

**LORAIN COUNTY COURT OF COMMON PLEAS  
CIVIL RULES AS OF AUGUST 7, 2008**

**RULE 15  
MEDIATION**

**I CASE SELECTION FOR MEDIATION**

Any civil case may be referred to mediation. Mediation shall not be used as an alternative to the prosecution or adjudication of domestic violence, to determine whether to grant, modify or terminate a protection order, to determine the terms and conditions of a protection order, or to determine the penalty for violation of a protection order.

**II. REFERRAL TO MEDIATION**

A case is referred to mediation by order of the Court. The Court may issue the order on its own motion, upon the motion of counsel, upon referral by the mediator or upon agreement of the parties.

**III. CONTINUANCES**

Continuances shall be granted only for good cause shown. Except as authorized by the Court, the existence of pending motions shall not be good cause for a continuance and no continuance will be granted unless the mediation can be scheduled prior to the final pretrial.

**IV. NO STAY OF PROCEEDINGS**

All remaining court orders shall remain in effect. No order is stayed or suspended during the mediation process.

**V. MEDIATION PRIVILEGE**

Mediation communications are privileged as described in Ohio Revised Code 2710.03-2710.05. If the parties believe that confidentiality beyond the scope of the privilege is necessary, then the parties shall effect a written confidentiality agreement prior to the mediation.

**VI. MEDIATOR'S DUTY**

Mediator is defined to mean any individual who mediates cases pursuant to an order of this Court, regardless of whether that individual is an employee, an independent contractor or a volunteer. The mediator shall inform the Court who attended the mediation, whether the case settled, and whether efforts to settle the case through mediation are being continued or if the case is being returned to the Court for further proceedings. No other information shall be directly or indirectly communicated by the mediator to the Court, unless all who hold a mediation privilege, including the mediator, have consented to such disclosure. The mediator shall keep mediation communications confidential unless all who hold a mediation privilege, including the mediator, have consented to such disclosure.

**VII. DUTIES OF ATTORNEYS/PARTIES/NON-PARTY PARTICIPANTS**

Trial counsel who is primarily responsible for each party's case personally shall attend the mediation conference and shall be prepared and authorized to discuss all relevant issues and settlement terms. All parties, or if applicable, the principal insurance adjuster for the claim, shall personally attend all mediation conferences with authority to settle. A party other than a natural person must be represented by a person, other than counsel, with authority to settle.

If counsel or any mediation party becomes aware of the identity of a person or entity whose consent is required to resolve the dispute, but who has not yet been joined as a party in the pleadings, they shall promptly inform the mediator as well as the assigned Judge of such fact.

If the opposing parties to any case have either resided in a common residence or are related by blood, adoption, or marriage and have known or alleged domestic abuse at any time prior to the mediation, then the parties and their counsel have a duty to disclose such information to the Mediation Office and have a duty to participate in any screening required by the Supreme Court of Ohio's Rules of Superintendence Rule 16 both prior to and in the mediator's discretion, during the mediation session.

Individuals who participate in a mediation as non-party participants, by such participation, are bound by this rule and submit to the Court's jurisdiction to the extent necessary for enforcement of this rule. Any non-party participant shall have the rights and duties under this rule as are attributed to parties, except that no privilege shall be expanded.

#### **VIII. IMMUNITY**

A mediator acting pursuant to this local rule shall have all immunity conferred by statute, rule and common law.

#### **IX. NO LEGAL ADVICE**

The efforts of the mediator shall not be construed as giving legal advice. The mediator is authorized to provide resource information for legal or other support services available in the community; however, such distribution shall not be construed as a recommendation of or referral to such resource. The recipient of that information is charged with the duty to evaluate those resources independently.

#### **X. SANCTIONS**

Failure to attend mediation without good cause may result in sanctions being imposed by the Court. Such sanctions may include attorney's fees or such other sanctions as the Court deems appropriate.

#### **XI. ADMINISTRATIVE DISMISSAL**

If the parties fail to dismiss a settled case within the earlier of 60 days or the time noted in the entry that gave the Court notice of the settlement, then the Court may dismiss the case administratively.

**See Also: Rule 13 Alternative Dispute Resolution (ADR)**