

BOARD OF PROFESSIONAL RESPONSIBILITY  
OF THE  
SUPREME COURT OF TENNESSEE  
  
FORMAL ETHICS OPINION 93-F-131

\_\_\_\_\_ Inquiry is made concerning whether a licensed attorney who is engaged in the regular practice of law and also serves as a mediator may indicate both activities together on letterhead, office sign, professional card, or publication without violating DR 2-102(E).

\_\_\_\_\_ DR 2-102(E) provides:

A lawyer who is engaged in the practice of law and another profession or business shall not so indicate on his letterhead, office sign or professional card, nor shall he identify himself as a lawyer in any publication in connection with his other profession or business.

Ethical Consideration 5-20 of the Code of Professional Responsibility provides:

A lawyer is often asked to serve as an impartial arbitrator or mediator in matters which involve present or former clients. He may serve in either capacity if he first discloses such present or former relationships. After a lawyer has undertaken to act as an impartial arbitrator or mediator, he should not thereafter represent in the dispute any of the parties involved.

Ethical Consideration 5-20 clearly indicates that services as a dispute resolution neutral is an appropriate role for a licensed attorney.

Since acting as an impartial arbitrator, mediator, or neutral in an alternate dispute resolution proceeding is not engaging in "another profession or business," it follows that a lawyer who is engaged both in the practice of law and as an impartial arbitrator, mediator, or neutral in an ADR proceeding may so indicate on his letterhead, office sign, professional card or publication and may identify himself as a lawyer in connection with his activities as an arbitrator, mediator or dispute resolution neutral.

It is clear, however, that the arbitrator or mediator who is an attorney licensed in Tennessee or elsewhere is not in that instance "representing a

Formal Ethics Opinion 93-F-131

Page 2

client" in the traditional attorney's role. He/she may not perform any other legal services attending the dispute being mediated or arbitrated. A licensed attorney, acting as an arbitrator or mediator, is governed by the Code of Professional Responsibility.

The Tennessee Supreme Court has recently adopted a rule which contemplates the recognition, certification and qualification of legal specialists. Whether performing mediation or arbitration

services is to be considered a legal specialty and certified and regulated as such shall await further clarification.

This 10th day of September, 1993.

ETHICS COMMITTEE:

Thomas H. Rainey

Herman Morris, Jr.

Walker T. Tipton

---

APPROVED AND ADOPTED BY THE BOARD