

Effective date: Upon Approval of the State Court Administrative office.

This administrative order is issued in accordance with Michigan Court Rule 2.410, and the purpose of this order is to adopt a local Alternative Dispute Resolution ("ADR") plan.

This order rescinds and replaces Local Administrative Order 2020-12.

### **DISCRETION OF THE COURT**

At any time after the commencement of an action, on its own initiative or the written request of a party, pursuant to MCR 2.401 and this Local Administrative Order, the assigned Judge may consider whether mediation or case evaluation is appropriate. It is the Court's expectation that all appropriate cases will be assigned to mediation or case evaluation pursuant to this Plan.

### **MEDIATION**

The following types of cases may be submitted to mediation under MCR 2.410 in accordance with this Plan.

- A. Small Claims Cases:** There shall be a standing order pursuant to this Local Administrative Order that the Court will refer all small claims cases to mediation upon the filing of Proof(s) of Service indicating the Affidavit and Claim has been served on the defendant(s).

Mediation services will be provided by The Dispute Resolution Center ("The Center"). The Center is a non-profit community dispute resolution center. The Center has agreed to assign trained mediators to attend regularly scheduled mediation dockets.

At this time, there is no charge to the parties for small claims mediation services.

If mediation fails to resolve the case, the matter will proceed to a small claims hearing before the magistrate.

Failure to comply with an Order for Mediation may result in dismissal or default.

- B. General Civil Cases:** There shall be a standing order pursuant to this Local Administrative Order that the Court, after consultation with the parties, may order general civil cases to mediation. An Order for Mediation shall be completed and signed by the Judge.

Parties shall be advised of the following options, parties may:

1. Stipulate to the selection of a mediator provided the mediator is willing to serve within a period that would not interfere with the Court's scheduling of the case for trial. [The Washtenaw County Trial Court roster of mediators is available online and may be used by parties to select a mediator];
2. Be referred to The Dispute Resolution Center, which will assign a mediator(s) in a rotational manner; or
3. Request that mediation be waived for good cause by making a written request prior to the scheduled mediation date.

The costs for general civil mediation services shall be paid by the parties.

Indigent access to mediation with a private mediator is at the discretion of the parties and the private mediator. Reduced fee mediation services are available through The Center based upon a party's ability to pay.

If mediation fails to resolve the case, the matter will proceed to trial before the assigned Judge.

Failure to comply with an Order for Mediation may result in dismissal or default.

### **CASE EVALUATION**

The following types of cases may be submitted to case evaluation under MCR 2.403 and 2.404 in accordance with this Plan.

**A. General Civil Cases:** Pursuant to this Local Administrative Order, the parties to a general civil case that has not settled or had a default judgment, consent judgment or dismissal entered, may agree to case evaluation by submitting a stipulation and proposed order to the Court. The Stipulated Order must be submitted to the Court by the Status Conference date and time.

The 15th Judicial District Court Case Evaluation Committee will consist of the Chief Judge of the Court, the Chief Judge Pro Tempore of the Court, the Court Administrator of the Court and the Magistrate for the 15th Judicial District Court.

The 15th Judicial District Court Case Evaluation Committee shall compile a roster of approved evaluators, utilizing those evaluators who have already been approved by the Washtenaw Trial Court pursuant to the Trial Court's Local Administrative Orders for Alternative Dispute Resolution, Case Evaluation Committee Terms of Service and Appointments, and Selecting Case Evaluators and Case Evaluation Panels. The 15<sup>th</sup> Judicial District Court Administrator shall work collaboratively with the Trial Court and Trial Court Case Evaluation Committee, including attendance at committee meetings.

The costs for case evaluation shall be paid by the parties.

The ADR Clerk shall select evaluators for panels in accordance with their qualifications. Evaluators shall be selected as follows:

1. The List shall be used to select evaluators to sit on scheduled panels.
2. The List shall be used to select evaluators to act as alternates on specific case evaluations or as substitutes for previously selected evaluators who do not provide timely notice of the inability to serve.
3. Evaluators shall be selected in a rotating manner.
4. Panels will be comprised of three evaluators - one attorney who primarily represents plaintiffs, one attorney who primarily represents defendants, and one who represents both plaintiffs and defendants.
5. Disqualification of evaluators:
  - a. If an evaluator elects to remove himself or herself from a case and no party objects to the recusal, the ADR Clerk shall replace the evaluator with notice of the new evaluator to all parties.
  - b. If an evaluator declines to recuse himself or herself or there are objections to replacement of an evaluator from any party, the requesting party must file a motion, following the usual motion procedures and obtain the court's ruling, which must be immediately communicated to the ADR Clerk.
  - c. In the event that the Court disqualifies an evaluator, the ADR Clerk will promptly provide notice to the mediator involved, secure a replacement evaluator and communicate the name of the replacement to all parties.
  - d. Absent agreement by the evaluator and all parties, the ADR Clerk will not replace an evaluator on the grounds of conflict of interest or lack of fitness without a court order disqualifying a scheduled evaluator.
  - e. Under no circumstances may a party or an attorney for a party communicate directly with an evaluator concerning a request for disqualification.
6. Attorneys on the approved List, who wish to decline participation in the district court panel rotation, shall be excluded from the district

court rotation upon providing notice to the 15<sup>th</sup> Judicial District Court ADR Clerk or Administrator.

The ADR Clerk shall keep Case Evaluation acceptance, rejection and award records in accordance with the Supreme Court's recommended record retention schedule, which is creation plus six years (General Retention and Disposal Schedule #13, Item 13.102). Case Evaluation documents of an administrative nature shall be retained until they are of no further value, but not less than one year (General Retention and Disposal Schedule #13, Item 13.311).

If case evaluation fails to resolve the case, the matter will proceed to trial before the assigned Judge.

Failure to comply with an Order for Case Evaluation may result in dismissal or default.

### **ALTERNATIVE DISPUTE RESOLUTION CLERK**

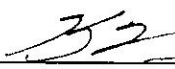
The court will appoint an Alternative Dispute Resolution (ADR) Clerk who will fulfill all of the duties required of the ADR clerk by the Michigan Court Rules.

- A. Information Dissemination: Under the direction of the ADR Clerk, the Court will provide literature that describes the ADR plan and the processes used to resolve disputes, i.e., small claims and general civil claims. Copies of this LAO and plan are available to the public from the Office of the Court Administrator.
- B. Referral Relationship: The Court has established a referral relationship with the Dispute Resolution Center (DRC) of Washtenaw County, a non-profit Michigan Community Dispute Resolution Program Center. The DRC will, minimally, maintain a list of qualified mediators, assign mediators in an efficient and effective rotational manner, maintain confidentiality, operate by the highest ethical standards, and act in non-discriminatory manner.
- C. Goals: The goals of this Plan are to:
  - 1. Continue to provide timely access to justice for litigants
  - 2. Assist litigants, especially pro se litigants, in reaching mutually acceptable settlements of disputes.
  - 3. Provide a higher quality of service to litigants who continue to trial through better issue identification and case preparation.
- D. ADR Program Evaluation: The Court shall evaluate and provide oversight to the mediation process to assure continuous improvement and quality service. The ADR Clerk will have primary responsibility for oversight and program monitoring, through the Office of the Court Administrator. The ADR Clerk will meet annually

with the Chief Judge and Court Administrator to review program performance. The evaluation review will include, but not necessarily be limited to:

1. A summary of program activity and outcomes.
2. Analysis of program operation in compliance with selected, appropriate Court Rules.
3. Review of program service complaints.
4. Recommendations for program improvement.

Date: 1.19.2022

  
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Karen Q. Valvo, Chief Judge      P56974