

THE QUESTION

I maintain a commercial litigation practice, but also function as a Civil Circuit Court mediator. On November 19, 1998, I served as a mediator involving [A & B Realty Company v. An Engineering Company]. The matter was not settled and I filed a report of impasse with the court on that case on November 20, 1998.

On December 11, 1998, I received a request for legal representation from [A Partner], one of the principals of that corporation, with regard to disputes he was having with his partner, [B Partner] and [A & B Realty Company]. I was advised that the matters in the representation did not relate at all to the issue that I mediated.

I did not have any contact with [A Partner] in the course of the mediation. [A & B Realty Company] and [B Partner] were represented in the mediation by a local attorney, [Attorney C].

My question is whether there are any limitations in my ability to represent [A Partner] in connection with disputes that he may have with his partner, [B Partner], and the corporation, [A & B Realty Company].

Please advise if [you see] any difficulties in my representing an individual in connection with a dispute against a party who was a party to a mediation in which I served as a mediator.

Thank you very much for your assistance in this regard.

Certified Circuit Mediator
Southern Division

AUTHORITY REFERENCES:

Florida Rules for Certified and Court-Appointed Mediators: 10.030(a), 10.070(b)(5)
Mediator Qualifications Advisory Panel Opinions: MQAP 97-002

SUMMARY OF THE OPINION:

In an earlier opinion, the panel opined that since there was no rule precluding such involvement, the mediator was permitted to accept such future work.

OPINION:

A similar question was raised and answered by the panel in MQAP 97-002, in which a mediator was asked to represent one of the parties in a case which was neither the subject of the original mediation nor involving the same parties. In that case, the panel opined that since there was no rule precluding such involvement, the mediator was permitted to accept such future work. The panel does not deviate from this previous opinion and would refer you to the following language from that opinion:

[Mediators] must avoid any appearance of solicitation prohibited by rule 10.070(b)(5) and should consider the length of time from the original mediation to the future representation in order not to compromise the mediator's obligation, pursuant to rule 10.030(a) to 'adhere to the highest standards of integrity, impartiality, and professional competence in rendering their professional service.'

April 27, 1999
Date

Charles A. Rieders
Charles Rieders, Panel Chair