

**RULES OF THE SUPERIOR COURTS**  
of the  
**TIFTON JUDICIAL CIRCUIT OF GEORGIA**  
for  
**ALTERNATIVE DISPUTE RESOLUTION (ADR)**

**RULE 1. REFERRAL TO ALTERNATIVE DISPUTE RESOLUTION.**

- A. Any contested civil or domestic relations case which does not involve issues of domestic violence may be referred to ADR by the presiding judge. Upon notification of a judge's intention to refer a domestic relations case, the ADR Program staff will conduct a careful review of the pleadings for allegations of domestic violence, including the presence of a temporary protective order (TPO). As well, information sent by the program to the attorneys or parties will advise them to inform the program of any concerns they might have regarding this matter. Cases identified as involving such issues shall be returned to the Court as being inappropriate for ADR referral.

If allegations of domestic violence should arise in the context of an ADR session, a neutral who has not had special training in handling cases involving such issues should conclude the session and send the base back to the Court. In concluding the session, the neutral should take precautions to guard the safety of the parties and the neutral. Except as hereinafter provided, any contested civil or domestic relation cases that are still pending after one hundred eighty (180) calendar days after the original complaint is filed shall be referred to ADR.

- B. Cases may, at the discretion of the Court, be referred to ADR prior to the mandatory one hundred eighty (180) day time period. The parties or their attorneys may also request the Court to have their case referred to ADR. A court order referring the case to ADR shall be executed by the presiding judge. The original order shall be filed in the case file in the office of the Clerk of Court making the referral. The ADR Office shall be responsible for serving by mail a copy of said order on the parties and counsel of record.
- C. The following actions shall be excluded from ADR:
- (1) Appeals from rulings of administrative agencies;
  - (2) In rem condemnations;
  - (3) Habeas corpus and extraordinary writs;
  - (4) Declaratory judgments; and
  - (5) Uresa actions (child support).

**RULE 2. TIMING OF ALTERNATIVE DISPUTE RESOLUTION PROCESSES.**

- A. Cases referred to ADR will be assigned to a neutral for services if notices of settlement or objections to the referral are not received in the ADR Program Director's office within ten (10) calendar days of the date the referral order is filed with the Clerk of Court. The ADR Program Director's office shall provide timely notice of the case referral to the parties and/or attorneys.
- B. Unless otherwise ordered by the Court, the initial ADR session shall be held within thirty (30) calendar days after the parties and/or attorneys are notified of the case referral to ADR.

**RULE 3. EXEMPTION FROM ALTERANTIVE DISPUTE RESOLUTION.**

A party, may, within ten (10) days after the case is referred to ADR, petition the Court to dispense with ADR if:

- (1) The issue to be considered as previously gone through the ADR process;
- (2) The issue presents a question of law only;

(3) Other good cause is shown to the presiding judge.

#### **RULE 4. SELECTION, APPOINTMENT AND ASSIGNMENT OF NEUTRALS.**

At the completion of time frames as required in Rule 2A and Rule 3, a neutral shall be assigned by the ADR Program Director's office from a list of registered neutrals maintained there. These case assignments shall be made in a timely and equitable manner. After a case is filed, parties are free to choose their own neutral and negotiate a fee with that neutral before a case is ordered to the ADR process. However, the confidentiality and immunity protections of the Georgia Supreme Court ADR Rules do not apply in the absence of a court order referring the case to ADR. Once a case is ordered to ADR, parties are still allowed to choose their own neutral, but if the Program is paying fees, that neutral must agree in advance to accept the Program's current hourly rate. When the parties are paying, they may negotiate any acceptable fee rate with the neutral. The chosen neutral must be mutually agreed upon by the parties, as well as be registered with the Georgia Office of Dispute Resolution (GAODR) in the appropriate category.

#### **RULE 5. NEUTRAL QUALIFICATIONS FOR SERVICE IN THE PROGRAM.**

The qualifications and training for a neutral shall not be less than the minimum qualification set out in the GAODR Rules. The neutrals must be registered by the GAODR in the appropriate category.

#### **RULE 6. COMPENSATION OF NEUTRALS.**

- A. All neutrals shall be compensated at the same rate as established by the Joint Board of Trustees of the Fund for the administration of the ADR Program. Rate information shall be provided to the parties and/or attorneys concurrent with the neutral's assignment to the case. In indigent cases where parties have been assigned a neutral by the ADR Program, the fees will not exceed \$150 per hour for an assigned case. Neutrals assigned cases may charge up to but not exceed the \$150 per hour limit. This fee provision may be altered by the ADR Program by amendment, by court order, or where emergency relief is required and is in accordance with the Federal Poverty Guidelines.
- B. The parties in the ADR process shall be responsible for the payment of the selected or appointed neutral's fee which shall be equally divided between the parties, unless otherwise ordered by the presiding judge.
- C. Fee Waiver or Reduction. A party may petition the ADR Program for a fee reduction or waiver where circumstances warrant. Requesting parties must fully complete a Request for Fee Waiver or Fee Reduction. Said form is available from the ADR Office. The ADR Program shall use the Poverty Guidelines as set forth in the Federal Register to determine eligibility. All applications for fee waivers/reductions must be made seven (7) days prior to the ADR conference date. No application will be granted after an ADR conference has taken place.
- D. Payment Due at Session. Fees are to be paid at the time of the session and shared equally by the parties unless otherwise arranged. Failure to pay the neutral may place the non-paying party in contempt of court and may cause the case to be postponed and/or entitle the neutral to petition the court for a judgment against the party. In assigned cases, parties are to be prepared to pay ½ half of the fee necessary to compensate the neutral for three (3) hours of mediation and any additional fee due to neutral. After the three (3) hours, the fees shall be collected in a manner determined by each individual neutral. The ADR program shall have no responsibility for collecting fees awarded to neutrals pursuant to a contempt order or judgment.
- E. Reporting. The neutral shall submit a report to the ADR Program which shall include a statement as to the length of time in the ADR conference, amount of compensation paid in each case, the result of the conference, and any other information which may be required by the ADR Program.

## **RULE 7. IMMUNITY.**

Neutrals acting in the ADR process are entitled to immunity as provided for in the Georgia Supreme Court Alternative Dispute Resolution Rules.

## **RULE 8. CONFIDENTIALITY.**

Confidentiality for the ADR process is governed by the Georgia Supreme Court Alternative Dispute Resolution Rules.

## **RULE 9. APPEARANCE.**

- A.** The attendance of the parties is required at all ADR sessions. The attorneys of record are not required, but are encouraged, to attend the ADR sessions. The requirement that a party appear at an ADR session is satisfied if the following persons are present:
  - (1) The party with full authority to settle without further consultation or
  - (2) The party's representative if that representative has full authority to settle without further consultation, and a full understanding of the dispute, and full knowledge of the facts.
- B.** The neutral must receive notice at least forty-eight (48) hours in advance, excluding weekends and holidays, of any rescheduling, settlements or cancellations for whatever reason, regardless of whether relief has been granted by the Court. The session shall be rescheduled or cancelled upon written notification to the neutral and the ADR Office.
- C.** The party or attorney who is requesting that an ADR session be rescheduled must obtain consent from opposing counsel or opposing party if pro se. The ADR Program must also be notified of any rescheduling attempts. The rescheduled session shall take place within thirty (30) days of the previously scheduled session unless otherwise arranged.
- D.** For purposes of conflicts, the ADR session shall be construed as being a non-jury proceeding pursuant to the Uniform Rules of the Superior Courts. The parties and counsel may rely upon said Rules in resolving and scheduling conflicts.

## **RULE 10. IMPOSITION OF SANCTIONS.**

- A.** Failure to Appear. If a party fails to appear at a duly noticed ADR conference without good cause, the ADR Program Director shall notify the judge to whom the case is assigned. The absent party will be responsible for cancellation fees of no less than three (3) hours of the selected neutral's rate. The judge may find the party in contempt and impose any other appropriate sanctions. If both parties fail to appear, then each party shall be responsible for ½ of the cancellation fee of the assigned neutral.
- B.** Failure to Provide Financial Data. If a party fails to bring a current notarized financial affidavit and/or worksheet and schedules when required, the mediation session will be terminated with the non-complying party responsible for the entire cost of the session (not less than 3 hours). The parties will be required to attend another ADR session. Failure to provide financial data at the second scheduled session will result in the termination of the ADR session with the non-complying party responsible for the entire cost of the session (not less than \$350.00). The case will then be released to proceed to court, and the ADR Program Director shall notify the judge of the party's failure to provide the required financial data. The judge may find the party in contempt and impose any other appropriate sanctions.

## **RULE 11. COMMUNICATION WITH PARTIES.**

The only ex parte communication between a party and neutral outside of the ADR conference shall be for the purposes of verifying appointment times, locations or answering questions about the ADR rules and procedures. The neutral may meet privately with any party or any attorney during the ADR conference.

## **RULE 12. COMMUNICATION WITH THE COURT.**

12.1 In order to preserve the objectivity of the Court and the neutrality of the neutral, there should be no communication between the neutral and the Court. If any communication between the Court and a neutral is necessary the communication shall be in writing or through the ADR Program Director. Copies of any written communication with Court should be given to the parties and their attorneys.

12.2 Once an ADR process is underway in a given case, contact between the ADR Program and the Court concerning that case should be limited to:

- A. Communicating with the Court about the failure of a party to attend or comply with procedures as set forth herein;;
- B. Communicating with the Court with the consent of the parties concerning procedural action on the part of the Court which might facilitate the resolution process;
- C. Communicating to the Court that an assessment of the case indicates that it is inappropriate for that process;
- D. Communicating any request for additional time to complete the ADR process;
- E. Communicating information that the case has settled or has not settled and whether an agreement has been reached as to any issues in this case;
- F. Communicating the contents of a written agreement unless the parties agree in writing that the agreement should not be disclosed; or
- G. Communicating with the consent of the parties' information concerning any discovery, pending motions or action of any party, which, if resolved or completed, would facilitate the possibility of settlement.

## **RULE 13. COMPLETION OF ALTERNATIVE DISPUTE RESOLUTION.**

- A. ADR shall be completed within sixty (6) days of the first ADR session. A request for continuance of the ADR session shall be made to the Dispute Resolution office.
- B. Lengths of ADR session are scheduled for three (3) hours. However, the length of the ADR session may, in the discretion of the neutral, be shorter or longer.
- C. The neutral may recess the ADR session anytime and may set times for reconvening the recessed session.
- D. If a settlement is reached, a memorandum of said settlement shall be reduced to writing by the neutral, signed by the neutral and both parties. The memorandum of settlement shall be given to the parties' attorneys and said attorneys shall prepare a settlement agreement or consent order in proper legal form. The settlement agreement or consent order shall then be presented to the presiding judge for filing with the original case file in the office of the Clerk of the referring Court.
- E. If a partial settlement is reached, it shall follow the same process as paragraph D.
- F. Upon any settlement or partial settlement being signed, the neutral shall notify the Dispute Resolution office.
- G. If the parties do not reach a settlement as to any matter as a result of ADR, the neutral will report the lack of a settlement to the Dispute Resolution Office. The Dispute Resolution Office shall then notify the presiding Judge and the Clerk of Court who referred the case to ADR of the lack of a settlement.
- H. Completion or exemption of the ADR process is a prerequisite to placing a case on the trial calendar.

## **RULE 14. ADMINISTRATION OF THE ALTERNATIVE DISPUTE RESOLUTION PROGRAM.**

The Administrator of the Dispute Resolution Office shall be the Circuit Court Administrator. Said Circuit Court Administrator shall be compensated in an amount set by the Tifton Judicial Circuit ADR Board of Trustees. The compensation shall be paid from the Tifton Judicial Circuit ADR Fund for the Administration of Alternative Dispute

Program. A part-time ADR Program Assistant will be hired to assist with program administration and will be paid from the Tifton Judicial Circuit ADR Fund. The Program Director shall be responsible for all administrative matters pertaining to the ADR program. These responsibilities include, but shall not be limited to:

- A. Receiving referrals from the Tifton Judicial Circuit.
- B. Scheduling neutrals equitably and ensuring timely ADR of all cases.
- C. Notifying presiding judges and clerks of court of the results of ADR.
- D. Processing requests for payment for neutrals in cases where one or both parties have been declared indigent.
- E. Evaluating procedures quarterly and recommending changes if needed.
- F. Performing such other duties as may be directed by the Tifton Judicial Circuit ADR Board.

**RULE 15. EVALUATION.**

The Dispute Resolution Office will provide to the GAODR, under the Georgia Supreme Court, information that will allow full evaluation of the program. The information will be provided quarterly.

*The Superior Court Judges of the Tifton Judicial Circuit shall retain ultimate authority over the ADR program.*