

**IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR MARION COUNTY, FLORIDA**

CASE NO:

IN RE: THE MATTER OF

,
Petitioner,
and

,
Respondent.

_____ /

ORDER OF REFERRAL TO MEDIATION

THIS CAUSE having been brought before the Court for review. After reviewing the court file and being otherwise fully informed, the Court finds:

A. This Court has jurisdiction over the parties and the subject matter of this action.

THEREFORE, it is hereby **ORDERED** as follows:

I. Upon due consideration, the Court finds that this cause is appropriate for family mediation under Fla. Fam. L. R. P 12.740. However, if either party objects to mediation of any issue because there is a history of domestic violence that would make mediation unfair or unsafe, the party shall file an objection with the Court in writing within ten (10) days of the date of this Order. If the Court does not vacate the Order requiring mediation, the Court will schedule a hearing to determine if there has been a significant “history of domestic violence that would compromise the mediation process.” Fla. Stat. § 44.102.

II. If the parties have a combined income of less than \$100,000, the parties may use the Court Mediation Services program for their mediation. The parties represented by Counsel shall contact Court Mediation Services at (marionmediation@circuit5.org) within 15 days from the date of this order to schedule the mediation. Pro Se parties (where both parties are representing themselves without attorneys) will automatically receive a Notice Setting Mediation with the date, time and instructions of your mediation generated by the Mediation Services Department.

The fee for mediation through the Circuit Court's mediation program is based upon the parties' combined income and is set by Florida statute (44.108(2)). The parties' combined income is calculated from their financial affidavits or other evidence of income which must be filed and updated in the case file within the past year or updated more recently if the financial situation

of the party has changed. The Mediation Department will schedule mediations in compliance with the Administrative Order A-2020-1(Administrative Order Requiring Filing of Financial Affidavits Prior to the scheduling of any mediation).

The fee schedule for the court's mediation program is as follows:

- a. \$60.00 per party, per session*, if the parties' combined income is less than \$50,000.00 per year.
- b. \$120.00 per party, per session*, if the parties' combined income is greater than \$50,000.00 per year and is less than \$100,000.00 per year.
- c. A double session may be scheduled, and the commensurate fees assessed if the parties believe more than one session would be needed to properly mediate the issues.

***For the purpose of Family Law Mediation, a session is defined as a block of time up to three (3) hours in length.**

- d. No fee shall be charged to a party who has a ****Current approved APPLICATION FOR DETERMINATION OF CIVIL INDIGENT STATUS** filed in the case being scheduled for mediation.

****Current Application for Determination of Civil Indigent Status shall be defined as being filed within the past six months from the date of the Order of Referral to Mediation.**

- e. If the Court enters an Order Directing the Action Proceed to Mediation without the filing of financial affidavits, then each party will be assessed a mediation fee of \$120.00 each until such time as the party or parties file proof that their combined incomes justify a lower rate.

III. No less than five (5) business days prior to the date of mediation, the parties shall e-mail the Mediation Department at marionmediation@circuit5.org, to provide an e-mail address so that remote mediation instructions can be e-mailed to the parties. If a party does not have access to an e-mail account, the parties shall call the Mediation Services Department at (352) 540-6568 to provide a telephone number to be used for the remote Mediation Conference.

IV. Parties who have combined incomes greater than \$100,000 may not use the Court Mediation Program. They must select a private mediator. The parties shall agree on a certified family law mediator and schedule a date, time and location for mediation. Within 30 days from

the date of this order, the parties shall provide the Court with a notice setting the mediation conference. If the parties are unable to agree on a mediator, each party shall provide the Court with two names of suggested mediators they feel are most appropriate to address the needs of the parties through mediation within 14 days from the date of this Order. The Court will then choose the Certified Family Law Mediator that shall be appointed to the case.

V. GENERAL RULES AS APPLIED TO MEDIATION:

EACH PARTY MUST APPEAR AT THE MEDIATION CONFERENCE unless otherwise excused by the Court and shall participate in the mediation process. Attorneys for the parties may attend but are not required to attend the mediation.

- a. If a party fails to appear at the duly noticed mediation conference without good cause or fails to pay the mediation fee, the court upon motion may impose sanctions. Sanctions include, but are not limited to, assessment of costs, including attorney's fees, striking pleadings or entry of a default against the party who failed to appear.
- b. If both parties fail to appear at mediation, each party will be required to pay a penalty equal to their individually assessed session fee. An approved APPLICATION FOR DETERMINATION OF CIVIL INDIGENT STATUS will not exclude a party who fails to appear at mediation from having to pay a penalty (as determined by the Court, for failure to appear). If the penalty fee is not paid, an Order to Show cause may be issued requiring the parties to appear before the Court to answer for the nonpayment. The Court may assess sanctions against the parties. A fee paid as a penalty non-appearance shall not be applied as payment for a subsequent scheduled mediation.
- c. All communications, discussions, representations and settlement proposals made during the mediation conference are privileged and are not subject to discovery or admissible at trial.
- d. Communications and discussions with the mediator for the purposes of screening for domestic violence are privileged and not subject to discovery or admissible at trial.
- e. If an agreement is reached on any matter or issue, including legal and factual issues to be determined by the court, the agreement shall be reduced in writing,

signed by the parties and their Counsel, if any and if present, and submitted to the Court unless the parties agree otherwise. By stipulation of the parties, the agreement may be electronically or steno graphically recorded and made under oath or affirmed. In such event, an appropriately signed transcript may be filed with the court. R. 12.740 (f) (1)

- f. The mediator shall file a status report with the Court within ten (10) days after the mediation conference.
- g. If the parties reach an agreement prior to the mediation, they should file a signed Settlement Agreement AND Parenting Plan (when applicable), request cancellation of the mediation and request scheduling of a final hearing. (See Section VI. CANCELLATION below).

VI. CANCELLATION

In the event the case is settled before the time for mediation, either party may cancel the mediation by providing Court Mediation Services, **no later than three (3) business days prior to the mediation, excluding the date of the mediation**, a copy of the Agreement(s) settling the case in its entirety, signed by both parties and filed with the Clerk of the Court. If the mediation is not cancelled prior to three (3) business days before the mediation date, the parties will be required to pay a penalty in the amount of the scheduled session mediation fee. If the penalty fee is not paid, an Order to Show cause may be issued requiring the parties to appear before the Court to answer for the nonpayment. The Court may assess sanctions against the parties. A fee paid as a penalty for late cancellation shall not be applied as payment for a subsequent scheduled mediation.

VII. INTERPRETING SERVICES FOR LIMITED ENGLISH PROFICIENCY (LEP) PERSONS:

No later than ten (10) days prior to the scheduled court mediation, if an interpreter is needed, the person requiring the interpreter's services must request an appropriate court interpreter for the mediation via the Fifth Circuit website:

<https://www.circuit5.org/programs-services/interpreting-services/>

Should the party requesting the interpreter fail to appear at the mediation, that party may be responsible for the costs of the interpreter's appearance. Additional information on Court Interpreting Services is located at www.circuit5.org under the Programs & Services section.

Si necesita servicios de interpretación, debe pedirlo a través de la pagina web del Quinto Circuito por lo menos diez días antes de la programada mediación:

<https://www.circuit5.org/programs-services/interpreting-services/>

En caso de que el/la solicitante para estos servicios no se presente en la mediación, será responsable por los costos incurridos por esta solicitud. Información adicional sobre los Servicios de Interpretación del Tribunal está ubicado en www.circuit5.org bajo la sección titulada “Programs & Services”.

VIII. MEDIATOR AND ATTORNEY ROLES AND DUTIES

The Mediator is a neutral person with the responsibility of encouraging and facilitating resolution of the disputes in an informal and non-adversary meeting. The goal is to help the parties reach a mutually acceptable and voluntary agreement. The role of the mediator includes but is not limited to assisting the parties in identifying issues, fostering joint problem solving, and exploring alternatives. The mediator has no power to compel or enforce a settlement agreement.

If the parties reach a settlement and either one or both of the parties is/are represented by an attorney, the mediator may request an attorney to reduce the agreement to writing and submit it to the court with a copy to Court Mediation Services. If no attorneys are involved, the mediator will reduce the agreement to writing.

IX. ADDITIONAL INFORMATION

All correspondence concerning this Order should be addressed to Court Mediation Services, at marionmediation@circuit5.org

Nothing in this Order prohibits mediation with a certified family mediator who is not affiliated with the Court Mediation Program. The result of any mediation shall be reported to the Court.

ORDERED at Ocala, Marion County, Florida, on the ___ day of (Month), 2021.

Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished using the Florida Court's E-Filing E-Portal, via U.S. Mail, and/or Electronic Mail in accordance with the corresponding addresses listed therein on this _____ day of _____, 2021, to the following:

**Court Mediations Service
VIA: E-Portal Services**

By: _____

ATTENTION: PERSONS WITH DISABILITIES. If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the ADA Coordinator at the Office of the Trial Court Administrator, Marion County Judicial Center, 110 NW First Avenue, Ocala, FL 34475, telephone (352) 401-6710, at least 7 days before your scheduled court appearance or immediately upon receiving this notification if the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711. You may also make request for accommodations online by: ADA Accommodation Request Form - State of Florida Fifth Judicial Circuit (circuit5.org)