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June 22, 2009

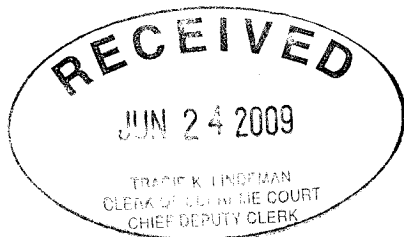
To the Court:

ADKT 435

My name is Larry Lermusiaux. I am a mediator with the Greater Las Vegas Association of Realtors. I attended the video conference held in the State Supreme Court courtroom this past week and felt I should let you know of my observations. Comments made by some of those in attendance, including but not limited to attorneys, reflected a serious amount of reservation as to the impartiality of the process about to begin. It was quite apparent those who were speaking negatively of the program understood little of the mediation process and the differences between mediation, arbitration, hybrids of the two, and adjudication. With particularity, there seemed to be little recognition of the absolute neutrality required of mediators. One of the elements making this mediation program so unique is the feelings of power imbalance, real or perceived, by "both sides". Those attorneys who I heard outside the courtroom seemed to feel the legislation has created a stacked deck designed to favor the borrower(s). Some spoke in terms that would suggest there will be attempts at obfuscation meant not only to cloud the instant negotiation but also to raise procedural issues later. There were those in attendance who spoke of the "homeowner" who would be at a disadvantage from the start against a polished lender representative and/or their lawyer. To the contrary, studies have repeatedly shown when a mediator feels there is such an imbalance at hand their best move is to go into private caucus. It is quite common for a party to speak much more freely with the mediator when they are away from the other side, which provides the mediator with more information that hopefully can be used as the parties craft their agreement. It came as no surprise to me that the press article the next day was a negative one. This perception, however, rather than being left as a negative is instead an opportunity to create a very positive attitude about the program. An article or interview with someone administratively involved in the program, which provides in detail the mediation process and the various elements therein that ensure neutrality, confidentiality and trust might be just what's needed to smooth ruffled feathers, create a more collaborative atmosphere for the mediations and bring more interested parties to the table.

Respectfully submitted,

[Signature]
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