



The RM&A Inc. Forum

December, 2010
Volume 2, Issue 9

TO ALL OUR READERS, MERRY CHRISTMAS AND A PROSPEROUS AND HAPPY NEW YEAR FROM RM&A Inc.!

Because the good will of those we serve is the foundation of our success, there is no better time to say "Thank You" and to wish you a Happy Holiday Season and a New Year full of success!

FEATURED

During the past months we have focused our attention on current legislative changes in family law. This month we turn our attention to another area where mediation plays a significant role in resolving civil disputes - The Home and Condominiums Owner Association disputes.

Homeowners and Condominiums Associations Statutes.

The Legislature recently amended Section 720.311, Florida Statutes, which effectively ended the Division's mandatory HOA mediation program and replaced it with a private mediation program. A law which took effect on July 1, 2007, now provides that parties to homeowner's disputes may use private mediators to assist them in resolving their issues. The statute requires that the aggrieved party (plaintiff) must serve on the responding party (defendant) a written demand to participate in presuit mediation in substantially the following form [STATUTORY OFFER TO PARTICIPATE IN PRE-SUIT MEDIATION](#).

Homeowners associations, commonly known as HOAs, have existed in Florida for decades. On Oct. 1st, 1995, the Florida Legislature passed a law requiring HOAs to incorporate. On June 30, 2009, Florida Gov. Charlie Crist signed Senate Bill 2080, which allows HOA members to cover their lawns with native grasses without fear of retribution from HOA boards, which often set restrictions on grass species.

Homeowners associations consist of an elected board and members. The association represents the interests of residents. The board, chosen by members through election, enacts and amends governing documents that include rules, known as covenants and restrictions. These rules are designed to maintain the character of a neighborhood and protect homeowners against drops in home values.

Associations assess and collect fees from homeowners to pay for the maintenance costs of common areas such as meeting halls, golf courses

AT A GLANCE

FEATURED:

Home and
Condominiums Owners
Associations Statutes

Across the Circuits

RM&A's Online
Interactive Lectures

Job Opportunities

Mediators' Advisory
Opinions

Eight Methods to Obtain
CME Credits

Across the Circuits

Standing Committee on Fairness and Diversity

The Chief Justice issued **Administrative Order AOSC10-36** on July 1, 2010, which extended the term of the Standing Committee until June 30, 2012, with The Honorable Scott M. Bernstein presiding as Committee Chairperson. The committee was established to help advance the State Courts System's efforts to eliminate from court operations bias that is based on race, gender, ethnicity, age, disability, financial status, or any characteristic that is without legal relevance.

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private roads and gated neighborhood entrance ways.

The Florida Legislature spells out general rules regarding HOAs in Chapter 720 of Title XL of the Florida Statutes. The statutes allow HOAs to ban members from use of common areas and levy fines as a result of violations. Failure to pay dues can result in a property lien and, after 90 days, suspension of HOA voting rights.

[Chapter 720.304 spells out the right of homeowners to: peaceably assemble; display of flag; SLAPP suits prohibited](#)

Florida Statute 720.311: Dispute Resolution - Homeowners' Associations

(1) The Legislature finds that alternative dispute resolution has made progress in reducing court dockets and trials and in offering a more efficient, cost-effective option to litigation. The filing of any petition for arbitration or the serving of a demand for presuit mediation as provided for in this section shall toll the applicable statute of limitations. Any recall dispute filed with the department pursuant to s. 720.303(10) shall be conducted by the department in accordance with the provisions of ss. 718.112(2)(j) and 718.1255 and the rules adopted by the division. In addition, the department shall conduct mandatory binding arbitration of election disputes between a member and an association pursuant to s. 718.1255 and rules adopted by the division. Neither election disputes nor recall disputes are eligible for presuit mediation; these disputes shall be arbitrated by the department. At the conclusion of the proceeding, the department shall charge the parties a fee in an amount adequate to cover all costs and expenses incurred by the department in conducting the proceeding. Initially, the petitioner shall remit a filing fee of at least \$200 to the department. The fees paid to the department shall become a recoverable cost in the arbitration proceeding, and the prevailing party in an arbitration proceeding shall recover its reasonable costs and attorney's fees in an amount found reasonable by the arbitrator. The department shall adopt rules to effectuate the purposes of this section.

Limitation on issues to be mediated in pre-suit mediation (2)(a)

Disputes between an association and a parcel owner regarding use of or changes to the parcel or the common areas and other covenant enforcement disputes, disputes regarding amendments to the association documents, disputes regarding meetings of the board and committees appointed by the board, membership meetings not including election meetings, and access to the official records of the association shall be the subject of a demand for pre-suit mediation served by an aggrieved party before the dispute is filed in court. Pre-suit mediation proceedings must be conducted in accordance with the applicable Florida Rules of Civil Procedure, and these proceedings are privileged and confidential to the same extent as court-ordered mediation. Disputes subject to pre-suit mediation under this section shall not include the collection of any assessment, fine, or other financial obligation, including attorney's fees and costs, claimed to be due or any action to enforce a prior mediation settlement agreement between the parties. Also, in any dispute subject to pre-suit mediation under this section where emergency relief is required, a motion for temporary injunctive relief may be filed with the court without first complying with the pre-suit mediation requirements of this section.

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Job Opportunities:

9th Judicial Circuit
(serving Orange, Osceola Counties)

Resolute Mediation & Arbitration Inc. (RM&A Inc.) Panel Member opportunities:

- Certified Family Mediator
- Circuit Mediator

Favorable Qualifications:
Insurance Adjuster background; familiar with HOA/COA mediations and arbitrations.

RM&A Inc Online Interactive Learning Program Instructors:

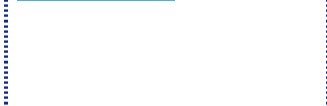
Opportunities for those who would like to conduct Live CME interactive training. Compensation: based on number of students and percentage profit share.

Contact:
info@resolutemediation.com



Make your voice heard – ***"A guide to dependency court"*** is a video for youth ages 12 to 18 that explains what happens in dependency court and encourages youth to participate in their hearings.

[Your video link](#)



Starting with January 2011 Resolute Mediation & Arbitration Inc. will offer Cost-Effective Interactive Lectures that will satisfy the Live CME requirement for certification.

[Click here to find out more](#)

EIGHT METHODS FOR OBTAINING CME CREDITS

Credits may be earned through 8 methods:

1. Attending a live lecture or seminar;
2. Listening to or viewing an audio or video presentation of a lecture or seminar with a group, and participating in a discussion on the materials presented;
3. Listening to or viewing audio or video presentations;
4. Serving as a mentor pursuant to rule 10.100, Florida Rules for Certified and Court-Appointed Mediators;
5. Participating to (interactive) internet presentations;
6. Lecturing or teaching CME courses;
7. Authoring or editing written materials submitted for publication, which have a significant intellectual or practical content directly related to the practice of mediation;
8. Successfully completing a self-directed program which is qualified for continuing education credits by a governmental licensing board.

At least 50% of the required hours must be satisfied by attendance at a live lecture or seminar. Co-mediating or supervising trainees as part of the mentorship program may be utilized for up to four hours of CME credit.

"Before You File Suit, Call Resolute!"

RM&A Inc.

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Mediators' Advisory Opinions

RM&A Inc. provides Advisory Opinions for discussion purposes. Discussions of these topics with other mediators may earn you CME credits. (See "Eight methods to earn CME credits")

MEAC 2010-003

A mediator from the Southern Division posts the following questions:

Concerning my mediation company called "Private Judges, Inc."

1. Am I still in violation of the Rules if I continue to use that title after 20 years?
2. Is there anything on the enclosed business card that violates any Rules?

[READ MORE](#)

Send your comments to the editor at:

info@resolutemediation.com

Do you have a message to share or an event coming up?

Shout @ us and we will spread the word!

info@resolutemediation.com