



**FRIEND OF THE COURT (FOC)
ALTERNATIVE DISPUTE RESOLUTION PLAN**

LOCAL ADMINISTRATIVE ORDER

C36 2020-02

**RESCINDS:
N/A**

Court Address
219 E. Paw Paw Street – Lower Level, Paw Paw, MI 49079

Court Telephone No.
(269) 657-8200

IT IS ORDERED:

Pursuant to MCR 3.224, State Court Administrative Offices Model LAO 49 and local procedures, the following is adopted at the 36th Judicial Circuit Court as the Friend of the Court Alternative Dispute Resolution Plan. Refer to the general ADR Plan for all other non-FOC cases.

A. Alternative Dispute Resolution (ADR) – FOC General Provisions

The 36th Judicial Circuit Court has determined that Friend of the Court (FOC) ADR can assist parties and the court in resolving custody and parenting time disputes.

1. The 36th Judicial Circuit Court will use the following ADR practices:
 - a. FOC domestic relations mediation as established in MCL 552.513 and MCR 3.224.
 - b. Custody and parenting time meeting with self-represented litigants as established in MCR 3.224.
2. 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.
3. In accordance with MCL 552.505a, the FOC may provide ADR services for all open FOC cases that qualify for FOC ADR services.
4. 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 or neglect;
 - b. domestic abuse, unless the protected party submits a written consent and the friend of the 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).

5. 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 and 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.
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 FOC ADR. If the FOC 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 client.
8. Participants in an ADR process may not record the ADR proceeding.

9. The FOC shall provide a report with each FOC ADR proposed consent order containing sufficient information to allow the court to make an independent determination that the proposed order is in the child's best interest.
10. FOC ADR providers have met the training and qualifications established by SCAO. Every mediator will provide verification of the completion of the required mediator training to the FOC.
11. The public may access this Plan on the court's website.

B. Submitting Cases to ADR

1. On written stipulation of the parties, on motion of a party, or on the court's initiative, the court may order any contested prejudgment or postjudgment custody or parenting time issue in a domestic relations case to FOC mediation by written order.
2. The FOC will send a referral letter to the assigned mediator containing the contact information for the parties.
3. All self-represented custody and parenting time motions are ordered to a meeting with the FOC case manager.

C. FOC Domestic Relations Mediation

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

1. **Objection to Mediation:** A party who is ordered to FOC domestic relations mediation may file a written motion to remove the case from FOC mediation and a notice of hearing of the motion, and serve a copy on all parties or their attorneys of record within 14 days after receiving notice of the order. The motion must be set for hearing 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 by the FOC.
2. FOC Domestic Relations Mediation Procedures: FOC domestic relations mediation will be conducted by a mediator selected by the FOC.
 - a. At the beginning of the mediation, the mediator will advise the parties and their attorneys, if applicable, of the following:
 - 1) The purpose of mediation;
 - 2) How the mediator will conduct mediation;
 - 3) 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.
 - b. If the parties reach an agreement, the mediator shall submit a report pursuant to MCR 3.224(I) within seven days, or the mediator and parties will place the agreement on the record.
 - c. 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. The mediator shall use the report form designated by the FOC.
 - d. With the exceptions provided for in MCR 2.412(D), communications during FOC domestic relations mediation process are confidential and cannot be used in court proceedings and cannot be recorded.
 - e. The FOC shall pay the mediator's fee for all court ordered FOC mediation for child custody and/or parenting time disputes.
 - f. Following successful mediation, the FOC will prepare orders adopting the mediation agreement for self-represented litigants. Attorneys of record will be directed to prepare orders adopting any mediation agreement for represented litigants

D. Custody and Parenting Time Meeting with self-represented litigants

1. This is a process in which the FOC Case Manager discuss custody and parenting time issues with self-represented litigants when a custody or parenting time motion has been filed with the court but before the court holds a hearing.

- a. **Custody and Parenting Time Meeting with pro-se litigants Meeting Referral:** Through 36th Circuit Court FOC ADR plan self-represented litigants are ordered to attend a custody and parenting time meeting with the FOC case manager.
- b. **Objection to Custody and Parenting Time Meeting with pro-se litigants:** To object to a Custody and Parenting Time Meeting, the party must file a written objection with the FOC and provide a copy to all before the time scheduled for the meeting.
- c. **Custody and Parenting Time Meeting with pro-se litigants Meeting Procedures:** The meeting shall be conducted as follows:
 - 1) The meeting may not begin until the FOC case has been screened for domestic violence using a screening protocol provided by SCAO as directed by the Supreme Court.
 - 2) If domestic violence is identified or suspected, the meeting may not proceed unless the protected party submits a written consent and the FOC takes additional precautions to ensure the safety of court staff and the protected party. Throughout the meeting process, the case manager must make reasonable efforts to screen domestic violence that would make the conference physically or emotionally unsafe for any participant or that would impede achieving a voluntary and safe resolution of issues.
 - 3) At the beginning of the meeting, the case manager will advise the parties of the following:
 - The purpose of the meeting and how the case manager will conduct the meeting and submit an order or recommendation to the court under MCR 3.224(F);
 - How information gathered during the meeting will be used;
 - That statements made during the meeting are not confidential and can be used in other court proceedings, and shall not be recorded; and
 - That the parties are expected to provide information as required by MCL 552.603 to the FOC and the consequences of not doing so.
 - 4) If the parties resolve all contested issues, the case manager shall submit a report pursuant to MCR 3.224(I) and provide a proposed order to the court setting forth the parties' agreements.
 - 5) If the parties do not resolve all contested issues at the meeting, the case manager will schedule the matter for a referee hearing.

01/06/2020
Date


Chief Judge

Effective date: January 1, 2020

From: [Region5 Info](#)
To: [Kathleen Brickley](#); [Frank Hardester](#); [Lynn Bullard](#)
Cc: [Region5 Info](#)
Subject: C36 2020-02 Friend of the Court Alternative Dispute Resolution - Approved
Date: Tuesday, January 7, 2020 11:02:42 AM

C36 2020-02 Friend of the Court Alternative Dispute Resolution - Approved

This is to advise that we have reviewed the above referenced administrative order and find that it conforms to the requirements of MCR 8.112(B). This order is being accepted and filed.

Jill Booth
Region V Administrator
P.O. Box 30048
Lansing, MI 48909
517-373-8679

This message has been prepared on computer equipment and resources owned by the Michigan Supreme Court. It is subject to the terms and conditions of the Court's Computer Acceptable Use Policy.