

Ingham County 30th Judicial Circuit Court

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FRIEND OF THE COURT ALTERNATIVE DISPUTE RESOLUTION

30TH Judicial Circuit Court Local Administrative Order 2019–10

IT IS ORDERED:

Ingham County 30th Judicial Circuit Court Local Administrative Orders 2006-01 and 2001-08 are hereby rescinded.

Pursuant to MCR 3.224, the following is adopted at the 30th Judicial Circuit Court as the Friend of the Court Alternative Dispute Resolution Plan:

(A) Alternative Dispute Resolution (ADR)

The 30th Judicial Circuit Court has determined that Friend of the Court (FOC) ADR can serve an extremely useful purpose in resolving domestic relations issues in FOC cases. The authority for the 30th Judicial Circuit Court FOC Office to conduct ADR services has been determined by MCL 552.513, MCL 552.515, MCL 552.641, MCL 552.642a, and Michigan Court Rule, Michigan Court Rule 3.224, and Michigan Court Rule 8.112. In addition, the Chief Judge for the 30th Judicial Circuit Court and the State Court Administrative Office have approved the 30th Judicial Circuit Court FOC ADR Plan.

(B) General Provisions of FOC ADR

The 30th Judicial Circuit Court has determined that Friend of Court (FOC) ADR can assist parties and the court in resolving custody, parenting time and support disputes.

- 1) The 30th Circuit Court will use the following ADR practices:
 - a. Domestic Relations Mediation as established in MCL 552.513 and MCR 3.224 by Referral to an Outside Agency.
 - b. Facilitative and Information-Gathering Conferences as established in MCR 3.224:
 - i. All prejudgment cases are automatically referred to a Facilitative and Information-Gathering Conference at the initiation of the case.
 - ii. Post-judgment cases may be referred to a Facilitative and Information-Gathering Conference upon referral by order of the court.
 - c. Joint Meetings as established in MCL 552.642a and MCR 3.224 in pre-judgment cases.
- 2) In accordance with MCL 552.505a, the FOC may provide ADR services for all open FOC cases that qualify for ADR services.
- 3) A party may object to FOC ADR under MCR 3.224(E). An objection must be based on one or more of the factors listed in MCR 3.224(D)(2)
 - a) child abuse and neglect;
 - b) domestic abuse, unless the protected party submits a written consent and the friend of court takes additional precautions to ensure the safety of the protected party and court staff;
 - c) inability of one or both parties to negotiate for themselves at the ADR, unless attorneys for both parties will be present at the ADR session;
 - d) reason to believe that one or both parties' health or safety would be endangered by ADR; or
 - e) for other good cause shown;

and must allege facts in support of the objection. Timely objections must be made in accordance with MCR 3.224(E).

- 4) Parties who are, or have been, subject to a personal protection order or other protective order or who are involved in a past or present child abuse or neglect proceeding may not be referred to FOC ADR without a hearing to determine whether FOC ADR is appropriate. The court may order ADR if a protected party requests it without holding a hearing.
- 5) All FOC cases must be screened for domestic violence using SCAO's screening protocol before the ADR process begins. If domestic violence is identified or suspected, the ADR process may not continue unless the protected party submits a written consent and the FOC takes additional precautions to ensure the safety of the protected party and court staff. Throughout the ADR

process, the mediator or facilitator must make reasonable efforts to screen for the presence of coercion or violence that would make ADR physically or emotionally unsafe for any participant or that would impede achieving a voluntary and safe resolution of issues.

If the protected party elects not to sign a consent form the case will be excluded from ADR; however, the court may, on its own motion, order the friend of the court to conduct an investigation and provide a report and recommendation under MCL552.505(1)(G).

- 6) The FOC may exempt cases from ADR based on MCR 3.224(D)(2). The FOC shall notify the court when it exempts a case from ADR. A party may file a motion and schedule a hearing to request the court to order FOC ADR.
- 7) Attorneys of record will be allowed to attend, and participate in, all FOC ADR processes, or elect not to attend upon mutual agreement with opposing counsel and their clients.
- 8) Participants in an ADR process may not record the ADR proceeding.
- 9) A report will accompany each FOC ADR proposed consent order and shall contain sufficient information to allow the court to make an independent determination that the proposed order is in the child's best interest.
- 10) When the parties do not resolve some or all of the issues in a Facilitative and Information-Gathering Conference or when the FOC submits a proposed order following a joint meeting, the FOC shall submit a report containing the parties' agreed-upon and disputed facts and issues.
- 11) Qualifications: FOC ADR providers have met the training and qualifications established by SCAO and approved by the chief judge or have been approved subject to conditions established by SCAO.
- 12) Public Access to FOC ADR Plan: The FOC will make the FOC ADR plan available on the court's website.

(C) Submitting a Case to ADR:

- 1) On written stipulation of the parties, on motion of a party, or on the court's own initiative, the court may order any contested pre-judgment and post-judgment custody, parenting time, or support issue in a domestic relations case to FOC mediation through referral to an outside agency by written order.
- 2) All pre-judgment cases are automatically referred to a FOC facilitative and information-gathering conference with a FOC facilitator at the initiation of the case.
- 3) Post-judgment cases may be referred to a FOC facilitative and information-gathering conference with a FOC facilitator upon referral by Order of the Court
- 4) The FOC may schedule a joint meeting on pre-judgment cases to resolve parenting time issues and disputes.

(D) ADR Procedures:

1) Domestic Relations Mediation:

Domestic relations mediation is a process in which a neutral third party facilitates confidential communication between parties to explore solutions to settle custody and parenting time or support issues for FOC cases.

- a. **Objection to Mediation:** A party who is ordered to domestic relations mediation may file a written motion to remove the case from mediation and a notice of hearing on the motion, and serve a copy on all parties or their attorneys of record within 14 days after it is filed, unless the hearing is adjourned by agreement of counsel or the court orders otherwise. A timely objection will be heard before the case is mediated.
- b. **Domestic Relations Mediation Procedures:** Domestic relations mediation will be conducted by a mediator or outside agency selected by the FOC.
 - i. At the beginning of the mediation, the mediator will advise the parties and their attorneys, if applicable, of the following:
 - a) The purpose of mediation;
 - b) How the mediator will conduct mediation;
 - c) Except as provided for in MCR 2.412(D)(8), statements made during the mediation process are confidential and cannot be used in court proceedings and cannot be recorded.
 - ii. If the parties reach an agreement, the mediator shall submit a proposed order and report pursuant to MCR 3.224(I) within seven days.
 - iii. If the parties do not reach an agreement within seven days of the completion of mediation, the mediator shall so advise the court stating only the date of completion of the process, who participated in the mediation, whether settlement was reached, and whether additional FOC ADR proceedings are contemplated.
 - iv. With the exception provided for in MCR 2.412(D), communications during domestic relations mediation process are confidential and cannot be used in court proceedings and cannot be recorded.

2) Facilitative and Information-Gathering Conferences:

A FOC facilitative and information-gathering conference is a process in which a facilitator assists the parties in reaching an agreement regarding custody, parenting time and support unless otherwise provided by statute or court rule. If the parties fail to reach an agreement the facilitator may prepare a report and recommended order.

a. Objections to a Facilitative and Information-Gathering Conference:

- i. To object to a FOC facilitative and information-gathering conference, a party must include the objection within the pleading or post-judgment motion initiating the action, a responsive pleading or answer, or file the objection within 14 days of the date that the notice is sent to the party. All objections must be filed with the court.
- ii. The objecting party must schedule the hearing before the referee and serve a copy of the objection and notice of hearing on all parties and/or attorneys of record.
- iii. If a party timely objects, the FOC shall not hold a facilitative and information gathering conference unless the court orders a conference after motion and hearing before the referee or the objecting party withdraws the objection.

b. FOC Facilitative and Information-Gathering Conference Procedures: A facilitative and information-gathering conference shall use the following procedures:

- i. At the beginning of the conference, the facilitator will advise the parties and their attorneys, if applicable, of the following:
 - a) The purpose of the conference and how the facilitator will conduct the conference and submit an order or recommendation to the court under MCR 3.224(F);
 - b) How information gathered during the conference will be used;
 - c) The statements made during the conference are not confidential and can be used in other court proceedings, and shall not be recorded; and
 - d) That the parties are expected to provide information as required by MCL 552.603 and the consequences of not doing so.
- ii. If the parties resolve all contested issues, the facilitator shall submit a report and proposed order, setting forth the parties' agreement by using forms or orders developed by SCAO pursuant to MCR 3.224(l), and include any additional information requested by the court.
- iii. If the parties do not resolve all contested issues at the conference or the parties agree to resolve all or some contested issues but do not sign the proposed order, the facilitator shall submit a report by using forms and orders developed by SCAO pursuant to MCR 3.224(l), and include any additional information requested by the court, and may do one of the following:

- a) Prepare and forward a recommended order to the court within seven days from the date of the conference. The court may enter the order if it approves the order and must serve it on all parties and attorneys of record within seven days from the date the court enters the order. Accompanying the order must be a notice that a party may object to the order by filing a written objection to the court within 21 days after the date of service, and by scheduling a referee hearing on the objection. If there is a timely objection, the referee hearing must be held within 21 days after the objection is filed. If a party objects, the order remains in effect pending a hearing on a party's objection unless the court orders otherwise.
 - b) Prepare and serve a recommended order on the parties within seven days from the date of the conference along with a notice that the recommended order will be presented to the court for entry unless a party objects by filing a written objection within 21 days after the date of service, and by scheduling a referee hearing on the objection. If neither party files a timely objection, the court may enter the order if it approves.
 - c) Submit a recommendation to the court for further action the court might take to help the parties resolve the remaining contested issues in the case, or alert the court there are contested issues that might require the court's immediate attention.
- iv. A party may consent to entry of a recommended order by signing a copy of the order at the time of the conference or after receiving the recommended order. A party who consents to entry of the order waives the right to object to the order and must file a motion to set aside the order once it enters.
 - v. Except for communications made during domestic violence screening communications made during a facilitative and information-gathering conference are not confidential and may be used in court proceedings.
- 3) **Joint Meetings:** Joint meetings are a process in which a person discusses proposed solutions with the parties to resolve parenting time issues, custody or parenting time complaints, or an objection to a support recommendation.
- a. **Objections to a Joint Meeting:**
 - i. To object to a joint meeting, the party must file a written objection with the FOC and provide a copy to all parties and their attorneys of record before the time scheduled for the joint meeting.
 - ii. If a party files an objection, the FOC shall not hold a joint meeting unless the court orders a joint meeting following a referee hearing on motion of a party or the objecting party withdraws the objection.

- b. **Joint Meeting Procedures:** Joint meetings shall be conducted as follows:
- i. At the beginning of a joint meeting, the person conducting the meeting shall do the following:
 - a) Advise the parties that statements made during the joint meeting are not confidential and can be used in other court proceedings;
 - b) Advise the parties that the purpose of the meeting is for the parties to reach an accommodation and how the person will conduct the meeting; and
 - c) Advise the parties that the person may recommend an order to the court to resolve the dispute and explain to the parties the information provided for in MCR 3.224(H)(1)(d)-(e).
 - ii. At the conclusion of a Joint Meeting, the person conducting the meeting shall submit a report within seven days by using forms and orders developed by SCAO pursuant to MCR 3.224(I), and include any additional information requested by the Court:
 - a) If the parties reach an accommodation, record the accommodation in writing and provide a copy to the parties and attorneys of record. If the accommodation modifies an order, the person must submit a proposed order to the court. If the court approves the order, the court shall enter it; or
 - b) Submit an order to the court stating the person's recommendation for resolving the dispute. The parties may consent by signing the recommended order and waiving the objection period in accordance with MCR 3.224(H)(1)(e)(iii). If the court approves the order, the court shall enter it.
 - iii. If the person conducting the joint meeting submits a recommended order within seven days to the court, the FOC must serve the parties and attorneys of record a copy of the order and a notice that provides the following information:
 - a) That the court may enter the recommended order resolving the dispute unless a party objects to the order within 21 days after the notice is sent;
 - b) Objections must be sent to the Ingham County Clerk's Office, Veterans Memorial Courthouse, 313 W. Kalamazoo Street, P.O. Box 40771, Lansing, Michigan 48901-7971.
 - c) That a party may waive the 21-day objection period by returning a signed copy of the recommended order;

- d) If a party files a written objection within the 21-day time limit, a referee hearing shall be set to resolve the dispute. If a party fails to file a written objection within the 21-day limit the FOC shall submit the proposed order to the court for entry if the court approves it;
 - e) If a party files a written objection within the 21-day limit, except for communications made during domestic violence screening, communications made during a Joint Meeting are not confidential and may be used in other court proceedings and cannot be recorded.
- 4) **Investigations:** As allowed by MCR 3.224(l)(4), the court may, on its own motion, order the friend of the court to conduct an investigation and provide a report and recommendation under MCL552.505(1)(G).

Dated:

Dec 11, 2019



The Honorable Richard J. Garcia
Chief Circuit and Probate Judge