

IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT,
IN AND FOR SEMINOLE COUNTY,
FLORIDA

ADMINISTRATIVE ORDER NO.:
10-16-S
SUPERSEDES 07-33-S

**IN RE: MEDIATION - FAMILY MEDIATION MANDATORY REFERRAL OF ALL
 CONTESTED FAMILY LAW CASES TO MEDIATION**

WHEREAS, certain domestic disputes that include matters of shared parental responsibility, child residency, paternity, child support and costs, distribution of property, payment of alimony, child visitation and modifications thereof, can be amicably and expeditiously resolved through mediation prior to hearing by the Court; and

WHEREAS, mediation is a process whereby a neutral third person acts to encourage the resolution of disputes through a non-adversarial process and assists the parties in reaching a mutually acceptable agreement; and

WHEREAS, the mediation process can result in cost efficiencies to the parties and

WHEREAS, mandatory mediation for certain matters increases the availability of judicial resources, and

WHEREAS, it is necessary for the prompt and efficient administration of justice of this Court;

IT IS HEREBY ORDERED AND ADJUDGED THAT:

1. DISPUTE RESOLUTION SERVICES:

SEMINOLE COUNTY MEDIATION PROGRAM shall serve as an adjunct to the Domestic Relations Division of the Circuit Court for the purpose of mediating issues on matters of shared and sole parental responsibility, child residency, child support, payment of alimony, paternity, child visitation, distribution of property and any other domestic disputes including motions and pleas for temporary relief appearing on the court docket. This program is conducted under the direction of the Office of the Court Administrator and the Chief Judge of the Eighteenth Judicial Circuit.

2. LIST OF MEDIATORS:

A list of contract certified Family Mediators shall be maintained by the Family Mediation Unit of Seminole County Mediation Program, located at 301 North Park Avenue, Sanford, FL 32771, Phone number(407)665-4244.

3. APPOINTMENT OF MEDIATORS:

The parties must have a pending court case and/or have filed a case here in Seminole County to be eligible to participate in the mediation program. If the parties have a combined income under \$100,000, Seminole County Mediation Program shall appoint a Florida Supreme Court Certified Family Contract Mediator. If the parties have a combined income of over \$100,000 per year and have been unable to agree on a mediator and the parties make contact with the Seminole County Mediation Program; a list will be provided of all certified family mediators who have shown an interest to mediate here in Seminole County.

4. AUTHORITY TO REFER TO MEDIATION:

Pursuant to Chapter 44, Florida Statutes, and Florida Family Law Rules of Procedure 12.740 and 12.741, the Court on its own motion may refer all or any part of a civil case to mediation for the purpose of mediating family matters including married and unmarried persons before and after judgments involving dissolution of marriage, shared or sole parental responsibility, child residency, child support, payment of alimony, child visitation or distribution of property, involving emotional or financial considerations not usually present in other circuit civil matters.

5. REFERRAL OF TEMPORARY, PRE-JUDGMENT AND POST-JUDGMENT FAMILY LAW MATTERS:

A. Any person who seeks to schedule a final hearing for either pre-judgment family law case on a modification of a post dissolution decree or a post judgment domestic decree between unmarried parents on matters of shared or sole parental responsibility, child residency, child support, payment of alimony, child visitation, distribution of property or a hearing on a temporary matter before a judge or on any other domestic dispute shall first participate in a mediation conference through Seminole County Mediation Program herein established.

B. Each person shall have previously filed a financial affidavit and bring to the initial mediation conference a current financial affidavit, if the earnings have changed prior to filing; as well as the most current pay stub voucher or letter from an employer stating current earnings. If self-employed, the person must bring a copy of the most recent 1040 filed with the Internal Revenue Service (IRS).

6. EXCEPTION - HISTORY OF DOMESTIC VIOLENCE:

Pursuant to Section 44.102 (2) (c), Florida Statutes upon motion or request of a person, the Court shall not refer any case to mediation if it finds there has been a significant history of domestic violence that would compromise the mediation process.

7. WAIVERS:

A. Automatic Waivers:

A person may file a Notice of Trial with a Motion before the court to dispense of mediation; if it has not been scheduled and if:

1. A mediation was scheduled and the other person failed to appear;
2. A default has been entered; or
3. A person is unavailable for mediation either in person or by telephone because he/she:
 - a. is not subject to the jurisdiction of this court and has refused to participate; or
 - b. currently resides in another country; or
 - c. is imprisoned out of state
 - d. All current issues have been mediated by a certified mediator, and an impasse has been declared.

B. Waivers on Motion:

If mediation has been scheduled, a person may motion the Court to dispense with mediation based on Paragraph 7 (A). Any person may apply to the Court by written motion for good cause, to waive the mandatory mediation required by this Order prior to filing a notice for trial. The Court may waive such a requirement if it appears (a) that mediation of the issues would not be appropriate under the circumstances of that case or (b) that due to exigent circumstances a hearing before the Court should be expedited. If mediation has already been scheduled, and the mediation is canceled by the Court, both parties shall notify the Seminole County Mediation Program, in writing, with copy of Order signed by the Judge within five (5) business days prior to the scheduled mediation to cancel the mediation. If the parties do provide appropriate notice, five (5) business days, of cancellation, there shall be no fee. If both parties do not give proper notification of the judicial waiver or cancellation, each person shall be required to pay a full session fee for the canceled mediation session which shall be paid to the Clerk of the Court.

8. PROCEDURE:

A. Temporary Matters:

After obtaining service of process and prior to scheduling a hearing for temporary matters before a judge, if the parties have not agreed on a private mediator, the parties shall fill out an Information for Scheduling Mediation Prior to Setting Trial form (attached hereto) and submit this form by fax or mail to the Seminole County Mediation Program, 301 North Park Avenue, Sanford, FL 32771; phone number(407) 665-4244, and fax number (407) 665-4129; to schedule and attend a mediation session with a Supreme Court Certified Mediator unless otherwise waived by the Court. If mediation is unsuccessful, either person may immediately request a hearing on an expedited basis. Motions to Dispense with mediation of temporary matters may be heard on short notice during ex parte time or before the General Magistrates.

B. Pre and Post Judgment:

At any time after service of process and prior to filing a Notice of Trial, a person may submit a completed Information for Scheduling Mediation form to request the scheduling of a mediation session to the Seminole County Mediation Program, 301 North Park Avenue, Sanford, FL 32771; telephone number (407)665-4244 and fax number (407)665-4129). The Seminole County Mediation Program will attempt to schedule with both parties, after receiving the Information for Scheduling Mediation Prior to Setting Trial form. After several unsuccessful attempts by the Seminole County Mediation Department to reach the parties the Seminole County Mediation Department will schedule the mediation session. Mediation sessions shall be scheduled and conducted in accordance with Florida Family Rules of Procedure 12.740 through 12.741, unless otherwise ordered.

C. No Agreement:

If an agreement is not reached through mediation, the mediator shall report the lack of agreement to the Court and Seminole County Mediation Program. The person shall then proceed to trial upon a time certain and date given by the Court.

D. Agreement:

If an agreement is reached, see Paragraph 18.

9. MEDIATION SESSIONS COSTS THROUGH SEMINOLE COUNTY MEDIATION PROGRAM:

A. Fees:

If the mediation session of a pre-judgment, post-judgment or temporary matter is coordinated by Seminole County Mediation Program, the initial mediation session shall not exceed 3 hours unless agreed to by the parties and the mediator.

The fee for said session shall be as follows:

No fee for an indigent person;

\$60.00 per person if the gross earnings of both parties together are under \$50,000 and \$120.00 per person if the gross earnings of both parties together exceed \$50,000 but is less than \$100,000.

If subsequent sessions are scheduled, or if the session is extended for more than 3 hours, the parties will be required to pay an additional session fee at the same rate.

B. Payment of Mediation Session Fees:

If a case is scheduled with a mediator, payment shall be made by the due date specified in the Order of Referral. All mediation session fees are to be paid to the Clerk of Court; Seminole County – Clerk of the Court, First Floor, 301 North Park Avenue, Sanford, FL 32771. Payments are to be made in cash, by money order, certified check, cashier's check or attorney check.

C. Failure to Pay Mediation Session Fee:

If one person fails to pay their mediation session fee as ordered in the Order of Referral, but the other person pays according to the Order of Referral, the mediation session could be cancelled and mediation fees shall apply depending

on the circumstances of the case. If arrangements are made and the mediation session is conducted, the Court may impose sanctions of an additional charge of a session fee depending upon the combined income of the parties against the non-paying person and an Order to Show Cause may be issued by the Court ordering any non-paying person to appear for a hearing to show cause why he/she should not be held in contempt of court and have a judgment entered against him/her for the fees due and any assessed additional attorney fees and costs, if applicable. These additional fees shall not be credited to any future session fees.

If both parties fail to pay the mediation session fees as ordered in the Order of Referral, Seminole County Mediation Department may cancel the mediation up to and including the day of the mediation session. If the mediation session is so canceled, each person will be notified and charged the entire session fee. This session fee shall not be applied to any future mediation. If the mediator proceeds with the mediation session, the Court may impose sanctions against both parties which may include the original session fee plus an additional session fee per person based upon the parties' combined income which will not be credited toward any session fee.

10. Cancellations and Continuances by the Parties:

A mediation session may be continued or canceled if both parties and Seminole County Mediation Department agree in writing to said continuance or cancellation and Seminole County Mediation Department is properly notified of said continuance or cancellation within five (5) business days of the scheduled mediation. If the parties cannot agree to a continuance, then the person who is requesting the continuance or cancellation shall apply to the Court for a continuance or cancellation. The Seminole County Mediation Department must receive a signed stipulation by each person or a judge's order allowing the continuance or cancellation at least five (5) business days prior to the scheduled mediation session to avoid a full payment of one session fee. The person requesting the continuance or cancellation is responsible for assuring that Seminole County Mediation Department has received the signed stipulation from both parties.

11. SESSION FEES FOR CONTINUANCES AND CANCELLATIONS BY THE PARTIES:

When proper notice of a continuance or cancellation has been provided with a minimum of five (5) business days (pursuant to Paragraph 11 above), no fee shall be charged for the first reset or cancellation. If less than five (5) business days notice (order of the court or stipulation of the parties) is received or the parties are requesting a second continuation, the person requesting the continuance or cancellation shall be responsible for one session fee (\$60 or \$120) depending upon the parties' combined gross income. These fees are due in addition to any other session fees and shall be paid to the Clerk of the Court in Seminole County; Clerk of the Court, First Floor, 301 North Park Avenue, Sanford, FL 32771. No additional mediation sessions may be scheduled until all fees have been paid or waived by the court.

12. EXCEPTIONS TO SESSION FEES FOR CANCELLATION FEES:

- A. Any person may apply to the court for a waiver of a fee for good cause.
- B. If an attorney is notified or called to a trial before a court which conflicts with a scheduled mediation session, the attorney must immediately call the other person and Seminole County Mediation Department and fax or hand deliver a notice of the case number and judge of the conflicting case for verification in order to reschedule the mediation session. If such notice is received in writing and by phone by the end of the business day preceding the mediation date, one session fee will be due of either \$60 or \$120 depending upon the parties' combined gross income. If this notice is not received by close of business the day preceding the mediation session, the entire session fee will be due and will not be applied to the next mediation session. Any fee paid by the other person will be applied to the next mediation session.

13. ATTENDANCE:

Each person shall appear at any scheduled mediation session. A person is deemed to appear at a convened family mediation session if the named person is physically present at the commencement of the mediation session. Each person is still responsible for paying the Clerk of the Court the fee regardless of whether the other person appears. Upon the Court's own motion or upon motion of the appearing person or Seminole County Mediation Department, a person's failure to appear for the mediation session may result in sanctions being imposed by the Court against the non-appearing person including, but not limited to payment of the session fee for both parties plus an additional session fee and attorneys' fees, if any. These fees will not apply to any future mediation sessions. If an indigent person fails to appear, sanctions may include the cost of a session fee.

14. ATTENDANCE OF COUNSEL:

In the discretion of the mediator and with the agreement of the parties, the mediation session may proceed in the absence of counsel unless otherwise ordered by the Court. If counsel is not present within thirty (30) minutes after the scheduled mediation session time and his/her client wishes not to proceed with the mediation session in the attorney's absence, at the discretion of the mediator, the mediation session may be cancelled. If the mediation is cancelled, the mediation fees paid by the party who will not proceed without counsel present will not apply to the next mediation. Any fee paid by the other person is applied to the next mediation session. The fee paid by the non-cancelling party applied to the rescheduled mediation session due to the cancellation will not be refunded if no future mediation sessions occur.

15. APPEARANCE BY TELEPHONE:

In the case of an emergency a person may request an appearance by telephone. In these cases, telephonic appearance is allowed by stipulation of both parties in writing to the Court prior to the mediation session, or by motion and order by the Court. The person appearing by telephone must have access to a fax machine. All mediation session fees from the person appearing by telephone must be received by the specified date on the Order.

16. RECORD KEEPING:

Seminole County Mediation Department shall keep a record of the case name, number, assigning judge, mediator, the attorney and the outcome of the mediation session in all cases referred to the Seminole County Mediation Program.

17. IF AN AGREEMENT IS REACHED DURING THE MEDIATION SESSION:
If an agreement of all the issues is reached, the mediation report form shall note the full settlement and the parties may proceed on the uncontested hearing calendar to request the final judgment be entered and the agreement (previously approved by the Court by Consent Order) is a part thereof. Any scheduled hearing before the General Magistrate shall be cancelled when the General Magistrate receives notice of the full agreement and any pro se case shall be scheduled by the Family Coordinator before the assigned judge. If a partial agreement is reached, the mediation report form shall note that the case has remaining issues and said form shall be filed with the Court. The remaining contested matters will then proceed to trial.
18. COMMUNICATIONS DURING THE MEDIATION SESSION:
Pursuant to the Mediation Confidentiality and Privilege Act, with the exception of the parties' signed financial affidavits and any other documents which are required to be filed in the public record, all communications, verbal or written, between the parties and from the parties made during the mediation session, shall be confidential and inadmissible as evidence in any subsequent legal proceeding, unless both parties agree otherwise. If an agreement is reached regarding said child support, the signed agreement with the Child Support Guidelines Worksheet shall be filed with the Court.

DONE AND ORDERED this 26th day of May, 2010.

J. PRESTON SILVERNAIL
J. PRESTON SILVERNAIL
CHIEF JUDGE

DISTRIBUTION:
All Circuit and County Judges (Seminole County)
Court Administration (Brevard and Seminole Counties)
Clerk of the Court (Seminole County)
State Attorney (Seminole County)
Public Defender (Seminole County)
Sheriff (Seminole County)
Bar Association (Seminole County)
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