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June 29, 2005

Florida Supreme Court
Attention: Clerk's Office
500 South Duval Street
Tallahassee, Florida 32399-1927

Re: Petition to Amend Mediator Qualifications, SC05-998

Your Honors:

The following comments were submitted last December to the Committee on ADR Rules and Policy, and are reiterated here for the record, as comment on the above-referenced:

I have been mediating since working with the Citizen Dispute Settlement Program in the early 1980's. I was certified as Circuit Civil Mediator number 346 in 1991. I conduct an active mediation practice as an adjunct to my law practice. I have presented at seminars on mediation and I am the past Chair of the ADR Section of the St. Petersburg Bar Association. Further, as a board certified civil trial attorney I have been a mediation "consumer" representing parties at mediations for many years.

I am strongly opposed to elimination of Florida Bar membership as a prerequisite for Circuit Civil certification, for the following reasons:

1. "Certification" means a guarantee of certain objective criteria. Licensure as an attorney is much more than a "paper credential." It carries with it the components of a minimum of seven years of post-high school education, graduation from an accredited law school, successful completion of the bar examination, and a careful vetting of background and character by the Florida Board of Bar Examiners.
2. Granted that no particular credential is a guarantee of skill as a mediator, licensure as an attorney does reasonably guarantee a threshold of competence.
3. Legal competence on the part of the mediator is often vital in civil litigation cases.

This is not protectionism. Parties to disputes have always had the privilege of stipulating to the use of non-lawyer, non-certified mediators. Maintaining the current standard of certification will not abridge that freedom to contract, but diluting the standard will diminish its significance.

Very truly yours,

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