



**62-B District Court 4740 WALMA AVE SE
KENTWOOD MICHIGAN 49512
Phone (616) 698-9310/Fax (616) 698-8199**

MONDAY - FRIDAY 8:00 AM - 5:00 PM

Administrative Order 2021-09

ORDER ADOPTING LOCAL ALTERNATIVE DISPUTE RESOLUTION PLAN

IT IS ORDERED:

This administrative order is issued in accordance with Michigan Court Rule 2.410 Alternative Dispute Resolution, effective August 1, 2000. The purpose of this order is to adopt the Local Alternative Dispute Resolution Plan appended to the Order upon approval by the State Court Administrative Office.

Effective Date: May 1, 2021

Dated: 5-27-21

Chief Judge Signature: *A. Stokenburg*

ALTERNATIVE DISPUTE RESOLUTION PLAN 62-B District Court

Honorable Amanda Sterkenburg

City of Kentwood

Table of Contents

Introduction to the ADR Plan	3
Definitions	4
General Considerations in Developing the ADR Plan	5
General ADR Procedures	5-8
Case Screening	
Application	
Case Evaluator Eligibility	
Mediator Eligibility	
Assignment of Mediators	
Final Settlement Conference	
Arbitration and Other ADR Processes	
ADR for Indigent Litigants	
Supervision	
Additional Resources	9

Introduction to the ADR Plan

The Chief Judge of the 62-B District Court has determined that Alternative Dispute Resolution (ADR) processes serve useful purposes in civil cases. ADR reduces costs, produces more timely resolutions and increases litigant satisfaction with the justice system.

The court intends to refer appropriate civil cases, including summary proceedings, to mediation. Binding arbitration or case evaluation may be utilized in suitable cases. To fully use ADR in this manner, the court is required to adopt an ADR plan that fully describes the relevant procedures. The procedures described below will provide interested parties with the information necessary to participate in ADR; however, parties are advised to read this ADR Plan in conjunction with relevant statutes and court rules.

To the extent that any matter referred or ordered to mediation is not addressed, the Michigan Court Rules shall apply.

Commitment to Diversity Competence:

Litigants are comprised of a wide variety of cultures and backgrounds that span the economic spectrum. The best ADR outcomes are reached when those varying perspectives are taken into consideration. Therefore, the 62-B District Court commits to acknowledging the implications of diverse cultures, values, and socioeconomic statuses within disputes and handling that diversity in a manner designed to reach an optimal resolution. This ADR Plan is developed to be used in conjunction with facilitators who understand how diversity may affect a dispute, and processes that are designed to overcome diversity impediments to find common ground.

In implementing the ADR plan, the court, and court employees shall take all reasonable steps necessary to ensure facilitators fairly reflect the racial, ethnic, and gender diversity of the litigants being served.

Definitions

Alternative Dispute Resolution (ADR) means any "process designed to resolve a legal dispute in the place of court adjudication." ADR includes the following:

- Settlement conferences under MCR 2.401
- Case evaluation under MCR 2.403
- Mediation under MCR 2.411
- Other procedures as defined by court rule

Settlement Conferences:

This process may occur at any time after commencement of an action. On its own initiative, or upon request of a party, the court may direct attorneys (with or without clients) to appear for a conference. More than one conference may be held in any action.

Mediation:

In mediation a neutral third party facilitates discussion between parties, assists in identifying issues, and helps explore solutions to promote a mutually acceptable settlement in a confidential manner. A mediator has no final decision-making power, and the process does not involve monetary sanctions.

Case Evaluation:

Under MCR 2.043, the court may submit any civil action in which relief sought is primarily money damages or division of property to case evaluation. Case evaluation is a process by which panels of three attorney case evaluators assess the relative strength and weakness of the parties' legal position and immediately assign a monetary value to the case. Parties may accept or reject the evaluation. Unlike other forms of ADR, if a party rejects an evaluation and the action proceeds to verdict, that party must pay the opposing party's actual costs unless the verdict is more favorable to the objecting party than the case evaluation, MCR 2.403(O).

General Considerations in Developing the ADR Plan

The court shall designate an ADR Clerk who shall maintain all records pertaining to the ADR Plan, including applications for, and lists of, mediators. The ADR Clerk shall be responsible for coordinating the referral of cases to ADR and tracking the progress of cases through ADR processes.

The ADR Clerk shall be responsible for providing information about the ADR Program to litigants, attorneys, and the general public. The court will educate and inform the public about ADR options. The court will develop a form letter inviting anyone interested in providing mediation services to complete an Application (MC 281a) which will be available to the public. Additional information will be provided on the court's website (www.kentwood.us).

General ADR Procedures

Case Processing:

Parties in all small claims cases will be given the opportunity to mediate through the Dispute Resolution Center of West Michigan (DRCWM) before an order of referral. The court shall determine whether any general civil or summary proceedings case is appropriate for mediation. Case evaluation will only be ordered by stipulation of the parties. Mediation may be ordered by stipulation, by party motion, or at any time on the court's own motion.

Parties in general civil or summary proceedings cases may select, by agreement, a private mediator. For the convenience of the parties, the court will maintain a list of trained mediators. Where the parties do not agree, cases will be referred to the DRCWM.

Parties who participate in mediation or other procedures described in this plan will not be discriminated against on the basis of race, ethnic origin, age, gender, Americans with Disabilities Act (ADA), other legally protected characteristics, or denied access regardless of their proficiency in the English language.

ADR for Indigent Litigants:

The court shall take steps to make mediation available to indigent litigants. A litigant is "indigent" if he or she qualifies for the waiver or suspension of fees or costs in accordance with MCR 2.002 (C) or (D). The Court will refer indigent cases to the DRCWM.

Case Evaluator Processes:

Pursuant to MCR 2.404, as an Alternative Plan, the court shall use the list of case evaluators and appointment procedure from the 17th Circuit Court.

Accommodations:

Parties requiring accommodations should make their request to the ADR Clerk. Parties requiring accommodations for a disability should make their request using the procedure outlined in Local Order 2015-6, available at www.kentwood.us. Parties requiring the use of an interpreter will be scheduled at a time and place where Language Line services can be made available. (LAO 2013-1, Language Access Plan)

Final Settlement Conference in Civil Cases:

A final settlement conference will be scheduled prior to trial in every case. The purpose of the final settlement conference is to give the parties, or their counsel, one last opportunity to settle the case or to narrow the disputed issues and discuss how the trial will proceed. Each party and person with authority to settle the case, as well as attorneys who may be trying the case, are required to attend.

Arbitration and Other ADR Processes:

Nothing in this ADR plan shall preclude the parties from stipulating to an ADR process of their choice so long as scheduling and completing same does not interfere with court appearances or the timely progression of the case. Parties are encouraged to pursue any form of ADR which they believe will assist them in resolving their dispute. Arbitration may be pursued through a private arbitrator or through the American Arbitration Association.

Supervision:

The Chief Judge shall exercise general supervision over the implementation of this ADR plan and the case evaluator and mediator selection process. In addition, the court shall review the operation of the ADR plan at least annually to ensure compliance. In the event of noncompliance, the court shall take such action as needed. This action may include recruiting persons to serve as mediators or revising the ADR plan. Any concerns regarding the ADR process shall be submitted in writing to the ADR clerk. Concerns will be reviewed by the Court Administrator and the Chief Judge will be advised as appropriate.

Assignment of Civil Mediators

Application:

An eligible person to serve as a mediator may apply to the ADR Clerk to be placed on the list of qualified mediators. Civil Mediator Application forms (MC 281a) are available on the State Court Administrative Office (SCAO) website (www.courts.michigan.gov) and from the ADR

clerk. The application form includes a certification that the applicant meets all requirements and will not discriminate on the basis of race, ethnic origin, age, gender, Americans with Disabilities Act (ADA), other legally protected characteristics, or deny access regardless of proficiency in the English language.

Civil Mediator Eligibility:

To be eligible to serve as a mediator pursuant to this ADR Plan, a person must meet the following qualifications:

Complete training program approved by the State Court Administrative Office (SCAO) providing the accepted components of mediation skills; or a similar training program;

Have a juris doctorate degree or graduate degree in conflict resolution; or 40 hours of mediation experience in the past two years; or both.

Observe two general civil or small claims mediation proceedings conducted by an approved mediator, and conduct one general civil mediation to conclusion under the supervision and observation of an approved mediator;

An applicant who has specialized experience or training, but does not meet the specific requirement above, may apply to the ADR clerk for special approval. The Chief Judge or designee shall make the determination on the basis of criteria provided by the State Court Administrative Office (SCAO). The SCAO criteria are available in the Mediator Training Standards and Procedures (Section 5.2, 5.3). Service as a case evaluator under MCR 2.403 does not constitute a qualification for serving as a mediator;

Mediators must not discriminate against parties or attorneys on the basis of race, ethnic origin, gender, or other protected personal characteristic, or deny access based on proficiency in the English language.

Mediators must comply with the court ADR plan, orders of the court regarding cases submitted to mediation and the Standards of Conduct for Mediators promulgated by the State Court Administrative Office (SCAO).

Mediator List:

The lists of mediators and mediation services are available at www.kentwood.us. Copies may be obtained from the ADR clerk.

Review of Applications:

Any person interested in providing mediation services is invited to submit an application to the

ADR clerk. The ADR clerk will distribute all applications received to the Chief Judge for review. Persons meeting the qualifications specified above shall be placed listed as an available trained mediator unless disqualified for cause.

Applicants who are determined to unqualified for cause shall be notified of that decision by the ADR clerk. Applicants will have 21 days to apply for reconsideration by the Chief Judge. Any applications or other documents considered in the initial review process shall be retained for at least 21 days. The appeal and all related documents must be filed with the ADR clerk and received within 21 days of the date the original decision was sent.

Reapplication:

Mediators shall be placed on the list for a fixed period of time, not to exceed five years, and must reapply at the end of that period in the same manner as persons seeking to be added to the list.

Advanced Training:

Every mediator on the court-approved list must notify the ADR clerk and provide written proof of having completed the requisite eight hours of advanced mediation training during each two-year period following appointment to a list. Failure to do so will result in removal from the list.

Assignment:

The court will refer cases to mediation by an order of referral. Except for good cause shown, the parties' attorneys or the parties, if unrepresented, shall confer and select a mediator or mediation service within 14 days of the date of the order and notify the ADR clerk. Within 21 days of the date of the order, the mediator or mediation service shall advise the ADR clerk and all parties, in writing, who will be conducting the mediation and the date and time set for mediation. The parties will provide the mediator or mediation service with the court ADR referral order.

In the event that the parties do not notify the ADR clerk of their selection within the 14 days allowed, the ADR clerk will assign the case to WMDRC.

Mediator Compensation:

A mediator is entitled to reasonable compensation based on an hourly rate commensurate with the mediator's experience and usual charges for services performed. Before mediation, the parties shall agree in writing on the amount of the fee, as well as the time and manner of payment in accordance with MCR 2.411.

Additional Resources

Dispute Resolution Center of West Michigan

678 Front Avenue NW, Ste 250

Grand Rapids, MI 49504

Phone: 616-774-0121

www.drcwm.org

Resolve a Dispute Online with MI-Resolve

<https://courts.michigan.gov/Administration/SCAO/OfficesPrograms/ODR/Pages/MI-Resolve.aspx>

Michigan Community Dispute Resolution Program (CDRP)

Office of Dispute Resolution

PO Box 30048

Lansing, MI 48909

Phone: (517) 373-4839

cdrp@courts.mi.gov

<https://courts.michigan.gov/Administration/SCAO/OfficesPrograms/ODR/pages/community-dispute-resolution-program.aspx>