

By Senator Steube

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1 A bill to be entitled
2 An act relating to mediation; creating s. 44.407,
3 F.S.; requiring that insurance carrier representatives
4 who attend circuit court mediation have specified
5 settlement authority and the ability to immediately
6 consult by specified means with persons having certain
7 additional settlement authority; requiring certain
8 persons to be available to teleconference with the
9 mediator under certain circumstances; providing
10 sanctions for insurance carriers that fail to comply
11 in good faith; creating s. 44.408, F.S.; providing
12 that certain third parties may be compelled to attend
13 mediation in circuit court under certain
14 circumstances; providing that such third parties may
15 not be compelled to pay any portion of the mediator's
16 fees or costs; requiring that the designated
17 representatives of such third parties have full
18 authority to settle certain amounts or interests or be
19 able to immediately consult by specified means with
20 the person having such authority; requiring that
21 certain persons be available to teleconference with
22 the mediator upon the request of the mediator;
23 providing sanctions for certain third parties who fail
24 to appear; creating s. 44.409, F.S.; limiting the
25 information that may be included in the mediator's
26 report to the court; providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
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30 Section 1. Section 44.407, Florida Statutes, is created to
31 read:

32 44.407 Insurance carrier representative's settlement
33 authority at circuit court mediation.-

34 (1) An insurance carrier representative attending a circuit
35 court mediation must have:

36 (a) Full authority to settle up to the amount of the
37 insurance carrier's reserve on the claims subject to mediation;
38 and

39 (b) The ability to immediately consult during the mediation
40 by electronic or telephonic means with the person having
41 authority to settle above the amount of the insurance carrier's
42 reserve on the claims subject to mediation, up to the applicable
43 insurance policy limit or the amount of the plaintiff's last
44 demand, whichever is less.

45 (2) The person or persons consulted by the insurance
46 carrier representative in attendance must be available to
47 teleconference with the mediator at the mediator's request.

48 (3) An insurance carrier appearing for mediation which does
49 not comply in good faith with this section is subject to
50 sanctions in the same manner as a party that fails to appear
51 with the required settlement authority.

52 Section 2. Section 44.408, Florida Statutes, is created to
53 read:

54 44.408 Compelling interested third parties to attend
55 circuit court mediation.-

56 (1) Upon motion of any party, a court may order a third
57 party to attend a circuit court mediation and participate in
58 good faith in the mediation process if all of the following

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59 apply:

60 (a) The third party claims a lien or other asserted
61 interest in the proceeds of any funds that a party may receive
62 as part of a mediated settlement agreement.

63 (b) The presence of the third party can be compelled by
64 service of an order to appear for mediation served in the same
65 manner as service of process according to law.

66 (c) The presence of the third party at the mediation will
67 facilitate the mediation process.

68 (2) A third party ordered to attend a mediation who appears
69 and participates in good faith may not be compelled to pay any
70 portion of the mediator's fees or costs.

71 (3) The designated representative of a third party ordered
72 to attend a mediation who appears on behalf of the third party
73 must have full authority to settle the amount of the third-
74 party's lien or other asserted interest or have the ability to
75 immediately consult with the person having such authority by
76 electronic or telephonic means during the mediation conference.

77 (4) The person or persons consulted by the third-party
78 representative in attendance must be available to teleconference
79 with the mediator at the mediator's request.

80 (5) A third party ordered to attend a mediation conference
81 who fails to appear is subject to sanctions in the same manner
82 as a party who fails to appear.

83 Section 3. Section 44.409, Florida Statutes, is created to
84 read:

85 44.409 Mediator's report.—

86 (1) Except as provided in subsection (2), the mediator's
87 report to the court may only state one of the following:

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- 88 (a) A complete agreement was reached.
- 89 (b) A partial agreement was reached.
- 90 (c) No agreement was reached.
- 91 (2) If a partial agreement was reached which eliminates
- 92 claims or parties from the litigation, a list of such claims and
- 93 parties may be provided, but no additional information may be
- 94 disclosed.
- 95 Section 4. This act shall take effect July 1, 2018.