

INFORMATION ABOUT ADR – MEDIATION SUPERIOR, STATE AND PROBATE COURTS

Mediation is the process by which a third, neutral person facilitates negotiations between parties who are in conflict, and attempts to assist them in working out a solution that is fair, reasonable, and acceptable as a way to resolve the dispute. In mediation the concern is not about who is at fault but rather what can be done to settle the problem.

The neutral person is called a **Mediator**. The Augusta Judicial Circuit mediators have completed a training course on conflict resolution and have agreed to provide mediation services for the Court. The mediator does not act like a judge or jury to make decisions about cases, nor does the mediator dictate what the terms of agreements should be. The role of the mediator is to facilitate communication between parties, thereby helping them to identify what they can agree upon, and helping them to negotiate points on which they cannot agree.

There is a fee for mediation that is to be paid at the time of the mediation session. Checks, money order, or cashiers' check must be made payable to the mediator. If any party is unable to pay, a request for fee waiver or fee reduction should be made to the Program Director, and a fee waiver application submitted **at least three (3) days prior to the date of the mediation session**.

Mediation is usually just a one-time conference. Most last no more than two to three hours. Time length varies depending on the number of parties, their cooperation, and the complexity of the case.

Normal rules of evidence do not apply in mediation, so usually witnesses are not necessary at the mediation conference. What has gone on in the past is not as important as what the parties themselves will do in the present or future to solve the problem. Written statements from witnesses or other documents may be brought to the conference. The mediator will decide if it is relevant.

Attorneys representing the parties are welcome to be present in mediation. The attorney's presence is a decision for the client and the attorney to make. Should an attorney come to mediation, his or her role is to allow the party to do the talking on his/her own behalf (unless the client specifically requests the attorney to speak for him/her), and to advise the client if it is necessary. The attorney appearing at the mediation session must be the attorney who will try the case in the event a trial is necessary.

Mediation is not the time for discovery, depositions, motions etc.

Mediation conferences are **confidential**. No recording devices are permitted during the session. No information about the parties or their negotiations leaves the mediation session. The only document leaving the session would be a copy of any agreement or a form stating no agreement was reached. Parties are free and are encouraged to speak honestly without worry that their comments will be repeated by the mediator or other staff. All notes taken by the mediator during the session will be destroyed after the mediation is completed.

If the mediation results in a satisfactory agreement, which both parties feel is fair and equitable, the mediator will draft the agreement which **you should take to your attorney to review**. If both parties and their attorneys are satisfied with the agreement, it will be incorporated into the appropriate legal document that will allow your case to end without the need for further hearings or trials.

If no agreement is reached, the court is notified, and the parties will be notified of the date and time of the appropriate hearing and/or trial.

A party (or parties) failing to appear at a scheduled mediation session will be responsible for the payment of the mediator's fee.

A cancellation fee equal to the hourly rate of the mediator must be paid to the assigned mediator when a mediation session is cancelled or continued within 24 hours of the scheduled mediation session.

All parties are required to bring a current financial statement to the mediation session if the case is a divorce, contempt, or modification.

For further information about mediation you may contact the Program Director at (706) 821-2357.