

Advisory Opinion**MEAC 2011-006**

Mediator Ethics Advisory Committee

c/o Florida DRC, Supreme Court Building, 500 S. Duval Street, Tallahassee, FL 32399

April 15, 2011

The Question:

I am a Florida Supreme Court Certified County Mediator and work full time as a [name of title omitted] for a large insurance agency. As a service to our large corporate insurance clients (Insured's) I assist them with managing their claims. As such, I agree to attend mediations with their corporate representatives as part of my claims management services.

Recently and specifically with State Mediations (workers' compensation, county and circuit), opposing counsel has denied my presence at mediations in which an employee of the corporation is present ("representing the corporation"). In other words, the OP is claiming that I may not attend as there is already a specific and apparently "exclusive" corporate participant present and therefore I may not attend. The reason provided is that the OP is not willing to "waive confidentiality" suggesting that my presence would violate some type of rule.

I am unable to find any legal basis for limiting or designating who may participate on behalf of a corporation in a mediation or to suggest that only one "representative" of a corporation is permitted to attend.

It is my belief that a corporation can send more than one representative and that the corporation can include me as their contracted consultant to also participate in the mediation along with any other designated corporate representative.

Can you please comment on this for me?

Certified County Mediator
Southern Division

Authorities Referenced

Rules 10.310 and 10.340, Florida Rules for Certified and Court-Appointed Mediators

Rule 1.720, Florida Rules of Civil Procedure

Chapter 44, Sections 401-406, Florida Statutes, 2010

Summary

Although the inquirer is a certified mediator, the question of who determines who is a company representative for the purposes of mediation participation is not a question of mediator ethics. The rendering of legal guidance is not within the jurisdiction of the MEAC.

Opinion

The question of who determines who is a company representative for the purposes of mediation participation is not a question of mediator ethics. [See MEAC Opinions 2006-007 and 2008-007]. The question is not posed in terms of what are a mediator's ethical responsibilities or duties under the Rules Governing Certified and Court-Appointed Mediators. Rather, it is a legal question which may involve a statutory, rule, or other interpretation. Therefore, the MEAC declines to answer this inquiry.

Date

Beth Greenfield-Mandler, Committee Chair