Re: Independent Contractor Agreement for Contract Mediators

Dear Judge:

Please find attached a sample “Independent Contractor Agreement” for documenting the independent contractor status of contract mediators the court utilizes as part of the court mediation program.

Please note that the Agreement is to be used only *after* ascertaining the contract mediator’s actual status as an independent contractor. To this end, it is necessary that the court consult with legal counsel and carefully review the specific information concerning the work to be done and the contract mediator to be engaged to determine whether the contract mediator is an independent contractor or an employee.

In making this determination, I would draw your attention to Ohio Revised Code §§ 145.01(A)(3) and 145.012(A) and Ohio Administrative Code § 145-1-42(A)(2), which define the terms “public employee” and “independent contractor” for purposes of the Ohio Public Employees Retirement System. Additionally, you may find the related Supreme Court of Ohio case of *State ex rel. Schaengold v. Ohio Pub. Emp. Retirement Sys*., 114 Ohio St. 3d 147 beneficial in this regard. Finally, for income tax purposes, I recommend you consult IRS Form SS-8 *Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding*, which not only provides information on independent contractor status, but also allows an employer to receive a determination from the IRS as to an individual’s independent contractor status.

The Agreement should be completed by the court and a contract mediator before the mediator performs work for the program.

Jacqueline C. Hagerott, Esq., LL.M.

Manager Dispute Resolution Section

The Supreme Court of Ohio