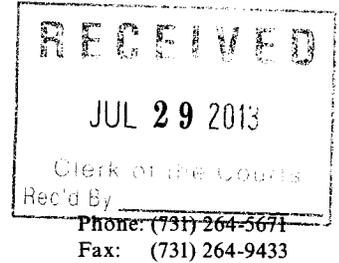


m2013-01612-SC-RLI-RL

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Rule 31 Listed General Civil Mediator
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July 26, 2011

Michael W. Catalano, Clerk
Re: Tenn. Sup. Ct. R. 31
100 Supreme Court Building
401 Seventh Avenue North
Nashville, TN 37219-1407

RE: Proposed Amendments to Rule 31

Your Honors:

Thank you for the opportunity to comment upon the Alternative Dispute Resolution Commission's proposed amendments. My only comment concerns Section 18(b). As a condition of continued listing as a Rule 31 mediator, the proposed rule provides as follows:

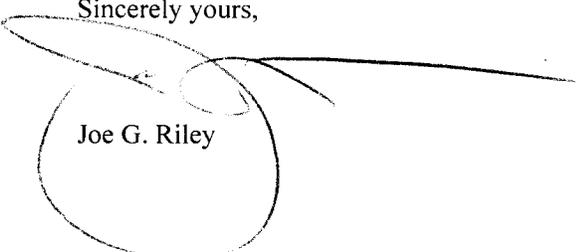
"The Rule 31 Mediator must not be the subject of three or more open complaints made to the Board or Agency charged with hearing complaints about the applicant's professional conduct. If there are three or more open complaints with the relevant Board or Agency, the Mediator will be put on the inactive list by the ADRC until the applicant has advised the ADRC that three or more open complaints no longer exist."

In my view, the problem is that there is no requirement that such complaints have any merit. The deprivation is simply based upon complaints pending. It would appear to be unfair to punish a mediator because three people have filed, and have pending, what may well be meritless or even frivolous complaints. We cannot assume that meritless complaints will be immediately dismissed upon their filing by the disciplinary authority. Many complaints against attorneys are found to be without merit after an investigation. I assume the proposed rule would mean three disgruntled litigants in the same lawsuit could file separate disciplinary complaints against the opposing attorney at or about the same time, resulting in non-renewal of that attorney's listing even though the complaints are subsequently found to be without merit by the BPR.

I am sure the ACRC has reasons for its proposal, but the present proposal appears to deprive a mediator of the listing merely because of the number of complaints, which may or may not have merit, that may be pending at the time of renewal.

Thank you again for the opportunity to comment.

Sincerely yours,



Joe G. Riley