

THE QUESTION:

This letter is to request your opinion on the following related questions: Are mediators certified by the Florida Supreme Court pursuant to the provisions of Ch. 44, Fla. Stat., and Rule 10.010, et seq., Florida Rules for Certified and Court Appointed Mediators, obliged to keep and maintain mediation files after declaration of impasse or final settlement? If so, for what period of time? What material should be maintained and what material (e.g. notes) should be discarded?

Your attention to this matter is sincerely appreciated. As background, I am enclosing a copy of an article entitled *Closing In On The Closed File Dilemma* relating to law office files which was published recently in the *Law Practice Management Reporter* of the Missouri Bar.

Sincerely,

Certified County, Family & Circuit Mediator
Northern Division

SUMMARY OF THE OPINION:

The panel is of the opinion that the questions you raised are of a legal rather than an ethical nature and therefore are not within the jurisdiction of the panel.

AUTHORITY REFERENCED:

Rules: Florida Rules for Certified and Court-Appointed Mediators -
10.100(b), 10.080(c)

OPINION:

The panel is of the opinion that the questions you raised are of a legal rather than an ethical nature and therefore are not within the jurisdiction of the panel. While declining to answer your question, the panel would observe that there are two rules of marginal relevance, to wit, rule 10.100(b), which requires a mediator to maintain adequate records to support charges for services, and rule 10.080(c), which provides that a mediator shall maintain confidentiality in the storage and disposal of records. Neither of these rules directly relates to your question since the former deals with financial records

rather than records of the mediation itself, and the latter, while relating to the records of the mediation, provides no guidance in relation to retention. Nor does the panel believe that rules relating to the retention of files by attorneys relevant, even though adopted by the Supreme Court, since the function of the mediator and attorney are so dissimilar.

*Signed by Charles Rieders, MQAP Chair
October 11, 1995*