



**IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT  
OF THE STATE OF FLORIDA**

**ADMINISTRATIVE ORDER # 2009-00-04**

**RE: CIRCUIT-WIDE FAMILY MEDIATION,  
(RESCINDING ADMINISTRATIVE ORDER 2007-00-03)**

**Whereas**, mediation is a process whereby a neutral third person acts to encourage and facilitate resolution of disputes prior to judicial determination through an informal, non-adversarial manner and assists the parties in reaching a mutually acceptable agreement. The mediation process has proven to be a process which improves the efficiency and proper administration of justice to families and children; and

**Whereas**, certain contested civil and domestic disputes can be amicably and expeditiously resolved through mediation prior to a hearing before the Court; and

**Whereas**, Chapter 44, Florida Statutes, and Rule 12.740, Florida Family Law Rules of Procedure, provide for mediation of contested family law actions except those expressly excluded by rule or law; and

**Whereas**, Section 44.108, Florida Statutes, provides that mediation be accessible to all parties, regardless of financial status; and provides for a fee schedule in which to fund the Fourteenth Judicial Circuit Family Mediation Program; and

**Whereas**, Rule 2.215 (b) (3), Florida Rules of Judicial Administration, directs the chief judge to develop an administrative plan for the efficient and proper administration of all courts within the circuit and accordingly finds it necessary and appropriate to establish an administrative order related to a circuit-wide family mediation program;

**Whereas**, Section 43.26 Florida Statutes, and Rule 2.215(b)(2), Florida Rules of Judicial Administration, establishes that the chief judge of a circuit "shall execute administrative supervision over all courts within the judicial circuit",

**Now, Therefore, it is Ordered and Adjudged** as follows:

**A. FOURTEENTH JUDICIAL CIRCUIT'S FAMILY MEDIATION PROGRAM**

1. The Family Mediation Program in the Fourteenth Judicial Circuit (the Program) is established for the purpose of facilitating mediation of allowed contested matters in all family law cases. The Program is conducted under the direction of the Office of the State Court Administrator, the Florida Dispute Resolution Center, the Trial Court Administrator of the Fourteenth Judicial Circuit and the Chief Judge of the Fourteenth Judicial Circuit.
2. The Alternative Dispute Resolution (ADR) Director , in conjunction with the Chief Judge, will develop other enabling policies, procedures, standard forms, schedules, and related information in keeping with the order.
3. The Program shall be available to all contested domestic relations cases in which:
  - a. Either party has been declared indigent by the Clerk of the Court in the county in which the case has been filed and a certificate of indigence has been filed in their case file; or
  - b. The parties have a combined gross income of no more than \$100,000.
4. Parties are presumed to have the ability to hire a private mediator if their combined gross income is greater than \$100,000 and are not eligible for the services of the Fourteenth Judicial Circuit's Family Mediation Program. These parties should retain a private mediator at their own expense. Program eligibility is pursuant to Section 44.108, Florida Statutes.
5. The Program will not conduct any mediation session without an order from the Court.

**B. AUTHORITY TO REFER TO MEDIATION**

1. Pursuant to Chapter 44, Florida Statutes, and Florida Family Law Rules of Procedure 12.740, the Court on its motion or at a party's request, the Court shall prepare an ***Order Directing Parties to Mediation*** for any domestic relations case in which issues remain unresolved.
2. In any filed disputed family matter or issue, including pre- and post-dissolution of marriage; property division and equitable distribution; alimony or spousal support; parental responsibility; child support (excluding Title IV-D child support cases); time-sharing of child(ren); and parental access issues involving emotional or financial considerations not usually present in other circuit civil cases; the parties

shall attend family mediation unless otherwise excepted by statute, rule, or court order.

- 3. All parties are encouraged to schedule family mediation at an early stage of proceedings pursuant to this administrative order.

**C. EXCEPTION: HISTORY OF DOMESTIC VIOLENCE**

- 1. Pursuant to section 44.102(2) ( c) Florida Statutes, upon motion or request of a party, the Court shall **NOT** refer any case to mediation if it confirms there has been a history of domestic violence that would compromise the mediation process. Upon written motion with good cause shown, a party may apply to the court to waive the required mediation for this purpose.

**D. DEFERRING OR WAIVING MEDIATION**

- 1. The court may defer or waive mandatory mediation if it appears:
  - a. Mediation of the issues would not be appropriate under the circumstances of the case; or
  - b. Exigent circumstances requires that a hearing before the judge should be expedited.
- 2. Either party may file a *Motion to Waive or Defer Mediation* within 15 days of the *Order Directing Parties to Mediation* being entered.
  - a. Mediation will be scheduled and occur as scheduled unless the party who filed the *Motion to Waive or Defer Mediation* receives an order granting the motion from the assigned judge.
  - b. If mediation has been scheduled, and the mediation is cancelled by the Court, both parties shall notify the Program, in writing, with a copy of the order granting the waiver within three (3) business days prior to the scheduled mediation. If the parties do provide appropriate notice, which is three (3) business days of cancellation or deferment, there shall be no fee. If both parties do not give proper notice of the cancellation or deferment, each person shall be required to pay a full session fee for the cancelled mediation session which shall be paid to the Clerk of Court. Fees paid for a late cancellation/deferment will not be applied as payment for a subsequent scheduled mediation.

- c. If a deferment is granted, the order shall specify the period of the deferment and another mediation conference will be scheduled accordingly.

**E. PROCEDURES FOR SELECTION AND SCHEDULING A MEDIATOR**

1. The ADR Director shall maintain a list of certified family mediators who have agreed to participate in the Program and have executed a Professional Services Agreement. All mediators who are under contract by the Fourteenth Judicial Circuit shall conduct themselves in a professional manner as required by Florida Statutes and the standards of professional conduct established by the Florida Rules for Certified and Court-Appointed Mediators.
2. Staff mediators, those full-time state employees who are also certified family mediators, shall also provide program mediation services to eligible parties. They are not required to sign a Professional Services Agreement due to the fact that as state employees, they will not receive a dual compensation for providing services as a certified mediator. Rather, the services are considered part of their full-time public service duty.
3. All mediations shall be conducted in accordance with Rule 12.741, Florida Family Law Rules of Procedure and this administrative order.
4. All party litigants shall have 15 days from the date of the Court's ***Order Directing Parties to Mediation*** to schedule mediation with either a private mediator or a certified mediator with the Program.
  - a. If the parties choose to use a private mediator but cannot mutually agree upon a mediator within 15 days, the petitioning party or the party's attorney shall contact the ADR Director for appointment of a private mediator from the rotation list of certified mediators registered for appointment in this circuit.
  - b. If the parties believe they qualify for the Program and would like to participate in this program, the petitioning party or the party's attorney should contact the ADR Program Office at **850-767-3548** for eligibility determination and subsequent appointment of a program mediator.
5. Unless otherwise excused by the Court, a mediation conference shall take place within 60 days of the court's ***Order Directing Parties to Mediation*** and should any subsequent mediation conferences be required, those conferences shall be conducted within 45 days of the first held mediation conference. If additional

mediation conferences are required, the parties will incur additional mediation session fees.

- 6. Once family mediation is scheduled and noticed by the program, it may only be cancelled or continued by mutual written agreement of the parties at least two (2) business days prior to the scheduled mediation or by order of the court. If by mutual written agreement of the parties, the parties shall provide a copy of the agreement to the ADR Director at least two (2) business days prior to the scheduled mediation. Failure to timely notify (two business days prior to the scheduled mediation) the ADR Director of the cancellation or continuance will result in the party requesting the continuance or cancellation being assessed one session fee. Fees paid for late cancellation/continued will not be applied as payment for a subsequent scheduled mediation.
- 7. In order to reschedule, the parties must agree on a reschedule date no later than thirty (30) days from the current mediation date. In cases with excessive reschedule dates, more than two, the parties may be subject to a rescheduling fee equal to the cost of one session of mediation.

**E. PAYMENT OF A FOURTEENTH JUDICIAL CIRCUIT'S FAMILY MEDIATION SESSION BY PARTIES**

- 1. Upon qualifying for participation in the Program, a certified family court mediator will be appointed and a mediation session scheduled. Once a session has been scheduled and **Notice for the Scheduled Mediation** has been sent, payment for the scheduled mediation session is due. Payment for the scheduled session must be made *in advance of the mediation*. The parties must provide payment for the three-hour session in a form acceptable to the Clerk of Court in the county in which the case has been filed. The rates for the Program, as established by Section 44.108 (2), Florida Statutes, are as follows:
  - a. \$120/person/session for parties with a combined gross income greater than \$50,000 and less than \$100,000 per year;
  - b. \$60/person/session for parties with a combined gross income less than \$50,000;
  - c. No fee for parties determined to be indigent with Clerk's Certificate of Indigence filed in case file.
- 2. If a party fails to appear at a scheduled mediation session, the party who appears shall pay their fee and the party who fails to appear shall remain responsible for

his/her fee for that session and will be assessed both parties' mediation fees if another session is ordered by the court or agreed to by the parties.

3. No subsequent mediation sessions shall be scheduled until all prior assessed mediation fees are paid in full.
4. The Clerk of Court shall provide to the Chief Judge and the Trial Court Administrator, no later than 30 days after the end of the quarter, a report specifying the amount of funds collected under this statute.

**G. SELECTION OF PRIVATE, NON-PROGRAM MEDIATOR**

1. For those parties who are not eligible for the Program, or those who choose not to participate in the Program, private mediators can and shall be utilized.
2. Compensation of the private mediators shall be paid by the parties as agreed in advance in writing, or as otherwise ordered by the Court. The ADR Director shall maintain a listing of State certified family mediators who have registered for appointment in the circuit and who are willing to serve the Fourteenth Judicial Circuit for private mediation referral purposes on a rotating basis.

**H. GENERAL GUIDELINES FOR MEDIATION**

1. Mediation is a process whereby a neutral third person acts to encourage and facilitate resolution of disputes prior to judicial determination in an informal, non-adversarial manner with the goal of helping the parties reach a mutually acceptable agreement. The mediation session is a time for both parties to attempt to work out their differences in a positive manner while maintaining the ultimate control over their case. Each party will be given the opportunity to share their side of the case with the neutral mediator who is trained to encourage cooperation and assist with facilitating an agreement. Civility and respect is expected during these sessions.
2. Parties may find it desirable to have their attorneys attend the mediation session; however, attorney attendance is **NOT** required unless otherwise ordered by the Court. Represented parties who choose to attend mediation without their attorneys are strongly encouraged to review the contents of any proposed agreement coming from a mediation session with their respective counsel as soon as possible within the 10-day period allowed for written objections for such agreement.

3. In case of an emergency, in the event of a physical disability, when a party is incarcerated, or when a party resides in excess of 100 miles one way from the mediation location, the party may request appearance by telephone. If the parties mutually agree in writing that one of the parties appear by telephone, the requesting party will be provided a telephone number to call on the date and time of mediation. The party appearing via telephone must have access to a fax machine. Absent a mutual agreement of the parties, the requesting party must file a timely motion with the court and must have an order allowing his/her telephonic appearance at least forty-eight (48) hours prior to the mediation. All mediation session fees from the person appearing by telephone must be received prior to mediation.
4. If either party fails to appear at a scheduled mediation session without good cause, the program mediator shall provide the judge and both parties with a notice of such failure to appear. Willful refusal to schedule a required mediation or failure to appear at a scheduled mediation without good cause shall place the offending party in jeopardy of sanctions by the court, including contempt of court, assessment of mediator and attorney fees and other costs, the striking of pleadings or portions thereof, and/or other appropriate sanctions, and the court may issue an order to show cause as to why the court should not assess fees and costs against the responsible party or parties.
5. Except as otherwise provided by Sections 44.401-44.406, Florida Statutes, verbal or written communications made during a mediation session or proceeding other than an executed settlement agreement are confidential and inadmissible in subsequent legal proceedings. Certified family mediators shall comply with required reporting procedures at the conclusion of mediation and shall report to the Court and the ADR Director attendance and non-attendance of the parties at all required mediation sessions or conferences, the existence or non-existence of mediated agreements or mediated partial agreements, and such other information to which both parties agreed to in writing.
6. If the parties reach an agreement, the agreement will be reduced to writing by the mediator. The parties will be afforded an opportunity to review the written agreement before signing. If parties are represented by an attorney, and the attorney is **NOT** present at the mediation, the agreement will be mailed to the attorney within five days for review. The attorney shall have 10 days from service of copy of the agreement to serve a written objection on the mediator, unrepresented parties, and attorney. Absent a timely written objection, the agreement is presumed to be approved by the attorney and shall be filed with the Court by the mediator.

7. In cases where the parties are represented by an attorney, there may be times when the session time expires before an agreement has been memorialized. In lieu of incurring an additional session fee, the attorneys can prepare the agreement and submit to the court. If this option is chosen, the attorneys must file the agreement with the court within ten (10) days of the last mediation session and notify the Program of such filing. Failure to do so will result in the mediator filing an impasse for the session. If the attorneys wish for the mediator to prepare the agreement after a three hour session has expired, an additional session fee will be assessed to both parties.

#### I. SPECIAL ACCOMMODATIONS

1. If either party is a person with a disability who needs any accommodation in order to participate in family mediation, they are entitled, at no cost, to the provisions of certain assistance. Please contact the Office of the Trial Court Administrator, 301 McKenzie Avenue, Panama City, Florida, 32401, (850) 747-5338, within two working days within receipt of your ***Order Directing Parties to Mediation***. If you are hearing impaired or voice impaired, please call ***1-800-955-8771 (TTY)***.
2. If either party's primary language is a language other than English, the non-English speaking party or his/her attorney shall refer to **Administrative Order 2007-00-02, Responsibilities and Procedures for Requesting Court Interpreters for Due Process Proceedings and for Compliance with Americans with Disabilities Act and Rule**. Under present Florida law a foreign language interpreter is not provided by the Court for family mediation.

#### J. REPORTING ON CIRCUIT-WIDE MEDIATION BY FOURTEENTH JUDICIAL CIRCUIT FAMILY MEDIATION PROGRAM AND PRIVATE MEDIATORS

1. All family mediators who conduct scheduled mediation sessions shall file the mediation outcome report and the agreement or partial agreement in the court file and provide a copy of same to the ADR Director. This copy will assist the ADR Director to ensure court-ordered mediations occur as required and to provide statistical data relative to the use of family mediation throughout the circuit.
2. All parties ordered to family mediation may be requested to provide non-identifying information on standardized forms about the mediation process for purposes of monitoring and improving the Program. Because of the non-identifying and generic nature of the data collected, the surveying of information is not deemed a violation of any confidentiality standards as otherwise required by Sections 44.401- 44.406, Florida Statutes, regarding communications made during a mediation session or proceeding.



**K. CONTACT INFORMATION**

The Fourteenth Judicial Circuit Family Mediation Program can be contacted at the following addresses and phone numbers:

Carol A. Dunaway  
ADR Director  
P.O. Box 826  
Marianna, FL 32447  
Phone: 850-718-0059  
Email: [dunawayc@jud14.flcourts.org](mailto:dunawayc@jud14.flcourts.org)

Stacy Pippin  
Program Assistant  
P.O. Box 1089  
Panama City, FL 32302  
Phone: 850-767-3548  
Email: [pippins@jud14.flcourts.org](mailto:pippins@jud14.flcourts.org)

**DONE and ORDERED** in Chambers at Panama City, Bay County, Florida, this 21 day of July, 2009.

  
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**JUDY M. PITTMAN**  
**ADMINISTRATIVE FAMILY JUDGE**

  
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**HENTZ McCLELLAN**  
**CHIEF JUDGE**



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By   
Deputy Clerk