

March 8, 2002

The Honorable Raymond T. McNeal
Chair, Family Court Steering Committee
Fifth Judicial Circuit of Florida
Marion County Judicial Center
110 N. W. First Avenue, Room 3058
Ocala, Florida 34475

Dear Judge McNeal:

I am writing this letter on behalf of the Florida Chapter of the Association of Family and Conciliation Courts to respond to your request for feedback concerning the proposed amendments to Rule 12.610 which the Steering Committee is considering.

The Board of Directors of FLAFCC discussed the proposed rule at its most recent meeting. Rather than taking a specific position on amendments to Rule 12.610 or making specific modifications to this proposed rule, we decided to endorse some important principles highlighting the need for adequate protection for victims of domestic violence and the children who are exposed to abusive behavior. We strongly urge your Committee to consider the following five important considerations in your further deliberations concerning such a proposed rule or any other approaches your Committee may consider.

1) Screening: We believe it is important for the court to carefully screen cases as they progress through family court and to identify those in which the parties have been in an abusive relationship. The court should recognize the need for special protection and services for these families.

2) Safety: Given the very real concerns for safety, the court must assure that its programs and programs to which it refers members of these families adequately address their safety needs. Adequate security for participants while they are at court facilities for hearings and related court services as well as concern for their safety outside of court should always be a prime consideration.

3) Imbalance of Power: In families where domestic violence exists, there is a good likelihood of a substantial imbalance of power among family members. Therefore courts should be careful not to refer batterers and victims to any process for dispute resolution in which the imbalance of power would undermine or compromise the

victim's ability to adequately exercise his or her self-determination and decision-making abilities and would compromise the victim's ability to protect herself or himself or her or his children.

4) Training and Certification of Neutrals: When court staff use ADR techniques including facilitation of negotiation, mediation and other assisted negotiation processes, the facilitator or mediator involved should be a certified family or dependency mediator who has specialized training and education in domestic violence, and these ADR techniques should be conducted according to the Florida Rules for Certified and Court Appointed Mediators.

5) Rights of the Victim: When a victim is identified in a case involving domestic violence, the presiding judge should inform the victim that he or she has the right to a) decline participation in such an ADR processes and b) to have a supporting person of his or her choice, including but not limited to having an attorney or an advocate, present during such ADR processes.

Thank you for the opportunity to comment on the proposed rule. We appreciate your Committee's commitment to address this very difficult issue, and we share the concern of all involved that the special needs of families involved in domestic violence must be adequately addressed by the court. We plan to explore this issue during our second annual conference scheduled for October 25-26, 2002, which we hope will be cosponsored by the Family Court Steering Committee. I will forward to you a draft of the conference agenda as soon as it is developed. We also would be most receptive to working closely with the Committee on this matter and to continue this dialogue with the Committee and other interested groups.

Sincerely,

Gregory Firestone, Ph.D.
FLAFCC President