

Michelle Nagy Maison received her juris doctorate (law degree) from DePaul University. She then passed the Illinois bar examination and received her license to practice law in Illinois from the Illinois Attorney Registration & Disciplinary Commission (ARDC) and practiced law for several years. She was further trained in mediation at Northwestern University. While she has chosen to retire from the practice of law and is enrolled on the ARDC's attorney registration page as such, this in itself is not a unique circumstance for lawyers who no longer find themselves in the active practice of law, so there is no need to continue to pay the dues or undergo the hours of continuing education that are required by the ARDC to maintain an active license. More importantly, being an active member of the ARDC is not a prerequisite to being a court appointed mediator the circuit courts of Cook, Lake, Kane or McHenry Counties.

A simple review of the local rules of these four counties quickly evidences the error in SOS's statement that such a requirement exists to be a court appointed mediator. All of these rules are readily available online at each of the courts' websites, so fact checking before besmirching should have been an easy task.

Cook County does not require an attorney to be an active member of the ARDC to be a court certified mediator. Under Cook County Local Rule 20.08, in order to be certified as a mediator in the Law Division of Cook County the applicant must meet or exceed **any one** of several criteria, including "having successfully completed mediation training in a program consisting of forty hours of training approved by the Presiding Judge of the Law Division of Cook County" of which the Northwestern program is one. See,

<http://www.cookcountycourt.org/ABOUTTHECOURT/CountyDepartment/LawDivision/CourtAnnexedCivilMediation/CourtApprovedMediationTraining.aspx>

In addition, the applicant must have held an active license to practice law in the State of Illinois for at least seven years and be **one** of the following: (a) A member of the Bar in good standing with the Illinois Attorney Registration and Disciplinary Commission; (b) A retired judge registered as active to practice law and in good standing with the Illinois Attorney Registration and Disciplinary Commission; or (c) **A retired judge or lawyer registered as inactive to practice law and in good standing with the Illinois Attorney Registration and Disciplinary Commission.** Cook County Circuit Court Local Rule 20.08. See,

<http://www.cookcountycourt.org/Manage/RulesoftheCourt/ReadRule/tabid/73/ArticleId/115/20-08-Mediator-Qualifications.aspx>.

While Lake County requires that to be a court certified mediator (i.e. to be on the Court's master list) that one must be an active member of the bar, it further holds under Lake County Local Rule 20.03(B)(1)(b), that the parties to the mediation may agree upon a stipulation with the court designating a certified mediator, **or "(a) mediator who does**

not meet the certification requirements of these rules but who, in the opinion of the parties and upon review by and approval of the presiding judge, is otherwise qualified by training or experience to mediate all or some of the issues in the particular case.” See

<http://19thcircuitcourt.state.il.us/resources/Pages/rules20.aspx#2004>

There is a similar provision in McHenry County under Local Rule 20.03(A)(1)(b): “...(T)he parties may agree upon a stipulation with the court designating: A mediator on the Court’s list of approved mediators; **or (a) mediator who does not meet the certification requirements of these rules but who, in the opinion of the parties and upon review by and approval of the presiding judge, is otherwise qualified by training or experience to mediate all or some of the issues in the particular case.”**

See <https://www.co.mchenry.il.us/home/showdocument?id=9188>

And, Kane County provides the same under Local Rule 12.03(a)(1)(b): “... (P)arties may agree upon stipulation with the court designating (a) A certified mediator; **or (b) A mediator who does not meet the certification requirements of these rules but who, in the opinion of the parties and upon review by and approval of the Presiding Judge, is otherwise qualified by training or experience to mediate all or some of the issues in the particular case.” See**

<http://www.illinois16thjudicialcircuit.org/localCourtRules/article12.pdf>

Of course, mediation does not only occur through the courts. Many times, mediation is sought in advance of filing a lawsuit in order to avoid one. And, completely overlooked by SOS and its FB fan base, court annexed mediation is only one of many different scenarios wherein mediation may arise and the parties require the use of a neutral. Companies often provide for mediation clauses in contractual agreements in order to avoid the cost and time of a legal proceeding. Under these circumstances, local court rules have no application to the parties' ability to choose who their neutral will be. As such, the court imposed limitations do not apply. “Mediation can be used for any kind of dispute; there is no need to wait until a dispute results in a lawsuit and is sent to mediation by a judge. Pre-lawsuit mediation is becoming more widely accepted as a sensible way of resolving disputes before they turn into litigation. Besides being confidential and non-binding, mediation is a relatively quick and inexpensive compared to litigating a dispute.” <http://adr.findlaw.com/mediation/mediation-vs-arbitration-vs-litigation-whats-the-difference.html>

Lastly, the suggestion that Ms. Maison reveal the circumstances under which she has been selected to serve parties as a neutral in mediation is preposterous. As one of the FB posters himself is a licensed attorney, he should be well be aware of the sanctity of confidentiality in matters such as this. Under the Illinois Uniform Mediation Act: “Unless subject to the Open Meetings Act or the Freedom of Information Act, mediation communications are confidential to the extent agreed by the parties or provided by other

law or rule of this State.” 710 ILCS 35/8.