

1 **LR13-602. [~~Settlement facilitation~~] ADR in civil matters.**

2 [Related statutes NMSA 1978, §§ 34-6-44 and -45]

3 A. **Scope.** The court may, under Rule 1-016 NMRA, refer cases to [~~settlement~~
4 ~~facilitation~~] ADR conducted by court-appointed mediators or settlement facilitators throughout the
5 year and during periodic "settlement weeks" as scheduled by the court.

6 B. **Application.** This rule applies to civil cases as determined by the court.

7 C. **Referrals.** Any party at any time may file a motion requesting referral to ADR.
8 [~~The court shall determine whether to grant the motion.~~] At the discretion of the court, the court
9 may order the parties to participate in ADR.

10 D. **Referral order.** The court shall complete and file an order referring the parties to
11 ADR, appointing a mediator or settlement facilitator, setting the time period in which the ADR
12 shall take place, and mail or deliver endorsed copies of the order to all parties entitled to notice
13 and the settlement facilitator or mediator. The order shall not indicate whether the referral was
14 made on a party's request or by the court's own motion. The order may be modified only on
15 subsequent written court order.

16 E. **Assignment of mediator or settlement facilitator.** The court or the parties may
17 choose the mediator or settlement facilitator from a list of mediators and settlement facilitators
18 maintained by the court. The parties may present to the court a stipulated motion requesting that
19 any [~~licensed attorney or~~] qualified person act as the mediator or settlement facilitator.

20 F. **Time, place, and deadline for mediation or settlement facilitation.** The time and
21 place of [~~the settlement conference~~] ADR shall be set by the mediator or settlement facilitator
22 within the timeline ordered by the court. Any party or the mediator or settlement facilitator may
23 request an extension of the deadline on motion to the court.

1 G. **Attendance.** Each counsel of record shall attend in person and shall ensure the
2 attendance of all persons who have full and final settlement authority at the entire settlement
3 conference. Other persons not of record may attend on agreement of all parties of record. On
4 motion of any party or on its own motion, the court may impose sanctions for failure to attend the
5 settlement conference or have present all necessary persons, except on a showing of good cause.
6 On motion of any party or on its own motion, the court may impose sanctions for failure to
7 participate in good faith.

8 H. ~~[Settlement facilitation]~~ **ADR case information.** At least ten (10) days prior to
9 ~~[the facilitation conference]~~ ADR, all parties shall provide the mediator or settlement facilitator
10 with the information listed below. This information shall not be filed with the court or in any way
11 be made part of the court record, nor shall the mediator or settlement facilitator reveal any of the
12 information submitted to the opposing party. On motion of any party or on its own motion, the
13 court may impose sanctions for failure to provide the required information to the mediator or
14 settlement facilitator. The required information that shall be submitted to the mediator or
15 settlement facilitator is

- 16 (1) the case caption, number, and assigned judge;
- 17 (2) the status of the party submitting the information, such as plaintiff,
18 defendant, third party defendant, etc.;
- 19 (3) a brief description of the case (in domestic relations matters include the date
20 of marriage, whether a final decree was issued, occupations, current annual income of the parties,
21 and the names and ages of children);
- 22 (4) a description of the relief sought;
- 23 (5) a list of pending factual issues;

- 1 (6) a list of pending legal issues;
- 2 (7) a list of all remaining discovery;
- 3 (8) a list of any pending dispositive motions;
- 4 (9) an estimate of costs and attorney fees through trial;
- 5 (10) the trial date and other important dates; and
- 6 (11) any other information requested by the mediator or settlement facilitator.

7 ~~[I. — **Good faith participation in ADR process.** Parties shall participate in good faith~~
8 ~~at settlement facilitation conferences. Good faith participation includes, but is not limited to,~~
9 ~~sufficiently preparing for the conference and engaging in meaningful negotiations during the~~
10 ~~conference.]~~

11 ~~[J.]~~ **I. Cancelling ~~[settlement conferences]~~ ADR.** ~~[Settlement facilitation]~~ ADR may be
12 cancelled by the parties only on motion and written court order. ~~[Settlement facilitation]~~ ADR may
13 be cancelled by the mediator or settlement facilitator by letter to the court.

14 ~~[K. — **Replacement of settlement facilitator.** By letter to the court, copied to all parties~~
15 ~~and the facilitator, any party or the facilitator may request that the facilitator be replaced. The party~~
16 ~~or facilitator requesting replacement by letter need not provide an explanation. On the filing of an~~
17 ~~amended order of referral to ADR, either by stipulation of the parties or on the court's decision,~~
18 ~~the facilitator shall be replaced.]~~

19 ~~[L.]~~ **J. Compensation to mediators and settlement facilitators.** The court may order the
20 parties to pay reasonable compensation to the mediator or settlement facilitator. ~~[of a settlement~~
21 ~~conference not conducted as part of settlement week. During settlement week, the parties are not~~
22 ~~responsible for compensating a facilitator conducting a settlement facilitation as part of settlement~~

1 ~~week. Settlement facilitators]~~ Mediators and settlement facilitators may be compensated in one of
2 the following ways:

3 (1) ~~[If a facilitator is selected from the court maintained facilitator list, either~~
4 ~~by the parties or the court, the court determined fee for up to four (4) hours of facilitation shall be~~
5 ~~equally shared among the parties. At the discretion of the court, the fee may be waived and the~~
6 ~~court assumes payment of the fee. If matters are not resolved within the four (4) hour time period,~~
7 ~~the parties may negotiate with the facilitator to provide further services for a fee that is mutually~~
8 ~~agreeable among the parties.]~~ Parties unable to afford the full cost of ADR may request the court
9 assign a mediator or settlement facilitator willing to accept reimbursement at an amount set by the
10 court. Parties who receive a mediator or settlement facilitator paid out of court funds shall each
11 pay a fee according to the sliding fee scale adopted under these local rules, and approved by the
12 Supreme Court. ADR shall not commence until the fee owed by each party is paid in full to the
13 clerk of the court. The parties shall be responsible for providing a copy of the receipt of the required
14 court fee to the mediator or settlement facilitator before ADR begins. The fee may be waived at
15 the discretion of the court.

16 (2) The parties may select a mediator or settlement facilitator and negotiate a
17 fee that shall be shared [~~equally~~] among the parties.

18 **[M.]K. ADR reporting.** On partially or fully successful mediation or settlement
19 facilitation, the mediator or settlement facilitator shall assist the parties with preparation of any [a
20 settlement] agreement, if requested, and provide copies to the parties and their attorneys. After
21 every mediation and settlement facilitation, the mediator or settlement facilitator shall file a
22 certificate of compliance with the ADR order with the court within ten (10) days after [~~the~~

1 ~~settlement facilitation]~~ ADR is completed. Copies of the certificate shall be sent to the parties and
2 their attorneys.

3 [Adopted by Supreme Court Order No. 08-8300-009, effective April 15, 2008; LRI3-802
4 recompiled and amended as LR13-602 by Supreme Court Order No. 16-8300-015, effective for
5 all cases pending or filed on or after December 31, 2016; amended by Supreme Court Order No.
6 19-8300-010, effective July 1, 2019.]