

Final

**Rhode Island Supreme Court Ethics Advisory Panel**  
**Opinion No. 2008-01 Request No. 949**  
**Issued June 5, 2008**

Facts:

The inquiring attorney practices law as a sole practitioner. The inquiring attorney states that he/she also is licensed as a mediator, and has been practicing law and providing mediation services as “Smith Law Offices.” Thus far, the inquiring attorney’s mediation work has been as a volunteer in state district courts. The inquiring attorney wishes to change the name of his/her firm to “Smith Law and Mediation” in order to promote his/her mediation practice. He/she states that the proposed law firm name more accurately reflects the services he/she provides.

Issue Presented:

May an attorney who is a sole practitioner and who both practices law and provides mediation services use “Smith Law and Mediation” as the law firm name?

Opinion:

The inquiring attorney, a sole practitioner who is both engaged in the practice of law and provides mediation services, may not use “Smith Law & Mediation” as a law firm name.

Reasoning:

Rule 7.1 of the Rules of Professional Conduct prohibits firm names, letterhead, and all communications about a lawyer’s services from being false or misleading. Truthful statements that are misleading are also prohibited. Rule 7.1 Comment [2]. Rule 7.5(a) states in pertinent part:

**Rule 7.5 Firm names and letterheads.** - (a) A lawyer shall not use a firm name, letterhead or other professional designation that violates Rule 7.1. A trade name may be used by a lawyer in private practice if it does not imply a connection with a government agency or with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1.

The Panel is of the opinion that inclusion of “Mediation,” a law-related service, in a law firm name is misleading. The law firm name, “Smith Law and Mediation,” implies that both the practice of law and mediation practice are regulated by, and are under the jurisdiction of the Rhode Island Supreme Court. While the Court has exclusive jurisdiction over the practice of law, and has jurisdiction over court-annexed arbitrations and court-sponsored mediations, it does not regulate private mediation and arbitration practices.

The confusion that the Panel believes results from including “Mediation” in the inquiring attorney’s law firm name is related to that which is addressed in newly adopted Rule 2.4 entitled “Lawyer serving as third-party neutral.” So significant is the confusion that can arise when a lawyer serves as a third-party neutral, that the Supreme Court saw fit to add Rule 2.4 to the Rules of Professional Conduct, which requires lawyer-neutrals to inform unrepresented parties that the lawyer does not represent them. In some cases, the lawyer-neutral is required to explain the difference between a lawyer’s role as a third-party neutral, and a lawyer’s role as one who represents a client. Rule 2.4(b). To include the word “Mediation” in the inquiring attorney’s law firm name presents a similar opportunity for confusion. In short, “Smith Law and Mediation” is misleading.

The Panel concludes that the inquiring attorney, a sole practitioner who both practices law and provides mediation services, may not use “Smith Law and Mediation” as a law firm name.