

## **RULE 31. Mediation**

### **(A) Cases for Mediation**

Any civil case filed in the Court of Common Pleas may be referred to Mediation.

### **(B) Referral to Mediation**

(1) The Judge may, by appropriate entry, refer a case to Mediation. If required by the referring Judge, prior to such referral counsel for the parties must complete the "Mediation Referral Readiness Questionnaire" which will be attached to the entry of referral. Please consult with your individual courtroom. If at the time the mediation is scheduled your case cannot be mediated and must be continued beyond the designated 'return to Court date', the case will be sent back to the referring Court for disposition. A referring Judge may waive the readiness provisions of this rule.

(Effective 7/15/05)

(2) Any party may request, in writing to the Judge, that the case be considered for referral to Mediation.

(3) The Court shall utilize procedures for all cases that will:

(a) Ensure that the parties are allowed to participate in mediation, and if the parties wish, that their attorneys and other individuals they designate are allowed to accompany them and participate in mediation.

(b) Screen for domestic violence both before and during mediation.

(c) Encourage appropriate referrals to legal counsel and other support services for all parties, including victims and suspected victims of domestic violence.

(d) Prohibit the use of mediation in any of the following:

As an alternative to the prosecution or adjudication of domestic violence;  
In determining whether to grant, modify or terminate a protection order;  
In determining the terms and conditions of a protection order; and  
In determining the penalty for violation of a protection order.

(4) Duty of Parties and Counsel to Report Domestic Abuse to Mediation Staff

If the opposing parties to any case have either resided in a common residence or are related by blood, adoption, or marriage, and have known or alleged domestic abuse at any time prior to the mediation, then the parties or their counsel have a duty to disclose such information to the Mediation staff. Such party shall have a duty to participate in any screening required by Rule 16 of the Supreme Court of Ohio's Rules of Superintendence both prior to and, in the mediator's discretion, during the mediation session(s).

(5) Referral of a case to Mediation shall not operate as a stay of discovery proceedings unless otherwise ordered by the Court.

#### (C) Mediation Conferences

(1) The mediator may direct the parties and their attorneys to attend a mediation conference in person. Such a conference shall be conducted by the mediator to consider the possibility of settlement, the simplification of the issues and any other matters which the mediator and the parties determine may aid in the handling or the disposition of the proceedings.

(2) Mediation shall continue until the parties have reached a settlement, until the parties have reached a settlement, until they are unwilling to proceed further, or until the mediator determines that further mediation efforts should cease. The mediator may schedule such sessions as may be necessary to complete the process.

(3) The mediator may request that the parties bring documents and witnesses, including expert witnesses, to the sessions, but has no authority to order such production.

#### (D) Mediation Fees

(1) No fees shall be charged for civil cases referred to the Hamilton County Court of Common Pleas Mediation Service.

(2) If the case is referred to a mediator other than Common Pleas Mediation Service, the parties shall share the cost of the mediation in such proportions as they may agree.

#### (E) Privilege and Confidentiality

(1) Mediation communications are privileged as described in Ohio Revised Code 2710.03-2710.05.

(2) If the parties believe that confidentiality beyond the scope of the statutory privilege referenced in (E)(1) is necessary, then the parties shall effect a written confidentiality agreement prior to mediation.

(3) The mediator shall not disclose to the Court or to any Judge of the Court the contents of mediation discussions unless agreed to by all of the parties.

(4) No party to mediation shall call the mediator as a witness for any purpose.

#### (F) Reporting to Court

(1) The mediator shall notify the Court promptly when a case is not accepted for mediation. At the conclusion of cases accepted for mediation, the mediator will also report the fact that the mediation process has ended.

(2) If a case is settled during mediation, the attorney for one of the parties shall prepare and submit to the Court an entry reflecting the fact of settlement as in any other case.

(3) If some but not all of the issues in the case are settled during mediation or if agreements are reached to limit discovery or on any other matter, the parties shall submit a joint statement to the Court enumerating the issues that have been resolved and the issues that remain for trial. This statement shall be submitted within 30 days of the termination of mediation.

(Effective January 1, 2007)