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*Certified Mediator for
Civil Circuit & County Court
Family & Federal Mediations*

March 10, 1997

Sid J. White, Clerk
Supreme Court of Florida
Tallahassee, FL 32399-1927

E9681

FILED
SID J. WHITE
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CLERK, SUPREME COURT
By _____
Chief Deputy Clerk

Re: Amendments to Florida Rules for Certified and Court-Appointed Mediators / Dependency Mediators

Since September, 1995, I have been a Florida Supreme Court certified Circuit Civil, County Court and Family mediator who has conducted more than two hundred (200) mediations which include at least twelve (12) dependency mediations. I offer the following comments on the proposed amendments to the Florida Rules for Certified and Court-Appointed Mediators, specifically Rule 10.010(d) entitled "Dependency Mediators" and Rule 10.010(e) entitled "Special Conditions".

In the development of the proposed rules, I expressed concern to the Rules Committee that an experienced mediator should be "grandfathered in" much the same way that circuit civil and family mediators were given that privilege on July 1, 1990. Recognizing the need to have dependency mediators readily available upon the adoption of the rules, the Rules Committee at least modified the proposed rules to provide for a one (1) year temporary certificate for experienced dependency mediators. This was a major concession to the proposed rules, but it still left standing the requirement that any temporarily certified dependency mediator must attend the full forty (40) hour training program within the year to maintain the dependency certification. It has been explained by the Rules Committee that training for dependency mediators should not be any less than the training required for other certified mediators.

While I recognize the Rules Committee's concern not to treat a dependency mediation in a manner different than a circuit civil or family mediation, they, in fact, are. By failing to "grandfather in" experienced mediators who have conducted court-appointed dependency mediations as was done for circuit civil and family mediators on July 1, 1990,

all dependency mediators, regardless of the level of experience must receive the same forty (40) hours of training.

I appreciate the need for the highest level of training to be made available for all persons who will receive permanent dependency certification; however, one must also be realistic. Unlike circuit civil mediation or family mediation, there is not a ready market in the private sector to develop a practice in conducting dependency mediations. One must fully rely upon court appointments and sometimes accept reduced fees or serve *pro bono* because the fees are usually paid from the respective county or court funds. I am concerned that people will not seek out this certification and the existing resources will dry up after the temporary certificates lapse.

This is clearly a matter of economics. Compared to the numbers of family or circuit civil cases, there are far fewer dependency cases filed within the court system. One must consider if it is financially practical to take this additional training when the prospect for monetary return is limited. Although the Dispute Resolution Center (DRC) has assured me that subsidized training programs will be made available throughout the State during the temporary certification period, there are still out of pocket expenses. Currently, one must spend five days in training to meet the forty (40) hour requirement. No matter how the program is scheduled, one must expect to lose at least one business day which could equate to eight (8) hours at \$125.00 per hour or a loss of \$1200.00 in potential income. Also, not all training programs will be conveniently located in one's town thereby requiring travel, hotel and food expense for five days. Finally, one must assume that "subsidized" training means that there will be some fee charged for the training.

Having provided you with my comments, I would now like to present to you two possible solutions. First, the simplest proposal would be to modify Rule 10.010(e) and replace the current underlined language with the following:

Mediators who have mediated a minimum of six dependency cases prior to July 1, 1997 and meet the requirements of subsection (d)(5) of this rule, shall be deemed qualified to apply for certification as dependency mediators.

This proposed language would recognize that a mediator who has already conducted six dependency mediations is experienced as has been recognized for the temporary certification. To require forty (40) hours of training after one has been granted permission to conduct even more dependency mediations is superfluous.

Second, if the Court believes that a training program is necessary, I propose that the training program for mediators who have obtained their temporary certification be modified to recognize this expertise. Currently, the Mediation Training Standards and Procedures are not under review by this Court; however, the training program must be certified by this Court. I have reviewed the proposed training program and have taken both the circuit civil and family forty (40) hour mediation training programs.


At least 50% or two days of the training program involve role-playing. Role-playing is important for the person who has not previously conducted a mediation in that area of certification. However, for those mediators with a temporary certificate] they have already conducted at least **six** mediations or **six times the number of required role-playings**. The training program for experienced dependency mediators could be reduced by almost one half if the prior experience is recognized.

So as not to diminish the proposed forty (40) hour training requirement for temporarily certified dependency mediators] I recommend that such mediator would **be** deemed exempt from the role-playing portion of the training program by virtue of “life-experience credits” attributed to the minimum six dependency mediations which would have had to **have** been conducted to obtain the temporary certification. **This** concept would serve two purposes: first, you would recognize the “on-the-job” experience gained by the mediator and, second, you would reduce the number of days for training which equates to a reduction in out of pocket expenses. Both would serve to increase the odds in favor of mediators choosing to continue mediating dependency cases and become permanently certified as a dependency mediator.

While I appreciate the need for this Court to assure that the highest level of training is required to maintain the profession, there must be an economic balance to insure that certified mediators will be available and that the existing level of expertise is not lost by over regulation.

I appreciate the opportunity to have my comments considered by this Court.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marianne Kantor', with a long, sweeping horizontal line extending to the right.

Marianne Kantor