

#029

---

**From:** Lisa Radell <LisaRadell@Verizon.net>  
**Sent:** Monday, March 27, 2017 6:47 PM  
**To:** Comments Mailbox  
**Subject:** Proposed Rule change - Payment for Economic Mediators

Dear Folks,

I have just become aware of the proposed change to Rule 1:40-4(b) pertaining to the remedy for a mediator (handling economic mediation in the family part) to recover his or her fees.

The proposed change would require the mediator to initiate a lawsuit in the Law Division against the divorcing litigants rather than to file an application with the Family Court.

[I practice almost exclusively family law and have taken the 40-hour mediation CLE course. However, I have chosen not to be included on the roster of economic mediators. As a solo, I can't afford to give away the first 2 hours free].

I believe that requiring mediators to initiate a new proceeding in a separate court to try and collect their fees will unnecessarily burden the court with additional complaint filings. Because the economic mediation process is intertwined with the divorce proceeding, it seems that a simple application with the Family Court handling the divorce will save time for all involved (court, mediator and litigants). It is a fairly straightforward application and should be addressed by a judge who is able (at a glance) to determine whether the time expended by the mediator is appropriate given the issues presented in the divorce case.

It seems to me that if the participating mediators will be forced to litigate the enforcement of their fee agreement in the Law Division rather than file a short application (via motion or order to show cause) in the Family Court, many good mediators will see this as an additional burden (beyond donating the first 2 hours "for the cause") that warrants a decision to remove him/herself from the roster.

If the goal is to make uniform the method for collecting mediator fees, the rule should be amended to direct that mediators must file a motion in the Family Court in the venue in which the matter is (was) pending.  
Thank you for considering my comments.

Lisa M. Radell, Esq.  
207 South Main Street  
Cape May Court House, NJ 08210  
Tel (609) 465-9910  
Fax (609) 465-9920