

## RULE 31. Mediation

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

Any civil case filed in the Court of Common Pleas General Division may be referred to Mediation by order of the Court, except cases involving domestic violence or abuse per Sup.R. 16.24, civil protection orders prohibited by Sup.R. 16.30, and petitions to perpetuate testimony (Civ.R. 27).

All mediations shall be conducted in accordance with the “Ohio Uniform Mediation Act”, R.C. Chapter 2710.

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

- (1)** The judge may, by appropriate entry, refer a case to Mediation and state a date by which mediation must be concluded. 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.
- (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 use of mediation in any of the following:
    - (1)** As an alternative to the prosecution or adjudication of domestic violence;
    - (2)** In determining whether to grant, modify or terminate a protection order;
    - (3)** In determining the terms and conditions of a protection order;
    - (4)** 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 16.24 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, trial, or other court order 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 or remotely. 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 they are unwilling to proceed further or until the mediator determined that further mediation efforts shall cease. The mediator may schedule such sessions as may be necessary to complete the process.
- (3) The mediator may request that the parties make available at mediation documents and witnesses, including expert witnesses, but has no authority to order such production.
- (4) The mediator shall ensure the parties memorialize any agreements in principle.

### **(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 parties agree to use a private and not the Common Pleas Mediation Service, the parties shall share the cost of the mediation in such proportions as they may agree.

### **(E) Privilege & Confidentiality**

- (1) Mediation communications are privileged as described in Ohio Revised Code Chapter 2710.
- (2) The parties and participants shall sign 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 parties in writing.

(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. Immediately at the conclusion of the mediation, the mediator will report in writing to the Court the fact that the mediation process has ended.

(2) Immediately after a case or issues are settled (through court mediation, private mediation, or otherwise), the parties shall prepare and submit to the Court an entry reflecting the case has settled.

(3) If some but not all of the issues in the case are settled during court or private mediation, or otherwise, or if agreements are reached to limit discovery or on any other matter, the parties shall submit a joint written statement to the Court enumerating the issues that have been resolved and the issues that remain pending. The statement shall be submitted immediately after the termination of mediation.

**Effective: (March 1, 2023)**