

CHALLENGES FOR ATTORNEY-AD-LITEMS IN MEDIATION

1. As the Attorney-ad-litem, remember "The Best Interest of Your Client(s)" must at all times be your guiding principle.
2. Try to be the "Voice of Reason" during the Mediation Session by discussing how the parties' behaviors with each other have affected and will continue to affect your client going forward.
 - a) Will the parties specifically agree not to engage in caustic behavior because it is not in the best interest of your client?
3. You must become "The Voice" of your client during the mediation process.
 - a) If age appropriate, should your client(s) be allowed to attend and participate in the Mediation Session?
 - b) Should you be allowed to participate in individual caucus sessions between the Mediator and the parties?
 - c) Should you make an Opening Statement during the Mediation Session?
4. If the parties have communication issues with each other, (and, when is that **NOT** a significant issue?) explore effective ways to address that problem, moving forward.
 - a) Ask each party to describe the type of relationship the other party should have with your client in the future? (In a Perfect World).
 - b) Ask each party to describe the type of relationship that party wants to have with your client in the future? (In a Perfect World).
 - c) Discuss with each party what future goals they have for your client, and how each party can assist your client in achieving those goals.
 - d) Impress upon the parties that even though their relationship with each other has changed, it would be in the best interest of your client for them to put aside their own personal feelings and try to work together to produce the best human being your client should/can become.
5. If the parties reach a resolution you believe is not in the best interest of your client, what should you do?
 - 1) Request the Mediator to continue with the Mediation process?
 - 2) Refuse to sign the Mediation Agreement?
 - 3) Refuse to participate further in the Mediation process?
 - 4) Seek some type of emergency relief from the Court?



JUDICIAL PERSPECTIVE DISPUTE RESOLUTION

DAVID GOODSON, Circuit Judge (Retired)

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