

**THE ELEVENTH JUDICIAL CIRCUIT
MIAMI-DADE COUNTY, FLORIDA**

**CASE NO. 09-1
(Court Administration)**

**ADMINISTRATIVE ORDER
NO. 09-10**

**IN RE: ESTABLISHMENT OF
PROCEDURES FOR MEDIATION IN
COUNTY COURT CIVIL DIVISION**

WHEREAS, mediation is a pre-trial resource which may be used to resolve a dispute prior to trial; however, mediation is not a substitute for trial; and

WHEREAS, due to the current economic climate, the court's mediation resources have been significantly constrained, resulting in the need to implement and strictly adhere to procedures that will maximize such resources, while maintaining the level of productivity and effectiveness of mediation in the County Court Civil Division;

NOW, THEREFORE, pursuant to the authority vested in me as Chief Judge of the Eleventh Judicial Circuit of Florida, under Rule 2.215 of the Florida Rules of Judicial Administration, it is hereby **ORDERED** that the following procedures are established for utilizing mediation services in the County Court Civil Division, in and for Miami-Dade County, Florida:

1. Cases shall only be referred to mediation by the judge and only if:
 - a. All motions to dismiss have been resolved;
 - b. There is no possibility of a counterclaim; and
 - c. The parties before the court have full authority to settle the matter.
2. The County Court Mediation Division will only schedule mediations for judges at the Dade County Courthouse for "SP" or "CC" cases that have been referred to mediation and have been noticed for trial. All other matters referred to mediation, including branch court mediations, are to be scheduled by a judge's judicial assistant.
3. At the commencement of the pre-trial session, the judge should announce that mediation is a voluntary process to assist litigants in resolving the pending dispute. It should be stressed that mediators are licensed professionals and that mediation is confidential and voluntary. If one party objects to mediation, the case should not be referred.

4. In accordance with the requirements of a non-adversarial process through impartial dispute resolution, the County Court mediation staff shall not be present during any pre-trial conference where the court refers the action to in-house mediation. In the Branch Courts, mediators will be available in designated mediation rooms; in the Dade County Courthouse, the mediators will remain in the lobby adjacent to courtroom 6-4.
5. The bailiff, clerk, or judge's designee shall take the parties and the file to mediation. On resolved small claims cases, the mediator will present the executed stipulation and file to the judicial staff or clerk for the judge's signature and the judicial staff or clerk shall provide the parties/attorneys with conformed copies in court. It is a judicial responsibility that all stipulations, orders or dismissal, and final judgments are signed by the close of the session.
6. On resolved landlord/tenant cases simultaneously set with the pre-trial session, the mediator will present the executed stipulation and court file to the judicial staff or clerk for the judge's signature and the judicial staff or clerk will provide conformed copies to the litigants/attorneys. If a judge prefers to execute closing documents on landlord/tenant cases outside the pre-trial session, the mediator is to take the file with the executed stipulation to the judge's office for signature. The judicial staff shall conform and distribute the stipulation and order of dismissal or final judgment to the parties.
7. On cases which have been pecially set for mediation and have been resolved, the mediator will take the file and the stipulation/order of dismissal to the judge's office for signature and distribution by the judicial staff.
8. If the case is referred to mediation and the mediator reasonably concludes the participants are unable or unwilling to meaningfully participate in the process or that an agreement is unlikely, the mediator shall suspend the session. The mediator shall file a written report evidencing the impasse without comment or recommendation and without personal appearance before the judge. This report should be delivered to the judge's chambers with the court file and left with the judicial staff for further judicial action (e.g., setting case management conference or trial).
9. After an impasse is declared, including any landlord tenant action, the case shall not be sent back to mediation unless the court enters an order specifically stating the reasons for the re-referral, including the change in circumstances (e.g., new evidence, new parties, or new attorney) and there is an agreement by the parties for further mediation.

10. If an agreement is reached, the mediator shall reduce the agreement to a written stipulation to be signed by the parties or designated authority and the mediator and delivered to the judge's chambers for execution. The mediator shall file a Memo of Disposition as to the existence of the signed agreement without comment or personal appearance.
11. In that telephone mediations present difficulties that may make the success of mediation less likely, landlord/tenant matters, in particular, are not to be mediated telephonically. In other matters, telephone mediations should be used infrequently and on a case by case basis. Accordingly, if a telephonic mediation is authorized, the court must specify in writing the circumstances necessitating the telephonic mediation; however, under no circumstance shall there be telephonic mediations where more than one party is on the telephone.
12. Once the parties and attorneys (if applicable) appear for trial, the case must be tried rather than sent to mediation.

This Order shall take effect immediately and shall remain in full force and effect until further order of the Court.

DONE AND ORDERED in Chambers at Miami-Dade, Florida, this _____ day of _____, 2009.

**JOSEPH P. FARINA, CHIEF JUDGE
ELEVENTH JUDICIAL CIRCUIT OF FLORIDA**