

OPEN FOR COMMENT UNTIL MAY 28, 2024

MSC Rule 2. Designation of the Mediator

(a) Designation of a Mediator by Agreement of Parties. Within twenty-one days of the court's order, the parties may, by agreement, designate a mediator who is certified under these rules. A Designation of Mediator in Superior Court Civil Action, Form AOC-CV-812 (Designation Form), must be filed with the court within twenty-one days of the court's order, requesting, on behalf of the parties, that the senior resident superior court judge approve the designation. The plaintiff or plaintiff's attorney should file the Designation Form; however, any party may file the Designation Form. The party filing the Designation Form shall serve a copy on all parties and the mediator designated to conduct the mediated settlement conference. The Designation Form shall state: (i) the name, email address, address and telephone number of the mediator; (ii) the rate of compensation of the mediator; (iii) that the mediator and opposing counsel have agreed upon the designation and rate of compensation; and (iv) that the mediator is certified under these rules.

(b) Appointment of a Mediator by the Court. If the parties cannot agree on the designation of a mediator, then the plaintiff or the plaintiff's attorney shall notify the court by filing a Designation Request for Court Appointed Mediator in Superior Court Civil Action, Form AOC-CV-812a (Request for Court Appointed Mediator Form), requesting, on behalf of the parties, that the senior resident superior court judge appoint a mediator. The Designation-Request for Court Appointed Mediator Form must be filed within twenty-one days of the court's order and shall state that the attorneys for the parties have discussed the designation of a mediator and have been unable to agree. Upon receipt of a Designation-Request for Court Appointed Mediator Form ~~requesting the appointment of a mediator~~, or in the event that the parties fail to file a Designation Form with the court within twenty-one days of the court's order, the senior resident superior court judge shall appoint a mediator certified under these rules who has expressed a willingness to mediate actions within the senior resident superior court judge's district.

FFS Rule 2. Designation of the Mediator

(a) Designation of a Mediator by Agreement of the Parties. By agreement, the parties may designate a family financial mediator certified under these rules by filing a Designation of Mediator in Family Financial Case, Form AOC-CV-825 (Designation Form), with the court at the scheduling and discovery conference, requesting, on behalf of the parties, that the chief district court judge approve the designation. The Designation Form shall state: (i) the name, email address, address, and telephone number of the designated mediator; (ii) the rate of compensation of the mediator; (iii) that the mediator and opposing counsel have agreed upon the designation and rate of compensation; and (iv) that the mediator is certified under these rules. A copy of each form submitted to the court and the court's order requiring a mediated settlement conference shall be delivered to the mediator by the parties.

(b) Appointment of a Mediator by the Court. If the parties cannot agree on the designation of a certified mediator, then the parties shall notify the court by filing a Request for Court Appointed Mediator in District Court Civil Action, Form AOC-CV-825a (Request for Court Appointed Mediator Form), ~~Designation Form~~ requesting, on behalf of the parties, that the court appoint a

certified mediator. The ~~Request for Court Appointed Mediator Form Designation Form~~ shall be filed at the scheduling and discovery conference and state that the attorneys for the parties have discussed the designation of a mediator and have been unable to agree on a mediator. Upon receipt of a ~~Request for Court Appointed Mediator Form Designation Form~~ requesting the appointment of a mediator, or upon the parties' failure to file a Designation Form with the court, the court shall appoint a family financial mediator certified under these rules who has expressed a willingness to mediate disputes within the judicial district.

Clerk Rule 2. Designation of the Mediator

(a) Designation of a Mediator by Agreement of the Parties. By agreement, the parties may designate a mediator certified by the Commission within the time period set out in the clerk's order. However, in estate and guardianship matters, the parties may designate only those mediators who are certified under these rules for estate and guardianship matters. A Designation of Mediator in Matter Before Clerk of Superior Court, Form AOC-G-302 (Designation Form), must be filed within the time period set out in the clerk's order, requesting, on behalf of the parties, that the clerk approve the designation. The petitioner should file the Designation Form; however, any party may file the Designation Form. The party filing the Designation Form shall serve a copy on all parties and the mediator designated to conduct the mediation. The Designation Form shall state: (i) the name, email address, address, and telephone number of the mediator designated; (ii) the rate of compensation of the mediator; (iii) that the mediator and the persons ordered to attend the mediation have agreed on the designation and the rate of compensation; and (iv) under which rules the mediator is certified.

(b) Appointment of a Mediator by the Clerk. In the event that a Designation Form is not filed with the clerk within the time period for filing stated in the clerk's order, then the parties shall notify the court by filing a Request for Court Appointed Mediator in a Matter before the Clerk of Superior Court, Form AOC-CV-302a, (Request for Clerk Appointed Mediator Form), the clerk shall appoint a mediator certified by the Commission. The clerk shall appoint only those mediators certified under these rules for estate and guardianship matters to those matters. The clerk may appoint any certified mediator who has expressed a desire to be appointed to mediate all other matters within the jurisdiction of the clerk.

Farm Rule 3. Selection of the Mediator

(a) Time Period for Selection. The parties to the dispute shall have twenty-one days from the date of the filing of the Request Form to select a mediator to conduct their mediation and to file an Appointment of Mediator in Prelitigation Farm Nuisance Dispute, Form AOC-CV-821 (Appointment Form).

(b) Selection of the Certified Mediator by Agreement. To assist the parties in designating a mediator, the Commission shall post a list of certified superior court mediators on its website at <https://www.ncdrc.gov>, accompanied by each mediator's contact information and the judicial

~~districts in which each mediator is available to serve. The clerk of superior court shall provide each party to the dispute with a list of certified superior court mediators serving the judicial district encompassing the county in which the Request Form was filed.~~ If the parties are able to agree on a mediator from that list to conduct their mediation, then the party who filed the Request Form shall notify the clerk of superior court by filing an Appointment Form ~~-,~~ requesting, on behalf of the parties, that the clerk approve the designation. The Appointment Form shall state: (i) the name, email address, address, and telephone number of the certified mediator selected; (ii) the rate of compensation to be paid to the mediator; and (iii) that the mediator and the parties to the dispute have agreed on the selection and the rate of compensation.

(c) Court Appointment of the Mediator. If the parties to the dispute cannot agree on the selection of a certified superior court mediator, then the party who filed the Request Form shall file ~~a~~ Request for Court Appointed Mediator Form in a Prelitigation Farm Nuisance Dispute, Form AOC-CV-821a (Request for Court Appointed Mediator Form) ~~Appointment Form~~ with the clerk of superior court, moving the senior resident superior court judge to appoint a certified superior court mediator. The Request for Court Appointed Mediator Form ~~Appointment Form~~ shall be filed with the clerk of superior court within twenty-one days of the date of the filing of the Request Form. The ~~Appointment Form~~ Request for Court Appointed Mediator Form shall state whether any party prefers the mediator to be a certified attorney mediator or a certified nonattorney mediator. If the parties state a preference, then the senior resident superior court judge shall appoint a mediator in accordance with that preference. If no preference is expressed, then the senior resident superior court judge may appoint any certified superior court mediator who has agreed to mediate farm nuisance disputes.

... see updates of Farm Rules