



## **RULE 114 ETHICS EXERCISE**

**Instructions:** Your group will be assigned one of the following scenarios. Discuss the ethical issues involved in your scene and decide how you would handle the ethical issue. You will report your decision and rationale to the full group.

1. **Rule 1 Impartiality** – You are an hour into the mediation and it's clear to you that the plaintiff's lawyer is a jerk. They have a smugness or sense of superiority which is entirely out of place -- in your opinion their handling of the case borders on professional incompetence. You find yourself struggling to ask impartial questions because you would love to really put them in their place. Do you have a problem?
2. **Rule 2 Conflicts of Interest** -- You're a lawyer and a mediator with a specialty in employment law. You've had your first successful mediation -- a sexual harassment case which settled, much to the relief of the defendant company. Yesterday you received a call from that company's general counsel asking if you would consult with them on another sexual harassment case. Can you accept their consulting offer?
3. **Rule 5 Quality of the Process** -- You have a very busy therapy practice and you're active in the local professional association and serve on several committees -- and you love to mediate. It's hard to keep all the balls in the air. During mediation sessions you often use breaks or periods when the parties are in private meetings to return phone calls, etc. Once or twice, you realize you've gotten tied up on a phone call and left both parties alone for longer than was necessary. But you rationalized it by saying they could use the time to think. Do you have a problem?
4. **Mediation Rule 1 Self Determination (2023 Rule 8)** -- You are mediating a case involving a person who has filed a claim for racial discrimination. In your opinion their case is weak and is unlikely to stand up in court. Their lawyer seems to agree with you and much of the time in caucus has been spent trying to convince them to settle for a nominal amount of money. You've suggested that the defendants might be willing to apologize. They are very reluctant to settle for this but after four hours in mediation they are starting to feel like there is no other option. You know you're being realistic, and you're increasingly uncomfortable with your role. Should you be?