

## **RULE 13 MEDIATION**

This Rule incorporates by reference the “Uniform Mediation Act” (UMA), codified at R.C. 2710.01 et seq., and Rule 16 of the Supreme Court of Ohio Rules of Superintendence.

### **(A) Definitions**

All definitions found in the UMA, codified at R.C. 2710.01, are adopted by this court. The definitions include the following:

- (1) “Mediation” means any process in which a mediator facilitates communication and negotiation between the parties to assist them in reaching a voluntary agreement regarding their dispute.
- (2) “Mediator” means an individual who conducts a mediation.
- (3) “Mediation Communication” means a statement, whether oral, in a record, verbal or non verbal, that occurs during a mediation or is made for purposes of considering, conducting, participating in, initiating, continuing, or reconvening a mediation or retaining a mediator.
- (4) “Proceeding” means either of the following:
  - a. Judicial, administrative, arbitral or other adjudicative process, including related pre-hearing and post-hearing motions, conferences, and discovery;
  - b. A legislative hearing or similar process.

### **(B) Purpose**

To promote greater efficiency and public satisfaction through the facilitation of the earliest possible resolution of cases filed in the Clermont County Court of Common Pleas, General Division. To accomplish this goal, the Clermont County Court of Common Pleas, General Division mediation program has been established.

### **(C) Scope**

Any judge of the Court of Common Pleas, General Division, may, at any time, submit a civil action in this court to mediation. The mediation is to be conducted by the court-appointed mediator. There is no limit as to the amount in controversy of any case referred to mediation. All parties and insurance representatives are required to be present for mediation. Mediation shall not be used for any of the following:

- As an alternative to the prosecution or adjudication of domestic violence;
- In determining whether to grant, modify or terminate a protection order;
- In determining the terms and conditions of a protection order; and
- In determining the penalty for violation of a protection order.

**(D) Confidentiality/Privilege**

All mediation communications related to or made during the mediation process are subject to and governed by the “Uniform Mediation Act” (UMA) R.C. 2710.01 to 2710.10, R.C., the Rules of Evidence and any other pertinent judicial rule(s). If the parties wish mediation communication to be confidential they will effect a written confidentiality agreement and present it to the mediator prior to the mediation.

**(E) Mediator Conflicts of Interest**

In accordance with R.C. 2710.08(A) and (B), the mediator assigned by the Court to conduct a mediation shall disclose to the mediation parties, counsel, if applicable, and any nonparty participants any known possible conflicts that may affect the mediator’s impartiality as soon as such conflict(s) become known to the mediator. If counsel or a mediation party requests that the assigned mediator withdraw because of the facts so disclosed, the assigned mediator should withdraw and request that the assigned Judge or Magistrate appoint another mediator from the list of qualified mediators that is maintained by the court. The parties shall be free to retain the mediator by an informed, written waiver of the conflict of interest(s).

**(F) Termination**

If the assigned mediator determines that further mediation efforts would be of no benefit to the parties, he or she shall inform all interested parties and the court that the mediation is terminated using the procedure required by this court.

**(G) Continuances**

It is the policy of this court to determine matters in a timely way. Continuances of scheduled mediations shall be granted only for good cause shown after a

mutually acceptable future date has been determined. The case may be continued by the court appointed mediator, Judge or Magistrate who referred the case.

**(H) Mediation Case Summary**

Attorneys submit a “Mediation Case Summary” to the mediator which shall contain the following:

- Summary or material facts.
- Summary of legal issues.
- Status of discovery.
- List special damages and summarize injuries or damages.
- Settlement attempts to date, including demands and offers.

**(I) Mediator Report**

At the conclusion of the mediation and in compliance with R.C. 2710.06 the court shall be informed of the status of the mediation including all of the following:

- Whether the mediation occurred or was terminated;
- Whether a settlement was reached on some, all or none of the issues; if the mediation results in settlement, counsel for the parties are responsible for submitting the necessary entry in accordance with Local Rule 5. If some, but not all, issues in the case are settled during mediation, then the parties shall submit a joint entry to the court listing the issues that remain for trial within 30 days of the termination of the mediation.
- Attendance of the parties.
- Future mediation session(s), including date and time.

**(J) Sanctions**

If any individual ordered by the court to attend mediation fails to attend mediation without good cause, the court may impose sanctions which may include, but are not limited to, the award of attorney’s fees and other costs, contempt or other appropriate sanctions at the discretion of the assigned Judge or Magistrate.