

THE QUESTION

RE: Unlicensed Practice of Law

Dear Ms. Posey:

I would appreciate your providing to me information with regard to the following two matters:

1. Can a nonlawyer assist an unrepresented party at a court ordered mediation and participate in the negotiations?
2. Can a nonlawyer employee of an attorney negotiate on behalf of the attorney's client at mediation, if the attorney is present and all persons at the mediation know the nonlawyer's capacity?

Sincerely yours,

Certified Circuit Mediator
Southern Division

SUMMARY OF THE OPINION:

In both instances, the agreement of all parties is required for the mediation to proceed under these circumstances.

OPINION:

An unrepresented party may be accompanied by a non-party who may assist the party and participate in the negotiations. For example, a husband may accompany a wife, a roommate may appear with a signatory tenant, a garage owner may bring the shop manager. In fact, there are instances in which negotiations may be hampered by the absence of such parties.

The same is true in response to your second question. A non-lawyer employee of an attorney may negotiate on behalf of the attorney's client at mediation if the attorney is present and all persons at

the mediation are aware of the non-lawyer's capacity. In both this and the above instance, the agreement of all parties is required for the mediation to proceed.

The Panel's response is limited to the interpretation of mediation rules. On both issues, you may wish to contact The Florida Bar to determine the appropriateness of such actions under their rules, specifically as they relate to the unauthorized practice of law.

July 8, 1999
Date

Charles G. Rieders
Charles Rieders, Panel Chair