

## **RULE 15 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) Purpose**

To promote greater efficiency and to provide a mechanism for the earliest possible resolution of civil cases, the Clermont County Court of Common Pleas, General Division has established a civil case mediation program.

### **(B) Definitions**

All definitions found in the UMA are adopted by this court.

### **(B) Referral to Mediation**

Any judge of the Court of Common Pleas, General Division, may, at any time, submit a civil action in this court to mediation on the Court's own motion, on a party's request, or by agreement of the parties. The mediation is to be conducted by the court-appointed mediator. All parties and insurance representatives are required to be present for mediation. Referral of a case to mediation shall not operate as a stay of proceedings unless otherwise ordered by the Court.

### **(C) Authority of Court Mediator**

The Court Mediator is an appointed officer of the Court who oversees the management and operation of the civil mediation program. The Court Mediator shall at all times be in control of the mediation process, including scheduling and the procedures to be followed, and may meet privately in caucus to consult with any party, party representative, and/or trial counsel.

### **(D) Scope**

There is no limit as to the amount in controversy of any case referred to 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.

### **(E) Confidentiality**

All mediation communications related to or made during the mediation process are subject to and governed by the UMA.

No party to mediation shall call the mediator as a witness for any purpose.

### **(F) Mediator Conflicts of Interest**

Pursuant to R.C. § 2710.08, the Court Mediator shall make an inquiry that is reasonable under the circumstances to determine whether there are any known facts that a reasonable individual would consider likely to affect the impartiality of the Court Mediator and shall disclose any such known facts to the parties as soon as practicable. Upon request, the Court Mediator's qualifications to mediate the dispute shall also be disclosed.

### **(G) 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.

### **(H) 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.

### **(I) Mediation Case Summary**

Fifteen (15) days before the mediation or as soon as practicable thereafter, parties shall submit a "Mediation Case Summary" to the mediator which shall contain the following:

- Relevant facts and procedural posture of the case;
- Legal issues (including an assessment of liability);
- Damages assessment (include specific numbers and calculations if possible);
- Strengths and weaknesses of case and defenses;
- Summary of settlement negotiations (prior to mediation);

- Persons attending mediation.

The Mediation Case Summary should **NOT** be filed with the Clerk of Courts.

#### **(J) 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 the following:

- Whether the mediation occurred or has terminated;
- Whether a settlement was reached;
- Attendance of the parties;
- Future mediation session(s), including date and time;
- Any other communication or disclosure permitted by R.C. 2710.06.

#### **(K) 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.

#### **(L) Domestic Violence.**

In any case referred to mediation, all parties and counsel shall advise the assigned Judge or Magistrate and the Court Mediator of any domestic violence allegations and/or adjudications known to exist or to have existed in the past, or which become known at any time following the referral to mediation but prior to the conclusion of mediation, between any of the persons whose attendance and participation in mediation are required by the Court.

#### **(M) External Referrals**

The mediator shall refer *pro se* participants (including victims and suspected victims of domestic violence) to legal counsel and other support services as appropriate.