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ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

April 8, 2020

Via Electronic Submission

Ms. Elizabeth A. Brown
Clerk of the Supreme Court
201 S. Carson Street
Carson City, NV 89701

Re: ADK 435, Proposed Amendments to Foreclosure Mediation Rule 3(4)

Dear Honorable Justices:

The purpose of this letter is to address the proposed amendments to Foreclosure Mediation Rule 3(4), specifically 4(a)(1), requiring all mediators to be licensed attorneys. Limiting the program to attorney-only mediators is not a benefit to the program or the citizens of Nevada.

By way of background, I have been an attorney since 1991 and a mediator since 2008. I served as a foreclosure mediator from the inception of the Foreclosure Mediation Program ("FMP") through 2012. I have also trained many attorney and non-attorney mediators. In my professional opinion, skilled mediators come from a variety of backgrounds. FMP, in particular, can benefit from employing mediators from a range of professions. The simple fact of being an attorney does not guarantee high quality mediation skills nor subject matter knowledge on foreclosure and banking issues. Non-attorney mediators in the banking or real estate fields, on the other hand, likely have far more subject matter knowledge than many attorney mediators.

Additionally, other Nevada programs allow for non-attorney mediators. For example, the highly successful statewide Juvenile Dependency Mediation Program has both attorney and non-attorney mediators as members of its panel. This allows for a more varied and dynamic program and quite likely has contributed its effectiveness. Furthermore, many child custody mediators, including some employed by Nevada courts, are non-attorneys.

Finally, diversity in the mediation field is an important topic. While Nevada has no mediator code of conduct, it is common to look to *The Model Standards of Conduct for Mediators*, which was prepared in 1994 by the American Arbitration Association, the American Bar Association's Section of Dispute Resolution and the Association for Conflict Resolution. Standard IX of these Standards addressing the advancement of the mediation practice specifically states that "fostering diversity within the field of mediation" is something every mediator should do.

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ELIZABETH A. BROWN
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DEPUTY CLERK

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Limiting the FMP panel mediators to attorneys only would be doing a disservice to those taking advantage of this program.

Sincerely,

Margaret Crowley

Margaret Crowley, Esq.

