

**ADMINISTRATIVE ORDER  
NO. 2004-14**

**IN THE CIRCUIT COURT OF THE NINTH  
JUDICIAL CIRCUIT, IN AND FOR ORANGE  
AND OSCEOLA COUNTIES, FLORIDA**

**AMENDED ADMINISTRATIVE ORDER RE: FAMILY MEDIATION  
PROVIDING FOR 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;**

**NOW, THEREFORE, I, Belvin Perry, Jr., pursuant to the authority vested in me as Chief Judge of the Ninth Judicial Circuit of Florida under Florida Rule of Judicial Administration 2.050, do hereby order that Orange County Administrative Order No.07-99-27 dated October 5, 1999 and Osceola County Administrative Order No. 07-97-12 dated October 3, 1997 are vacated and set aside and this Administrative Order shall supersede said Orders.**

**IT IS HEREBY ORDERED AND ADJUDGED THAT:**

**1. MEDIATION PROGRAM: DISPUTE RESOLUTION SERVICES** serves 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 Ninth Judicial Circuit.

**2. LIST OF MEDIATORS:** A list of staff and contract certified Family Mediators shall be maintained by the Family Mediation Unit of Dispute Resolution Services at:

**Orange County:** Telephone number (407) 836-2004 located at 425 N. Orange Avenue,  
Room

120, Orlando, FL 32801;

**Osceola County:** Telephone number (407) 343-2451 located at 2 Courthouse Square,  
Kissimmee, FL 34741.

**3. APPOINTMENT OF MEDIATORS:**

The parties have 10 days from the filing of an answer to select a mediator and notify Dispute Resolution Services of the selection. If the parties have a combined income under \$100,000 and they have not agreed on a mediator, Dispute Resolution Services shall appoint a Florida Supreme Court

certified family staff or contract mediator. If the parties have a combined income of over \$100,000 per year and have been unable to agree on a mediator within 10 days, Dispute Resolution Services shall appoint a Florida Supreme Court approved certified family mediator by rotation.

**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 a pre-judgment family law case or 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 or on any other domestic dispute shall first participate in a mediation conference through Dispute Resolution Services herein established.

B. Each person shall bring to the initial mediation conference a current financial affidavit and the most current pay stub vouchers 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 Form 51 (Cover Sheet - Case at Issue, attached hereto) with a Notice for Trial and dispense with 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.**

4. All current issues have been mediated by a certified mediator, and an impasse has been

declared.

No Notice for Trial shall be accepted without a Form 51.

B. Waivers on Motion: If a 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 Dispute Resolution Services, in writing, of the waiver at least 5 business days prior to the scheduled mediation to cancel the mediation. If the parties do provide appropriate notice, 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 will not be refunded, or if not paid, 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, if the parties have not agreed on a private mediator, the parties shall fill out a Form 50 (attached hereto) and submit this form by fax or mail to the county in which the case was filed at:

Orange County: Dispute Resolution Services, 425 N. Orange Avenue, Room 120, Orlando, Florida 32801, telephone number (407) 836-2004 and fax number: (407) 836-2367;

Osceola County: Dispute Resolution Services, 2 Courthouse Square, Kissimmee, FL 34741, telephone number (407) 343-2451 and fax number: (407) 343-2401;

and 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.

B. Pre and Post Judgment: At any time after service and prior to filing a notice of trial, a person may submit a completed Form 50 (attached hereto) to request the scheduling of a mediation session to the county in which the case was filed at:

Orange County: Dispute Resolution Services 425 N. Orange Avenue, Room 120, Orlando, Florida 32801, telephone number (407) 836-2004 and fax number (407) 836-2367;

Osceola County: Dispute Resolution Services 2 Courthouse Square, Kissimmee, FL 34741, telephone number (407) 343-2451 and fax number (407) 343-2401.

One business day after the filing of the Form 50, a person may call to schedule the mediation. If a person calls to schedule and teleconferencing is available, both parties should telephone when the call is initiated. Dispute Resolution Services will attempt to schedule with both parties, but after receiving the Form 50, or anytime after an answer has been filed with the Court, Dispute Resolution Services may schedule the mediation session without contacting either person. 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 Dispute Resolution Services. The person shall then file Form 51 with a Notice for Trial.

D. Agreement: If an agreement is reached, see Paragraph 18.

**9. MEDIATION SESSION COSTS THROUGH DISPUTE RESOLUTION SERVICES:**

A. Fees:

If the mediation session of a pre-judgment, post-judgment or temporary matter is coordinated by Dispute Resolution Services, the initial mediation session shall not exceed 180 minutes unless agreed to by the parties and the mediator. The fee for said session shall be as follows:

No fee for an indigent person;

\$ 40.00 per person if the gross earnings of both parties together are under \$50,000; and

\$ 80.00 per person if the gross earnings of both parties together are over \$50,000 but under \$100,00.

If subsequent sessions are scheduled, or if the session is extended for more than one hundred and eighty (180) minutes, 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 contract or staff mediator, payment shall be made 5 business days prior to the day of the mediation session, or by the date specified in the Order of Referral. All mediation session fees are to be paid to the Clerk of Court in the County in which the case was filed at:

Orange County -Clerk of the Court, Room 150, 425 N. Orange Avenue, Orlando, FL 32801;

Osceola County - Clerk of the Court, Domestic Division, 2 Courthouse Square, Kissimmee, FL 34741.

**Payments are to be made in cash, by money order, certified 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 may be conducted, if so ordered by the court. If the mediation session is conducted, the Court may impose sanctions of an additional half of a session fee of \$20 or \$40 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 they should not be held in contempt of court and have a judgment entered against them for the fees due and any assessed additional attorney fees and costs. 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, Dispute Resolution Services 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 one half of a session fee per person of \$20 or \$40 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 Dispute Resolution Services agree in writing to said continuance or cancellation and Dispute Resolution Services is properly notified of said continuance or cancellation within 5 business days of the scheduled mediation session. If the parties and Dispute Resolution Services 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 process for continuation or cancellation must be completed and Dispute Resolution Services must receive a signed stipulation by each person and Dispute Resolution Services or a judge's order allowing the continuance or cancellation at least 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 Dispute Resolution Services has received signed stipulations 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 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 (\$40 or \$80). The person not requesting the continuation or cancellation will not receive a refund unless no future mediation sessions will be set and a request has been submitted in writing. These fees are due in addition to any other session fees and shall be paid to the Clerk of the Court in the County in which the case was filed at:**

**Orange County -Clerk of the Court, Room 150, 425 N. Orange Avenue, Orlando, FL  
32801;**

**Osceola County - Clerk of the Court, Domestic Division, 2 Courthouse Square,  
Kissimmee, FL  
34741.**

**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 the parties have reached a full and complete settlement of all pending issues, which has been submitted to the court for approval, and Dispute Resolution Services has received a**

**copy of this**

**stipulation signed by both parties prior to five (5) business days before the mediation session, no session fee will be charged and if any has been paid, the parties may apply to the State for a**

**refund. C. 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 Dispute Resolution Services and fax or hand deliver a notification 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 (3:30 p.m.) preceding the mediation date, only 1/2 of one session fee will be due of either \$20 or \$40 dollars. If this notice is not received by 3:30 p.m. the business 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 Dispute Resolution Services, a person's failure to appear for the mediation session shall 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 half of a 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 30 minutes after the scheduled mediation session time, and his/her client does not wish to proceed in the attorney's absence, at the discretion of the mediator, the mediation session may be canceled. If the mediation is so canceled, the person who will not proceed shall receive no refund for the session, and if not paid, shall be charged for their session fee, and will not be reimbursed. In addition, a partial session fee of either \$20 or \$40 dollars will be imposed upon the person canceling the mediation session. Any fee paid by the other person shall be applied towards any future mediation sessions.

**15. APPEARANCE BY TELEPHONE:** In the case of an emergency or when a person resides over 100 miles away, that 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 5 business days prior to the mediation session.

**16. RECORD KEEPING:** Dispute Resolution Services shall keep a record of the case name, number, assigning judge, mediator, the attorneys and the outcome of the mediation session in all cases referred to the Dispute Resolution Services.

**17. IF AN AGREEMENT IS REACHED DURING THE MEDIATION SESSION:**

**A. If an agreement of all the issues is reached, the mediation report form shall note the full settlement and the parties may then proceed on the uncontested hearing calendar to request that the agreement be incorporated into the final judgment. 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.**

**B. For Post-Judgment Matters:**

**(1) An Order Approving Modification Agreement incorporating the agreement shall be prepared at the mediation session or by a person's attorney.**

**(2) The Order of Approval of a Modification Agreement and the executed agreement shall be forwarded to the judge for consideration.**

**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 child support, the signed agreement with the Child Support Guidelines worksheet shall be filed with the Court.**

**19. EFFECTIVE DATE: This Administrative Order shall become effective for cases as described herein which are mediated on or after July 1, 2004.**

**DONE AND ORDERED at Orlando, Florida, this 29<sup>th</sup> day of June, 2004.**

**/s/ Belvin Perry, Jr.**  
**Belvin Perry, Jr.**  
**Chief Judge**

**Copies to:**

**All Circuit & County Judges, Ninth Judicial Circuit**  
**State Attorney's Office, Ninth Judicial Circuit**  
**Public Defender's Office, Ninth Judicial Circuit**  
**General Counsel, Orange County Sheriff's Office**  
**Police Legal Advisor, Orlando Police Department**  
**Orange County Attorney's Office**  
**Osceola County Attorney**  
**Orange County Corrections**  
**Orange County Bar Association**  
**Bar Briefs, Orange County Bar Association**  
**Paul C. Perkins Bar Association**  
**Hispanic Bar of Central Florida**  
**Central Florida Association for Women Lawyers**  
**Clerk of Courts, Orange County**  
**Orange County Law Library**  
**Clerk of Courts, Osceola County**  
**The Osceola County Bar Association**  
**The Osceola County Law Library**  
**The Osceola County Sheriff's Office**  
**Director, The Osceola County Dept. of Corrections**  
**Office of the Statewide Prosecutor**  
**Central Florida Criminal Defense Attorneys Association**  
**Executive Director of The Florida Bar**  
**Official Records, Orange County Comptroller**

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