

IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT IN
AND FOR BREVARD COUNTY,
FLORIDA

ADMINISTRATIVE ORDER NO.:
11-37-B
SUPERSEDES 07-19-B

**IN RE: MEDIATION - FAMILY MEDIATION MANDATORY REFERRAL OF ALL
CONTESTED FAMILY LAW CASES TO MEDIATION**

Whereas, mediation is a process whereby a neutral third party acts to encourage the resolution of disputes through a non-adversarial process and assists the parties in reaching a mutually acceptable agreement; and

Whereas, certain disputes that include family matters in marriage dissolution and post-dissolution proceedings, in domestic proceedings between unmarried parents, and modifications thereof; and matters of juvenile dependency can be amicably and expeditiously resolved through mediation prior to hearing by the Court; and

Whereas, the mediation process can result in cost and schedule efficiencies to the parties; and

Whereas, mediation of certain matters promotes prompt and efficient administration of justice by the Court; reduces litigation; and reduces Court dockets; and

Whereas, applicable provisions of Florida Statute Chapter 44 - Mediation Alternatives to Judicial Action; Chapter 61 - Dissolution of Marriage, Support, Time-sharing; and Chapter 39 – Proceedings Relating to Children; and the applicable provisions of the Florida Rules of Civil Procedure, Family Procedure, and Juvenile Procedure, as they relate to Family Mediation and Dependency Mediation, and the Order to Family Mediation are incorporated into this Order.

IT IS HEREBY ORDERED THAT:

1. **FAMILY MEDIATION PROGRAM:** The Family Mediation Program (“Program”) shall be governed by applicable Florida Statutes and Rules of Procedure. The Program office staff shall be responsible for scheduling mediations as ordered by the Court for matters including, but not limited to, shared parental responsibility, time-sharing, child support, alimony, , and division of property and debt, juvenile dependency, and any other domestic disputes appearing on the court docket. This Program will be administered under the direction of the Office of the Trial Court Administrator and the Chief Judge of the Eighteenth Judicial Circuit and shall include both staff mediator(s) and contract mediators.
2. **FAMILY MEDIATORS:** The Family Mediation Program shall appoint only mediators who are Florida Supreme Court Certified Family Mediators. The Program staff shall be responsible for referring applicable cases to private mediation.

3. **MANDATORY REFERRAL OF ALL CONTESTED PRE-JUDGMENT AND POST-JUDGMENT FAMILY LAW MATTERS:**

- a. Any party who seeks to schedule a final hearing for either a pre-judgment family law matter or a modification of a post- judgment matter, including domestic proceedings between unmarried parents, shall first participate in a mediation conference through the Family Mediation Program herein established, or through a private mediator, unless otherwise ordered by the Court.
- b. An Order to Family Mediation will be prepared by the presiding Judge.
- c. Petitioner, or counsel of record, must notify the Mediation Office of any settlement or dismissal of the action prior to the mediation.

4. **REQUIRED DOCUMENTATION:**

- a. Current Financial Affidavits for BOTH parties MUST be filed prior to obtaining an Order to Family Mediation. This requirement is necessary to adequately determine if the parties' income meets statutory program eligibility requirements in accordance with Florida Statute 44. If the parties are not financially eligible, the mediation may be cancelled immediately, even if all parties appear at the mediation session.
- b. After the Answer, Financial Affidavits, AND Notice for Trial are filed, the case will be referred to Family Mediation for scheduling. If Financial Affidavits are not filed, the mediation will not be scheduled, and an Order to Family Mediation will not be issued.

5. **DOMESTIC VIOLENCE:**

- a. Pursuant to Florida Statute 44, upon motion or request of a party, the Court shall not refer any case to mediation if it finds there has been a history of domestic violence that would compromise the mediation process. The issuance of a temporary or final injunction alone is insufficient to establish that the mediation process is compromised.

6. **FEES, SESSION LENGTH, AND FAILURE TO APPEAR:**

- a. The fees for mediation are defined by Florida Statute 44, are based upon the parties' combined income, and are established per scheduled session. Fees defined by that Statute shall be paid in full by the parties prior to the scheduled mediation session(s). Failure to pay all mediation fees prior to the scheduled mediation session(s) may result in the Court's imposition of sanctions.
- b. The Order to Family Mediation shall be accompanied by an invoice which identifies the mediation fee owed and the due date. Fees must be paid prior to the scheduled mediation, whether or not the other party has paid the fees. If applicable, an approved Application of Civil Indigent Status must be submitted to the Mediation Program on or before the payment due date.
- c. If a party fails to pay an assessed mediation fee, the initial mediation shall be conducted. At the discretion of the ADR Director, no subsequent mediation session will be scheduled or conducted until all prior assessed mediation fees are paid in full.
- d. Failure to pay a mediation fee shall result in the mediation office filing a report to the Court, identifying the party who failed to pay the fee pursuant to the applicable governing documents.
- e. Mediation sessions shall be scheduled for up to three hours, and the parties shall not be assessed additional fees until after the expiration of three hours. Parties and counsel must appear at the mediation conference on time and must pay the required mediation fee prior to the time the mediation conference is scheduled to begin. Session length shall not be

extended due to the failure of parties and/or counsel to arrive punctually or the failure to pay required fees.

- f. If either party or counsel fails to appear or causes the mediation to be cancelled due to tardiness, that party, or counsel, shall be charged the combined total of both parties' fees for the missed mediation session, regardless of indigency. The mediation will be rescheduled.

7. **APPEARANCE BY TELEPHONE:**

- a. Approval to appear by telephone is required by the Mediation Office, at least ten (10) business days prior to the mediation session. The following circumstances will be considered in granting approval:
 - 1. The party must live outside of Brevard, Orange, Seminole, Osceola, Indian River, and Volusia Counties;
 - 2. The party is on active military duty outside of Brevard County;
 - 3. The party is incarcerated.
- b. Any party requesting to appear by telephone shall submit a current Financial Affidavit and proof of income to the Mediation Office at least ten (10) business days prior to the mediation or their request will not be granted, and they will be expected to appear in person. Failure to do so will result in a report to the Court of "Failure to Appear."

8. **RECORD KEEPING:**

The Family Mediation Program shall keep a record of the case name, number, assigning judge, mediator, the attorneys, and the outcome of the mediation in all cases referred to the Family Mediation Program.

DONE AND ORDERED this 16th day of November, 2011.

ALAN A. DICKEY
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CHIEF JUDGE

Distribution:

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