

Ramon Waters

From: DRC Mail
Sent: Wednesday, May 24, 2017 12:32 PM
To: Susan Marvin; Juan Collins
Subject: Fw: Proposed Revisions to Rule 10.910, Florida Rules for Certified and Court-Appointed Mediators

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RECEIVED, 08/21/2017 04:53:26 PM, Clerk, Supreme Court

From: Matthew Capstraw <MBC@markslawfla.com>
Sent: Wednesday, May 24, 2017 10:43 AM
To: DRC Mail
Subject: Proposed Revisions to Rule 10.910, Florida Rules for Certified and Court-Appointed Mediators

Dear Sir or Madam,

I am writing to express my opposition to the proposed amendments to the sections (b) and (c) of Rule 10.910 of the Florida Rules for Certified and Court-Appointed Mediators. The Committee's proposed revisions to 10.910 (b) removes the requirement for geographical diversity and substitutes a preference for the appointment of members with certification in separate areas of mediation. In my experience as the former Chair of the Florida Bar Family Law Rules Committee, I found that there were certain regional differences in practice. By having members of my committee be from diverse regions, we were better able benefit from these regional differences and to share the various problems and solutions that were tried. Without that geographic diversity, we would lose the input and experience of those other areas. For that reason, I recommend that the changes not be made to section (b). As I was not privy to the Committee's discussion for the change, one possible way to address my concern while keeping the committees desire to change for regional diversity to diversity in the type of mediation would be to revise (c) as follows:

Membership and Terms. The membership of the committee, appointed by the chief justice, shall be composed of 1 county mediator, 1 family mediator, 1 circuit mediator, 1 dependency mediator, 1 appellate mediator, and 4 additional mediators who hold any type of Florida Supreme Court mediator certification. In making the appointments, the chief justice shall ensure that there is regional diversity of the members of the committee. All appointments shall be for 4 years. No member shall serve more than 2 consecutive terms. The committee shall select 1 member as chair, 1 member as vice-chair, and one member to serve as the secretary for the committee.

Note, I also added a provision for a secretary for the committee as there has always been a committee secretary in every bar or section committee I have been a part of.

As to the proposed revisions in 10.910 (c), as these changes seem to stem from an apparent desire to have representation from each type of certified mediator, it does not address that while one may be certified in an area, that may not be a focus of their work. For example, I am certified in both Family and Dependency Mediation, but I work more in the family law area then dependency. I have met a number of mediators that have been certified in each area. The Committee's proposed language ensures that the member will be certified in an area, but makes no assurance that they have a true depth of practice in that area.

If the Committee's goal is to ensure that each area is truly represented, they should add the following language:

Membership and Terms. The membership of the committee, appointed by the chief justice, shall be composed of one member whose primary mediation practice is in county mediation, family mediation, circuit mediation, dependency mediation, and appellate mediation. The remaining 4 members shall be mediators who hold any type of Florida Supreme Court mediator certification.

Thank you for your consideration.

Matthew B. Capstraw, Esquire

Certified Family and Dependency Mediator

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