

ABSTRACT

Abdillah Faiz, 2015. *The Practice of Mediation by Non-judge Mediator for Blitar Religious Court Divorce Cases in 2014*, Thesis. Al-Ahwal Al-Syakhsyiyah Department, Faculty of Sharia, Maulana Malik Ibrahim State Islamic University, Malang, Advisor: Jamilah, M.A.

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Children are the victims of your divorce. This slogan of mediation can be read in Blitar religious court. It has a mediation division which gives solutions for divorcing spouse in First Level Religious Court. The court assigns non-judge mediator to carry out the mediation process. This local religious court only has two non-judge mediators. Even though in the same level, it is fewer than that of Kepanjen religious court. The mediation aims to decrease the divorce rate in Blitar. However, inadequate mediators leads to its failure. For four months, from September to December 2014, 80% of the mediation processes failed to settle disputes. It is shown by mediation monthly report of the religious court. The problem leads the researcher to observe the performance of non-judge mediators in the process of mediation and the factors influencing the failure and success of mediation.

The study employs an empirical research, by using a qualitative approach to test the correspondence between mediation theory and its practice. To collect data, the researcher conducts interview to get more detailed data and documentation for additional data after the interview. The researcher uses interview as primary data and related references as secondary data. The researcher also uses theories in Chapter II to analyze the data.

The result of the study shows that the mediation process conducted by non-judge mediator in Blitar Religious Court has not met the optimal result as expected in PERMA No. 1 of 2008 because the mediator misses some steps, such as caucus. Factors influencing the failure of mediation are 1. The divorcing spouses insist to get divorce, 2. The problems discussed in mediation is not matched with posita, 3. The mediator is lack of prudence to do the mediation, and 4. The divorcing spouses is lack of education. Factors influencing the success of mediation are 1. One of the marriage couple insists to keep the marriage relationship, 2. The mediator has a high performance in doing their tasks