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July 20, 1993

Honorable Rosemary Barkett  
Florida Supreme Court Justice  
Supreme Court Building  
500 South Duval Street  
Tallahassee, Florida 32399-192225

**FILED**

SID J. WHITE

**JUL 30 1993**

CLERK, SUPREME COURT

By \_\_\_\_\_  
Chief Deputy Clerk

Your Honor:

I recently read that you were seeking advice with regard to whether judges who preside over trials should be permitted to work as paid mediators.

My opinion as an attorney who has been practicing personal injury for twelve years is that retired judges should not be precluded from presiding over a mediation as long as they disclose the following in writing to all parties concerned: 1) Whether they have ever been recommended or retained by a mediator for any law firm involved in the case, and if so, full and complete disclosure as to how many times they have been so retained should be provided; and 2) whether any future mediations have been scheduled with any law firms which the parties represent or have any promises been made with regard to future mediation work.

Such information shall be disclosed by the mediator to all parties promptly upon being appointed as a trial judge in a particular case. Any party may then move to disqualify that judge if he has been retained as a mediator by any of the law firms upon proper motion.

Further, when that judge has been appointed as a retired judge to sit as a trial judge on a particular case, any lawyers from that law firm should be precluded from approaching and offering that judge mediation work until the complete termination of the judicial proceeding, including all post-trial hearings has occurred.

In the alternative, it would be better if retired judges could be paid more money than the \$200.00 per day that I believe they presently receive. What would be great is if there would be sort of a tax created whereby, for example, 10% of all mediator fees would go into a special fund for retired judges, so that instead of the retired judges only being paid \$200.00 per day, they could be paid \$400.00 per day, or say \$70.00 per trial hour while they are on the bench. Therefore, they would not need to do any mediations, and you could have retired judges who

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do not do any mediations and this would totally eliminate the conflict of interest. I don't know the legalities or constitutionality of a tax or percentage charge on mediations as I am proposing, but it is just another idea.

I hope this will be of assistance.

Respectfully submitted,

Dan Cytryn, Esquire

DC:jc