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75,151

Florida Supreme Court
Supreme Court Building
500 South Duval Street
Tallahassee, FL. 32399-1925

Re: Amendment to Florida Rule of Civil Procedure 1.700-1.780 (Mediation) The Honorable Justices of the Florida Supreme Court

Dear Sirs:

In reviewing the Official Notice regarding the Amendment to the Florida Rules of Civil. Procedure on Mediation, we noted that proposed Rule 1.760-Mediator Qualifications(d) qualifies as a Circuit Court Mediator any person who has been duly certified as a Circuit Court Mediator before January 1, 1990. However, there is no such provision applicable to Family Mediators who are currently qualified and certified as Family Mediators.

Proposed Rule 1.760(b)(3) would require Family Mediators, whether currently qualified and certified or not, to observe two Family Mediations conducted by a certified Family Mediator and to conduct two Family Mediations under the supervision and observation of a certified Family Mediator. Without a "grandfathering in" provision for Family Mediators, it would be very difficult, if not nearly impossible, to ever fulfill the requirement of Section 1.760(b)(3) since few, if any, currently qualified Family Mediators have ever observed two Family Mediations or conducted two Family Mediations under the supervision and observation of a certified Family Mediator.

In Highlands County, there are currently four attorneys, including myself, qualified as County Court Mediators, Circuit Court Mediators, and Family Mediators. Although some of us might have

observed two Family Mediations conducted by a certified Family Mediator, probably by being involved as an attorney for a party, I doubt any of us have conducted two Family Mediations under the supervision and observation of a certified Family Mediator. It would be impossible for any of the four of us to conduct two Family Mediations under the supervision of any of the other three since none of the other three would be qualified and certified Family Mediators because of the requirements of Section 1.760(b)(3). It appears a Catch-22 has been created as Rule 1.760(b)(1-4) currently reads: The only method by which this apparent dilemma can be eliminated is by adding a provision to the Family Mediators Section which allows mediators who have been duly certified as Family Mediators before January 1, 1990 to be qualified as Family Mediators pursuant to the new proposed rules; otherwise, it will force attorneys such as the four in Highlands County to have to locate someone in the State of Florida who is qualified as a Family Mediator under the proposed rules who would allow us to observe two of their Family Mediations and who would be agreeable to supervising and observing two Family Mediations conducted by us. Most likely, such a person would only exist, if at all, in the metropolitan areas of Miami, Tampa, Orlando or Jacksonville. This obviously would present cumbersome, potentially expensive, and very time consuming restraints upon us in order to become a Family Mediator under the proposed rules, even though all four of us are currently qualified as Family Mediators under the current rules.

Therefore, we respectfully propose that Rule 1.760(b) have an additional paragraph number (5) added stating: "Mediators who have been duly certified as Family Mediators prior to January 1, 1990 shall be deemed qualified as Family Court Mediators pursuant to these rules" or modify Rule 1.760(d) Special Conditions to read: "Mediators who have been duly certified as Circuit Court Mediators or as Family Mediators before January 1, 1990 shall be deemed qualified as Circuit Court Mediators or Family Mediators pusuant to these rules."

Sincerely,

NICHOLAS G. SCHOMMER
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MICHAEL J. TROMBLEY

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