

## ***Advisory Opinion***

***MEAC 2011-009***

Mediator Ethics Advisory Committee

c/o Florida DRC, Supreme Court Building, 500 S. Duval Street, Tallahassee, FL 32399

June 29, 2011

### **The Question:**

I am an active mediator. I have the company name Litigation Terminators and this inquiry concerns advertisements that will be directed to the members of The Florida Bar offering my mediation services.

Is there a prohibition against using the name Litigation Terminators as a business name for obtaining business from attorneys? In addition, I have the service mark "The Litigation Terminator", is there a prohibition against using such phrase under my name or photograph in advertisements to members of The Florida Bar who are seeking mediation services?

Submitted by Certified Circuit Mediator  
Southern Division

### **Authorities Referenced**

Rules 10.210, 10.220 and 10.610 (a), (e) and (f), Florida Rules for Certified and Court-Appointed Mediators

### **Summary**

It is inappropriate to use a business name or phrase to advertise mediation services that portrays the mediation process or the role of a mediator in a manner that is untrue, misleading or demeans the dignity of the mediation process or the judicial system.

### **Opinion**

The Florida Rules for Certified and Court-Appointed Mediators define the mediation process (Rule 10.210) and the role of the mediator (Rule 10.220). Rule 10.210 describes mediation "as a process whereby a neutral and impartial third person acts to encourage and facilitate the resolution of a dispute without prescribing what it should be." Rule 10.220 states the role of the mediator is "to reduce obstacles to communication, assist in the identification of issues and exploration of alternatives, and otherwise facilitates voluntary agreements resolving the dispute. The ultimate decision-making authority, however, rests solely with the parties."

It would be misleading and untruthful to advertise the role of a mediator as a “terminator” of the litigation process when that role is different from and beyond the scope of the mediator’s permitted duties and responsibilities.

The Committee also directs the questioner to Rule 10.610, Marketing Practices, which contains the ethical perimeters for mediator advertising. Sections (a), (e) and (f) require:

(a) A mediator shall not engage in any marketing practice, including advertising, which contains false or misleading information. A mediator shall ensure that any marketing of the mediator’s qualifications, services to be rendered, or the mediation process is accurate and honest;

(e) A mediator shall not make claims of achieving specific outcomes or promises implying favoritism for the purpose of obtaining business; and

(f) A mediator shall not engage in any marketing practice that diminishes the importance of a party’s right to self-determination or the impartiality of the mediator, or that demeans the dignity of the mediation process or the judicial system.

In addition to being misleading and untruthful, is also the opinion of the Committee that the name or phrase “Litigation Terminators” demeans the dignity of the mediation process and the judicial system which is prohibited under the marketing rules.

---

Date

---

Beth Greenfield-Mandler, Committee Chair