

From: abestafka@bestafkalaw.com
Sent: Monday, March 27, 2017 6:28 PM
To: Comments Mailbox
Subject: R 1:40-4(b)

RE: The **proposed Rule amendment to R. 1:40-4(b).**

This proposed change would **mandate that Economic Mediators who need to make application for fees** because the litigants do not make payment (per the Court's Order referring the matter) **start an action in Law Division (Special Civil Part) to collect.**

I do a considerable amount of Economic Mediations (and have since the inception of the program). This is a very effective program (as you all know) and does move many cases off the Court's impossibly clogged calendar. Beyond the "two hours free" I (as many of you do as well) even discount my hourly rate on these matters as an accommodation to all.

The "method" to get paid, when litigant's decide it is not a priority to pay, has always been to file an application directly with the Judge who appointed you. This has been very effective (and it is fair as the litigant is put on notice and allowed to respond to the application). Usually the filing of such a fee application prompts payment even before the Court is called upon to "rule" on the fee application.

The Economic Mediation program is designed to **CLEAR the Court's calendar.** Allowing mediators to get paid fairly and quickly **encourages** them to serve as Economic Mediators.

Making Mediators file a separate law suit to collect fees will **ADD to the Court's calendar.** Making mediators file a separate law suit may well **discourage** them from serving in this important role.

Bad idea.

Andrew A. Bestafka, Esq.

The Law Office of Andrew A. Bestafka, LLC

45 Dutch Lane Road
Freehold, New Jersey 07728
Phone: 732-898-2378
Fax: 732-414-4299
abestafka@bestafkalaw.com