

# **MEDIATION TN**

## **IMPLEMENTING THE TENNESSEE SUPREME COURT ADR PLAN BY COMMUNITY MEDIATION CENTERS**

### **ADR PLAN CASE FLOW & FORMS**

**RESOURCE MATERIAL**

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**SECTION 1**

**INFORMATION  
ABOUT  
COMMUNITY MEDIATION  
CENTERS**

## WHAT IS A COMMUNITY MEDIATION CENTER?

- It is a private **non-profit** agency governed or advised by a **diverse board of directors drawn from the community it serves**.
- **Trained community volunteers** are the primary **providers** of mediation services. Community members reflecting the community's diversity are trained to serve as volunteer mediators.
- It provides mediation services **at no cost or on a sliding scale**, without discrimination on the basis of race, color, religion, gender, age, disabilities, national origin, marital status, gender orientation, family responsibilities, matriculation, or political affiliation.
- It **encourages mediation referrals** from courts, law enforcement, government agencies, community organizations and civic groups, religious institutions, schools, and individuals.
- It provides a forum for dispute resolution **at any stage of conflict**. **Early mediation is encouraged to prevent violence and reduce the need for court intervention**.
- It **saves public and private dollars** (individuals, county, and state) by empowering disputants to resolve disputes outside of court, before the conflict escalates.

# **INFORMATION ABOUT THE TENNESSEE COMMUNITY MEDIATION CENTERS**

**(There are as of this date a total of six mediation centers in Tennessee.)**

Judicial District 6 (Knox)

**Community Mediation Center (CMC)**

Jacqueline O. Kittrell, Esq., Executive Director  
912 South Gay Street, Suite L-300  
Knoxville, TN 37902  
865-594-1879  
[jackie.kittrell@2mediate.org](mailto:jackie.kittrell@2mediate.org)  
<https://2mediate.org>

Judicial District 7 (Anderson, City of Oak Ridge)

**Community Mediation Services (CMS)**

Cindy Helton, Executive Director  
P.O. Box 4081  
Oak Ridge, TN 37831-4081  
Phone: 865-463-6888  
Fax: 865-457-7208  
[cindy@cms-tn.org](mailto:cindy@cms-tn.org)  
[www.cms-tn.org](http://www.cms-tn.org)

Judicial District 13 (Cumberland, Overton, Putnam)

**VORP/Community Mediation Center**

Rita Young, Executive Director  
584 Highway 70 East  
Crossville, TN 38555  
Phone: 931-484-0972  
[ryoung@vorpmediation.org](mailto:ryoung@vorpmediation.org)  
[vorp.crossville@gmail.com](mailto:vorp.crossville@gmail.com)  
<http://www.vorpmediation.org/>

Judicial District 20 (Davidson); also serving Judicial District 18 (Sumner); Judicial District 16 (Rutherford); and Judicial District 30 (Shelby)

**Nashville Conflict Resolution Center (NCRC)**

Sara Figal, Executive Director  
4732 West Longdale Drive Nashville, TN 37211  
(615) 333-8400  
[sara@nashvilleconflict.org](mailto:sara@nashvilleconflict.org)  
<https://nashvilleconflict.org/>

Judicial District 22 (Maury, Giles, Wayne); also serving Judicial District 21 (Williamson, Hickman, Lewis, Perry); and Judicial District 17 (Bedford, Marshall, Lincoln, Moore)

**The Mediation Center (TMC)**

Tiana Vanik, J.D., Executive Director  
One Public Square, Suite 10  
Columbia, TN 38401  
(931) 380-5583  
[tiana@columbiamediation.org](mailto:tiana@columbiamediation.org)  
<https://columbiamediation.org>

Judicial District 30

**Mid-South Community Justice & Mediation Center (CJAM)**

262 German Oak Drive, Memphis, TN 38018  
901-431-5660  
[info@cjammediation.org](mailto:info@cjammediation.org)  
<https://cjammediation.org/>

*During the COVID-19 pandemic response, most CMCs safely provide "mediation at a distance", using platforms such as Zoom, Skype, emails, and telephone conferencing. Some CMCs are still able to do socially distant face-to-face mediations using the courthouse or other large spaces. Volunteers are trained to conduct these mediations confidentially. Please be sure to ask each Center for more information.*

- ⊕ CMCs offer mediation at any point in the conflict. Individuals can request mediation before a case is filed, pre-court, before the case is heard by a judge, or during litigation. The process is designed to be voluntary, transparent and without undue pressure to reach an agreement.
- ⊕ CMCs often are asked to mediate when one or both disputants is self-

represented and there is no access to legal advice.

- ⊕ CMCs screen cases carefully to make sure that the parties have the capacity to give informed consent to mediate. Parties may be referred to attorneys, social service agencies, or to the court clerk before mediating.
- ⊕ CMCs conduct mediation so that each participant understands the process and feels empowered to engage with the mediators and the other disputants in order to solve their own problems and come up with a solution that works for both sides.
- ⊕ CMCs train and supervise volunteer mediators who come from a variety of backgrounds, reflecting the diversity of the community.
- ⊕ If the CMC offers remote mediation, through Zoom or other video platform, or through telephone conference call or both (hybrid), dispute resolution services can be offered regardless of the distance between parties and mediators. For video mediation, self-represented parties who have adequate wifi or cell service can participate easily with a smart phone, tablet or laptop. If mediating by telephone or land-line or flip-phone may work fine. (Some mediations may even be able to occur by text.) An email account is essential for ongoing communication, scheduling and e-signing. Please call and inquire!

# **SECTION 2**

## **THE ADR PLAN**

## NEW MEDIATION PLAN TARGETS BACKLOG OF CASES IN TENNESSEE COURTS

December 10, 2020

The Tennessee Supreme Court has approved an innovative Alternative Dispute Resolution Plan prepared by the Alternative Dispute Resolution Commission (ADRC) to assist courts facing a backlog of civil cases caused by the COVID-19 pandemic. For many years, mediation has been used to successfully resolve disputes. The Plan creates a process that will make mediation more available to civil litigants as a means of providing a quicker, less expensive, and potentially more satisfying alternative to continuing litigation in a case without impairing the quality of justice or the right to a trial.

The pandemic has suspended civil jury trials and many nonjury civil trials have been delayed as the courts implement social distancing and capacity limits while prioritizing necessary emergency proceedings. While courts have embraced technology and thousands of virtual hearings and proceedings have taken place across the state, delays are inevitable in this unprecedented year.

“The Supreme Court is pleased to provide judges across the state with a feasible and practical tool to assist in the administration of justice during these extraordinary times,” Supreme Court Justice Sharon G. Lee said. “People need their cases resolved so they can move forward. Mediation is an excellent option, and we are pleased the ADRC, community mediation centers, and mediators have stepped forward to create a program that is low-cost or free in some cases, efficient, equitable, and reliable. Good communication between the court, parties, and mediators is essential, and the Commission has been very proactive in accomplishing this goal.”

Under the Plan, the ADRC has partnered with three community mediation centers across the state and developed an expedited and efficient way to handle court referrals or orders for mediation. The Plan applies to all pending civil actions in general sessions courts, juvenile courts, chancery courts, and circuit courts. Judges are encouraged to review their dockets and refer any cases to mediation that may benefit from this new program. Recognizing that many people are facing economic hardships because of the pandemic, mediation will be provided at no cost to indigent parties who are not represented by an attorney.

In referring cases to mediation, judges are encouraged to give top priority to cases with parties not represented by attorneys. Under the plan, a judge may request that the parties use mediation, order the parties to mediation, or decide the case is not appropriate for mediation. The types of civil cases that may benefit from mediation include: evictions, family disputes, medical debt claims, juvenile matters, personal loans, contract breach, and recovery of personal property. Criminal cases are not included because defendants have a constitutional right to “confront their accuser.”

The ADRC developed the Plan after a survey of the state’s judges indicated a growing backlog of cases in the areas of family, evictions, small claims and juvenile matters. A majority of the judges expressed their willingness to involve Rule 31 mediators in addressing these cases where appropriate.

“Mediation has been crucial to managing cases during the pandemic,” said Judge Russell Parkes, a circuit court judge in the 22<sup>nd</sup> judicial district. “There are cases that just cannot wait and mediation is a great option for me to use as a judge to bring the parties together in a neutral setting to find a solution. I find it particularly useful when only one of the parties is represented by an attorney. The pandemic

has forced courts to innovate like no other time and increased mediation is one option every judge should be considering.”

“The community of mediators in Tennessee is quite amazing in its creativity,” said Larry Bridgesmith, chair of the ADRC and a mediator. “The Covid-19 crisis has infected the administration of justice just like every other segment of society and commerce. In response, trained mediators approved by the Supreme Court have stepped to the plate and offered their problem-solving skills to help address the growing backlog of court cases resulting from the pandemic.”

“Mediation has been a life-saver during this pandemic,” said Judge Timothy Irwin, a juvenile court judge in Knox County. “We have a very full docket and issues involving kids cannot wait. Whether it is a question of custody, schooling, or delinquency, we must act quickly to serve the best interests of children in our community. The mediation process has allowed us to safely address and resolve some cases and allow the court continuing operating and managing emergency proceedings.”

Mediation will be conducted following Tennessee Supreme Court Rule 31 and by Rule 31 approved mediators. The Plan provides judges, court clerks, and mediators sample documents for referring a case to mediation, communicating with the parties, and informing the court of the status of the mediation. Mediation is a confidential process and does not influence the outcome of a case if unsuccessful. The mediations under the Plan will be conducted virtually, unless otherwise agreed upon by the parties and mediator.

To ensure the process is efficient, the Plan sets out specific timelines and deadlines for the mediation process. Under the Plan, each county has been assigned a community mediation center, which will triage requests for mediation assistance from the courts. Trained mediators are volunteering to provide these services and will be trained and deployed as needed. If a judge refers or orders a case to mediation, the parties will hear directly from the mediation center to begin the scheduling and mediation process.

“We have found that clarity and transparency in the assistance provided by the local mediation center is important,” said Judge Deborah Henderson, a general sessions court judge in Shelby County. “Citizens who come to our court need the options and cost savings that mediation can provide, especially during these challenging times.”

The three Community Mediation Centers that will coordinate resources and location details with all medication centers in the state are: The Mid-South Community Justice & Mediation Center, Inc. in Memphis, the Nashville Conflict Resolution Center, and the Community Mediation Center in Knoxville.

“State courts have been hampered in processing legal disputes because of limitations on in-person activities. Offering to help resolve court cases which are appropriate for mediation at no cost, this group of Tennesseans shows again why this is the Volunteer State,” Bridgesmith said.

Judges, clerks, and mediators can access the Plan Toolbox from the AOC website (<http://www.tncourts.gov/adrplan>) and email [ADRPlan@tncourts.gov](mailto:ADRPlan@tncourts.gov) with questions.

**ALTERNATIVE DISPUTE RESOLUTION PLAN  
TO ADDRESS CASE BACKLOGS  
RELATED TO THE COVID-19 PANDEMIC**

**SECTION 1. INTRODUCTION**

1.1 Title.

This is a Plan for Alternative Dispute Resolution in Tennessee courts (“the ADR Plan”) in response to the Covid-19 pandemic and its impact on court cases.

1.2 Purpose and Scope.

- (a) Purpose. The Tennessee Supreme Court approved the ADR Plan to assist in reducing the backlog of civil cases in the State’s judicial system caused by the COVID-19 pandemic. The specific goal of the ADR Plan is to make available to civil litigants the alternative dispute resolution procedure of mediation as a means of providing a quicker, less expensive and potentially more satisfying alternative to continuing litigation, but without impairing the quality of justice or the right to trial.
- (b) Scope. The ADR Plan applies to all pending civil actions in general sessions courts, juvenile courts, chancery courts, and circuit courts.

**SECTION 2. REFERRAL TO MEDIATION**

- (a) Backlog of Cases. Trial judges are encouraged to refer cases to mediation, but referral is solely in the discretion of trial judges. A trial judge may request that the parties utilize the services of a mediator, issue an Order referring the case to mediation, or decide not to refer a case to mediation.
- (b) Selection of Cases. Priority shall be given to cases in which all parties are *pro se* (proceeding without legal representation) or a party is *pro se* and the other party or parties are represented by an attorney. A trial judge may also refer cases to mediation when all parties have attorney representation.

**SECTION 3. MEDIATORS**

- (a) Mediators. Trial judges may utilize the services of community mediation centers in the three grand divisions: Mid-South Community Justice & Mediation Center

in Memphis, the Nashville Conflict Resolution Center in Nashville, and the Community Mediation Center of Knoxville in Knoxville.

- (b) Qualification of Mediators. A mediation center mediator conducting mediations under the ADR Plan shall be a Rule 31 Listed Mediator currently in good standing with the Alternative Dispute Resolution Commission.
- (c) Change of Mediators. If the mediation center selects a mediator and one or more parties object to the mediator selected, the mediation center shall provide another mediator.
- (d) Private Mediator. The parties may retain the right to select by agreement a Rule 31 Listed Mediator.

#### **SECTION 4. MEDIATION PROCESS**

- (a) Informal process. A Rule 31 mediation is an informal process in which a Rule 31 Listed Mediator conducts discussions among the parties designed to enable them to reach a mutually acceptable agreement on all or any part of disputed issues. The mediator has no decision-making authority, but will facilitate the parties' negotiation leaving the rights of self-determination to the parties.
- (b) Compliance with Rule 31. All persons serving as mediators in the ADR Plan will conduct mediation in accordance with Tennessee Supreme Court Rule 31 and will be entitled to all of the immunities and protections provided by Rule 31.

#### **SECTION 5. CONFIDENTIALITY IN MEDIATION**

- (a) Mediation is Confidential and Private. No participant in the mediation process or any portion thereof may communicate confidential information acquired in mediation without the consent of the disclosing party. There shall be no stenographic or electronic recording, audio or visual, of the mediation process.
- (b) Communication with the Mediator. Once the mediator is assigned, the mediator may, at his or her discretion, discuss the case in confidence and *ex parte* with counsel or representatives of the parties. The mediator shall not disclose any confidential communication obtained from a party or counsel in any *ex parte* session without the express consent of the other party or parties and their counsel.

## SECTION 6. COMPENSATION OF MEDIATORS

- (a) Mediation under the ADR Plan will be provided at no cost to indigent pro se parties. In cases where parties are represented by counsel, the matter of mediator compensation will be as agreed upon by the parties or as ordered by the trial judge.

## SECTION 7. PROCEDURE FOR NOTIFYING PARTIES EITHER BY ORDER OR BY REQUEST

- (a) A trial judge shall select appropriate cases for mediation.
- (b) When a trial judge requests parties to participate in mediation, the parties shall be notified by letter or email that a referral has been made and recommend that the parties contact the assigned mediation center. (Exhibit A)
- (c) When a trial judge orders mediation, the trial court shall provide the parties by letter or email with a mediation order. (Exhibit B)
- (d) Upon referral or order, the trial court shall provide the assigned mediation center by letter or email copies of the trial court's notice letter to the parties, any applicable mediation order, the civil warrant or complaint, and any other necessary pleadings which should include the parties' contact information. (Assigned listings attached as Exhibit C)

## SECTION 8. MEDIATION CENTER'S COMMUNICATION WITH PARTIES

- (a) After a referral is made, the assigned mediation center shall notify the parties by letter or email of the opportunity to utilize the mediation center's mediation services. After a mediation order is entered, the mediation center will proceed with the assignment of a mediator and notification of the parties by letter or email.

## SECTION 9. HOW CONDUCTED

- (a) All mediations will be conducted virtually, that is by use of an audio and video conferencing platform or by telephone, unless otherwise agreed upon by the parties and the mediator.

## SECTION 10. EVALUATION

- (a) The confidentiality of information disclosed during mediation does not prohibit or limit: (1) the trial court or mediation center from collecting information for the purpose of evaluating the ADR Plan; (2) the mediator filing a Mediator Report advising the Court of the outcome consistent with the provisions of Rule 31 of the Tennessee Supreme Court.
  
- (b) Information collected by the trial court or the mediation center for the purpose of evaluating the ADR Plan will be used for research and monitoring purposes only. The sources of specific information concerning the communications protected by the confidentiality provisions of Rule 31 will not be disclosed to the trial court or in any report.

# EXHIBIT A

## Court Mediation Letter

[Sent on court letterhead to pro se litigants]

RE: \_\_\_\_\_

Greetings:

The Tennessee Supreme Court has a new program to allow judges to use a tool called mediation to help you solve your case. Contact a Mediation Center to learn more about how mediation can help you. The Mediation Center will answer your questions about the program.

[Insert Mediation Center contact information]

Here is some information you should know about mediation:

- Mediation is an alternative to court. Mediation is an informal and private meeting. You and the other party will be able to talk about possible solutions to your case.
- A trained mediator will lead the mediation meeting. The mediator will help you and the other party see if it is possible to resolve the problem without going to court.
- The mediator can't make any decisions. The mediator can help you and the other party discuss the problem and agree on a solution.
- You don't have to do the mediation in-person. Mediation can be held remotely over the phone, by email, or by video. This means the mediation can happen at a time that works for you and the other party. This means you won't have any travel costs or have to miss work to go to mediation. This also helps prevent the spread of COVID 19.
- You and the other party may be able to reach an agreement faster in mediation than if you go to court. The COVID-19 pandemic is causing the waiting period for courts to hear cases to be longer than normal. Judges and court staff have to comply with CDC guidelines and other rules. Sometimes this means cases are delayed.

You and the other party can agree to try mediation to solve your problem. The Mediation Center can assign a mediator. Or you and the other party can choose a trained mediator then ask the Court to assign that mediator. The list of trained mediators is online at <http://www.tncourts.gov/programs/mediation/find-mediator>.

Mediation is confidential. No information that you share in mediation will be shared with the judge. The mediator will not communicate any information to the judge. The mediator will only report whether or not mediation was successful.

You should also know the following:

- If you decide you do not want to mediate your case you still have the option to go to court. If you start mediation but decide to stop before it ends, you still have the option to go to court.
- Cases that don't use mediation or cases that aren't resolved in mediation will be heard by this Court when a court date is available.

Contact the Mediation Center identified above for more information.

Thank you in advance for learning more about mediation as a possible way of solving your case.

# EXHIBIT B

## Order to Conduct Mediation

IN THE \_\_\_\_\_ COURT OF  
\_\_\_\_\_ TENNESSEE

\_\_\_\_\_  
Plaintiff(s)

v.

Civil Action No. \_\_\_\_\_

\_\_\_\_\_  
Defendant(s)

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**ORDER TO CONDUCT MEDIATION**

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This Court finds that this matter is appropriate for mediation under Tennessee Supreme Court Rule 31 and the ADR Plan approved by the Tennessee Supreme Court. Therefore, within thirty days of entry of this Order, the parties are directed to either mutually agree upon a Rule 31 Listed Mediator to conduct the mediation or contact the following community mediation center for assignment of a mediator: \_\_\_\_\_.

Within seven days of the completion of mediation, the Mediator shall provide a Mediator Report to the Court stating: (1) the name of the Mediator; (2) the date on which the mediation occurred; and (3) whether the matter was settled or not settled.

**IT IS SO ORDERED** on this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
JUDGE  
\_\_\_\_\_ COURT  
DIVISION \_\_\_\_  
DATE: \_\_\_\_\_

# EXHIBIT C

## Judicial Districts by Grand Division

## JUDICIAL DISTRICTS

### EAST

Judicial District 1: Carter, Johnson, Unicoi and Washington counties

Judicial District 2: Sullivan County

Judicial District 3: Greene, Hamblen, Hancock and Hawkins counties

Judicial District 4: Cocke, Grainger, Jefferson and Sevier counties

Judicial District 5: Blount County

Judicial District 6: Knox County

Judicial District 7: Anderson County

Judicial District 8: Campbell, Claiborne, Scott and Union counties

Judicial District 9: Loudon, Meigs, Morgan and Roane counties

Judicial District 10: Bradley, McMinn, Monroe and Polk counties

Judicial District 11: Hamilton County

Judicial District 12: Bledsoe, , Marion, Rhea counties

Judicial District 13: Cumberland

### COMMUNITY MEDIATION CENTER

**Community Mediation Center**

**912 S. Gay Street, Suite L-300**

**Knoxville, TN 37902**

**865-594-1879**

**info@2mediate.org**

## **JUDICIAL DISTRICTS**

### **MIDDLE**

Judicial District 8: Fentress

Judicial District 12: Franklin, Grundy, Sequatchie

Judicial District 13: Clay, DeKalb, Overton, Pickett, Putnam and White counties

Judicial District 14: Coffee County

Judicial District 15: Jackson, Macon, Smith, Trousdale and Wilson counties

Judicial District 16: Cannon and Rutherford counties

Judicial District 17: Bedford, Lincoln, Marshall and Moore counties

Judicial District 18: Sumner County

Judicial District 19: Montgomery and Robertson counties

Judicial District 20: Davidson County

Judicial District 21: Hickman, Lewis, Perry and Williamson counties

Judicial District 22: Giles, Lawrence, Maury and Wayne counties

Judicial District 23: Cheatham, Dickson, Houston, Humphreys, and Stewart counties

Judicial District 31: Van Buren and Warren counties

### **COMMUNITY MEDIATION CENTER**

**Nashville Conflict Resolution Center**

**4732 W Longdale Drive**

**Nashville, TN 37211**

**615.333.8400**

**[info@nashvilleconflict.org](mailto:info@nashvilleconflict.org)**

## **JUDICIAL DISTRICTS**

### **WESTERN**

Judicial District 24: Benton, Carroll, Decatur, Hardin and Henry counties

Judicial District 25: Fayette, Hardeman, Lauderdale, McNairy and Tipton counties

Judicial District 26: Chester, Henderson and Madison counties

Judicial District 27: Obion and Weakley counties

Judicial District 28: Crockett, Gibson and Haywood counties

Judicial District 29: Dyer and Lake counties

Judicial District 30: Shelby County

### **COMMUNITY MEDIATION CENTER**

**Mid-South Community Justice & Mediation Center, Inc.**

**262 German Oak Drive**

**Memphis, Tennessee 38018**

**Telephone: (901) 431-5660**

**info@cjammediation.org**

**SECTION 3**

**ADR PLAN  
CASE FLOW**

**TENNESSEE SUPREME COURT ADR PLAN**  
**CASE FLOW AND FORMS**

**1. CASES SELECTED FOR MEDIATION BY COURTS**

- a. Court determines whether backlog case is appropriate for mediation
- b. Court decides whether to “recommend” mediation or to “order” mediation

**2. COURT NOTIFIES PARTIES**

- a. Parties are notified by letter/email that a referral has been made and recommends that the parties contact the assigned mediation center (ADR Plan Exhibit A)
- b. If ordered, the Court notifies the parties by letter/e-mail with the Order of Mediation (ADR Plan Exhibit B)

**3. COURT PROVIDES RELEVANT INFORMATION TO ASSIGNED MEDIATION CENTER**

- a. The Court will send (by letter or e-mail) to the assigned mediation center a copy of the letter to the parties and “case file”
- b. The Assigned Community Mediation Center (CMC) includes the three centers referenced in the Plan and, in addition, the Center the court has generally referred cases for mediation (ADR Plan Exhibit C)

**4. MEDIATION CENTER WILL NOTIFY THE COURT THAT IT HAS RECEIVED CASE FILE INFORMATION**

- a. The CMC will notify the court by letter/e-mail that it has received the contact information and case file
- b. The CMC will begin recording information about the referral using the CMC’s Summary Report (CMC 1).

**5. MEDIATION CENTER CONTACTS THE PARTIES**

- a. If recommended for voluntary participation, CMC will send a follow-up letter (CMC 2) to parties enclosing an Agreement To Mediate (CMC 3)
- b. If ordered by the court, CMC sends follow-up letter to parties (CMC 4)

**6. FOLLOW-UP COMMUNICATION WITH PARTIES**

- a. If no contact from the parties (i.e. parties asked to voluntarily participate), a follow-up letter/e-mail/phone call should be made to party or parties to discuss interest in mediating their case. (Contact should be made after expiration of the seven (7) days from when they should have received their letter)
- b. If ordered to mediate and thirty (30) days is soon to expire, a reminder phone call or e-mail should be sent. The Order provides that the parties have thirty (30) days to agree upon a Rule 31 Listed Mediator or contact the CMC. (ADR Plan Exhibit B)
- c. The CMC will continue to record information on the CMC’s Summary Report - e.g. “scheduling the mediation”

**7. CMC ASSIGNS MEDIATION CASE TO A R31 MEDIATOR**

- a. The case is then assigned to a Rule 31 Mediator to schedule the mediation.
- b. If recommended to mediate, CMC or mediator will contact parties for agreement to mediate
- c. Mediator will ensure parties sign Agreement To Mediate before commencement of mediation
- d. Mediator records data on following forms:
  - i. Mediator Activity Log (CMC 5)
  - ii. Mediator Activity Report (CMC 6)

**8. NO MEDIATION CONDUCTED**

- a. No mediation conducted because no response from one or both parties or refusal by one or both parties to mediate
- b. Complete and send to CMC:
  - i. Mediator Activity Log
  - ii. Mediator Activity Report
  - iii. Mediator's Final Report pursuant to Rule 31, Section 5 (CMC 7)
- c. Send all completed forms to CMC administrator within 24 hours after determining no mediation will be conducted

**9. MEDIATION CONDUCTED (SETTLED OR NO SETTLEMENT)**

- a. If settled, ensure Settlement Agreement is signed (CMC 8)
- b. Complete and send to CMC:
  - i. Mediator Activity Log
  - ii. Mediator Activity Report
  - iii. Mediator's Final Report pursuant to Rule 31, Section 5
  - iv. Signed Settlement Agreement (if agreement reached)
- c. Send all completed forms (including the Settlement Agreement) to CMC administrator within 24 hours upon completion of the mediation

**10. CMC ADMINISTRATOR COMPLETES CMC'S SUMMARY REPORT**

**11. CMC DELIVERS REPORT WITH THE COURT**

- a. CMC delivers the Mediator's Final Report
- b. CMC delivers other appropriate information as required by the court

**12. CMC GATHERS INFORMATION FOR EVALUATION AND ASSESSMENT**

- a. See CMC complete Regional Statistical Report (See, CMC 9)

# **SECTION 4**

## **ADR PLAN FORMS**

**CENTER SUMMARY REPORT**

CENTER: \_\_\_\_\_

Please complete this Report. This information is important for the evaluation of the Tennessee Supreme Court ADR Plan.

MEDIATOR'S NAME:	
MEDIATOR CONTACT INFORMATION:	
CASE NAME	
CASE NUMBER	
REFERRAL SOURCE (COURT/COUNTY)	
RECEIVED AS A REFERRAL	Yes or no
RECEIVED AS AN ORDER	Yes or no
TYPE OF CASE	Family, civil, etc.
<b>INTAKE/SCREENING</b>	
INTAKE & SCREENING	Plaintiff, Defendant
DATE RECEIVED FROM COURT	
DATE ASSIGNED TO MEDIATOR	
APPROPRIATE FOR MEDIATION	Yes or no
IF NO, EXPLAIN WHY.	
HOW MUCH TIME WAS SPENT ON INTAKE PROCESS?	
<b>SCHEDULING THE MEDIATION</b>	
HOW MUCH TIME WAS SPENT IN SCHEDULING THE MEDIATION?	
WAS THE MEDIATION SCHEDULED?	Yes or no
IF MEDIATION WAS NOT SCHEDULED:	One or Both Parties Did Not Respond One Or Both Parties Refused To Mediate

	Mediator Was Not Selected By 30-Day Deadline (If Ordered) Parties Chose To Use Private Mediator Unable To Contact Parties Other – Explain		
IF MEDIATION SCHEDULED BUT DID NOT OCCUR:	Agreement Reached Prior To Mediation One or Both Parties Failed To Appear		
<b>CONDUCTING THE MEDIATION</b>			
DATE OF MEDIATION			
NUMBER OF SESSIONS:			
TIME SPENT IN SESSION(S)			
TIME SPENT OUT OF SESSION(S)			
MEDIATION WAS CONDUCTED BY	Video	Phone only	Combination
HOW MANY ATTENDED?	Plaintiff for Defendant	Defendant Attorney for Plaintiff Observers	Attorney
OUTCOME	Settled	Partially settled	Not settled
<b>TIME SPENT ON COMPLETING REPORTS</b>			
REPORTS FILED WITH CENTER			
<b>MEDIATOR OBSERVATIONS AND NOTES ON PROCESS</b>			

## FOLLOW-UP LETTER

Date \_\_\_\_\_

Dear \_\_\_\_\_,

You are receiving this follow-up letter because you have a case pending in \_\_\_\_\_ (court/county). The COVID-19 pandemic is causing the waiting period for courts to hear cases to be longer than normal. Your Judge asks that you and the other party in your case try to resolve the case by using “remote mediation”.

Remote mediation is an informal and private meeting. A trained mediator will lead the remote mediation over a computer, smartphone, or telephone. Remote mediation is offered to help you resolve your case as quickly as possible. The Mediation Center \_\_\_\_\_ has been selected to offer you these mediation services.

**Option 1.** If you and the other party want to use remote mediation, please sign the attached “Agreement To Mediate” form. Mail or e-mail the form to the address at the top of this letter.

**Option 2.** If you or the other party have not yet decided whether to use remote mediation, more information is available in the attached flyer. The flyer shares more information about mediation.

If you have any question, please feel free to leave us a voice mail at \_\_\_\_\_ or send a message to the e-mail address above. Please leave a voicemail with a phone number and e-mail address to get in contact with you if we miss your call. **We need you to contact us within seven (7) days after you receive this letter so that we can understand how you would like to proceed.**

**Please remember a few things:**

- Mediation is voluntary. Both sides have to agree to mediate before mediation can occur.
- You can decide to stop at any time you want.
- If you stop the mediation or do not reach an agreement in your case, you will then need to wait and go to court when a date is available to have the judge decide your case. Please know there may be some delay before you are able to have your case heard in front of the Judge.

**MEDIATION IS CONFIDENTIAL & AT NO COST!**

CASE NO. \_\_\_\_\_

**AGREEMENT TO MEDIATE**

1. Mediation is an informal process in which a mediator facilitates the parties' efforts to negotiate an agreement that is mutually acceptable to both parties.
2. There is no cost for the use of the mediator's services.
3. You understand that the mediator is not acting as a judge or advocate for either party. The mediator will not decide the case and no one will force you to reach an agreement.
4. You understand that the mediation process is confidential. This means you will not share with others what was discussed in the mediation meetings if the matter is not resolved. Neither the mediators nor the community mediation center staff may be subpoenaed to testify in court proceedings. All mediation work notes, memos and case files, including those of the involved community mediation center, are confidential and privileged and may not be used in litigation.
5. If participating by video or phone conference, you agree that you will do so in private and you will not record any session. You understand that the only exception to the confidentiality rule is the mediator's legal requirement to report abuse of children, the elderly or disabled persons.
6. Because mediation is a voluntary process, each party has the right to terminate mediation at any time and for any reason as does the mediator.
7. When both parties have agreed to mediation, a Rule 31 Listed Mediator with the \_\_\_\_\_ will be in contact to schedule and conduct the mediation pursuant to Tennessee Supreme Court Rule 31.
8. You understand that if all participants agree that if an agreement is reached it will be reduced to writing and when signed it will be binding on all participants of the mediation.
9. You understand that the mediator(s) may not provide legal advice.
10. You agree that a description of the case may be used for research, education, or training, or any combination of these, but only if information that might identify the parties has been removed.

**I have read and signed the Consent To Mediate and my signature affirms my agreement to all of its terms.**

**AGREEMENT TO MEDIATE (PLAINTIFF)**

Plaintiff's Signature: \_\_\_\_\_

Phone #: \_\_\_\_\_

Email Address: \_\_\_\_\_

Date: \_\_\_\_\_

Return to: \_\_\_\_\_  
\_\_\_\_\_

**AGREEMENT TO MEDIATE**

1. Mediation is an informal process in which a mediator facilitates the parties' efforts to negotiate an agreement that is mutually acceptable to both parties.
2. There is no cost for the use of the mediator's services.
3. You understand that the mediator is not acting as a judge or advocate for either party. The mediator will not decide the case and no one will force you to reach an agreement.
4. You understand that the mediation process is confidential. This means you will not share with others what was discussed in the mediation meetings if the matter is not resolved (for example, offers of settlement). Neither the mediators nor the community mediation center staff may be subpoenaed to testify in court proceedings. All mediation work notes, memos and case files, including those of the involved community mediation center, are confidential and privileged and may not be used in litigation.
5. If participating by video or phone conference, you agree that you will do so in private and you will not record any session. You understand that the only exception to the confidentiality rule is the mediator's legal requirement to report abuse of children, the elderly or disabled persons.
6. Because mediation is a voluntary process, each party has the right to terminate mediation at any time and for any reason as does the mediator.
7. When both parties have agreed to mediation, a Rule 31 Listed Mediator with the \_\_\_\_\_ will be in contact to schedule and conduct the mediation pursuant to Tennessee Supreme Court Rule 31.
8. You understand that if all participants agree that if an agreement is reached it will be reduced to writing and when signed it will be binding on all participants of the mediation.
9. You understand that the mediator(s) may not provide legal advice.
10. You agree that a description of the case may be used for research, education, or training, or any combination of these, but only if information that might identify the parties has been removed.

**I have read and signed the Consent To Mediate and my signature affirms my agreement to all of its terms.**

**AGREEMENT TO MEDIATE (DEFENDANT)**

Defendant's Signature: \_\_\_\_\_

Phone #: \_\_\_\_\_

Email Address: \_\_\_\_\_

Date: \_\_\_\_\_

Return to:                      CMC            
\_\_\_\_\_  
\_\_\_\_\_

Date

The \_\_\_\_\_(Center)\_\_\_\_\_ is sending you this letter as a follow-up to the Order To Mediate you previously received from the Judge in the case you have pending in court. The Order provides that the parties have thirty (30) days from the entry of the Order to accomplish the task of mutually agreeing upon a Rule 31 Listed Mediator to conduct the mediation or contact the community mediation center for assignment of a mediator.

If you choose to use the community mediation center, please contact the center within thirty (30) days of the entry of the Order. The center's contact information is as follows:

Enclosed is more information about the mediation center and the mediation process. If you have any questions, please feel free to call the center.



**MEDIATOR'S ACTIVITY REPORT**

Please complete this Summary Report. This information is important for the evaluation of the ADR Plan.

MEDIATOR'S NAME: \_\_\_\_\_

MEDIATION CENTER: \_\_\_\_\_

DATE ASSIGNED TO MEDIATOR: \_\_\_\_\_

CASE REFERRED BY (Identify the Court): \_\_\_\_\_

CASE SENT BY THE COURT: \_\_\_\_\_ Suggesting Mediation

\_\_\_\_\_ By Order of the Court

CASE NUMBER: \_\_\_\_\_

TYPE OF CASE: \_\_\_\_\_

DID THE MEDIATION TAKE PLACE: \_\_\_\_\_ YES \_\_\_\_\_ NO

TIME SPENT SCHEDULING MEDIATION: \_\_\_\_\_

DATE OF MEDIATION (IF IT TOOK PLACE): \_\_\_\_\_

TIME IN MEDIATION SESSION: \_\_\_\_\_

OUTCOME:  Settled  Not Settled  Partially Settled

Impasse Plaintiff Defendant Terminated by Mediator

HOW WAS THE MEDIATION CONDUCTED:  Online  Phone  Combination

HOW MANY FROM EACH CATEGORY ATTENDED:  Plaintiff  Defendant

Attorney for Plaintiff  Attorney for Defendant  Observers

IF THE MEDIATION DID NOT OCCUR:

- Agreement Reached Prior To Mediation
- One or Both Parties Failed To Appear
- One or Both Parties Refused To Mediate
- Unable to Contact
- Choose Private Mediator
- Other Explanation

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**PLEASE ATTACH THE MEDIATOR ACTIVITY LOG TO THE REPORT.**

\_\_\_\_\_

**MEDIATION SETTLEMENT AGREEMENT**

Case Name: \_\_\_\_\_ Case/Docket No.: \_\_\_\_\_

Date of Mediation: \_\_\_\_\_ Length of Mediation: \_\_\_\_\_

By signing this Agreement, we acknowledge that the terms included in all pages of the Agreement accurately reflect our negotiated Settlement Agreement; agree that this Settlement Agreement is legally binding in court as a contract; agree to abide by the terms, findings, and conditions set forth in this Settlement Agreement; and acknowledge that this Settlement Agreement shall be admissible in any subsequent proceeding to prove the existence of the Agreement and/or to enforce the terms of the Agreement.

**SIGN:**

**Witnessed By The Mediator(s):**

**MEDIATOR'S FINAL REPORT**

Mediator's Name: \_\_\_\_\_

Court: \_\_\_\_\_

Case Name: \_\_\_\_\_

Docket Number: \_\_\_\_\_

Parties Appearance: \_\_\_\_\_

**OUTCOME:**

\_\_\_\_\_ Completely Settled

\_\_\_\_\_ Settled, pending performance of the Agreement;

\_\_\_\_\_ Partial settlement, returned to court for trial

\_\_\_\_\_ No settlement, returned to court for trial

**SUBMITTED BY:**

\_\_\_\_\_  
MEDIATOR(S)

DATE: \_\_\_\_\_

CC: MEDIATION CENTER

**REGIONAL CENTER'S STATISTICAL REPORT**  
**PERIOD COVERED – DECEMBER 1 – JANUARY 31**

Each community mediation center will complete a regional statistical report that will be used to create one overall statewide report.

1. Total Number Of Cases For Covered Period: \_\_\_\_\_
2. Total Number of Cases Ordered To Mediation: \_\_\_\_\_
3. Total Number of Cases Requesting That The Parties Mediate: \_\_\_\_\_
4. Total Ordered Cases Settled By Mediation: \_\_\_\_\_
5. Total Cases Requested To Be Mediated Settled By Mediation: \_\_\_\_\_
6. Total Cases When One Or Both Parties Refused To Mediate: \_\_\_\_\_
7. Type Of Case & Number of Each Type Of Case: (Attach List) \_\_\_\_\_
8. All Cases: Total Number - Both Parties Were Represented: \_\_\_\_\_  
 Total Number - Both Parties Were Self-Represented: \_\_\_\_\_  
 Total Number - One Party Represented/One Party Pro Se: \_\_\_\_\_
9. Outcome Summary (Specify Total) : \_\_\_ Settled  
 \_\_\_ Not Settled  
 \_\_\_ Partially Settled  
 \_\_\_ One or Both Parties Refused To Mediate  
 \_\_\_ One or Both Parties Did Not Respond
10. Average Time From Date Of Assignment To Disposition: \_\_\_\_\_

# **SECTION 5**

## **VISUAL FLOWCHART**

## The Tennessee Supreme Court ADR Plan with Community Mediation Centers: Process Illustration



