

THE QUESTION:

Enclosed please find a postcard mailed to us. Is mediation "a dispassionate evaluation by a neutral third party" and if not, is it ethical to advertise or perform that service as a mediator?

Sincerely,

Two Certified Circuit Mediators
Central Division

SUMMARY OF THE OPINION:

It is the opinion of the panel that it is unethical for a mediator to advertise that the mediator will provide "a dispassionate evaluation."

AUTHORITY REFERENCED:

Rules: Florida Rules for Certified and Court-Appointed Mediators -
10.130.

Statutes: Section 44.1011, Florida Statutes.

OPINION:

Rule 10.130, Florida Rules for Certified and Court-Appointed Mediators, provides in relevant part, that "All advertising by a mediator must represent honestly the services to be rendered, and . . . a mediator shall make only accurate statements about the mediation process . . ." In the postcard provided, the mediators describe mediation as "a dispassionate evaluation by a neutral party."

The description of mediation as a dispassionate evaluation is inaccurate in light of the definition of mediation found in section 44.1011, Florida Statutes. Mediation and early neutral evaluation (ENE) are two separate and distinct alternative dispute resolution processes. It is misleading for mediators to advertise that they are providing evaluation services under the guise of mediation services and therefore, is a violation of rule 10.130.

Chair _____
Date

Charles Rieders, MQAP