

0/a 12-3-87

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Chief Justice Parker Lee McDonald
Supreme Court of Florida
Supreme Court Building
Tallahassee, FL 32301

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Dear Justice McDonald:

Recently, I received a copy of the Final Draft of the Proposed Supreme Court Rules for the Implementation of Sections 44.302, 303 and 304 from members of the drafting committee. I have received numerous requests to put my responses to the Proposed Rules in writing to you and the other Justices because of my long and intensive involvement in the field of Family and Divorce Mediation.

The Proposed Rules are quite impressive and several of us who have read them wish to congratulate the committee and the Supreme Court on this well thought out document. However, on behalf of various mediators and potential clients who will be effected by these Rules, I'd like to make some suggestions for modification for your consideration prior to, or at the hearings on December 3, 1987.

But first, let me introduce myself so that you will know the perspective from which I speak. I am a clinical, forensic and family psychologist - board certified in each of these specialties. I currently serve as President of the American Psychological Association's Division of Family Psychology and as Treasurer of the national Academy of Family Mediators. I was first President of the Florida Association of Professional Family Mediators and am still active as a board member of that association. During the past five years, I have conducted numerous Basic (40 Hour) and Advanced Mediation training courses in Florida and throughout the United States, and have led the only two national workshops held to date for preparation of individuals wishing to become Approved Consultants for the supervision of fledgling mediators.

The comments will be related to specific sections of the Draft and each will be so indicated. I will keep these as brief as possible without sacrificing substantive concerns. Most pertain to referral to those practicing mediation in the private sector.

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P. 1 - 1700 - 2. If the mediator is notified of a time and date of a conference, without having been consulted about the scheduling, this might cause serious problems. Most mediators, both those originally trained in law and in mental health, often have their schedules quite heavily booked weeks in advance. Some not only see clients, but have trials or speaking engagements on their calendars. Would it not be advantageous for them to be consulted before any scheduling is done?

P. 2 - 1710 - A. When we do complete mediations, including budgeting and distribution of assets, particularly when the couple is bitter, angry or extremely psychologically distressed, and the financial picture is complex, mediations sometimes run more than sixty (60) days. From the combined experience of many mediators nationally, we believe ninety (90) days might be more realistic as the outside limit.

P. 3 - 1720 - F. Our experience in this state is that fees for mediators span a wide range. Most charge a fee for mediation which is fairly close to their hourly fee for private therapy or legal practice time. Fees appear to vary according to geographic locale, experience, expertise and reputation of the mediator, skill in this particular task, etc. The fee range reported to us through Florida for attorney/mediators has been \$65.00 to \$250.00 per hour; for therapist/mediators the range seems to be from \$65.00 to \$150.00 per hour. Whenever possible, should not this fee be set by the parties and the mediator - perhaps within a scale of from \$75.00 to \$200.00 - contingent upon the variables set forth above? We are definitely in agreement with the idea that each of the divorcing parties should pay a share of the total cost of mediation.

P. 5 - 1760 - B.

1. have a (minimum of) - suggest inserting words in () - many of the mental health mediators are Ph.D. or Psy.D. psychologists. We believe that what is being established here is the minimum or entry level for practice as a family mediator.
2. & 3. excellent as is
4. We hope you will add to certified by the Supreme Court - or the Academy of Family Mediators. The Academy of Family Mediators is the major organization of trained professional family mediators in the country. For the past five years, it has been approving (certifying) basic and advanced training programs. Many hours of deliberation have gone into setting and refining curriculum requirements. (Enclosed as Appendix I, II and V, you will find copies of their requirements and standards. As Appendix III and IV you will find copies of two trainings in which I have participated that were approved by AFM - one led by then Judge Lewis Kapner and one by Jay Folberg, a Law Professor and Past President of Association of Family and Conciliation Courts.) It is our belief that

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trainings, to be most efficacious, should be co-led by one mental health mediator and one lawyer mediator and that the participants should represent the interdisciplinary mix that makes up this new specialization).

Hundreds of Florida mediators are already well trained through Academy of Family Mediators approved trainings. Mediators who move here and meet all of the requirements, have taken approved trainings in other states. Would it not be wasteful for them to be disqualified because trainings they have taken were not certified by the Supreme Court before it moved into this arena? We urge you to consider adding this or clause, as the trainings should certainly be equivalent.

5. For several years, there have been bills introduced into the Florida Legislature for licensing of mediators - at the same level as required in your Draft. Also, licensing for practice for mental health professionals is under the Department of Professional Regulation. Can the Circuit Court certify non-lawyer mediators, or does some collaborative arrangement need to be worked out with the Department of Professional Regulation? Might the phrase "or licensed as a family mediator by the State of Florida" be added in anticipation of passage of a licensing law?

If this proviso is to stand as is, how will non-court based mediators be advised of this procedure so that they can apply, and their ability to provide mediation services not be lost? For example, will releases be sent to all regional associates and the Florida Association of Professional Family Mediators (FAPFM) and the Academy of Family Mediators (AFM)?

Thank you for your attention to these comments and queries. Please feel free to contact me if you, or any of the others involved in these important deliberations, wish to discuss them with me.

Respectfully yours,

Florence Kaslow
Florence Kaslow, Ph.D.

FK/ls
Enclosures

cc: Justice Overton
Justice Ehrlich
Justice Shaw
Justice Barkett
Justice Grimes
Justice Kogan

David Strawn] Committee Members
Christopher Searcy]
Richard Doelker, President, FAPFM
Burton Zoub, President, AFM
James Melamed, Executive Director, AFM
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