

**IN THE THIRTEENTH JUDICIAL CIRCUIT COURT IN AND FOR
HILLSBOROUGH COUNTY, FLORIDA
PROBATE, GUARDIANSHIP & TRUST DIVISION**

IN RE: ESTATE/GUARDIANSHIP OF

Case No:

Petitioner(s),

v.

Division A

Respondent(s).
_____ /

**ORDER REFERRING LITIGANTS TO MEDIATION OF ADVERSARY
PROCEEDINGS**

It appearing on the pleadings that the above-captioned case is an adversary proceeding, which is appropriate for mediation; it is hereby,

ORDERED that the litigants are referred to mandatory mediation for resolution of this case, pursuant to Section 44.102, Florida Statutes.

MOREOVER,

1. The litigants shall have ten (10) days from the date of this order to choose and agree upon a mediator and schedule a date and time for a mediation conference with said mediator. **Petitioner's counsel shall prepare the notice to include the proposed date, time, and location of the mediation and provide a copy to the mediator and the other litigants. The original notice shall be mailed to the Clerk of Circuit Court with a copy provided to all interested persons.** Pursuant to Rule 1.700, the conference must be held within sixty (60) days of the date of referral unless an extension is granted by the court. An updated list of certified mediators available in the 13th Circuit can be obtained via Website: www.flcourts.org - click on Alternative Dispute Resolution/Mediation and then Mediator Search.

2. a) If within 10 days of the date of this order the litigants have not chosen a mediator, date and time of mediation, Petitioner's counsel shall notify the Circuit Civil Diversion Program in writing in the form of a request that the litigants have agreed (with approval of the judge) to proceed through the Program. (Fax (813) 301-3706). The Program will select the mediator, date, and time of the mediation and notify the litigants.

b) Litigants shall be limited to one (1) rescheduling without the presiding judge's approval. Thereafter, a hearing must be held to reschedule a conference. Furthermore, the litigants shall coordinate any rescheduled date between themselves and the designated mediator and notify Circuit Civil Diversion of same prior to the removal of the original date and time scheduled. Failure to comply with the foregoing may constitute a

nonappearance and subject the litigants to sanctions for untimely cancellation as provided in paragraph 7 below.

3. a) All litigants, including non-counsel representatives of corporate litigants, are required to personally attend this and any additional mediation conference scheduled. Corporate litigants must send a corporate representative with full and absolute authority to settle the case without further consultation. If a litigant so desires he may obtain legal counsel for purposes of mediation; however, counsel's appearance does not alleviate the requirement that the litigant, or corporate representative, personally attend the mediation conference.

b) In the case of a government entity or public corporation, a representative with full authority to negotiate on behalf of the entity and to recommend settlement to the appropriate decision making body of the entity must attend the mediation conference.

c) If insurance is involved in the action, the insurance carrier shall send a company representative who has **full and absolute authority** to resolve the matter without further consultation.

4. Pursuant to Rule 1.720(d), Florida Rules of Civil Procedure, the mediator shall at all times be in control of the mediation and the procedures to be followed in the mediation. The participants to the mediation conference should be prepared to spend as much time as is reasonably necessary to settle the case or until the mediator declares an impasse and adjourns the conference.

5. All litigants are ordered to complete such discovery as they deem sufficient for the settlement of the case prior to the mediation conference.

6. Petitioner, or his counsel of record, must notify the Circuit Civil Diversion Program, in writing, of any settlement or dismissal of this action, other than a settlement arrived at during a court-ordered mediation conference, whether it occurs prior or subsequent to the mediation proceedings. **The Program and the Mediator must be notified of any reschedule/cancellation.** In the event the mediation conference is rescheduled/canceled at the request of one litigant or the matter is settled less than 48 hours (excluding weekends and holidays), prior to the conference, the responsible litigant(s) may be assessed a minimum of one hour of the mediation fee.

The litigants shall pay an equal share of the cost of the mediation, to be assessed at the rate of \$125.00 per hour in probate cases and \$175.00 per hour in guardianship cases for Court-Certified mediators (unless stipulated in writing to a higher rate by litigants). If the mediation conference is less than one hour, there may be a one-hour minimum charge assessed pro rata among the litigants. **At the conclusion of each mediation session held pursuant to this order, each litigant shall remit payment in full. (Mediator fees are made payable to the Mediator.) FAILURE TO MAKE TIMELY PAYMENT MAY RESULT IN AN ORDER TO SHOW CAUSE AS TO**

WHY THE COURT SHOULD NOT ASSESS SANCTIONS AGAINST THE DELINQUENT LITIGANT.

7. Failure of any litigant to comply with the terms of this Order may result in involuntary dismissal, default judgment, or other appropriate sanctions as provided by the Florida Rules of Civil Procedure and the Florida Probate Rules.

8. All correspondence, motions and orders related to mediation of this case shall be submitted to:

CIRCUIT CIVIL DIVERSION PROGRAM

George Edgecomb Courthouse

800 E. Twiggs Street Room 208

Tampa, Florida 33602

(813)272-5642

FAX (813)301-3706

It is further **ORDERED AND ADJUDGED** that any orders in conflict herewith pertaining to Arbitration or Mediation are hereby superseded by this order.

DONE AND ORDERED in chambers, at Tampa, Hillsborough County, Florida, this _____ day of _____, 20_____.

CIRCUIT COURT JUDGE

Original: Clerk of the Circuit Court

Copies: Circuit Civil Diversion Program

Petitioner's Counsel

Respondent's Counsel

Interested Persons:

Attn: Persons with disabilities. If you are a person with a disability who needs any accommodations in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Mediation & Diversion Services, 800 E. Twiggs St. Room 208, Tampa, Fl, 33602, Telephone 272-5644 within 2 working days of your receipt of this Mediation Conference Notice; if you are hearing impaired, call 1-800-955-8771; and if you are voice impaired, call-1-800-955-8770.