

SUPREME COURT OF INDIANA
Policy Regarding Senior Judges Serving as Mediators

Each of the Justices of the Court have reviewed the following and adopt it as the policy of the Court governing senior judges who also serve as mediators.

BACKGROUND

A question was raised whether a senior judge could serve as a mediator in a case, apart from his service as a senior judge, in a court where the senior judge was also appointed as senior judge.

Indiana Administrative Rule 5(B)(3)(f) provides that a senior judge “. . . agrees not to practice law in the courts in which the senior judge is appointed or assigned as senior judge;. . .”

The Court concluded that Admin. R. 5(B)(3)(f) did not prevent a senior judge from serving as a mediator in a court where he was also appointed as a senior judge. However, the Court also concluded that a senior judge serving as a mediator in a court where the senior judge is appointed as senior judge should be required to make appropriate disclosures to the parties before him.

POLICY

A senior judge has an affirmative duty to disclose to the parties coming before him in his capacity as a senior judge whether, within the previous one (1) year, he has served as a mediator for: 1) a lawyer or lawyer’s firm of a party to the case, or 2) a party currently before the court. Following the disclosure, unless all parties agree on the record that the senior judge may hear the case, the senior judge must recuse.

This policy is effective April 5, 2010.