

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

IN THE MATTER OF ALTERNATIVE
DISPUTE RESOLUTION PROGRAM
PROCEDURES FOR CIVIL CASES

ADMINISTRATIVE ORDER
No. 2023-009

Whereas, the Civil Department remains committed to the use of Alternative Dispute Resolution (ADR) and relies on the ADR program to provide a settlement process for civil cases with Civil Judges *Pro Tempore* serving as settlement judges; and

Whereas, Rule 16(i) of the Arizona Rules of Civil Procedure authorizes court-ordered settlement conferences, whether upon the request of the parties or on the court's own motion, with the ADR Office responsible for coordinating the scheduling of ADR Settlement Conferences once authorized by the assigned judicial officer; and

Whereas, the number of Judges *Pro Tempore* for Civil matters have reduced over the course of several years, and such reduction has contributed to a delay in appointing Judges *Pro Tempore* to facilitate ADR Settlement Conferences; and

Whereas, certain cases are not prepared at the time of the scheduled settlement conference due to discovery/disclosure or other issues, thereby resulting in continuances or vacating of settlement conferences, further contributing to the delay of completing settlement conferences; and

Whereas, delay in the ADR process often results in an overall delay in resolution of Civil cases, and procedural changes requiring the parties to certify that they are ready for a settlement conference may reduce the need to reschedule or delay settlement conferences; and

Whereas, ADR Settlement Conferences already referred on or before January 31, 2023 shall proceed as referred/scheduled, but this new process shall require matters referred on or after February 1, 2023 to comply with the certification process below or be subject to having the ADR referral vacated.

IT IS THEREFORE ORDERED:

1. No later than ninety (90) calendar days prior to the deadline to complete a settlement conference as determined by the Court, parties must certify as follows:

- a. The discovery and disclosure required for the parties to meaningfully engage in comprehensive settlement negotiations is complete (this certification relates only to preparedness for settlement conference purposes and shall not limit the pursuit of on-going discovery or further disclosure under the applicable rules/court orders) and that there are no pending discovery or disclosure disputes between the parties that would interfere with a meaningful settlement conference;
 - b. The parties have engaged in good-faith settlement discussions and have been unable to reach an agreement. If the parties intend to engage in a private mediation or settlement conference, they have done so and have exhausted those efforts;
 - c. There are no pending or anticipated partially or fully dispositive motions which would need to be decided prior to the parties engaging in good-faith settlement discussions in an effort to reach a complete settlement of this matter;
 - d. The parties understand and agree that they are obligated to contact the judge *pro tempore* within ten (10) calendar days of receipt of the ADR Notice of Appointment of Judge *Pro Tempore* to initiate a joint telephonic conference to arrange the time and location of the settlement conference, or respond as so directed by the judge *pro tempore* with dates for the settlement conference;
 - e. The parties understand and agree that they shall attend the settlement conference in-person, virtually, or telephonically as directed by the judge *pro tempore*. The party or party representative will have full settlement authority and be available throughout the settlement conference;
 - f. The parties shall timely comply with the submission requirements set forth in Rule 16.1, Arizona Rules of Civil Procedure, or as otherwise directed by the judge *pro tempore* responsible for conducting the settlement conference; and
 - g. The parties are aware of Rule 16.1(g) and Rule 16(h), Arizona Rules of Civil Procedure, which would allow the court to enter sanctions if the information certified here to be true is not or if the parties are not prepared to participate in a settlement conference or fail to participate in the conference in good-faith.
2. Counsel, if any, must confirm that they have discussed Rule 16 and the certification requirement with their clients, who have acknowledged an understanding of their individual participation obligations.
 3. The Joint Request and Certification of Readiness for Setting Settlement Conference Under Rule 16(i), Ariz. R. Civ. P. is available through the Law Library Resource Center website: <https://tinyurl.com/CV-JointReq-English>, <https://tinyurl.com/CV-JointReq-Spanish>.

4. Failure to file a Joint Request and Certification of Readiness for Setting Settlement Conference will result in ADR notifying the assigned judge and an order vacating the ADR referral for appointment of a Judge *Pro Tempore*, with leave for the parties to seek another ADR referral upon completion of the certification process.

Dated this 17th day of January, 2023.

/s/ Danielle J. Viola
Hon. Danielle J. Viola
Civil Department Presiding Judge

Original: Clerk of the Superior Court

Copies: All Superior Court Civil Judges and Commissioners
Hon. Jeff Fine, Clerk of Superior Court
Raymond Billotte, Judicial Branch Administrator
Cheri Clark, Deputy Court Administrator
Luke Emerson, Civil Department Administrator
Emelda Dailey Alternative Dispute Resolution Program Coordinator