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IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT OF
THE STATE OF FLORIDA,
IN AND FOR LEON COUNTY

ADMINISTRATIVE ORDER NO: 90-34

IN RE: LEON COUNTY FAMILY MEDIATION PROJECT

WHEREAS, it is the intent of Section 61.13(2)(b)2, Florida Statutes, to assure each minor child continued parental involvement by both parents, after parents have separated or dissolved their marriage, and to encourage parents to share the rights and responsibilities of child rearing; and

WHEREAS, there is evidence that adversary trial techniques produce some negative impact on continued parental relationships when employed to resolve child custody, child support or visitation disputes; and

WHEREAS, this court has received federal grant funding to evaluate the extent to which family mediation actually reduces the negative impacts of adversarial litigation; it is therefore

ORDERED THAT:

A Family Mediation Project of Leon County, Florida is hereby established as a research and demonstration project under the supervision of the Chief Judge of the Second Judicial Circuit or his designee. The Family Mediation Project is established to evaluate the impact of family mediation on subsequent compliance with child support and visitation orders and the number and duration of episodes of litigation subsequent to disposition orders.

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I. COVERAGE

The following cases shall be subject to inclusion in the Family Mediation Project:

a) All pending and new dissolution cases filed in Leon County where minor children are involved and issues of primary residence, visitation, and/or parenting responsibilities are in dispute;

b) All pending and new motions for modification of primary residence, visitation and/or parenting responsibilities filed in dissolution cases where disposition orders were entered at least two years prior to the filing for modification;

c) All new child support enforcement cases filed, where allegations of primary residence, visitation and/or parenting responsibility disputes are raised by either of the parties; and

d) All new paternity establishments.

From these groups, all cases pending or newly filed between January 1, 1991, and September 30, 1991 will be randomly assigned to participate in or NOT participate in mediation. The Family Mediation Project will identify these cases, make the random assignments and coordinate contact with the parties and their attorneys to collect information required by the project and schedule mediation sessions for those assigned to participate in mediation.

Only the issues of primary residence, visitation and/or parental responsibility shall be mediated and no hearing shall be

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scheduled on the assigned judge's calendar until the parties have completed mediation or until the court file contains a "Notice of Mediation" from a project mediator. If a hearing has already been set, the parties shall still proceed to mediation and the hearing shall be continued until a notice of attempt to mediate has been filed in the court file by the Family Mediation Project.

II. EXCEPTIONS

The following situations shall present exceptions to the requirement to mediate, for those cases assigned to mediation:

a) PRIOR MEDIATION - If mediation was attempted by a court-certified mediator within six (6) months prior to the assignment to mediate and a notice of attempt to mediate is filed with the court, the requirements of Part I will no longer apply.

b) ENFORCEMENT/CONTEMPT ACTIONS - If a post-judgment motion for modification is countered by a motion for enforcement/contempt, or vice versa, all primary residence/visitation/parental responsibility matters relating to the modification are still subject to the requirement to mediate.

c) JURISDICTIONAL CHALLENGE - In post-judgment motions for modification, motions to dismiss for lack of jurisdiction due to lack of substantial change of circumstances or other jurisdictional grounds, the requirement to mediate shall be waived until a ruling on such motion is made. If the motion to dismiss is denied, then mediation must proceed.

d) TEMPORARY CHILD SUPPORT ORDERS - In the event that mediation orientation cannot be scheduled within two (2) weeks

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of referring a case to the Family Mediation Project, and an existing temporary order for child support has not been entered in the case, a hearing shall be held to provide such an order. Mediation on the issues of primary residence, visitation and parenting responsibilities shall proceed, as scheduled.

e) SANCTIONS IMPOSED - When a judge certifies that one party failed to appear for mediation (see Part VI, Sanctions), the requirements of Part I are waived.

III. MEDIATORS AND FEES

a) SELECTION AND ASSIGNMENTS OF MEDIATORS - All mediators for the project shall be court-certified, family mediators, pursuant to Rule 1.760, Florida Rules of Civil Procedure, and shall be appointed by the Chief Judge of the Second Judicial Circuit and serve at the pleasure of the Chief Judge.

In cases which are assigned to mediation, the parties and/or their attorneys may select an individual project mediator in consideration of the mediator's scheduled mediation hours. Upon making their selection, the parties and/or their attorneys shall notify the Project Coordinator/Administrative Assistant and schedule to attend mediation orientation within ten (10) days after the first contact from the mediation project. If the parties/attorneys cannot agree on a mediator, a mediator shall be appointed by the project. The Project Coordinator/Administrative Assistant shall appoint a mediator within 48 hours.

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b) MEDIATION FEES - All mediation conducted by the Family Mediation Project shall be provided to the parties at no cost. If, however, the parties wish to mediate issues other than primary residence, visitation and/or parenting responsibilities, they shall make arrangements for such mediation with their selected /appointed mediator, independent of the project. In such cases, the fees for mediation shall not exceed $125 per hour.

IV. RESPONSIBILITIES OF THE PARTIES

a. PROVISION OF INFORMATION - All parties/attorneys in cases described in Part I of this Administrative Order shall provide the project with any information required to conduct the research. This information shall include contact information (names, home and work phone numbers and addresses) which the parties/attorneys shall provide at the time of the first contact made to provide notice of referral. Parties shall also be asked to provide information on the case and evaluative information related to mediation, as required for the project. Such information shall be considered work records of the Office of Chief Judge and, as such, shall be held confidential and exempt from disclosure under the Public Records Act.

b) FILING OF FINANCIAL AFFIDAVITS - The petitioner/ attorney in cases described in Part I of this Administrative Order shall file a financial affidavit in the Court file at the time of the filing of the petition for dissolution of marriage. Respondent shall file a financial affidavit

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together with a Child Support Guidelines Worksheet. In the event that the petitioner disagrees with the computations on the respondent's Child Support Guidelines Worksheet, the petitioner shall file his/her Child Support Guidelines Worksheet within five (5) days of receipt of the respondent's answer.

c) NOTICE PROVIDED TO THE FAMILY MEDIATION PROJECT - A copy of all pleadings in those cases described in Part I shall be provided to:

The Family Mediation Project
Leon County Courthouse, Room 342

d) ORIENTATION - All parties proceeding to family mediation under this Administrative Order shall attend an orientation to family mediation immediately prior to their first scheduled session with the selected/appointed mediator. The Family Mediation Project shall be responsible for scheduling orientation sessions.

e) GOOD FAITH - All parties proceeding to mediation under this Administrative Order shall attend scheduled mediation conferences and participate in the mediation process.

f) PAYMENT OF CHILD SUPPORT - In all cases defined in Part I, all child support payments shall be made to the Leon County Clerk of Circuit Court. Direct payments are disallowed.

V. MEDIATION

Attorneys for parties in all cases covered under Part I of this Administrative Order shall be contacted within seven (7)

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days following referral to the project for pending cases at the time this Order is issued. For newly filed dissolutions, newly filed modifications, and new paternity cases this contact will be made within seven (7) days following the filing of an answer, the initiating motion or paternity order, respectively. Complete contact information on parties and their attorneys shall be obtained during this initial contact.

Project mediators shall be assigned to cases in accordance with the provisions of Part III a) of this Order and an orientation/first mediation conference shall be scheduled.

Parties and their assigned mediators shall schedule subsequent mediation sessions within seven (7) days, if needed. The entire mediation process shall be completed within four (4) weeks of the initial conference, unless extended by an order of the court. No extension of time shall be for a period exceeding six (6) weeks.

In the event the mediation results in agreement between the parties, the mediator shall provide a memorandum of agreement to the parties for review by their attorneys prior to the parties signing the agreement. Upon signature of all the parties and approval of their attorneys, the Project shall file the agreement in the Court file.

All communications of individuals involved in the mediation process shall be confidential and inadmissible as evidence in any subsequent legal proceedings.

In all cases which have been referred to mediation, the mediator shall report to the court whether the parties appeared and whether an agreement was reached.

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VI. SANCTIONS

The failure of any party to attend the orientation session or the initial mediation conference scheduled by the mediator without prior court approval may subject the offending party to appropriate sanctions including assessment of costs/fees and contempt of court.

VII. MISCELLANEOUS

a) It shall be the responsibility of the project coordinator to maintain records of the number of cases in which mediation was attempted; the number of such cases in which full/partial agreements were reached; evaluation responses; and, all other data required to meet the research protocol.

b) The court administrator shall develop the policies and procedures needed to insure the efficient operation of this program.

VIII. EFFECTIVE DATE

This Administrative Order shall become effective the date it is signed, and shall remain in effect until further order of this court.

DONE AND ORDERED in Chambers at Tallahassee, Leon County, Florida, this 26th day of December, 1990.

CHARLES D. MCCLURE
CHIEF JUDGE

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