

Rule 37

CITIZENS DISPUTE SETTLEMENT PROGRAM

(A) Pursuant to Rule 16 of the Rules of Superintendence for the Courts of Ohio referrals to appropriate and available alternative dispute resolution programs shall be set forth in the local rules. The Citizens Dispute Settlement Program (CDSP) is the Toledo Municipal Court's mediation program and provides citizens living within the court's jurisdiction an alternative means of solving interpersonal disputes. "Mediation" is a non-binding process involving a neutral mediator who acts as a facilitator to assist the parties in crafting a mutually acceptable resolution for themselves. The Toledo Municipal Court incorporates by reference and adopts through this local rule the provisions of the "Ohio Uniform Mediation Act" under Ohio Revised Code Chapter 2710.

(B) Case Selection. The court has discretion to encourage parties in situations involving disputes with individuals having business, commercial or ongoing relationships such as family members, friends, and neighbors to use mediation. All civil and criminal cases may be referred to mediation as provided by this rule. Before the initial pre-trial conference in a case, counsel shall discuss the appropriateness of mediation in the litigation with their clients and with opposing counsel.

The use of mediation is prohibited in domestic violence cases pursuant to Ohio Revised Code 2919.25, 2919.26, 2919.27, and 3113.31. The mediator shall terminate a mediation session if there is a threat of domestic abuse, violence or coercion between the parties.

(C) Sources of referrals. Cases filed in Toledo Municipal Court may be referred to CDSP by the judge or magistrate. Any individual before the court may request a referral to the program by the assigned judge or magistrate. Civil cases may be referred to the civil mediation program by sua sponte judicial order, by the granting of a motion of any party, or by agreement of the parties with the approval of the judge or magistrate.

(D) Agreements reached by the parties are written and signed. The case is disposed of after payment of costs and a judgment entry reflecting the parties' written agreement is signed by a judge. All court orders shall remain in effect. No order is stayed or suspended during the mediation process.

(E) The mediator shall inform the court who attended the mediation, whether the case settled, and whether efforts to settle the case through mediation are being continued or if the case is being returned to the court for further proceedings.

(F) Confidentiality. All mediation communications related to or made during the mediation process are subject to and governed by the Uniform Mediation Act under Ohio Revised Code section 2710.07. Mediation communications are confidential, and no one shall disclose any of these communications unless all parties and the mediator consent to disclosure. Said communications shall not be used for any purpose, including impeachment of a witness. No mediator may be subpoenaed to testify in any legal proceeding regarding the communications made in connection with the mediation. Specific exceptions to confidentiality are provided by Ohio Revised Code section 2710.05 and are reviewed by the mediator with the parties prior to mediation. Disputes regarding confidentiality should first be addressed with the mediator where possible.

(G) Mediator Training and Education. A mediator shall meet the qualifications of and comply with all training requirements of the Rules of Superintendence for the Courts of Ohio section 16.23 and adopted pursuant to Superintendence rule section 16.22

governing mediators and mediation.

(H) Referral to Resources. The court may maintain resources for legal or other support services available in the community. The mediator is authorized to provide such resource information; however, such distribution shall not be construed as a recommendation of or referral to such resource. The recipient of that information is charged with the duty to evaluate those resources independently. A mediator shall not provide legal advice.

(I) Attendance. All participation in mediation is voluntary except in certain civil cases. Civil referrals made per Toledo Municipal Housing Court Rule 6 require mandatory participation. The parties may allow, if they wish, their attorneys or other individuals they designate to accompany them and participate in the mediation.

(J) Administrative Dismissal of Criminal Cases. If the parties fail to dismiss a settled case within the latter of sixty (60) days or the time noted in the entry that gave the court notice of the settlement, then the court may dismiss the case administratively. Court costs may be waived at the discretion of the court.

(K) Small claims court cases can also use CDSP's services (Alternative Dispute Resolution Program). Cases are mediated after the filing fee is paid and the case has been placed on the small claims court docket.

(L) Civil Mediation Procedures.

(1) Referrals.

(a) Cases referred to mediation by the court shall be scheduled for mediation within thirty (30) days of referral. If necessary discovery is not completed, a case may be continued to a future mediation date with a judge's approval.

(b) If a party or attorney objects to the referral of his or her case to mediation, that person shall proffer a written objection for consideration of the assigned judge.

(c) A referral to mediation shall be reversed only under compelling circumstances.

(2) Participation.

(a) Parties and/or parties' representatives with authority to settle a claim, and parties' counsel shall attend the mediation.

(b) If counsel or any necessary party fails to attend or attends and does not meaningfully participate in the process, the court may order sanctions including, but not limited to, attorney fees, other costs, contempt, dismissal, or default judgment.

(c) The court mediator shall promptly notify parties and counsel of a case referral. After coordinating and establishing a mediation date, notification shall be mailed that includes the date and time of mediation as well as a description of the mediation process.

(3) Resolution.

(a) If an agreement is reached through the mediation process, a corresponding settlement/dismissal judgment entry shall be submitted by CDSP or parties' counsel within thirty (30) days for court approval.

(b) CDSP shall provide a status sheet to each courtroom to ensure that the journal entry is submitted timely to the court.

(c) If an agreement is not reached or a necessary party did not appear, the court mediator shall advise the court within twenty-four (24) hours of the scheduled mediation. No other information shall be communicated to the court.

(d) Unresolved cases will be placed on the assigned judge's docket or referred to the Court Services Department for scheduling.