

IT IS ORDERED:

This Court intends to submit probate cases to Mediation pursuant to MCR 2.410, 2.411, and 5.143 and, hereby adopts the following ADR Plan:

1. **ADR Clerk** - The ADR Clerk is the Caseflow/ADR Supervisor or his/her designee.
2. **List of Mediators** - For cases referred to Mediation under MCR 2.410, 2.411, and/or 5.143 the ADR Clerk shall maintain a list of mediators, qualified under the ADR plan, available to this Court. Mediators will be placed on the list upon approval of the application in accordance with procedures established by the Michigan Supreme State Court Administrative Office (SCAO).
 - a. **Application** - Applications shall be available through the ADR Clerk. Applications will be reviewed by the ADR Clerk pursuant to the criteria established by 2.411 at least twice each year. (Proposed deadlines for submissions of applications are June 30 and December 31). The procedure to review applications shall be as follows:
 1. Applications shall be reviewed at least semiannually by the Oakland County Probate Court ADR Clerk.
 2. Applicants not placed on the mediator list shall be notified in writing of that decision. Within 21 days of notification of the decision to reject an application, the applicant may seek reconsideration, in writing, of the ADR Clerk's decision by the Chief Judge. The court does not need to provide a hearing. Documents considered in the initial review process shall be retained for at least the period during which the applicant can seek reconsideration of the original decision.

3. The ADR Clerk may remove from the list mediators who have demonstrated incompetence, bias, made themselves consistently unavailable to serve as a mediator, or for other just cause. Within 21 days of written notification of the decision to remove a mediator from the list, the mediator may seek reconsideration, in writing, of the ADR Clerk's decision by the Chief Judge. The court does not need to provide a hearing.

3. **Assignment** - When the parties fail to select a mediator within 14 days of the order for mediation, the ADR Clerk will assign one, by rotation, from the appropriate mediator list maintained by the ADR Clerk.

The court's assignment system shall be on a rotational basis. A mediator may decline an assignment. The ADR Clerk shall maintain a list of those mediators used in cases in which parties did not stipulate to their own mediator. The list will be made available to the general public.

4. **Information Dissemination** - The ADR Clerk shall make available a brochure or document describing the Court's ADR Plan and ADR processes regarding probate cases utilized by the Court. Copies of this brochure shall be made available at, among other places, the ADR Clerk's office, Probate Estates office and the Oakland County Law Library.
 - a. The ADR Clerk shall make available a brochure or document describing the Court's ADR Plan and ADR processes regarding the identification of certain cases that are not appropriate for mediation; and
 - b. A brochure made available by the ADR Clerk, for probate cases, shall identify how indigent persons can obtain mediation services, or object to mediation or another ADR process by timely motion.

5. **Indigent Access to ADR** - A party is indigent if he or she qualifies for the waiver or suspension of fees in accordance with MCR 2.002(C) or (D).

The Court shall encourage mediators who receive referrals from the Court to provide a portion of their services on a pro bona or reduced fee basis for cases where one or more parties are indigent. The Court may also refer indigent cases to the Oakland Mediation Center pursuant to a contract with the Court.

6. **Evaluation of ADR Program** - The ADR Clerk shall annually prepare a report of the Court's ADR program, which will include the number of assignments per mediator per year. The report will be available in the ADR Clerk's office and Probate Court Register's office.

After dissemination of the annual ADR report, the Chief Judge, ADR Clerk and designated staff shall meet to review the program. In addition, a designee of the Probate Court Chief Judge and ADR Clerk shall meet to review the program.

7. **Community Dispute Resolution Program (CDRP)** - The Court shall maintain a list of the local community dispute resolution programs, including the Oakland Mediation Center. The CDRP shall assign to a case only those mediators affiliated with that CDRP who meet the requirements of MCR 2.411(F).

8. **Other ADR Programs** - The use of other ADR programs are encouraged by this court. The selected plan should be agreed upon by all parties and entered as an order of the court. The order should identify the administrator of the process and set a time frame for completion of the ADR process. Examples of programs used by our court or other courts include: Arbitration, Case Evaluation, Early Neutral Evaluation, Expert Case Evaluation, Mini Trials, and Status Conferences.

9. **ADMINISTRATIVE ORDER 2004-04 IS RESCINDED.**

Date: 2-1-18



Kathleen A. Ryan, Chief Judge
Oakland County Probate Court

Notes:

Revised language deletes references to the Oakland County Bar Association (OCBA) ADR Committee's involvement in an application review process. The Probate Court ADR Clerk processes the applications in accordance with the Michigan Court Rules Qualifications. The ADR Committee's involvement over the past several years has been merely perfunctory in nature and was recently discovered not to be an action sanctioned by the OCBA Board of Directors when LAO 2003-05 was originally adopted. Therefore, elimination of the OCBA ADR Committee's involvement in the Court's ADR application review process was recommended.

