

November 10, 2005

The Question

Can a certified family mediator mediate a pre suit pro se mediation and have the consent (file final affidavits, petition, HCCJ affidavit, etc) final judgment entered by the court on behalf of one or both parties?

If the answer is no, does another mediator have an ethical obligation to report actions of the mediator doing so?

Submitted by Family and Circuit Mediator
Northern Division

Authority Referenced

Rule 10.340(d), Rules for Certified and Court-Appointed Mediators
Mediator Ethics Advisory Opinions 94-003 and 2004-004

Summary

It is inappropriate for a mediator to represent either one party or both parties in any dissolution proceeding or in any matter arising out of the subject mediation. There is no ethical obligation under the Florida Rules for Certified and Court-Appointed Mediators for a mediator to report allegations of ethical violations by another mediator.

Opinion

In MEAC 94-003 and again in MEAC 2004-004, the Committee stated... “it is inappropriate for a mediator to represent either party in any dissolution proceeding or in any matter arising out of the subject mediation.” The Committee reaffirms the correctness of these opinions. Likewise, a mediator may not represent both parties in any matter arising from the subject mediation. See also Rule 10.340(d), which prohibits a mediator from creating a conflict of interest during the mediation or from providing any services that are not directly related to the mediation process.

Since the Florida Rules for Certified and Court-Appointed Mediators do not impose any duty to report on the mediator, a mediator has no obligation to report allegations of ethical violations by another mediator.

Date

Fran Tetunic, Committee Chair