

**IN THE CIRCUIT COURT FOR THE FIFTH JUDICIAL CIRCUIT OF THE STATE
OF FLORIDA**

ADMINISTRATIVE ORDER NO. A-2012-46-B

**AMENDED ADMINISTRATIVE ORDER PROVIDING FOR COURT MEDIATION
SERVICES IN THE FIFTH JUDICIAL CIRCUIT FOR FAMILY, DEPENDENCY AND
COUNTY CIVIL CASES**

WHEREAS, section 44.102(2)(b), Florida Statutes, allows the presiding Judge to refer to mediation all or any part of a filed civil action; and

WHEREAS, section 44.102(2)(c), Florida Statutes, requires the presiding Circuit Judge to refer to mediation all or part of parenting and time-sharing or other parental responsibility issues as defined in section 61.13, Florida Statutes in circuits in which a family mediation program has been established and upon a Court finding of a dispute; and

WHEREAS, section 44.102(2)(d), Florida Statutes, allows the presiding Circuit Judge to refer to mediation all or any portion of a matter relating to the dependency in circuits in which a dependency mediation program has been established; and

WHEREAS, Court Mediation Services (the Program) was created as a court program to provide an equitable and expeditious alternative dispute resolution process for county, family, and dependency court cases; and

WHEREAS, section 44.102(4), Florida Statutes, requires the Chief Judge to maintain a list of mediators who have been certified by the Supreme Court and who have registered for appointment in that circuit, and

WHEREAS, certain contested civil and domestic disputes can be amicably and expeditiously resolved through mediation prior to hearing by the Court; and

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

WHEREAS, the mediation process can result in cost efficiencies to the parties and the Court; and

WHEREAS, mandatory mediation for certain matters increases the availability of judicial resources; and

WHEREAS, mediation is necessary for the prompt and efficient administration of justice of this Court;

NOW, THEREFORE, I, Daniel B. Merritt, Jr., pursuant to the authority vested in me as the Chief Judge of the Fifth Judicial Circuit under Florida Rule of General Practice & Judicial Administration, 2.215, and being more fully informed and advised in the premises, it is hereby,

ORDERED as follows:

1. **COURT MEDIATION SERVICES** serves the purpose of facilitating mediation of allowed contested matters in Family, Dependency, and County Civil cases. The Program is conducted under the direction of the Office of the State Court Administrator, the Trial Court Administrator of the Fifth Judicial Circuit, and the Chief Judge of the Fifth Judicial Circuit. The Program will be governed by applicable Florida Statutes and Rules of Procedure.

The ADR (Alternative Dispute Resolution) Director in conjunction with the Chief Judge will develop other enabling policies, procedures, standard forms, schedules, and related information in keeping with this order, as needed.

A current Order of Referral to Mediation by the Court is required for the Court's mediation services program to conduct a mediation.

2. **PROGRAM COVERAGE:**

Citrus County - The Program offers dispute resolution services in Small Claims Court and County Civil Court cases above small claims jurisdiction through use of state certified County Court Mediators who function as volunteers or who are compensated. State Supreme Court certified Family and Dependency Court mediators, who are compensated, mediate Family Law and Dependency cases. Compensated mediators are either employees of the Program or individuals who have a contract with the Court and are assigned cases based upon party request, individual competencies, qualifications, subject matter expertise or rotation.

Hernando County - The Program offers dispute resolution services in Small Claims Court and County Civil Court cases above small claims jurisdiction through use of state certified County Court Mediators who function as volunteers or who are compensated. State Supreme Court certified Family and Dependency Court mediators, who are compensated, mediate Family Law and Dependency cases. Compensated mediators are either employees of the Program or individuals who have a contract with the Court and are assigned cases based upon party request, individual competencies, qualifications, subject matter expertise or rotation.

Lake County - The Program offers dispute resolution services in Small Claims Court and County Civil Court cases above small claims jurisdiction through use of state certified County Court Mediators who function as volunteers or who are compensated. State Supreme Court certified Family and Dependency Court mediators, who are compensated, mediate Family Law and Dependency cases. Compensated mediators are either employees of the Program or individuals who have a contract with the Court and are assigned cases based upon party request, individual competencies, qualifications, subject matter expertise or rotation.

Marion County - The Program offers dispute resolution services in Small Claims Court and County Civil Court cases above small claims jurisdiction through use of state certified County Court Mediators who function as volunteers or who are compensated. State Supreme Court certified Family and Dependency Court mediators, who may be compensated, mediate Family Law and Dependency cases. Compensated mediators are either employees of the Program or individuals who have a contract with the Court and are assigned cases based upon party request, individual competencies, qualifications, subject matter expertise or rotation.

Sumter County - The Program offers dispute resolution services in Small Claims Court and County Civil Court cases above small claims jurisdiction through use of state certified County Court Mediators who function as volunteers or who are compensated. State Supreme Court certified Family and Dependency Court mediators, who may be compensated, mediate Family Law and Dependency cases. Compensated mediators are either employees of the Program or individuals who have a contract with the Court and are assigned cases based upon party request, individual competencies, qualifications, subject matter expertise or rotation.

3. LIST OF MEDIATORS:

A list of Florida Supreme Court certified mediators is maintained by the Florida Supreme Court's Dispute Resolution Center and is available on the State Court's website. The list identifies individuals by their area of certification and location of where they wish to mediate. The Fifth Judicial Circuit maintains a record of those individuals who are available to mediate cases in the Fifth Circuit.

4. APPOINTMENT OF MEDIATORS:

In Court ordered cases, the parties have 30 days from the order of referral to select a private mediator and notify the Court of the selection or elect to use Court Mediation Services. If the parties have not agreed on a mediator within the 30 days from the order of referral, the parties must notify the Court. The Court will appoint a mediator or, if the case is eligible for the Court Mediation Services mediation program, assign the case to the Court's mediation program. If the parties choose to use a private mediator, the private mediator will notify the Court of the date of the mediation.

A judge may refer to mediation and appoint Court Mediation Services in any case which is eligible for the Court's mediation program per section 44.108(1), Florida Statutes, including all dependency cases, all domestic relations cases where the parties' combined annual income is not in excess of \$100,000.00, and all small claims and county civil cases except those with an amount in controversy exceeding \$15,000.00.

In Citrus, Hernando, Lake, Marion and Sumter counties, dependency and domestic cases referred to Court Mediation Services will be mediated by staff mediators or mediators under contract with the Court.

All Small Claims Court and County Court cases will be assigned to mediators randomly on the day of the pretrial conference or as otherwise scheduled with the court's mediation program.

5. AUTHORITY TO REFER TO MEDIATION:

Pursuant to Chapter 44, Florida Statutes, and Florida Family Law Rules of Procedure 12.740 and 12.741, the Court on its own motion may refer all or any part of a filed civil action, including family matters, to mediation for the purpose of resolution of any contested issue. Cases with family matters, including married and unmarried persons, before and after judgments involving dissolution of marriage, or determination of paternity, temporary custody by extended family, shared or sole parental responsibility, child residence, child support, payment of alimony, time-sharing, or distribution of property involving emotional or financial considerations may be referred to mediation. Any party may request referral to mediation within the limitations established by statute or rule.

6. EXCEPTION: HISTORY OF DOMESTIC VIOLENCE EFFECT OF EXISTING INJUNCTION FOR PROTECTION OR OTHER NO CONTACT ORDER:

Pursuant to section 44.102(2)(c), Florida Statutes, upon motion or request of a party, a Court will not refer any case to mediation if it finds there has been a history of domestic violence that would compromise the mediation process. Parties may agree to waive the no contact provisions in an injunction for protection or no contact order for the purpose of participating in mediation. In a case in which there is an injunction for protection or no contact order between the parties in effect at the time of the mediation, the mediation may be conducted only by a certified family or dependency mediator. The mediator is responsible for confirming that mediation is an appropriate dispute resolution process under the circumstances of the case.

7. WAIVERS/CANCELLATION:

In order to cancel court ordered mediation, the requesting party(s) must do one of the following at least three (3) full business days before the scheduled mediation, excluding the date of mediation:

- a. Provide documentation to the Court and Court Mediation Services that all current issues have already been mediated and an agreement has been filed or notification by the mediator that no agreement was reached has been declared and filed.
- b. Provide documentation to the Court and Court Mediation Services that a private mediation has been scheduled giving the name of the mediator and the date of the mediation.
- c. Provide documentation to Court Mediation Services that a default judgment has been entered.
- d. Provide documentation to Court Mediation Services that the presiding judge has cancelled the mediation by Court order.

If an appropriate notice of cancellation is not provided to Court Mediation Services at least three (3) full business days before the date of the scheduled mediation, excluding the date of mediation, 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 to the nonpayment. The Court may assess other

sanctions against the parties. A fee paid as a penalty for late cancellation will not be applied as payment for a subsequent scheduled mediation.

8. CONTACT INFORMATION:

Court Mediation Services can be contacted at the following addresses and telephone numbers:

Citrus County: Citrus County Courthouse, 110 North Apopka Avenue, Inverness, FL 34450
Mediation Services, 352-341-7033
citrusmediation@circuit5.org

Hernando County: Hernando County Courthouse, 20 North Main Street, Brooksville, FL 34601
Mediation Services, 352-540-6568
hernandomediation@circuit5.org

Lake County: Lake County Judicial Center, 550 W. Main Street, Tavares, FL 32778
Mediation Services, 352-253-1602
lakemediation@circuit5.org

Marion County: Marion County Judicial Center, 110 NW First Avenue, Ocala, FL 34475
Mediation Services 352-401-7829
marionmediation@circuit5.org

Sumter County: Sumter County Courthouse, 225 E. McCollum Avenue, Bushnell, FL 33513
Mediation Services, 352-569-6949
sumtermediation@circuit5.org

Parties should check the fifth Judicial Circuit website, www.circuit5.org, and elect Programs and Services tab, and Mediation & Alternative Dispute Resolution tab, for current contact information.

9. MEDIATION SESSION COSTS THROUGH COURT MEDIATION SERVICES: FEES:

The fee for family mediation is paid by the parties and is based on the parties combined income. The fee for Family and County Civil mediation is established by Florida Statute. There is no fee for Dependency mediation.

Family Law cases:

\$60.00 per party, per session, if the parties combined income is less than \$50,000 per year.

\$120.00 per party, per session, if the parties combined income is greater than \$50,000 per year and is less than \$100,000 per year.

A session is identified as a period of time up to three hours in length.

A party with a valid Affidavit of Indigence on file with the Clerk of Court will not be assessed mediation fees for a family law case per Florida Statute.

If proof of income is not provided, the fee will be assessed at the \$120.00 per party, per session rate, or as ordered by the Court.

Parties who have a combined income of greater than \$100,000 may not mediate through the Court Mediation Program. They must select a private mediator.

County Court cases:

Small Claims Court - There is no fee to the parties for Court based mediation of Small Claims Court cases.

A Small Claims Court session is identified as a period of time one hour in length.

There is a fee of \$60.00 per party, per session, for those County Court cases filed above the Small Claims Court limit.

A County Court session above Small Claims jurisdiction is identified as a block of time up to ninety minutes in length.

There is no fee for Small Claims or County Civil eviction cases per section 44.108, Florida Statutes.

Dependency cases:

Parties will not be assessed a fee for dependency mediation.

PAYMENT:

Family Law and County Court (above small claims)

Mediation fees will be paid prior to the start of the mediation conference. They will be paid at the office of the Clerk of Court in the county where the case was filed.

PAYMENT METHOD.

The mediation fee may be paid by cash, check, or money order. A Clerk of Court may accept payment by credit card which may require charging a processing fee. Verification of ability to pay by credit card must be confirmed with the appropriate Clerk of Court, as not all Clerk's offices accept payment in this manner.

FAILURE TO PAY MEDIATION SESSION FEE:
Family Law and County Civil Court cases

If a party fails to pay his/her mediation fee as ordered, the mediation may be held as scheduled. The non-paying party will be in jeopardy of Court sanctions which may include contempt of court, assessment of mediator and attorney fees and other costs, the striking of pleadings or portions thereof, and/or other appropriate sanctions. The Court may issue an Order to Show Cause as to why the Court should not assess fees and costs against the offending party or parties. At a minimum, the non-paying party or parties will be required to pay a fee equal to his/her assessed session fee. This fee will be paid to the Clerk of Court and will not be applied to any future mediation session.

FAILURE TO APPEAR FOR MEDIATION:
Family Law Cases

If a party fails to appear as ordered by the order scheduling the mediation and has not cancelled the mediation at least three (3) full business days prior to the mediation date, exclusive of the date of mediation, and provided cancellation documentation to Court Mediation Services, the non appearing party will be in jeopardy of Court sanctions which may include contempt of court, assessment of mediator and attorney fees and other costs, the striking of pleadings or portions thereof and/or other appropriate sanctions. The Court may issue an Order to Show Cause as to why the Court should not assess fees and costs against the offending party or parties. At a minimum, the non-appearing party or parties will be required to pay a fee equal to his/her assessed session fee. This fee will be paid to the Clerk of Court and will not be applied to any future mediation session.

Parties and their attorney, if represented, are required to provide their current email, address, and telephone number to the Court for inclusion in the Court file. If Court mediation has previously been ordered, the party and attorney, if represented, will provide Court Mediation Services with their current address and telephone number if there has been a change.

10. CANCELLATIONS, RESCHEDULING BY THE PARTIES

A mediation session can only be cancelled by Court order of the presiding judge or by stipulation of the parties if no Court order is required by the presiding judge. The written order or stipulation of cancellation will be provided to Court Mediation Services at least three (3) full business days prior to the mediation date, exclusive of the date of mediation. Failure to provide timely written notification to Court Mediation Services will result in required payment of a late cancellation fee. Mediation may be continued only one time without an order of the court to schedule additional mediation.

If an attorney is called to trial less than three business days before a scheduled mediation session, the attorney must immediately notify the other party and Court Mediation Services.

For verification purposes the notification will include the case number and name of the presiding judge of the conflicting case. If such notice is received prior to the end of the business day that precedes the mediation date, one half the normal late cancel fee is required.

LATE CANCELLATION FEE:

Family Law and County Civil cases

A late cancellation or continuation fee equal to the assessed session fee will be assessed to the party or parties involved.

RESCHEDULING:

In order to reschedule a Family, Dependency or County Court mediation the parties are required to provide Court Mediation Services with a firm reschedule date agreeable to all parties. The reschedule date will be no more than thirty days from the current mediation date. Cases may not be rescheduled more than one time without a court order.

11. ATTENDANCE OF PARTY:

Each named party will appear at any scheduled mediation session, unless that party has been dismissed from the case, has been dismissed from attendance by the presiding judge or has been granted permission to appear remotely. A party is deemed to appear at any mediation session if that party is physically present or appears remotely if so ordered, at the commencement of the mediation.

Upon the Court's own motion or upon motion of a party who appeared at mediation or Court Mediation Services, a party's failure to appear for the mediation session may result in sanctions being imposed by the Court against the non-appearing party, including, but not limited to, payment of session fees and attorney fees, if any. These fees will not apply to any future mediation sessions. If an indigent party fails to appear, sanctions, including the cost of a mediator for a session may be applied.

12. ATTENDANCE OF COUNSEL:

FAMILY LAW

In the discretion of the mediator and with the agreement of the parties, family mediation may proceed in the absence of counsel unless otherwise ordered by the court. If agreement is reached as to any matter or issue, including legal or factual issues to be determined by the court, the agreement shall be reduced to writing, signed by the parties and their counsel, if any and if present, and submitted to the court unless the parties agree otherwise.

DEPENDENCY

In dependency cases, parties' counsel may or may not be required to attend mediation depending on the order of the Court.

13. REMOTE APPEARANCE:

Mediation scheduled with the Court Mediation Services Department may be conducted remotely via Zoom or other audio or audio-video communication technology. Upon stipulation of the parties or motion by a party, the Court may order the mediation be conducted in-person or by a combination of communication technology and in-person participation. Parties are encouraged to appear through both video and audio where possible, but a party appearing by telephone through Zoom will be considered to have appeared for mediation. When a party is incarcerated, the party's attorney will be required to arrange for appearance with the correctional institution. If an incarcerated party is not represented by counsel for mediations conducted by the Court's mediation program, the mediation program will be required to arrange for appearance with the correctional institution.

14. MEDIATOR COMPENSATION:

County Small Claim and County Court Volunteer Mediators will not be compensated for cases addressed at the pretrial conference or ordered at another date by the presiding judge.

Contractual County Law Mediators will be compensated as authorized by their executed Professional Services Agreement with the Court.

Contractual Family Law Mediators will be compensated as authorized by their executed Professional Services Agreement with the Court.

Contractual Dependency Mediators will be compensated as authorized by their executed Professional Services Agreement with the Court.

In those cases involving parties who are not eligible for the Court Mediation Services Program or those who choose not to use the Program, private mediators will be used. Compensation of private mediators will be paid by the parties as they agree in advance in writing, or as otherwise ordered by the Court. In the absence of an agreement providing for the mediator's compensation, the mediator will be compensated at the hourly rate set by the presiding judge in the referral order. Parties may object to the rate of the mediator's compensation within fifteen (15) days of the order of referral. A list of private Florida Supreme Court certified mediators available to mediate in the Fifth Judicial Circuit is available on the Circuit's website.

15. COMMUNICATIONS DURING THE MEDIATION SESSION:

Pursuant to the Mediation Confidentiality and Privilege Act, section 44.403, Florida Statutes, with the exception of the parties signed financial affidavits and any other documents which are required to be filed in the public record, all communications, verbal or written, between the parties and from the parties made during the mediation session, will be confidential and inadmissible as evidence in any subsequent legal proceeding, unless all parties agree otherwise. Confidentiality will be strictly maintained in accordance with law. Mediators are not authorized to conduct, prepare, communicate nor submit evaluations and recommendations to the Court, or otherwise professionally compromise his/her role as mediator with other inapplicable roles such as investigator, evaluator, therapist, or legal advisor. Mediators will comply with required reporting procedures at the

conclusion of mediation and will report to the Court and the Program designee the fact of attendance or non-attendance at all ordered mediation sessions, the existence or non- existence of mediated agreements or mediated partial agreements, and other information as agreed by all parties.

16. STATISTICAL REPORTING:

For statistical purposes and in order to assist in tracking the use of mediation in the Circuit, copies of mediation outcome reports will be filed by each mediator in the Court file and a copy will be furnished to the Program designee in each county of the circuit.

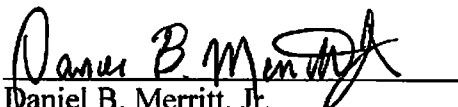
For purposes of monitoring, developing and improving Court Mediation Services, parties ordered to mediation may be requested to provide statistical but non- identifying information or data on standardized forms regarding themselves, the mediator, and other administrative or procedural aspects of the mediation process. Results of such data may be published for statistical and administrative purposes, but will remain confidential in its non-identifying and generic nature. To that extent, such statistical data and information is not deemed a violation of any confidentiality standards as otherwise required by sections 44.1011-406, Florida Statutes, regarding communication made during a mediation session.

17. EFFECTIVE DATE: This Administrative Order will become effective for cases described herein which are ordered to mediation on or after the date of this Administrative Order.

IT IS SO ORDERED in Chambers, at Brooksville, Hernando County, Florida, this 20th day of March, 2023.



Ann Melinda Craggs
Administrative Family Law Judge
Fifth Judicial Circuit



Daniel B. Merritt, Jr.
Chief Judge
Fifth Judicial Circuit