O/a 2.5.90

TED BROUSSEAU
CIRCUIT JUDGE
COLLIER COUNTY COURTHOUSE
NAPLES, FLORIDA 33942
1-813-774-8121

75,151

January 24, **1990**

Sid J. White, Clerk of Courts
Florida Supreme Court
Supreme Court Building
500 South Duval Street
Tallahassee, Fl. **32399-1925**

Re: **RESPONSE TO PROPOSED CHANGES TO THE RULES OF CIVIL PROCEDURE 1.700 - 1.780 (MEDIATION)**

Dear Mr. White:

I am pleased to have the opportunity to comment on the proposed amendment to the Mediation Rules. It is evident from my review of the proposed changes that a lot of thought went into the committee's report. There are only a couple of areas that I would like to comment on.

We have been using mediation in the 20th Judicial Circuit, Collier County, for several years. One area that has benefited the parties by bringing about a resolution quickly has been custody and support matters. Florida Law requires that support matters be heard in an expedited manner. We give a hearing time within **10** to **14** days on support motions and set the matter for mediation immediately before the hearing time. The result has been that a majority of the matters are disposed of by mediation and those that aren't go directly from mediation to the court's hearing room to have their hearing. Without this use of mediation, the court could not offer such expedited hearings, since a lot of hearing time was taken up with cases that are now settling through mediation. The end result is the offering of hearing time sooner and also quality hearing time since the court is only listening to those cases that truly have a legitimate dispute.

What I would ask the Supreme Court to consider is the effect of Subsection (c) of Rule **1.70** which allows **15** days for any party to file a motion to defer the process and require tolling of mediation until disposition of the motion, which is somehow supposed to be set for hearing prior to the scheduled date for

mediation. I am concerned about having time for a hearing prior to the scheduled date for mediation in the already shortened time period required for support matters. The whole idea of having mediation with the court on standby was to avoid the attempts by the party who will ultimately be paying child support to gain any advantage by delay. Perhaps, at the very least, if the requirement could be for the hearing to be prior to the scheduled time for mediation, the hearing could be held immediately before the time scheduled for mediation.

My other comments address mediator qualifications. We have an outstanding court annexed voluntary family mediation program in Collier County. We have retired out-of-state judges, attorneys, CPAs, and a lot of other retired folks from out of state that have a lot of experience and common sense. They are doing an outstanding job and have a proven track record. However, they do not meet the proposed requirements for certification and are grandfathered in. My request to you is to create a separate category for court-annexed voluntary programs, which would be required to have the training, but not be required to meet the standards set out in Rule 1.760(b)(2) if waived by the Chief Judge approving the court-annexed program. Our volunteer mediators are settling a lot of cases and helping a lot of parties who would not and could not afford $125 an hour independent mediators. The parties like our program and mediators, the attorneys like our program and mediators, but we are probably only good for another couple of years, with the normal attrition of volunteers. Any relief you could grant in this area would be appreciated.

Thank you very much for your consideration of these two minor matters.

Very truly yours,

Ted Brousseau

TED BROUSSEAU
Circuit Judge

TB:jk