

16 March 2000

THE QUESTION

Re: Proposed letterhead

Enclosed is a proposed letterhead that my son, (named), and I propose to use with respect to our new practice. (My son) has recently joined me in the practice of law.

I am a certified Circuit Court Civil Mediator, but (my son) is not. We propose the enclosed letterhead in order to avoid the use of an 'asterisk' beside my name and beside the mediation listing on the right side of the letterhead. An asterisk has always been viewed by me as divisive and a source of stratification.

Do you see any objection to the proposed letterhead if no representation is made that (my son) is a qualified mediator?

I look forward to hearing from you.

Yours sincerely,

Certified Circuit Mediator
Northern Division

AUTHORITY REFERENCED

Florida Rules for Certified and Court-Appointed Mediators: 10.130

SUMMARY OF THE OPINION

Since the proposed letterhead constitutes advertising and is misleading, it violates rule 10.130.

OPINION

The initial issue presented by your request is whether letterhead constitutes advertising. The panel consulted Black's Law Dictionary, Sixth Edition, which cited the following definition of advertise:

To advise, announce, apprise, command, give notice of, inform, make known, publish. To call a matter to the public attention by any means whatsoever. Any oral, written, or graphic statement made by the seller in any manner in connection with the solicitation of business and includes, without limitation because of enumeration, statements and representations made in a newspaper or other publication or on radio or television or contained in any notice, handbill, sign, catalog, or *letter*, or printed on or contained in any tag or label attached to or accompanying any merchandise. (emphasis supplied)

In light of the foregoing definition, the panel believes that letterhead used in the normal course of business constitutes advertising.

Having decided that the letterhead constitutes advertising, the question becomes whether listing "Circuit Court Mediation" as an area in which the firm practices is misleading when one of two listed partners is not a certified mediator. First, the panel assumes that the reference to mediation is to the performance of mediation in the capacity of a mediator, not the representation of clients at mediation. That being the case, the panel opines that the designation on the letterhead implies that both attorneys named are qualified in all areas listed, including being certified in Florida as circuit court mediators. Since both are not, the letterhead (advertising) is misleading and thus violates rule 10.130.

Date

Charles M. Rieders, Panel Chair

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