

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT

IN AND FOR _____ COUNTY, FLORIDA

CASE NO.: 20__-DR-

,

Petitioner,

and

,

Respondent.

_____ /

ORDER OF REFERRAL TO MEDIATION

THIS CAUSE came before the Court for review. Having jurisdiction over the parties, subject matter of this action and upon due consideration, the Court finds that this cause is appropriate for family mediation under Fla. Fam. L. R. P 12.740. Following review of the court file and being otherwise fully informed, the Court orders as follows:

A. **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.

B. 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 10 days from the date of this Order**. The Court will then choose the Certified Family Law Mediator that shall be appointed to the case.

C. Except as provided by law, all contested family matters and issues may be referred to mediation. Every effort must be made to expedite mediation of family issues. Such referral, or written stipulation of the parties, may provide for mediation or arbitration in person, remotely via audio or audio-video communication technology, or a combination thereof. Absent direction in the order of referral, mediation or arbitration must be conducted in person, unless the parties stipulate or the court, on its own motion or on motion by a party, otherwise orders that the proceeding be conducted by communication technology or by a combination of communication technology and in-person participation. *Fla. Fam. L. R. P 12.740 (b)*.

D. A party is deemed to appear if the named party is physically present at the mediation conference, or, if permitted by court order or written stipulation of the parties, present via communication technology. 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. *Fla. Fam. L. R. P 12.740 (d)*.

IF A PARTY FAILS TO APPEAR AT A DULY NOTICED MEDIATION CONFERENCE WITHOUT GOOD CAUSE, THE COURT UPON MOTION MAY IMPOSE SANCTIONS, INCLUDING AN AWARD OF MEDIATOR AND ATTORNEY'S FEES AND OTHER COSTS AGAINST THE PARTY WHO FAILED TO APPEAR.

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 to writing, signed by the parties, and submitted to the court unless the parties agree otherwise. By stipulation of the parties, the agreement may be electronically or stenographically recorded and made under oath or affirmed. In such event, an appropriately signed transcript may be filed with the court. Signatures may be original, electronic, or facsimile and may be in counterparts. *Fla. Fam. L. R. P 12.740 (f)*.

F. If the parties have a combined income of **less than \$100,000**, the parties may use Court Mediation Services for mediation. If parties use Court Mediation Services, Counsel for represented parties shall email Court Mediation Services at **CHOOSE ONE:** citrusmediation@circuit5.org; hernandomediation@circuit5.org; lakemediation@circuit5.org; marionmediation@circuit5.org; or sumtermediation@circuit5.org **within 15 days** from the date of this order to schedule mediation. Pro Se parties (parties representing themselves without attorneys) will automatically receive a Notice Setting Mediation with the date, time and instructions for mediation generated by Court Mediation Services.

G. Parties who have a combined income of greater than \$100,000 **may not** mediate through Court Mediation Services and must select a private mediator. If parties are unable to agree on a mediator, each party shall provide the Court with two (2) names of suggested mediators they feel are most appropriate to address the needs of the parties through mediation **within 10 days from the date of this Order**. The Court will choose a Certified Family Law Mediator that shall be appointed to the case.

H. The mediation shall continue until all issues are settled or until an impasse is declared by the mediator. If the parties agree, the mediator may adjourn the conference and reconvene later without giving further notice. If the parties reach a settlement and 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.

I. **At least 24 hours before the mediation conference**, each party shall present to the mediator the following, if applicable:

- a. a written statement of the case, outlining the issues involved
- b. a current financial affidavit that complies with Fla.Fam.L.R. 12.285
- c. the names, and ages of the parties' children, if any, and a proposed Parenting Plan as to any children
- d. the assets and liabilities to be divided, if any, with values/balances, preferably in the form of an equitable distribution chart
- e. if pled, alimony analysis, to include type and amount requested
- f. a child support guidelines worksheet, if there are any minor children
- g. any other information requested by the mediator.

Whether a party complied with this section or not should be included in the mediation status report. Failure to comply may result in sanctions or fees.

J. 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.

K. All communications, discussions, representations, and settlement proposals made during the mediation conference are privileged and are not subject to discovery or admissible at trial.

L. Communications and discussions with the mediator for the purpose of screening for domestic violence are privileged and not subject to discovery or admissible at trial.

M. The mediator shall file a status report within ten (10) days after the mediation conference.

N. Mediation shall be completed within 45 days of the first mediation conference unless a continued mediation conference is scheduled during the first mediation conference and a notice of continued mediation conference is filed within ten (10) days after the first mediation conference and the continued mediation is scheduled to occur within 75 days of the first mediation conference.

O. If the parties reach an agreement prior to the mediation, a signed and notarized settlement agreement and parenting plan (if applicable) shall be filed. Parties shall request cancellation of the mediation and request scheduling of a final hearing.

P. Nothing in this order prohibits mediation with a certified family mediator who is not affiliated with court mediation services. The result of any mediation shall be reported to the court.

IF YOU QUALIFY FOR COURT MEDIATION SERVICES:

MEDIATION CONDUCTED VIA AUDIO OR AUDIO-VIDEO COMMUNICATION

Mediation scheduled with the Court Mediation Services Department will be conducted remotely via audio or audio-video communication technology unless a party or parties request the mediation be conducted in person. A party or parties desiring in-person mediation shall contact the Court Mediation Services Department at **CHOOSE ONE:** citrusmediation@circuit5.org; hernandomediation@circuit5.org; lakemediation@circuit5.org; marionmediation@circuit5.org; or sumtermmediation@circuit5.org within 10 days of the date of this order. A request for in-person mediation may require a rescheduling of the mediation. If the parties cannot agree on this matter, a party may file a motion requesting in-person mediation. A sample form to use to file a motion may be found at www.circuit5.org (please see form called "Motion to/for (general, non-specific form)."

FEE INFORMATION

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.
- 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.

CANCELLATION OR RESCHEDULING MEDIATION

In the event the case is settled before the date and time for mediation, either party shall cancel the mediation **no later than three (3) business days prior to the mediation, excluding the date of the mediation.** Parties must provide Court Mediation Services with a copy of the Agreement(s) settling the case in its entirety, signed by all parties, and filed with the Clerk of the Court. If the Court finds the agreement(s) fails to comply with Chapter 61, Florida Statutes, the Court can order mediation be rescheduled.

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.

The parties may reschedule their mediation conference by contacting the Mediation Office **at least three (3) business days prior to the mediation date with an agreement to an alternate date and time.** Parties/participants shall be permitted to reschedule their mediation **one (1) time** under the original Order of Referral to Mediation.

If both parties are not in agreement to reschedule the mediation conference, **the party requesting a continuance must file a written request with the Court at least three (3) days prior to the mediation date stating the reasons a continuance is necessary and certifying they have conferred with the other party in attempt to agree to another date.** The Court must then rule on the request for continuance before the Mediation Department will reschedule the

*For the purpose of Family Law Mediation, a session is defined as a three (3) hour block of time

** "Current" shall be defined as being filed within the past six (6) months from the date of the Order of Referral to Mediation.

mediation date and time. (Please see the form called "Motion to/for (general, non-specific form) on www.circuit5.org)."

Additional rescheduling shall require a Motion before the Court followed by an Order on Rescheduling Mediation issued by the presiding Judge before available dates and times for rescheduling will be issued by the Mediation Department.

ORDERED at _____, _____ County, Florida, on the ____ day of _____, 2023.

Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via the Florida Courts Efiling Portal on this ____ day of _____, 2023 to:

Court Mediation Services, Email: **CHOOSE ONE:**

citrusmediation@circuit5.org; hernandomediation@circuit5.org; lakemediation@circuit5.org; marionmediation@circuit5.org; or sumtermediation@circuit5.org

Judicial Assistant

IF YOU NEED AN INTERPRETER

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

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

Additional information on Court Interpreting Services is located at www.circuit5.org under the Programs & Services section.

SI NECESITA UN INTERPRETE

Si alguien necesita intérprete, la persona que requiere los servicios de un intérprete debe solicitar un intérprete apropiado por lo menos diez (10) días antes de la audiencia judicial programada. El pedido se hace por el sitio web del Quinto Circuito:

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

Información adicional acerca de los Servicios de Interpretación Judicial está disponible en el sitio web www.circuit5.org bajo la sección titulada “Programs & Services.”