

<b>STATE OF MICHIGAN COUNTY OF ALLEGAN 48<sup>th</sup> Judicial Circuit Court</b>	<b>ADMINISTRATIVE ORDER REGARDING FRIEND OF THE COURT ALTERNATIVE DISPUTE RESOLUTION</b>	<b>CIRCUIT COURT ORDER NO. 2019-005</b>
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113 CHESTNUT STREET, ALLEGAN, MI 49010

TELEPHONE: 269-673-0300

**FRIEND OF THE COURT ALTERNATIVE DISPUTE RESOLUTION**

Previous Friend of the Court Alternative Dispute Resolution Local Administrative Orders Rescinded by this Order: 2006-001

**IT IS ORDERED:**

Pursuant to MCR 3.224, the following is adopted by the 48<sup>th</sup> Circuit Court as the Friend of the Court Alternative Dispute Resolution Plan:

**(A) Alternative Dispute Resolution (ADR) – General Provisions**

The 48<sup>th</sup> Circuit Court has determined that Friend of the Court (FOC) ADR can assist parties and the court in resolving custody, parenting time, and support disputes.

- 1) The 48<sup>th</sup> Circuit Court will use the following ADR practices:
  - (a) FOC domestic relations mediation as established in MCL 552.513 and MCR 3.224,
  - (b) facilitative and information-gathering conference as established in MCR 3.224,
  - (c) appointments as established in MCR 3.224, and
  - (d) IV-D Establishment processes as established in MCR 3.224.
  
- 2) All FOC cases must be screened for domestic violence using SCAO’s screening protocol before the ADR process begins. If domestic violence is identified or suspected, the ADR process may not continue unless the protected party submits a written consent and the FOC takes additional precautions to ensure the safety of the protected party and court staff. Throughout the ADR process, the mediator or facilitator must make reasonable efforts to screen for the presence of coercion or violence that would make ADR physically or emotionally unsafe for any participant or that would impede achieving a voluntary and safe resolution of issues.
  
- 3) In accordance with MCL 552.505a, the FOC may provide ADR services for all open FOC cases that qualify for FOC ADR services.
  
- 4) A party may object to FOC ADR under MCR 3.224(E) and must allege facts in support of the objection. Timely objections must be made in accordance with MCR 3.224(E). An objection must be based on one or more of the factors listed in MCR 3.224(D)(2):
  - (a) child abuse or neglect;
  - (b) domestic abuse, unless the protected party submits a written consent and the friend of the court takes additional precautions to ensure the safety of the protected party and court staff;
  - (c) inability of one or both parties to negotiate for themselves at the ADR, unless attorneys for both parties will be present at the ADR session;

- (d) reason to believe that one or both parties' health or safety would be endangered by ADR; or
  - (e) for other good cause shown.
- 5) Parties who are, or have been, subject to a personal protection order or other protective order or who are involved in a past or present child abuse and neglect proceeding may not be referred to FOC ADR without a hearing to determine whether FOC ADR is appropriate. The court may order ADR if a protected party requests it without holding a hearing.
  - 6) The FOC may exempt cases from ADR based on MCR 3.224(D)(2). The FOC shall notify the court when it exempts a case from FOC ADR. If the FOC exempts a case from ADR, a party may file a motion and schedule a hearing to request the court to order FOC ADR.
  - 7) Attorneys of record will be allowed to attend, and participate in, all FOC ADR processes, or elect not to attend upon mutual agreement with opposing counsel and their client.
  - 8) Participants in an ADR process may not record the ADR proceeding.
  - 9) The FOC shall provide a report with each FOC ADR proposed consent order containing sufficient information to allow the court to make an independent determination that the proposed order is in the child's best interest.
  - 10) When the parties do not resolve some or all of the issues in a facilitative and information-gathering conference, the FOC shall submit a report containing the parties' agreed-upon and disputed facts and issues.
  - 11) Qualifications: FOC ADR providers have met the training and qualifications established by SCAO and approved by the chief judge and/or have been approved subject to conditions established by SCAO.
  - 12) Public Access to FOC ADR Plan: The FOC will make the FOC ADR plan available:
    - (a) On the court's website.

**(B) Submitting Cases to ADR**

- 1) On written stipulation of the parties, on motion of a party, or on the court's initiative, the court may order any contested prejudgment or postjudgment custody, parenting time, or support issue in a domestic relations case, including postjudgment matters to FOC mediation by written order.
- 2) All prejudgment custody, parenting time, and support issues are ordered to a facilitative and information-gathering conference.

- 3) On written stipulation of the parties, on motion of a party, or on the court's own initiative, the court may order the parties to attend a facilitative and information-gathering conference.

**(C) ADR Procedures**

- 1) **FOC Domestic Relations Mediation**

FOC domestic relations mediation is a process in which a neutral third party facilitates confidential communication between parties to explore solutions to settle custody and parenting time issues for FOC cases.

(a) **Objection to Mediation:** A party who is ordered to FOC domestic relations mediation may file a written motion to remove the case from FOC mediation and a notice of hearing of the motion, and serve a copy on all parties or their attorneys of record within 14 days after receiving notice of the order. The motion must be set for hearing within 14 days after it is filed, unless the hearing is adjourned by agreement of counsel or the court orders otherwise. A timely objection will be heard before the case is mediated by the FOC.

(b) **FOC Domestic Relations Mediation Procedures:** FOC domestic relations mediation will be conducted by a mediator selected by the FOC.

- i. At the beginning of the mediation, the mediator will advise the parties and their attorneys, if applicable, of the following:
  - a) The purpose of mediation;
  - b) How the mediator will conduct mediation;
  - c) Except as provided for in MCR 2.412(D)(8), statements made during the mediation process are confidential and cannot be used in court proceedings and cannot be recorded.
- ii. If the parties reach an agreement, the mediator shall submit a proposed order and a report pursuant to MCR 3.224(I) within seven days.
- iii. If the parties do not reach an agreement within seven days of the completion of mediation, the mediator shall so advise the court stating only the date of completion of the process, who participated in the mediation, whether settlement was reached, and whether additional FOC ADR proceedings are contemplated.
- iv. With the exceptions provided for in MCR 2.412(D), communications during FOC domestic relations mediation process are confidential and cannot be used in court proceedings and cannot be recorded.

## 2) **Facilitative and Information-Gathering Conference**

FOC facilitative and information-gathering conference is a process in which a facilitator assists the parties in reaching an agreement regarding custody, parenting time, and support. If the parties fail to reach an agreement, the facilitator may prepare a report and/or recommended order.

### (a) **Objections to a Facilitative and Information-Gathering Conference:**

- i. To object to a FOC facilitative and information-gathering conference, a party must include the objection within the pleading or post-judgment motion initiating the action, a responsive pleading or answer, or file the objection within 14 days of the date that the notice is sent to the party. All objections must be filed with the court.
- ii. The objecting party must schedule the hearing and serve a copy of the objection and notice of hearing on all parties and/or attorneys of record.
- iii. If a party timely objects, the FOC shall not hold a facilitative and information-gathering conference unless the court orders a conference after motion and hearing or the objecting party withdraws the objection.

### (b) **FOC Facilitative and Information-Gathering Conference Procedures:** An FOC facilitative and information-gathering conference shall use the following procedures:

- i. At the beginning of the conference, the facilitator will advise the parties and their attorneys, if applicable, of the following:
  - a) The purpose of the conference and how the facilitator will conduct the conference and submit an order or recommendation to the court under MCR 3.224(F);
  - b) How information gathered during the conference will be used;
  - c) That statements made during the conference are not confidential and can be used in other court proceedings, and shall not be recorded; and
  - d) That the parties are expected to provide information as required by MCL 552.603 to the FOC and the consequences of not doing so.
- ii. A party may consent to entry of a recommended order by signing a copy of the order at the time of the conference or after receiving the recommended order. A party who consents to entry of the order waives the right to object to the order and must file a motion to set the order aside once it enters.
- iii. If the parties do not resolve all contested issues at the conference or the

parties agree to resolve all or some contested issues but do not sign the proposed order, the facilitator shall submit a report pursuant to MCR 3.224(I). The facilitator shall also:

- a) Prepare and forward a recommended order to the court within seven days from the date of the conference. The court may enter the recommended order if it approves the order and must serve it on all parties and attorneys of record within seven days from the date the court enters the order. Accompanying the order must be a notice that a party may object to the order by filing a written objection with the court within 21 days after the date of service, and by scheduling a hearing on the objection. If there is a timely objection, the court will hold a hearing within 21 days after the objection is filed. If a party objects, the order remains in effect pending a hearing on a party's objection unless the court orders otherwise.

- iv. Except for communications made during domestic violence screening, communications made during a facilitative and information-gathering conference are not confidential and may be used in court proceedings.

(C) Additional FOC services, as attached, are also permissible.

Effective Date: January 1, 2020

Date: 12/9/19

  
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Hon. Margaret Zuzich Bakker (P31035)  
Chief Circuit Judge

**(A) Appointments**

A process in which an FOC employee discusses proposed solutions with the parties regarding custody/parenting time complaints, child support, additional children, whereabouts issues, or agreements the parties have reached. Appointments may be scheduled separately or jointly.

- 1) **Appointment Referrals:** FOC will inform parties of this option when appropriate and parties can request this service in writing, directed to the FOC.
- 2) **Appointment Procedures:** Appointments shall be conducted as follows:
  - (a) A joint appointment may not begin until the FOC case has been screened for domestic violence using a screening protocol provided by the State Court Administrative Office as directed by the Supreme Court.
  - (b) If domestic violence is identified or suspected, a joint appointment may not proceed unless the protected party submits a written consent and the FOC takes additional precautions to ensure the safety of the protected party and court staff. Throughout the appointment, the FOC employee conducting the appointment session must make reasonable efforts to screen for the presence of coercion or violence that would make the joint appointment physically or emotionally unsafe for any participant or that would impede achieving a voluntary and safe resolution of issues.
  - (c) At the beginning of a joint appointment, the FOC employee conducting the appointment shall do the following:
    - i. Advise the parties that statements made during the appointment are not confidential and can be used in other court proceedings;
    - ii. Advise the parties that the purpose of the appointment is for the parties to reach an agreement and how the FOC employee will conduct the meeting.
  - (d) At the conclusion of an appointment, the FOC employee conducting the appointment may do one of the following:
    - i. If the parties reach an agreement, submit a consent order to the court. A party who consents to the entry of the order waives the right to object to the order and must file a motion to set the order aside once it enters.
    - ii. If the parties do not reach an agreement, the FOC employee may take additional actions, including but not limited to, filing a motion to show

cause, continuing with ongoing enforcement remedies, or providing the parties with forms to pursue their request, if available.

**(B) IV-D Establishment Process**

Pursuant to 42 U.S.C § 602, the Allegan County FOC IV-D Establishment Attorney initiates cases for the purpose of establishing paternity and child support. As part of this process, the IV-D Establishment Attorney or other FOC employee will discuss with the parties whether they are able to agree on custody and parenting time.

- 1) **Establishment Referrals:** Referrals to the FOC shall be made through the set processes and procedures of the Michigan Department of Health and Human Services (MDHHS) and/or the Office of Child Support (OCS).
- 2) **Establishment Process Procedures:** The FOC will schedule an interview, appointment, or hearing after initiating contact with the Custodial Parent, which is defined by policies set forth by the MDHHS and/or the OCS. The FOC may schedule separate or joint interviews and appointments.
  - (a) A joint interview/appointment may not begin until the case is screened for domestic violence using a screening protocol provided by the State Court Administrative Office as directed by the Supreme Court. Individual interviews or appointments may commence consistent with existing policies set by the MDHHS or OCS.
  - (b) If domestic violence is identified or suspected, a joint interview/appointment may not proceed unless the protected party submits a written consent and the FOC takes additional precautions to ensure the safety of the protected party and court staff. Throughout the joint interview/appointment, the FOC employee conducting the joint interview/appointment must make reasonable efforts to screen for the presence of coercion or violence that would make the joint interview/appointment physically or emotionally unsafe for any participant or that would impede achieving a voluntary and safe resolution of issues.
  - (c) At the beginning of a joint interview/appointment, the FOC employee conducting the interview or appointment shall do the following:
    - i. Advise the parties that statements made during the joint interview/appointment are not confidential and can be used in other court proceedings;
    - ii. Advise the parties that the purpose of the joint interview/appointment is for the parties to reach an agreement and how the FOC employee will conduct the meeting.

- (d) At the conclusion of a joint interview/appointment, the FOC employee conducting the joint interview/appointment may do one of the following:
- i. If the parties reach an agreement, submit a consent order to the court. A party who consents to the entry of the order waives the right to object to the order and must file a motion to set the order aside once it enters.
  - ii. If the parties do not reach an agreement, the FOC employee may take action to progress the case through actions including but not limited to, obtaining an order for the parties to attend an FOC Facilitative and Information-Gathering Conference, scheduling a hearing, and requesting a default order when applicable.