

FFS RULES – EFFECTIVE DATE JANUARY 1, 2012

RULE 2. DESIGNATION OF MEDIATOR

A. DESIGNATION OF CERTIFIED FAMILY FINANCIAL MEDIATOR BY AGREEMENT OF THE PARTIES. The parties may designate a certified family financial mediator certified pursuant to these Rules by agreement by filing with the court a Designation of Mediator by Agreement at the scheduling conference. Such designation shall: state the name, address and telephone number of the mediator designated; state the rate of compensation of the mediator; state that the mediator and opposing counsel have agreed upon the designation and rate of compensation; and state that the mediator is certified pursuant to these Rules.

In the event the parties wish to designate a mediator who is not certified pursuant to these Rules, the parties may nominate said person by filing a Nomination of Non-Certified Family Financial Mediator with the court at the scheduling conference. Such nomination shall state the name, address and telephone number of the mediator; state the training, experience or other qualifications of the mediator; state the rate of compensation of the mediator; state that the mediator and opposing counsel have agreed upon the nomination and rate of compensation, if any. The court shall approve said nomination if, in the court's opinion, the nominee is qualified to serve as mediator and the parties and the nominee have agreed upon the rate of compensation.

Designations of mediators and nominations of mediators shall be made on a NCAOC form. A copy of each such form submitted to the court and a copy of the court's order requiring a mediated settlement conference shall be delivered to the mediator by the parties.

B. APPOINTMENT OF CERTIFIED FAMILY FINANCIAL MEDIATOR BY THE COURT. If the parties cannot agree upon the designation of a mediator, they shall so notify the court and request that the court appoint a mediator. The motion shall be filed at the scheduling conference and shall state that the attorneys for the parties have had a full and frank discussion concerning the designation of a mediator and have been unable to agree on a mediator. The motion shall be on a form approved by the NCAOC. Upon receipt of a motion to appoint a mediator, or failure of the parties to file a Designation of Mediator by Agreement with the court, the court shall appoint a family financial mediator, certified pursuant to these Rules, who has expressed a willingness to mediate actions within the court's district.

In making such appointments, the court shall rotate through the list of available certified mediators. Appointments shall be made without regard to race, gender, religious affiliation or whether the mediator is a licensed attorney. The district

court judges shall retain discretion to depart in a specific case from a strict rotation when, in the judge's discretion, there is good cause to do so.

Certified mediators who do not reside in the judicial district or a county contiguous to the judicial district, shall be included in the list of mediators available for appointment only if, on an annual basis as determined by the Dispute Resolution Commission (Commission), they request the court in each judicial district in which they wish to be appointed, to be put on their appointment list. Said letters shall be addressed to each court, but be mailed to the offices of the Commission. The Commission shall coordinate the compilation and distribution of appointment lists for each judicial district.

The Commission shall furnish to the district court judges of each judicial district a list of those certified family financial mediators requesting appointments in that district. That list shall contain the mediators' names, addresses and telephone numbers and shall be provided electronically through the Commission's website at www.ncdrc.org. The Commission shall promptly notify the district court judges of any disciplinary action taken with respect to a mediator on the list of certified mediators for the judicial district.

- C. MEDIATOR INFORMATION.** To assist the parties in designating a mediator, the Commission shall assemble, maintain and post on its website a list of certified family financial mediators. The list shall supply contact information for mediators and identify court districts that they are available to serve. Where a mediator has supplied it to the Commission, the list shall also provide biographical information, including information about an individual mediator's education, professional experience and mediation training and experience.
- D. DISQUALIFICATION OF MEDIATOR.** Any party may move a court of the district where the action is pending for an order disqualifying the mediator. For good cause, such order shall be entered. If the mediator is disqualified, a replacement mediator shall be selected or appointed pursuant to Rule 2. Nothing in this provision shall preclude mediators from disqualifying themselves.