

**STATE OF NORTH CAROLINA
SECOND JUDICIAL DISTRICT**

**IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION**

**ALTERNATIVE DISPUTE RESOLUTION PROCEDURES IN
EQUITABLE DISTRIBUTION AND OTHER
FAMILY FINANCIAL CASES
(LOCAL RULES)**

Pursuant to N.C.G.S. 7A-38.4A and the Rules of the North Carolina Supreme Court Implementing Settlement Procedures in Equitable Distribution and Other Family Financial Cases, the North Carolina Supreme Court mandated that Chief District Court Judges establish procedures and policies implementing mandatory mediated settlement conferences or other settlement procedures in all judicial districts effective March 1, 2007.

In order to utilize the resources of the District Court Division in the Second Judicial District more effectively and efficiently, and to promote the prompt and effective resolution of Equitable Distribution and Family Financial Case, the following Local Rules are hereby adopted to become effective on March 1, 2007. The Local Rules will be published in the next Administrative Office of the Court's Local Rules publication which is maintained in the Office of the Clerk of Superior Court, and shall also be posted on the website maintained by the Administrative Office of the Courts. These rules may be utilized prior to their effective date upon agreement of the parties.

Adopted this the _____ day of February, 2007.

**SAMUEL G. GRIMES
CHIEF DISTRICT COURT JUDGE**

SECOND JUDICIAL DISTRICT LOCAL RULES FOR ALTERNATIVE DISPUTE RESOLUTION PROCEDURES IN EQUITABLE DISTRIBUTION AND OTHER FAMILY FINANCIAL CASES

1.1 Purpose of Mandatory Alternative Dispute Resolution Procedures.

Pursuant to N.C.G.S. §7A-38.4A, These Rules are promulgated to implement a system of alternative dispute resolution (hereafter “ADR”) designed to focus the parties’ attention on settlement rather than on trial preparation and to provide a structured opportunity for settlement negotiations to take place. Nothing herein is intended to limit or prevent the parties from engaging in ADR procedures voluntarily at any time before or after those ordered by the Court pursuant to these Rules. In the event of a conflict between these Rules and the North Carolina Supreme Court Rules, the Supreme Court Rules shall govern.

1.2 Duty of Counsel to Consult with Clients and Opposing Counsel about ADR Procedures.

Counsel, upon being retained to represent any party to a district court case involving family financial issues, including equitable distribution, child support, alimony, post-separation support, or claims arising out of contracts between the parties under N.C.G.S. §50-20(d), §52-10, §52-10.1 or §52-B shall advise his or her client regarding the ADR procedures approved by these Rules and, at or prior to the status conference mandated by N.C.G.S. §50-21(d), shall attempt to reach agreement with the opposing party on the appropriate ADR procedure for the action.

1.3 Ordering ADR Procedures.

- (a) **Equitable Distribution Scheduling Conference.** At the scheduling conference mandated by N.C.G.S. §50-21(d), or within 120 days of the filing of the first pleading containing family financial issues, the Court shall include in its scheduling order a requirement that the parties and their counsel, if any, attend a mediated settlement conference or, if the parties agree, other ADR procedures conducted pursuant to these Rules, unless excused by the Court pursuant to these Rules. The Court shall dispense with the requirement to attend a mediated settlement conference or other settlement procedure only for good cause shown. The Court shall also execute an Order for Mediated Settlement Conference in Family Financial Case (**AOC-CV-824**).
- (b) **Scope of ADR Proceedings.** All other financial issues existing between the parties when the equitable distribution ADR proceeding is ordered, or at any time thereafter, may be discussed, negotiated or decided at the proceeding. Child custody and visitation issues may be the subject of ADR proceedings ordered pursuant to these Rules in those cases in which the parties and the mediator have agreed to include them.
- (c) **Authorizing ADR Procedures Other Than Mediated Settlement Conference.** The parties and their attorneys are in the best position to know which ADR procedure is appropriate for their case. Therefore, the Court shall order the use of an ADR procedure authorized by Rule 1.19 if the parties have agreed upon the procedure to be

used, the neutral person to be employed and the compensation of the neutral person. If the parties have not agreed on all three items, then the Court shall order the parties and their counsel to attend a mediated settlement conference conducted pursuant to these Rules.

The motion for an order to use an ADR procedure other than a mediated settlement conference shall be filed on Motion for an Order to Use Settlement Procedure other than Mediated Settlement Conference or Judicial Settlement Conference in Family Financial Case (**AOC-CV-826**) at the scheduling conference and shall state:

- (1) the ADR procedure chosen by the parties;
 - (2) the name, address and telephone number of the neutral person selected by the parties;
 - (3) the rate of compensation of the neutral person; and
 - (4) that all parties consent to the motion.
- (d) **Content of Order.** The Court's order shall (1) require that a mediated settlement conference or other ADR proceeding be held in the case; (2) establish a deadline for the completion of the conference or proceeding; and (3) state that the parties shall be required to pay the neutral person's fee at the conclusion of the mediated settlement conference or proceeding unless otherwise ordered by the Court.

The order shall be contained in the Court's scheduling order. Any order entered at the completion of a scheduling conference may be signed by the parties or their attorneys in lieu of submitting the forms referred to hereinafter relating to the selection of a mediator.

- (e) **Court-Ordered ADR Procedures in Other Family Financial Cases.** Any party to an action involving family financial issues not previously ordered to a mediated settlement conference may move the Court to order the parties to participate in an ADR procedure. Such motion shall be made in writing, state the reasons why the order should be allowed and be served on the opposing party. Any objection to the motion, or any request for hearing, shall be filed in writing with the Court within 10 days after the date of the service of the motion. Thereafter, the Chief District Court Judge shall rule upon the motion and notify the parties or their attorneys of the ruling. If the Court orders an ADR proceeding, then the proceeding shall be a mediated settlement conference conducted pursuant to these Rules. Other ADR procedures may be ordered if the circumstances outlined in subsection (c) above have been met.
- (f) **Motion to Dispense With ADR Procedures.** A party may move the Court to dispense with the mediated settlement conference or other ADR procedure. Such motion shall be in writing and shall state the reasons the relief is sought. For good cause shown, the Court may grant the motion. Such good cause may include the fact that the parties have participated in an ADR procedure prior to the scheduling conference or have elected to resolve their case through arbitration or referee or that one of the parties has alleged domestic violence. The Court may also dispense with the mediated settlement conference for good cause upon its own motion.

1.4 Selection of Mediator by Agreement of the Parties.

The parties may select a family financial mediator certified pursuant to these Rules by agreement by filing with the Court a Designation of Mediator in Family Financial Case (**AOC-CV-825**) at the scheduling conference or within 120 days of the filing of the first pleading containing family financial issues. Such designation shall state the name, address and telephone number of the mediator selected, state the rate of compensation of the mediator, state that the mediator and opposing counsel have agreed upon the selection and rate of compensation, and state that the mediator is certified pursuant to these Rules.

In the event the parties wish to select a mediator who is not certified pursuant to these Rules, the parties may nominate said person by filing a Nomination of Non-Certified Family Financial Mediator (**AOC-CV-825**) with the Court. Such nomination shall state the name, address and telephone number of the mediator; state the rate of compensation of the mediator; state that the mediator and opposing counsel have agreed upon the selection and rate of compensation. The Court shall approve the nomination if, in the Court's opinion, the nominee is qualified to serve as a mediator.

A copy of the completed Designation of Mediator in Family Financial Case (**AOC-CV-825**) submitted to the Court and a copy of the Court's order requiring a mediated settlement conference shall be delivered to the mediator by the parties.

1.5 Appointment of Certified Family Financial Mediator by the Court.

If the parties cannot agree upon the selection of a mediator, they shall so notify the Court at the scheduling conference and the Court shall appoint a certified family financial mediator. The parties shall complete a Designation of Mediator in Family Financial Case Motion for Court Appointment of Mediator (**AOC-CV-825**) and bring it to the scheduling conference. The Court shall include the name, address, and telephone number of the mediator appointed by the Court. In selecting the mediator the court shall follow the guidelines established by the relevant Supreme Court rules.

1.6 Mediator Information Directory.

To assist the parties in the selection of a mediator by agreement, the Chief District Court Judge or his designee shall prepare and keep current a central directory of information on all mediators certified pursuant to these Rules. Such information shall be collected on loose-leaf forms and be kept in one or more notebooks made available for inspection by attorneys and parties in the offices of the Clerks of Superior Court for the counties of this District, and in the office of the Chief District Court Judge.

1.7 Disqualification of Mediator.

Any party may move the Court for an order disqualifying the mediator by submitting the request to the Chief District Court Judge. For good cause, such order shall be entered. If the

mediator is disqualified, a replacement mediator shall be selected or appointed pursuant to Rule 1.4 or 1.5. Nothing in this provision shall preclude mediators from disqualifying themselves.

1.8 Site and Time of the Mediated Settlement Conference.

- (a) The mediated settlement conference shall be held in any location agreeable to the parties and the mediator. If the parties cannot agree on a location, the mediator shall be responsible for reserving a neutral place and making arrangements for the conference and for giving timely notice of the time and location of the conference to all attorneys and *pro se* parties.
- (b) The conference should be held after the parties have had a reasonable time to conduct discovery but well in advance of the trial date. The Court's order issued pursuant to Rule 1.3(a) shall state a deadline for completion of the conference which shall be no later than 210 days after filing of the action, unless extended by the Court. The mediator shall set a date and time for the conference pursuant to Rule 1.16(f).

1.9 Requests to Expedite, Extend, or Exempt.

- (a) Expedite or Exempt - Either party may file a motion to expedite or exempt from mediation for good cause shown. Said motions shall be filed and served upon all parties (and the mediator if one has been appointed) according to the North Carolina Rules of Civil Procedure and shall state the reasons for the motion. A copy shall also be sent to the office of the Chief District Court Judge.
- (b) Extend - Upon consent of all parties and the mediator, mediation may be extended once for a specified number of days not to exceed 30, or to extend beyond the trial date. In this instance, a Consent Order or Stipulation shall be filed with the Court, signed by all parties and the mediator, and approved by the assigned judge. Any further requests shall be made by filing a motion with the Court.

1.10 Recesses.

The mediator may recess the conference at any time and may set times for reconvening. If the time for reconvening is set during the conference, no further notification is required for persons present at the conference.

1.11 Delay of Other Proceedings.

The mediated settlement conference shall not be cause for the delay of other proceedings in the case, including the completion of discovery, the filing or hearing of motions, or the trial of the case, except by order of the Court.

1.12 Duties of Parties, Attorneys and Other Participants in Mediated Settlement Conferences.

- (a) The following persons **shall** attend a mediated settlement conference:
 - (1) parties, and

- (2) at least one attorney of record for each party whose counsel has appeared in the action.
- (b) Any person required to attend a mediated settlement conference shall physically attend until such time as an agreement has been reached or the mediator, after conferring with the parties and their counsel, if any, declares an impasse. No mediator shall unduly prolong a conference.
- (c) Any person may have the attendance requirement excused or modified, including allowing a person to participate by phone, by agreement of both parties and the mediator or by order of the Court.
- (d) **Scheduling.** Participants required to attend shall promptly notify the mediator after selection or appointment of any significant problems they may have with dates for conference sessions before the completion deadline, and shall keep the mediator informed as to such problems as may arise before an anticipated conference session is scheduled by the mediator. After a conference session has been scheduled by the mediator, and a scheduling conflict with another court proceeding thereafter arises, participants shall promptly attempt to resolve it pursuant to Rule 3.1 of the General Rules of Practice for the Superior and District Courts, or, if applicable, the Guidelines for Resolving Scheduling Conflicts adopted by the State-Federal Judicial Council of North Carolina June 20, 1985.

1.13 Finalizing by Notarized Agreement, Consent Order and/or Dismissal.

The essential terms of the parties' agreement upon any or all issues shall be reduced to writing as a summary memorandum at the conclusion of the conference unless the parties have reduced their agreement to writing, have signed it and in all other respects have complied with the requirements of Chapter 50 of the North Carolina General Statutes. The parties and their counsel shall use the summary memorandum as a guide to drafting such agreements and orders as may be required to give legal effect to its terms. In the event the parties fail to agree on the wording or terms of a final agreement or court order, the mediator may schedule such other sessions as the mediator determines would assist the parties.

Within thirty (30) days of reaching agreement upon all issues at the conference, or otherwise, all final agreements and other dispositive documents shall be executed by the parties and notarized and a copy given to the mediator; and judgments or voluntary dismissals shall be filed with the Clerk of Court by such persons as the parties, the mediator or the Court shall designate. If the agreement is reached at the conference, the person designated to file closing documents shall also sign the mediator's report.

When a case is settled upon all issues all attorneys of record must notify the office of the Chief District Court Judge within four business days of the settlement and advise who will file the appropriate documents and when.

1.14 Payment of the Mediator's Fee.

The parties shall pay the mediator's fee as provided by Rule 1.17.

1.15 Sanction for Failure to Attend Mediated Settlement Conferences.

If any person required to attend a mediated settlement conference fails to attend without good cause, the Court may impose upon that person any appropriate monetary sanction including, but not limited to, the payment of attorneys fees, mediator fees, expenses and loss of earnings incurred by persons attending the conference.

A party to the action seeking sanctions shall file a written motion stating the grounds for the motion and the relief sought. Said motion shall be served upon all parties and on any person against whom sanctions are being sought. If the Court imposes sanctions, it shall do so, after notice and a hearing, in a written order, making findings of fact supported by substantial evidence and conclusions of law.

1.16 Authority and Duties of the Mediator.

- (a) **Control of Conference.** The mediator shall at all times be in control of the conference and the procedures to be followed. However, the mediator's conduct shall be governed by standards of conduct promulgated by the North Carolina Supreme Court upon the recommendation of the Dispute Resolution Commission, which shall contain a provision prohibiting mediators from prolonging a conference unduly.
- (b) **Private Consultation.** The mediator may communicate privately with any participant during the conference. However, there shall be no *ex parte* communication before or outside the conference between the mediator and any counsel or party on any matter touching the proceeding, except with regard to scheduling matters. Nothing in this Rule prevents the mediator from engaging in *ex parte* communications, with the consent of the parties, for the purpose of assisting settlement negotiations. Nothing in this Rule prevents the mediator from requesting or requiring the parties to submit copies of pleadings, written contentions, worksheets or other documentation prior to the mediation, provided the opposing party and /or attorney is provided with copies of any documentation sent to the mediator.
- (c) **Scheduling and Holding the Conference.** The mediator shall schedule the conference and conduct it prior to the conference completion deadline set out in the Court's order. The mediator shall make an effort to schedule the conference at a time that is convenient with all participants. In the absence of agreement, the mediator shall select a date and time for the conference. Deadlines for completion of the conference shall be strictly observed by the mediator unless changed by written order of the Court.
- (d) **Disclosure.** The mediator has a duty to be impartial and to advise all participants of any circumstance bearing on possible bias, prejudice or partiality.

The mediator shall define and describe the following at the beginning of the conference:

- (1) The process of mediation;
- (2) The differences between mediation and other forms of conflict resolution;
- (3) The costs of the mediated settlement conference;

- (4) That the mediated settlement conference is not a trial, the mediator is not a judge, and the parties retain their right to trial if they do not reach settlement;
 - (5) The circumstances under which the mediator may meet and communicate privately with any of the parties or with any other person;
 - (6) Whether and under what conditions communications with the mediator will be held in confidence during the conference;
 - (7) The admissibility of conduct and statements as provided by G.S. 7A-38.4A(j);
 - (8) The duties and responsibilities of the mediator and the participants; and
 - (9) The fact that any agreement reached will be by mutual consent.
- (e) **Declaring Impasse.** It is the duty of the mediator to determine in a timely manner that an impasse exists and that the conference should end. The mediator shall inquire of and consider the desires of the parties to cease or continue the conference.
 - (f) **Reporting Results of Conference.** The mediator shall provide a Report of Mediator or other Neutral in Family Financial Case (**AOC-CV-827**) to the Court and the Chief District Court Judge, within 10 days of the completion of the conference, stating whether an agreement was reached by the parties. If the case is settled or otherwise disposed of prior to the conference, the mediator shall file the report indicating the disposition of the case, the person who informed the mediator that settlement had been reached, and the person who will present final documents to the Court.

If an agreement upon all issues was reached at the conference, the report shall state whether the action will be concluded by consent judgment or voluntary dismissal and shall identify the persons designated to file such consent judgment or dismissals. The mediator shall have the person(s) designated sign the mediator's report acknowledging acceptance of the duty to timely file the closing documents with the Court. If partial agreements are reached at the conference, the report shall state what issues remain for trial. The mediator's report shall inform the Court of the absence without permission of any party or attorney from the mediated settlement conference.

Mediators who fail to report as required pursuant to this Rule shall be subject to the contempt powers of the court and sanctions.

1.17 Compensation of the Mediator and Sanctions.

- (a) **By Agreement.** When the mediator is selected by agreement of the parties, compensation shall be as agreed upon between the parties and the mediator.
- (b) **By Court Order.** When the mediator is appointed by the Court, the parties shall compensate the mediator for mediation services at the rate of \$125 per hour. The parties shall also pay to the mediator a one-time, per case administrative fee of \$125, which accrues upon appointment and shall be paid if the case settles prior to the mediated settlement conference or if the Court approves the substitution of a mediator selected by the parties for a court-appointed mediator.

- (c) **Payment of Compensation by the Parties.** Unless otherwise agreed to by the parties or ordered by the Court, the mediator's fee shall be paid in equal shares by the parties. Payment shall be due and payable upon completion of the conference.
- (d) **Inability to Pay.** No party found by the Court to be unable to pay a full share of a mediator's fee shall be required to pay a full share. Any party required to pay a share of a mediator fee pursuant to Rule 1.17 (b) and (c) may move the Court to pay according to the Court's determination of that party's ability to pay. This motion shall be submitted on **AOC-CV-828**.

In ruling on such motions, the assigned judge may consider the income and assets of the moving party and the outcome of the action. The Court shall enter an order granting or denying the party's motion. In so ordering, the Court may require that one or more shares be paid out of the marital estate.

Any mediator conducting a settlement conference shall accept as payment in full of a party's share of the mediator's fee that portion paid by or on behalf of the party pursuant to an order of the Court.

- (e) **Postponement and Fees.** As used herein, the term "postponement" shall mean rescheduling or not proceeding with a settlement conference once a date for the settlement conference has been scheduled by the mediator. After a settlement conference has been scheduled for a specific date, a party may not unilaterally postpone the conference. A conference session may be postponed by the mediator for good cause beyond the control of the moving participant(s) only after notice by the movant to all parties of the reason for the postponement and a finding of good cause by the mediator.

With the consent of all parties, a mediator may also postpone a scheduled conference session without a finding of good cause. In cases in which the Court appoints the mediator, or in which the parties' compensation agreement with the mediator does not otherwise provide, if a settlement conference postponement is allowed without good cause, a fee of \$125 shall be paid to the mediator. However, if the request is made within five (5) business days of the scheduled date, the fee shall be \$250. Postponement fees shall be paid by the party requesting the postponement unless otherwise agreed to by the parties. Postponement fees are in addition to the one-time, per case administrative fee provided for in Rule 1.17(b).

- (f) **Sanctions for Failure to Pay Mediator's Fee.** Willful failure of a party to make timely payment of that party's share of the mediator's fee (whether the one-time per case administrative fee, the hourly fee for mediation services, or any postponement fee) shall constitute contempt of court and subject that party to the contempt powers of the Court. This shall include the willful failure of a party contending inability to pay a full share to promptly move the Court for a determination of such. In addition, any party not paying his or her share of the mediator's fee shall be assessed a \$50.00 late payment fee unless waived by the mediator.

[Note DRC Comment to Rule 7.E (Rule 1.17 herein). Non-essential requests for postponements work a hardship on parties and mediators and serve only to inject delay into

a process and program designed to expedite litigation. As such, it is expected that mediators will assess a postponement fee in all instances where a request does not appear to be absolutely warranted. Moreover, mediators are encouraged not to agree to postponements in instances where, in their judgment, the mediation could be held as scheduled.]

1.18 Mediator Certification and Decertification.

In order to be a certified mediator pursuant to these Rules, an individual shall:

- (a) Be designated as a certified family financial mediator by the Dispute Resolution Commission pursuant to the Rules of the North Carolina Supreme Court Implementing Settlement Procedures in Equitable Distribution and other Family Financial Cases, or be designated as a certified Superior Court Mediator by the Dispute Resolution Commission pursuant to the North Carolina Supreme Court Rules for Mediated Settlement Conferences and be certified as a family law specialist by the North Carolina State Bar Board of Legal Specialization.
- (b) Certification may be revoked or not renewed at any time if it is shown to the satisfaction of the Dispute Resolution Commission that a mediator no longer meets the qualifications established or has not faithfully observed the Rules of the North Carolina Supreme Court Implementing Settlement Procedures in Equitable Distribution and Other Family Financial Cases or those of this district. Any person who is or has been disqualified by a professional licensing authority of any state for misconduct shall be ineligible to be certified under this Rule.

1.19 Other ADR Procedures.

Upon receipt of a motion by the parties seeking authorization to utilize an ADR procedure in lieu of a mediated settlement conference, the Court or the Chief District Court Judge may order the use of those procedures listed in subsections (a), (b) or (c) below, unless the Court or Chief District Court Judge finds that the parties did not agree upon the procedure to be utilized, the neutral person to conduct it, or the neutral person's compensation, or that the procedure selected is not appropriate for the case or the parties. In addition to mediated settlement conferences, the following ADR procedures are authorized by these Rules:

- (a) Neutral Evaluation wherein a neutral person (hereinafter "neutral") offers an advisory evaluation of the case following summary presentations by each party.
- (b) Arbitration wherein the parties agree to arbitrate under the Family Law Arbitration Act (N.C.G.S. §50-41, et seq.), which shall constitute good cause for the Court to dispense with other ADR procedures authorized by these Rules.
- (c) Judicial Settlement Conference in exceptional cases as determined only by the Chief District Court Judge and generally only after the parties have been unsuccessful in reaching a settlement through the other ADR procedures authorized herein.

1.20 General Rules Applicable to Other ADR Procedures.

The same general Rules governing when a proceeding is conducted, extensions of time, where the procedure is to be conducted, delay, inadmissibility of proceedings, records, ex parte communications, duties of the parties, sanctions, selection of the neutral, disqualification of the neutral, compensation, and authority and duties of the neutral shall apply to other ADR procedures as set forth herein for mediation, and in the Rules of the North Carolina Supreme Court.

1.21 Rules for Neutral Evaluation.

Neutral evaluation is an informal, abbreviated presentation of facts and issues by the parties to an evaluator at an early stage of the case. The neutral evaluator is responsible for evaluating the strengths and weaknesses of the case, providing a candid assessment of the merits of the case, settlement value, and a dollar value or range of potential awards if the case proceeds to trial. The evaluator is also responsible for identifying areas of agreement and disagreement and suggesting necessary and appropriate discovery.

- (a) **Pre-Conference Submissions.** No later than twenty (20) days prior to the date established for the neutral evaluation conference, each party shall furnish the evaluator with written information about the case, and shall, at the same time, certify to the evaluator that the party has served a copy of such summary on all other parties to the case. The information provided to the evaluator and the other parties shall be a summary of the significant facts and issues in the party's case and shall have attached to it copies of any documents supporting the party's summary. Information provided to the evaluator and to the other parties pursuant to this paragraph shall not be filed with the Court.
- (b) **Replies to Pre-Conference Submissions.** No later than ten (10) days prior to the date established for the neutral evaluation conference, any party may, but is not required to, send additional written information to the evaluator responding to the submission of an opposing party. The response furnished to the evaluator shall be served on all other parties, and the party sending the response shall certify service to the evaluator, but this response shall not be filed with the Court.
- (c) **Conference Procedures.** Prior to a neutral evaluation conference, the evaluator may request additional written information from any party. At the conference, the evaluator may address questions to the parties and give them an opportunity to complete their summaries with a brief oral statement.
- (d) **Modification of Procedure.** Subject to approval of the evaluator, the parties may agree to modify the procedures required by these Rules for neutral evaluation.
- (e) **Evaluator's Duties.**
 - (1) **Evaluator's Opening Statement.** At the beginning of the conference the evaluator shall define and describe the follow points to the parties:
 - a) The process of the proceeding;
 - b) The differences between the proceeding and other forms of resolution (i.e., that the neutral evaluation conference is not a trial, the evaluator is not a

judge, the evaluator's opinions are not binding on any party, and the parties retain their right to trial if they do not reach a settlement);

- c) The costs of the proceeding;
- d) The fact that any settlement reached will be only by mutual consent of the parties;
- e) The inadmissibility of conduct and statements made during the conference in any subsequent court proceedings; and
- f) The duties and responsibilities of the neutral and the participants.

(2) **Oral Report to Parties by Evaluator.** In addition to the written report to the Court required by these Rules, at the conclusion of the neutral evaluation conference, the evaluator orally shall advise the parties of the evaluator's opinion of the case. Such opinion shall include a candid assessment of the merits of the case, estimated settlement value, and the strengths and weaknesses of each party's claims if the case proceeds to trial. The oral report shall also contain a suggested settlement or disposition of the case and the reasons therefore. The evaluator shall not reduce his or her oral report to writing and shall not inform the Court thereof.

(3) **Report of Evaluator to Court.** Within ten (10) days after the completion of the neutral evaluation conference, the evaluator shall complete and file with the Court a Report of Mediator or Other Neutral in Family Financial Case (**AOC-CV-827**), providing a copy to the Chief District Court Judge, stating when and where the conference was held, the names of those persons who attended the conference, whether or not an agreement was reached by the parties, and if an agreement was reached, the name of the person designated to file judgments or dismissals concluding the action.

- (f) **Evaluator's Authority to Assist Negotiations.** If all parties at the neutral evaluation conference request and agree, the evaluator may assist the parties in settlement discussions. If the parties do not reach a settlement during such discussions, the evaluator shall complete the neutral evaluation conference and make a written report to the Court and to the Chief District Court Judge as if such settlement discussions had not occurred. If the parties reach agreement at the conference, they shall reduce their agreement to writing as required by these rules.

1.22 Judicial Settlement Conference.

When the Chief District Court Judge has, in his or her discretion, pursuant to a request of a party or otherwise, required the parties to participate in a judicial settlement conference at any point prior to trial, the following shall apply.

- (a) **Settlement Judge.** The settlement judge shall not have previously ruled on any substantive issues in the assigned case. The settlement judge shall be selected by the Chief District Court Judge and assigned to participate in the judicial settlement conference.
- (b) **Conducting the Conference.** The form and manner of conducting the conference shall be in the discretion of the settlement judge. The settlement judge may not

impose a settlement on the parties but will assist them in reaching a resolution of all claims.

- (c) **Confidential Nature of the Conference.** The judicial settlement conference shall be conducted in private. No stenographic or other record may be made of the conference. Only the parties and their counsel may attend. Any communications made during the conference may not be used in any Court proceeding or communicated to the assigned judge. The settlement judge may report that a settlement was reached and the settlement shall be reduced to writing before leaving the conference.
- (d) **Report of the Judge.** Within ten (10) days after the completion of the judicial settlement conference, the settlement judge shall file a written report with the Court using the Report Of Neutral Conducting Settlement Procedure Other Than Mediated Settlement Conference In Family Financial Case (**AOC-CV-834**) form, stating when and where the conference was held, the names of the persons in attendance, whether or not an agreement was reached between the parties and the name of the person designated to filed judgments or dismissals concluding the action.