

August 5, 2009

The Question

I attended an attorney's luncheon conference meeting last month. I sat at a table with several attorneys and introduced myself as a mediator. I started a conversation with the gentleman sitting next to me. He asked me about my mediation practice. I told him that I am a Supreme Court Certified County, Circuit Civil and Family mediator. I also told him about my mediation practice and experience. He pointed out his interest in my services and indicated that he would send me cases. We talked about my web page and as we exchanged business cards, we talked about me sending my C.V. to him. When I looked at his card I realized that he is a Circuit Judge.

May a certified mediator provide his/her curriculum vita to a circuit civil judge for the sole purpose of receiving directed mediation case referrals from the judge?

Submitted by a Certified County, Family and Circuit Civil Mediator
Southern Division

Authorities Referenced

Rules 10.510, 10.530, 10.610, Rules for Certified and Court-Appointed Mediators
Rule 1.720(f)(2), Florida Rules of Civil Procedure
Rule 8.290(e)(1), Florida Rules of Juvenile Procedure
Rule 12.741(6)(B), Florida Family Law Rules of Procedure

Summary

A certified mediator may provide a curriculum vita, solicited or unsolicited, to a trial judge for the purpose of receiving case referrals from that judge.

Opinion

A certified mediator may provide a curriculum vita, solicited or unsolicited, to a trial judge for the purpose of receiving case referrals from that judge. The standards of conduct require that "a mediator shall be candid, accurate, and fully responsive to the court concerning the mediator's qualifications, availability, and other administrative matters." Rule 10.510. In this instance, the judge requested information on the mediator's qualifications, and if the mediator would like to be considered for mediation case referrals, sending a curriculum vita is both appropriate and consistent with the standards of conduct.

It should be noted, the rules of procedure for civil cases over small claims, juvenile and family matters allow for mediator selection based upon party agreement. If no such agreement is reached, the selection is made by rotation or by such other procedures as may be adopted by administrative order of the chief judge in the circuit in which the action is pending. Rule 1.720(f)(2), Florida Rules of Civil Procedure; rule 8.290(e)(1) , Florida Rules of Juvenile Procedure and rule 12.741(6)(B), Florida Family Law Rules of Procedure. In some circuits, there are administrative orders which provide that the judge will select the mediator if the parties are unable to choose a mediator by agreement. In those circuits, mediators interested in receiving referrals would certainly have an interest in submitting their qualifications to the court.

In addition, sending a curriculum vita to a trial judge unsolicited, in and of itself, does not improperly influence a court to secure an appointment to a case. Rule 10.530. Mediators are reminded that “any advertisements of the mediator’s qualifications, services to be rendered, or the mediation process are accurate and honest” See Rule 10.610.

Date

Fran Tetunic, Committee Chair