

FAMILY MEDIATION TRAINING

N E W S L E T T E R

WINTER ISSUE 2020

ELDER MEDIATION

Elder Mediation is not Divorce Mediation for elderly people. Elder Mediation is usually a multi party process which explores issues and options toward the goal of maintaining a healthy family relationship. Elder Mediation is a hybrid of many professions, making it a unique form of mediation. It involves utilizing the therapeutic skills of a family mediator with the abilities of a civil/circuit or county mediator knowledgeable in dealing with multi parties. The goal is not just resolution but the ability of all parties to retain relationships beyond the mediation process. Elder mediation assists both family, civil/circuit as well as county mediators build on the skills they have already acquired. The two day course has been given 18.5 CLE's for attorneys as well as 16.0 CMEs.

For more information visit eldermediationtrainingflorida.com



Wishing Everyone a Healthy and Happy New Year.



NEWS FLASH

ELDER MEDIATION; TRAINING IN 2021: CALL OR EMAIL FOR INFORMATION

About our one day programs:
Track I: 3.0 CME hours of Marketing/technology; Track II: learn about dealing with pro se clients; Track III emphasizes the workplace and Track IV emphasizes LGBTQ including mediating with temporary restraining orders. Each Track has 2.0 Ethics, 2.0 Interpersonal violence and 1.0 for ALL Mediators including Appellate Mediators.

Virtual Mediation and Confidentiality!!

Some courts have already disregarded the confidentiality rules of other states. This includes mediation confidentiality agreements and they have ordered clients to testify about what happened at mediation. Lawyers face malpractice and ethical risks if things go awry after they have had clients sign so-called "mediation confidentiality agreements." This is because conflicts-of-law principles allow courts to disregard the privilege statutes of other states as well as confidentiality agreements and order clients to testify.

Some courts have already done so and more will follow, particularly because in online mediations with participants sprinkled across the country it is harder to determine which state's privilege statute applies in the first place. You do not want to be the lawyer who has a court order for your client to testify to what happened at a mediation after you promised them it would never happen. It's wise when doing a virtual mediation that has participants from many states to first inquire into that state's idea of "confidentiality."

MEAC Opinion 2020-002

Mediators shall not make substantive decisions for the parties or report outcomes to the court based solely on the mediator's observations. T(his) MEAC affirms MEAC Opinion 2017-006 which states in pertinent part that: "A mediator may report 'agreement', 'no agreement', or 'partial agreement' to the court without comment or recommendation. No other descriptors or modifiers may be used in the mediator's report unless the parties have consented to them in writing." It is important to note here that it might be wise when signing off on the foregoing that the mediator request of the parties whether they believe it to be 'partial', 'no agreement' or 'agreement' prior to reporting which of these three apply.

OP ED

As an experienced mediator I have long held the opinion that simply sending out an inquiry regarding potential abuse (in pre-filing cases) not only has its limits but also poses potential harm. While I rely on my experience and intuition, I would prefer to make gentle inquiries at the outset if I have concerns. Of course this should be done in caucus. We, as mediators can make these inquiries without actually asking direct questions. As a result, I thought you might be interested in the following relatively new federal legislation:

Federal Pet and Woman's Safety Act (PAWS Act 2018)

The PAWS Act has expanded the federal crime of stalking to include threats to the pets of stalking victims. The statute's protections apply to "a person traveling in interstate commerce (who) engages in conduct that (A) places a person in reasonable fear of the death or serious bodily injury to...(iv) the pet, service animal, emotional support animal, or horse of that person." The PACT (Preventing Animal Cruelty and Torture) Act which was signed into law on 11/25/2019 has, among other things, made acts of animal cruelty themselves a federal crime. It is important to note here that according to the American Humane Society a survey of pet owning families with substantiated child abuse and neglect found that animals were abused in 88% of homes where child physical abuse was present and that 71% of battered women report that pets were threatened, harmed and/or killed by their partners.

I certainly appreciate any comments and follow up responses for publication in this regard.