



# MONROE COUNTY COURTS

106 East First Street · Monroe, Michigan 48161-2197

Hon. Mark S. Braunlich, Chief Judge 38<sup>th</sup> Judicial Circuit Court

Hon. Michael C. Brown, Chief Judge 1<sup>st</sup> District Court

Hon. Cheryl E. Lohmeyer, Chief Judge Monroe County Probate Court

**Local Administrative Order 2022-04J; 38<sup>th</sup> Circuit Court (Rescinding 2000-06J)**

**Local Administrative Order 2022-06J; 1st District Court (Rescinding 2000-06J)**

## JOINT ALTERNATIVE DISPUTE RESOLUTION PLAN FOR THE 38<sup>th</sup> CIRCUIT COURT AND THE 1<sup>st</sup> DISTRICT COURT

IT IS ORDERED:

This administrative order is issued in accordance with MCR 2.410, Alternative Dispute Resolution (ADR). This order does not apply to ADR procedures under MCR 3.216 or MCR 3.970. The purpose of this order is to establish procedures for the submission of cases to an alternative dispute resolution (ADR) process to encourage timely and equitable settlement of disputes amongst parties. The Courts hereby adopt the following ADR Plan:

1. ADR Clerk: The Chief Judges of the 1<sup>st</sup> District Court and the 38<sup>th</sup> Circuit Court shall designate an ADR Clerk. The ADR Clerk shall be an employee of the court or clerk of the court and maintain all records pertaining to the Court's ADR Program, including applications for and lists of case evaluators, general civil mediators, and small claims mediators. The ADR Clerk shall be responsible for coordinating the referral of cases to ADR and tracking the progress of cases through the ADR processes.
2. Alternative Dispute Resolution ("ADR") means "any process designed to resolve a legal dispute in place of court adjudication." MCR 2.410(A)(2). Civil matters may be referred to a nonbinding ADR process by stipulation of the parties or on order of the Court. ADR includes the following:
  - Case evaluation under MCR 2.403;
  - General Civil Mediation under MCR 2.411; and
  - Other procedures provided by court rule or ordered on stipulation of the parties.
3. Case Evaluation: Under MCR 2.403, the Court may submit to case evaluation any civil action in which the relief sought is primarily money damages or division of property, except as stated in MCR 2.403(A)(1). Case evaluation consists of a panel of three attorneys who consider written and oral presentations by the parties or their counsel, or both. The panel will assess the relative strength and weakness of the

parties' legal position and issue an evaluation of the case, assigning a monetary value. The parties may accept or reject the evaluation and it is not binding on the parties.

- a. List of Case Evaluators: For all cases referred to evaluation under MCR 2.403, the ADR Clerk shall maintain a list of qualified case evaluators (as established under MCR 2.404(B)(2)), and shall be responsible for assigning case evaluators in a rotational manner in accordance with Court Rules.

4. Mediation: Mediation is a process by which a neutral third party facilitates communication and identification of issues between parties and assists in exploring solutions to promote a mutually acceptable settlement. A mediator has no authoritative decision-making power. Mediation does not expose the parties to monetary sanctions. Under MCR 2.410(C), the Court may refer any civil action to mediation.

- a. List of Mediators:

1. Circuit Court Matters: For Circuit Court matters referred to mediation, the ADR Clerk shall maintain a list of qualified mediators as established under MCR 2.411(F) for general civil mediators. This list shall include the Dispute Resolution Center ("DRC"), a non-profit Michigan Community Dispute Resolution Program Center, with whom the ADR Clerk, upon review and approval of the Chief Judge, shall enter into an agreement with pursuant to MCR 2.410(B)(3).
2. District Court Matters: For District Court general civil, claim & delivery, small claims, and landlord tenant matters referred to mediation, the ADR Clerk shall maintain a list of qualified mediators as established under MCR 2.411(F)(1) and MCR 2.411(F)(2). This list shall include the Dispute Resolution Center ("DRC"), a non-profit Michigan Community Dispute Resolution Program Center, with whom the ADR Clerk, upon review and approval of the Chief Judge, shall enter into an agreement with pursuant to MCR 2.410(B)(3).

5. Recruitment, Application, Education, and Removal:

- a. Recruitment: The ADR Clerk shall provide notice to prospective case evaluators and mediators as appropriate to maintain a sufficient roster of qualified individuals.

- b. Application:  
Prospective Case Evaluators and Mediators: The ADR clerk shall make application available for any individual or organization who wishes to serve as a case evaluator or mediator for the Court. Applications shall be reviewed annually, or more frequently if appropriate, and those meeting the qualifications specified by Court rule will be placed on the respective list. Approved case evaluators and mediators will remain on the list for period of no more than five years, at which time, reapplication may occur.

DRC: The DRC shall be reviewed annually by the ADR Clerk and the Chief Judges.

- e. Continuing Legal Education: Pursuant to MCR 2.411(F)(4) approved mediators are required to obtain at least 8 hours of advanced mediation training during each 2-year period of service and provide proof of same to the ADR Clerk. Failure to submit documentation establishing compliance with the continuing educations requirement is grounds for removal from the court-appointed list of mediators consistent with MCR 2.411(E)(4).
- d. Rejection/Removal from the List: Pursuant to MCR 2.411(E)(4), the ADR Clerk may remove from the list case evaluators and/or mediators who have demonstrated incompetence, bias, made themselves consistently unavailable to serve, or for other just cause. Applicants rejected or removed from the list of case evaluators and/or mediators shall be notified in writing of that decision and may, within 21 days of notification, seek reconsideration by the Chief Judge.

6. Assignment:


- a. By Agreement of the Parties: Pursuant to, MCR 2.411(B)(1) the parties may stipulate to the selection of a mediator.
- b. Case Evaluation Panels: The ADR Clerk shall be responsible for appointing qualified case evaluators to panels in a random or rotating in a manner that ensures, as nearly as possible, each case evaluator on the list is assigned approximately the same number of cases over a period of one year. If a substitute case evaluator must be assigned, the same or similar assignment procedure shall be used to select the substitute, whenever possible.
- c. Circuit Court Mediation: The ADR Clerk shall provide the

parties with a list of eligible and qualified mediators including the DRC with whom the Court may have established a referral relationship by written agreement.

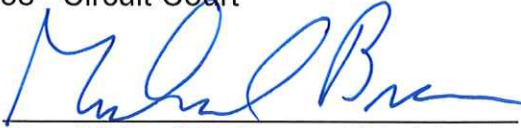
- d. District Court Mediation: The ADR Clerk shall provide the parties with a list of eligible and qualified mediators including the DRC with whom the Court may have established a referral relationship by written agreement.
  - e. Appointment of Mediator: If the parties are unable agree on the selection of a mediation within the specified court ordered timeline, a mediator shall be appointed by the court, pursuant to MCR 2.411(B).
7. Indigent Access to ADR: A party meeting the Court's indigence standard is entitled to free ADR process ordered by the Court. DRC may be assigned as the mediator in cases where one or more parties are indigent. The Court's indigence standard is the same as qualifying for a waiver of filing fees. If a party is unable to pay, and free or low-cost dispute resolution services are not available, the Court shall not order that party to participate in an ADR process. MCR 2.410(B)(2)(d).
8. Oversight: The ADR Clerk is responsible for the processing of applications, and for the oversight of case evaluators and mediators, but shall consult with the Chief Judges and such other persons as the Court deems suitable.
9. Information Dissemination: The ADR Clerk shall make available information describing the Court's ADR Plan and the ADR process utilized by the Courts to litigants and the public. MCR 2.410(B)(2)(c).
10. Joint Administration: This ADR plan is jointly administered by the 38<sup>th</sup> Circuit Court and the 1<sup>st</sup> District Court.

Effective Date: (Upon Approval by State Court Administrative Office)

Date: 9-28-2022

  
\_\_\_\_\_  
Hon. Mark S. Braunlich, Chief Judge  
38<sup>th</sup> Circuit Court

Date: 9/28/22

  
\_\_\_\_\_  
Hon. Michael C. Brown, Chief Judge  
1<sup>st</sup> District Court



Jessica Chaffin <jessica\_chaffin@monroemi.org>

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## Monroe Joint ADR Plan - Approved

1 message

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Region2 Info <Region2-Info@courts.mi.gov>

Thu, Sep 29, 2022 at 10:24 AM

To: "Honorable Michael Brown (michael\_brown@monroemi.org)" <michael\_brown@monroemi.org>, Honorable Mark Braunlich <mark\_braunlich@monroemi.org>

Cc: Region2 Info <Region2-Info@courts.mi.gov>, Jessica Chaffin <jessica\_chaffin@monroemi.org>, "Annamarie Osment (annamarie\_osment@monroemi.org)" <annamarie\_osment@monroemi.org>

Monroe Joint ADR Plan – Approved

C38 2022-04J; rescinds C38 2000-06J

D01 2022-06J; rescinds D01 2000-06J

This is to advise that we have reviewed the above referenced administrative order and find that it conforms to the requirements of MCR 8.112(B). This order is being accepted and filed.

Kristi Drake  
Regional Administrator - Region II  
Michigan Supreme Court - SCAO  
PO Box 30048  
Lansing, Michigan 48909  
(517) 373-9353  
drakek@courts.mi.gov

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