediators to be qualified pursuant to these rules should be changed from January 1, 1990 to a date after the changes are actually approved and implemented. There are mediators who have been certified after January 1, 1990 and who will be functioning as mediators prior to the actual implementation of the proposed rules. If the January 1, 1990 date is not changed, these practicing certified mediators will be retroactively de-certified. There is no logic or reason to this result. The way to avoid this problem is to change the date, perhaps to January 1, 1991. This will allow those already certified to remain certified and also put aspiring mediators on notice about new requirements for certification.

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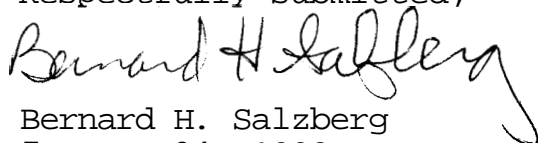
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Finally, if there are problems with mediators trained under the current system, I suggest the training programs be adjusted to address those deficits. These training programs have qualified trainers and controlled settings which allow appropriate supervision and the establishment and enforcement of specific training criteria.

Respectfully submitted,



Bernard H. Salzberg
January 24, 1990

BHS :st