

January 14, 2011

The Question:

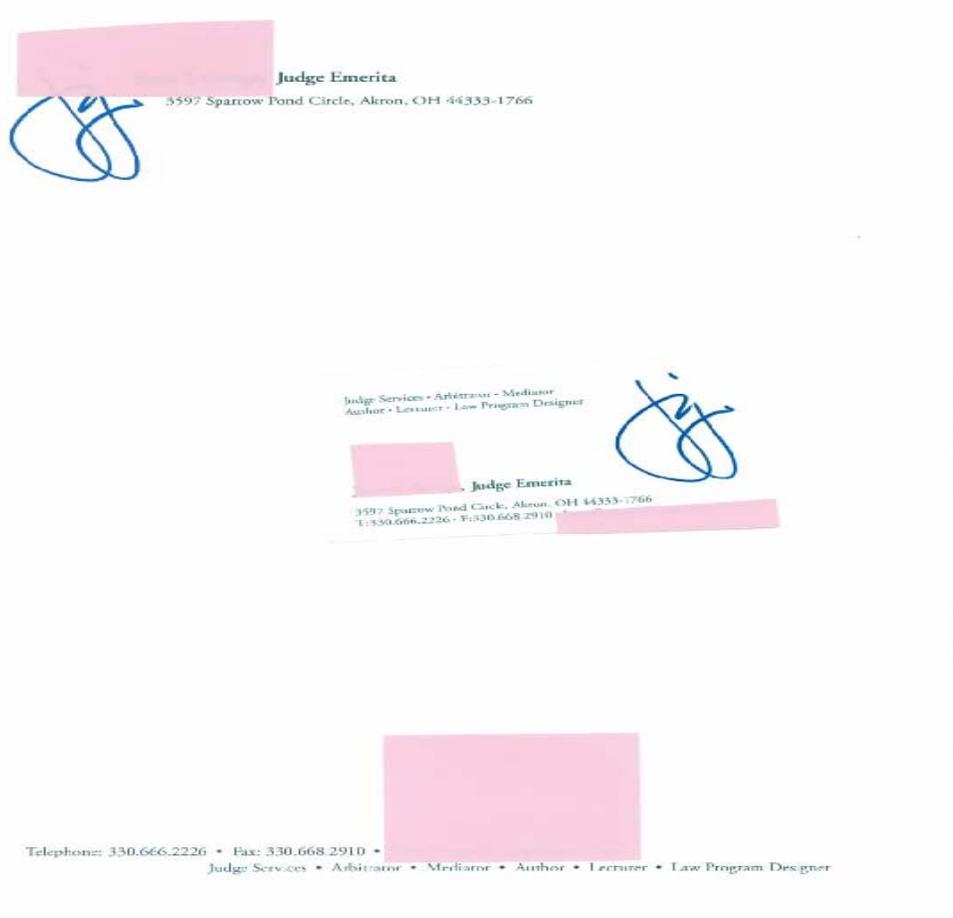
I recently relocated from Ohio to Florida. I am a retired Ohio state court judge having served as an elected trial court judge and an intermediate appellate judge for 14 years and as a visiting judge, sitting by assignment from the Ohio Supreme Court, for another 10 or more years. I am on the neutrals panel of the American Arbitration Association (AAA) as both an arbitrator and a mediator, on the arbitration panel of the International Institute for Conflict Prevention & Resolution (CPR) and a certified mediator on the roster of the International Institute of Mediators (IMI). Additionally I independently offer my arbitration, mediation and private judging services to the public. My resume is attached for your review [*omitted by DRC for confidentiality purposes*].

I have taken the course work for both the Florida Civil Circuit Court Mediator and the Florida Residential Mortgage Foreclosure Mediation and am currently in the process of gathering materials for my application. Although I am not yet certified in Florida, I'm writing at this time to allow sufficient time for your consideration of my questions, as well as, time within which to implement ethical advertising practices, consistent with the Mediator Ethics Advisory Committee's rules.

I have reviewed your MEAC Opinion 2009-008; MEAC 2007-006; MEAC 2004-001, and MQAP 99-013. If I understand correctly, I may use "judge" in my advertising so long as I indicate that I am a former Ohio judge, such as "Ohio Judge Emerita." I am attaching a copy of the letterhead and business card [*see next page - name and email address omitted by DRC for confidentiality purposes*] I used in Ohio and I would merely like to add "Ohio" before each reference to "Judge Emerita."

If my proposal is not in keeping with the ethics opinions noted above, please let me know so that I understand how I am to proceed.

Court-Appointed Circuit Mediator
Central Division



Authorities Referenced

MEAC Opinion 2010-003

Rule 10.610, Florida Rules for Certified and Court-Appointed Mediators

Commentary to Rule 10.610, Florida Rules for Certified and Court-Appointed Mediators

Florida Supreme Court Opinion SC09-1384

Summary

A former judge is prohibited from using the term “Judge Emerita” in the title of the mediator’s company, as depicted on stationery, business cards, the title of a website homepage, and other marketing material. The Committee maintains confidence in and refers mediators to MEAC Opinion 2010-003 which addresses this marketing restriction in more detail.

Opinion

A former judge is prohibited from using the term “Judge Emerita” in the title of the mediator’s company, as depicted on stationery, business cards, the title of a website homepage, and other marketing material. The Committee refers mediators to MEAC Opinion 2010-003 which addresses this marketing restriction in more detail.

In MEAC 2010-003, the Committee opined:

“The use of the word “judge” in the title of the mediator’s company, as depicted on stationery, business cards, the title of a website homepage, and other marketing materials is specifically noted as a prohibition in the Supreme Court’s opinion in SC09-1384 (April 1, 2010) as they interpret the commentary following the revised Rule 10.610:

*“The mediator may not appear in judicial robes in an advertisement for his or her mediation services; the mediator may also not use the title ‘judge’ with or without modifiers to the mediator’s name in any advertisement. Indeed, the use of the title judge in any marketing practice, **including, but not limited to, letterhead and business cards, is inappropriate.** However, an accurate representation of the mediator’s judicial experience in references to background and experience **in bios and résumés would not be inappropriate** [emphasis added].”*

Further, newly revised Rule 10.610(d) states: “Any marketing practice is misleading if the mediator states or implies that prior adjudicative experience, including, but not limited to, service as a judge, magistrate, or administrative hearing officer, makes one a better or more qualified mediator.”

The restriction on the use of the term “judge” or “judges” is explained further in the Commentary to the 2010 Revision to Rule 10.610 which states in part, “The roles of a mediator and adjudicator are fundamentally distinct... When engaging in any mediation marketing practice a former adjudicative officer should not lend the prestige of the judicial office to advance private interests ... the use of the word “judge” with or without modifiers to the mediator’s name would be inappropriate.”

Date

Beth Greenfield-Mandler, Committee Chair