

THE QUESTION:

This letter is my request for specific guidance of rule interpretation from the Mediator Qualifications Advisory Panel.

My request for guidance is how I should proceed to collect past due mediation fees in a completed mediation where one of the parties through the party's attorney refused to pay the fees, stating that he was going to file a "grievance." Later, a complaint was filed by this attorney and was dismissed by a complaint committee of the Mediator Qualifications Board due to the death of the complaining attorney thereby rendering the complaint "moot."

In the past, I have filed a letter motion with the court to collect fees when the parties could not agree on a division of fees. Also, I have had to write a few letters to attorneys and parties requesting payment. In this situation, however, a motion or a letter may not be appropriate since the record does not reflect that the findings of the committee were forwarded to the office of the deceased complainant or to the clients. Therefore, I conclude that when I contact the client for payment I will be met with an uninformed response that the matter has been resolved because the attorney filed a grievance. To force me to file a suit for fees or to force me to reveal the findings of the Committee which are to remain confidential seems to me to be a rather harsh choice. To do nothing allows a solvent mediation participant to escape paying for a court-ordered mediation.

For all the foregoing, I request guidance. Thank you for your cooperation and assistance. I have enclosed copies of earlier letters between us as to this subject.

Yours...,

Certified County & Circuit Civil Mediator
Central Division

SUMMARY OF

THE OPINION: A Mediator just like any other professional service provider is entitled to compensation at the time the services are rendered in accordance with the agreement of the parties or the Court order appointing the mediator. In the event the Mediator is not paid for his services at the conclusion of the mediation, the Mediator, like any other creditor may seek payment in any lawful manner.

AUTHORITY REFERENCED:

Related/Relevant Supreme Court Opinions: None found.

Other Related/Relevant Opinions: None found.

Related MQB Actions: None.

Relevant Rules: Florida Rules for Certified and Court-Appointed Mediators - 10.100.

Florida Rules of Civil Procedure - 1.720(g).

Chapter 44, Florida Statutes - 44.102(5)(b).

OPINION: The compensation of the Mediator is set forth in Rule 10.100 of the Florida Rules for Certified and Court-Appointed Mediators, and Rule 1.720(g) of the Florida Rules of Civil Procedure. A Mediator just like any other professional service provider is entitled to compensation at the time the services are rendered in accordance with the agreement of the parties or the Court order appointing the mediator.

In the event the Mediator is not paid for his services at the conclusion of the mediation, the Mediator like any other creditor may seek payment in any lawful manner. This may include filing of a separate lawsuit or the filing of a motion with the presiding judge seeking payment of the mediator's fee. Florida Rule of Civil Procedure 1.720(g) provides in part, "When the mediator is compensated in whole or in part by the parties, the presiding judge may determine the reasonableness of the fees charged by the mediator." As such, if the mediator is not successful in obtaining voluntary payment of the fee, he may seek assistance from the Court by way of filing of a motion.

As in all legal matters, if the Mediator is in doubt as to his/her legal rights or obligations, he/she should consult with a licensed attorney, preferably one specializing in collection matters, prior to undertaking any legal action.

Date

MQAP Chair