

May 14, 2004

THE QUESTION

I am a certified county mediator. Recently I saw an advertisement for mediation services featuring a number of certified mediators. One mediator was referred to as Judge _____ (Pro Tempore), who was described in part as a Family Court Judge in a state other than Florida. Is it permissible for a part-time judge from another state to refer to himself with the title "Judge"?

Certified County Mediator
Northern Division

AUTHORITY REFERENCED

Rule 10.610, Florida Rules for Certified and Court-Appointed Mediators
MEAC Opinions 2002-003 and 99-013

SUMMARY

Since the use of the term "judge" alone may confuse or mislead the public in violation of rule 10.610, the mediator may need to include clarifying information in order for such practice to be permissible.

OPINION

Advertisements of a mediator's qualifications must be accurate and a mediator must not engage in any marketing practices which contain false or misleading information. See Rule 10.610, Florida Rules for Certified and Court-Appointed Mediators. If the mediator is permitted to use the title "Judge" pursuant to the applicable rules, then use of the title in advertising is not false.

The more difficult question with which the Committee grapples is the identification of "misleading information". In two previous opinions relating to advertising the Committee addressed the concept of misleading information. In MEAC 2002-003, the Committee opined that the use of the generic "Certified Mediator" in advertising was inherently misleading absent a designation of the particular area(s) of mediator

certification. In MEAC¹ 99-013, the Committee stated that it would be misleading, and thus ethically inappropriate, for a two member firm to list “Circuit Court Mediation” as a service provided without designating which attorney was certified if only one mediator was certified.

The Committee believes, in the instant situation, that use of the term “judge” alone may confuse or mislead the public. Therefore, the mediator may need to include clarifying information, such as the court’s jurisdictional limit, the state in which the judge served, and if the judge is not an attorney. Finally, the mediator should consider the proximity of the clarifying information to the title in assessing whether the advertisement is misleading.

Date

Fran Tetunic, Committee Chair

¹ Prior to April 1, 2000, the Mediator Ethics Advisory Committee was named the Mediator Qualifications Advisory Panel (MQAP). To avoid confusion, the MQAP reference has been changed to MEAC.