

THE QUESTION

Re: POTENTIAL FOR CONFLICT

Dear Ms. Posey:

As a Certified County Court Mediator, I have been mediating in several of the county courts in [... a ...] Judicial Circuit since November, 1997.

Recently, I accepted a part-time position as the Probate and Appeals Deputy Clerk with [a] County Clerk's Office. Before accepting my position with the Clerk's Office, I asked both the Clerk of Court, ... and our county court judge, ... if I could continue to mediate. [The Clerk] stated that I could continue as a participate [sic] in the mediation program; however, although [the] Judge agreed with [the Clerk] he requested that I not mediate in [this] County as he perceived my affiliation with the Clerk's office as a potential conflict.

Since my duties do not involve county court, with the exception of a rare county court appeal which I may process, I again approached [the] Judge regarding my participation in the mediation program in [this particular] County Small Claims Court. [The] Judge now has agreed to my participation in the mediation program in [this] County if my doing so would not compromise the integrity of the mediation program.

Therefore, I request an opinion as to whether my employment with the Clerk's office would bar my participation in the mediation program in the county in which I am employed.

Thank you for your consideration.

Very truly yours,

Certified County Mediator
Northern Division

AUTHORITY REFERENCES:

Florida Rules for Certified and Court-Appointed Mediators: 10.030(a), 10.070(a), 10.070(b).

SUMMARY OF THE OPINION:

It appears that your duties as Deputy Clerk would not inherently cause ethical concerns.

OPINION:

It appears that your duties as Deputy Clerk would not inherently cause a conflict of interest [rule 10.070(b)], compromise your impartiality [rule 10.070(a)], or endanger your general integrity [rule 10.030(a)] in your service as a mediator. Therefore, you may serve as a mediator while employed as a Deputy Clerk for the county clerk's office. However, there may be instances when you wish to decline a mediation if you perceive a conflict or there appears to be a conflict.

Date

Charles Rieders, Panel Chair