

November 10, 2005

The Question

I am a judicial assistant in county court. I am also a certified mediator for County Court small claims. Although I never mediate any cases in my division, is it ethical for me to continue mediating county court small claim cases? I was in my current position when I applied to the Supreme Court for my certification.

Submitted by a Certified County Mediator
Northern Division

Authority Referenced

Rule 10.340 (a), Rules for Certified and Court-Appointed Mediators
Mediator Ethics Advisory Opinion 99-006

Summary

While your position as a judicial assistant does not automatically prohibit you from mediating, you are still obligated not to mediate a matter that “presents a clear or undisclosed conflict of interest,” Rule 10.340(a). You are required to make this determination on a case by case basis.

Opinion

The Committee has previously responded that service as a Deputy Clerk for a County Clerk’s Office would not “inherently cause a conflict of interest” as provided in Rule 10.340. MEAC 99-006. The Committee reaffirms that opinion in response to the current question. Thus, while your position as a judicial assistant does not automatically prohibit you from mediating, you still are obligated not to mediate a matter that “presents a clear or undisclosed conflict of interest,” Rule 10.340(a). You are required to make this determination on a case by case basis.

Date

Fran Tetunic, Committee Chair