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ALABAMA RULES OF APPELLATE MEDIATION

RULE 1. OVERVIEW AND SCOPE OF APPELLATE MEDIATION PROGRAM

(a) Scope. The appellate mediation program, established in the Supreme Court of Alabama and the Alabama Court of Civil Appeals pursuant to Rule 55 of the Alabama Rules of Appellate Procedure, provides an alternative means for resolving appeals in civil cases. The program is coordinated by an executive director, and operates, in each court, under the direct supervision of an appellate mediation administrator, an attorney employed by the respective court. The appellate mediation office shall be located in the judicial building in Montgomery, Alabama.

(b) Goals. To the extent resources are available, this program will provide the parties with a forum and process by which they can: (1) realistically consider the possibility of settlement of the entire case or issues in the case; (2) discuss limiting and simplifying the issues on appeal; (3) take actions that may reduce costs; and (4) aid the speedy and just resolution of any case.

[Adopted effective January 1, 2004; amended effective January 6, 2004; September 15, 2008.]

Note from the reporter of decisions: The order adopting the Alabama Appellate Mediation Rules, effective January 1, 2004, is published in that volume of the Alabama Reporter that contains Alabama cases from 858 So.2d.

Court Comment

Time is of the essence to the program, and early scheduling is intended to give the parties the opportunity to settle a case before they incur the major expenses of having the clerk's record and the reporter's transcript prepared and of filing briefs.

Note from the reporter of decisions: The order amending the Alabama Rules of Appellate Mediation, effective January 6, 2004, is published in that volume of the Alabama Reporter that contains Alabama cases from 862 So.2d.

Note from the reporter of decisions: The order amending Rule 1(a), Rule 2(f), Rule 4(h), Rules 5(f)(2), and Rule 6(b) and adopting the Court Comment to Amendment to Rule 6(b) Effective September 15, 2008, effective September 15, 2008, is published in that volume of Alabama Reporter that contains Alabama cases from 994 So.2d.

RULE 2. SCREENING FOR MEDIATION

(a) Content of Forms. Except as provided in Rule 2(e), no forms or notices filed with the appellate mediation office shall contain information relating to the parties' positions regarding settlement or any substantive matter that is the subject of the mediation; the exclusive and sole purposes of forms and notices to be filed in conjunction with the appellate mediation program are to maintain status records and statistics, to ensure orderly compliance with Rule 55, Ala. R. App. P., and to provide a mechanism for returning the case to the ordinary appeal process where mediation has not resolved the case.

(b) Eligible Cases. All civil matters within the jurisdiction of the Supreme Court of Alabama or the Alabama Court of Civil Appeals, where all parties are represented by counsel, shall be eligible for referral to the appellate mediation program.

(c) Pre-screening of Cases. Upon receipt of the docketing statement (Form 24 or 25, Appendix I, Alabama Rules of Appellate Procedure; see Rule 3(e), Alabama Rules of Appellate Procedure), the appellate mediation administrator shall determine whether a case should be sent to appellate mediation. If a case is chosen for mediation, the administrator will promptly furnish a Mediation Case-Screening Form and a Confidential Statement to Enter Mediation (Forms 2 and 3 to these Rules) to the parties.

(1) Mediation Case-Screening Form. The appellant and the appellee shall file a Mediation Case-Screening Form (Form 2 to these Rules), which provides information to supplement the docketing statement, in the court in which the case is pending within 14 days of the date shown on the Mediation Case-Screening Form. The appellant shall attach to the Mediation Case-Screening Form the

following: (1) a copy of the docketing statement; (2) a copy of the complaint and any amendments to the complaint; (3) a copy of the order or judgment to be reviewed by the appellate court; (4) a copy of the order on any postjudgment motion, if applicable; and (5) a copy of the postjudgment motion if it will assist the administrator in determining the nature of the dispute.

(2) Confidential Statement. The appellant and the appellee shall return the Confidential Statement (Form 3 to these Rules) to the appellate mediation office within 14 days of the date shown on the Confidential Statement. The Confidential Statement, which gives a party the opportunity to request mediation, shall not be served on opposing counsel.

(d) Notice to Clerk (and Court Reporter) to Stay Proceedings on Appeal. When the Mediation Case-Screening Form and the Confidential Statement are sent to the parties, a Notice to Clerk (and Court Reporter) to Stay Proceedings on Appeal (Form 4 to these Rules), shall be sent to the trial court clerk and, if appropriate, the court reporter, staying the record preparation pending further orders of the court. The court reporter shall, however, notify the appellant of the estimated cost of the transcript within two weeks of the date on the Notice of Stay.

The appellate process, including the times for preparing the clerk's record and the reporter's transcript and for briefing, will be stayed until mediation is completed or terminated. If the mediation reaches an impasse, the case shall be ordered reinstated to the appellate docket and the stay of proceedings lifted.

(e) Exceptions. The confidential statement (Form 3) to be filed with the mediation office may contain information relating to the parties' positions regarding settlement.

(f) Filing of cross- or related appeal not stayed. In a case in which the appellate process has been stayed pursuant to subdivision (d), the filing of a cross-appeal or any appeal related to the stayed case is not stayed.

[Adopted effective January 1, 2004; amended effective January 6, 2004; October 31, 2005; September 18, 2008.]

Note from the reporter of decisions: The order adopting the Alabama Appellate Mediation Rules, effective January 1, 2004, is published in that volume of the Alabama Reporter that contains Alabama cases from 858 So.2d.

Note from the reporter of decisions: The order amending the Alabama Rules of Appellate Mediation, effective January 6, 2004, is published in that volume of the Alabama Reporter that contains Alabama cases from 862 So.2d.

Note from the reporter of decisions: The order amending Rule 2(a), Rule 5(e), Rule 5(i), and Rule 8 and adopting Rule 2(e) and Rule 2(f) of the Alabama Rules of Appellate Mediation, effective October 31, 2005, is published in that volume of the Alabama Reporter that contains Alabama cases from 912 So.2d.

Note from the reporter of decisions: The order amending Rule 1(a), Rule 2(f), Rule 4(h), Rules 5(f)(2), and Rule 6(b) and adopting the Court Comment to Amendment to Rule 6(b) Effective September 15, 2008, effective September 15, 2008, is published in that volume of Alabama Reporter that contains Alabama cases from 994 So.2d.

RULE 3. REFERRAL TO MEDIATION

(a) Referral to Mediation. The appellate mediation administrator will review the Mediation Case-Screening Forms and the Confidential Statements completed by the parties. Selection of cases for mediation is based on the administrator's determination that the case should be referred to mediation after reviewing the facts, the order appealed from, and the standard of review the appellate court will employ.

(1) Order of Referral to Mediation. The Order of Referral to Mediation (Form 5 to these Rules) notifies the parties that the case shall be mediated and instructs them to attempt to agree on a mediator.

(2) Report on Status of Selection of Mediator. The appellant shall file with the appellate mediation office the Report on Status of Selection of Mediator (Form 6 to these Rules), within 14 days of the date of the issuance of the Order of Referral to Mediation. The Report on the

Status of Selection of Mediator advises the appellate mediation office of the result of efforts between parties to agree on the designation of a mediator. Before the parties submit the name of a mutually satisfactory mediator, the parties shall obtain the mediator's commitment to serve and make arrangements with regard to mediation fees. In the event the parties cannot agree on a mediator, the appellant shall promptly notify the appellate mediation office by filing the Report on Status of Selection of Mediator, and a mediator shall be selected by the appellate mediation administrator of the court in which the appeal is pending. (See Rule 4 for qualifications of a mediator.)

(b) Appointment of Mediator.

(1) Order Appointing Mediator Pursuant to Stipulation of the Parties. If parties agree on a mediator, the appellate mediation administrator will issue an Order Appointing Mediator Pursuant to Stipulation of the Parties (Form 7 to these Rules), which will be sent to the parties and the mediator.

(2) Order Appointing Mediator Absent Stipulation of the Parties. If the parties cannot agree upon a mediator within 14 days of the Report on Status of Selection of Mediator, the appellate mediation administrator shall appoint and serve upon the parties to the appeal and mediator an Order Appointing Mediator Absent Stipulation of the Parties (Form 8 to these Rules).

(c) Referral by the Court. If, in the opinion of the appellate court, a case is appropriate for mediation, the court may refer cases to the program at any time during the appellate process.

(d) Mediation Time Frame. Upon issuance of the Order of Referral to Mediation, the parties and the mediator shall have 63 days within which to complete the mediation. Within seven days of the completion of the mediation, the mediator shall file with the appellate mediation office a Mediator's Report (Form 13 to these Rules) and evaluations (Forms 14, 15, and 16 to these Rules).

[Adopted effective January 1, 2004; amended effective January 6, 2004.]

Note from the reporter of decisions: The order adopting the Alabama Appellate Mediation Rules, effective January 1, 2004, is published in that volume of the Alabama Reporter that contains Alabama cases from 858 So.2d.

Note from the reporter of decisions: The order amending the Alabama Rules of Appellate Mediation, effective January 6, 2004, is published in that volume of the Alabama Reporter that contains Alabama cases from 862 So.2d.

RULE 4. APPELLATE MEDIATOR

(a) Qualifications of Mediator. Before a person can be accepted as an appellate mediator, he or she must submit a Mediator Application (Form 1) to the appellate mediation office and meet the following criteria.

(1) Appellate Mediator Roster. The appellate mediation office shall maintain a roster of approved appellate mediators. An approved appellate mediator is someone who:

A. Is a former justice or judge of an appellate court of this State in good standing with the Alabama State Bar and

1. Has indicated his or her desire to be appointed as a mediator for purposes of these Rules by completing and submitting to the appellate mediation office an application (Form 1 to these Rules) to serve as mediator for the appellate mediation program;
2. Is on the Alabama State Court Mediation Roster;
3. Has agreed to serve as a mediator pro bono pursuant to Rule 4(h);
4. Has agreed to adhere to the Alabama Code of Ethics for Mediators;
5. Has agreed to be bound by these Alabama Rules of Appellate Mediation; and
6. Has agreed to waive any and all claims against the appellate court in connection with his or her mediation of any court-referred dispute; or

B. Is an attorney in good standing with the Alabama State Bar and

1. Has indicated his or her desire to be appointed as a mediator for purposes of these Rules by completing and submitting to the appellate mediation office an application (Form 1 to these Rules) to serve as mediator for the appellate mediation program;
2. Has successfully completed the six-hour appellate mediation course approved by the appellate mediation office;
3. Is on the Alabama State Court Mediation Roster;
4. Has agreed to serve as a mediator pro bono pursuant to Rule 4(h);
5. Has agreed to adhere to the Alabama Code of Ethics for Mediators;
6. Has agreed to be bound by these Alabama Rules of Appellate Mediation; and
7. Has agreed to waive any and all claims against the appellate court in connection with his or her mediation of any court-referred dispute.

(2) Nonroster Mediator. Nothing in these Rules prevents the parties from choosing their own mediator, so long as the proposed mediator:

A. Is in good standing with the licensing board for the profession in which the person practices or, if the profession is not licensed, has three written recommendations. The appellant shall attach documentation showing these qualifications to the Report on Status of Selection of Mediator Form within 14 days from the date of the issuance of the Order of Referral to Mediation;

B. Has agreed to adhere to the Alabama Code of Ethics for Mediators;

C. Has agreed to be bound by these Alabama Appellate Mediation Rules; and

D. Has agreed to waive any and all claims against the appellate court in connection with his or her mediation of any court-referred dispute.

(b) Duty of Mediator Before Accepting Appointment. Before accepting an appellate case for mediation, a mediator must make all disclosures to the parties required by the Alabama

Code of Ethics for Mediators, Standard 5, subsection (b). If, upon receipt of such disclosure, it is determined that the mediator is unable to serve, the parties may, within seven days, name a different person, who has the requisite qualifications as a mediator (see Rule 4(a)). If the parties cannot agree on a mediator within the seven-day period, the appellate mediation administrator shall appoint a mediator.

(c) Inability of Mediator to Serve. If, once a mediator has accepted an appellate case for mediation, the mediator becomes unwilling or unable to serve, the mediator shall immediately notify the appellate mediation office. Within seven days of such notice, the parties may name a different person, who has the requisite qualifications, as an appellate mediator (see Rule 4(a)). If, within that seven-day period, the parties cannot agree on a mediator, the appellate mediation administrator shall appoint a mediator.

(d) Authority of Mediator. The mediator shall attempt to help the parties reach a satisfactory resolution of their dispute; the mediator does not have the authority to impose a settlement upon the parties. The mediator is authorized to conduct joint and separate meetings with the parties and to communicate offers between the parties as the parties authorize. The mediator is authorized to end the mediation when, in the judgment of the mediator, further efforts at mediation would not contribute to a resolution of the dispute between the parties.

(e) Ethics. Mediators shall adhere to the rules of conduct for mediators as stated in the Alabama Code of Ethics for Mediators.

(f) Fees and Expenses. The parties shall mutually agree on the fees of the mediator selected by them. If a mediator is appointed, the mediator's fee and incidental expenses shall be shared equally between the parties, unless otherwise determined by the final mediation agreement. The mediator may require an advance deposit covering the estimated cost of mediation, but in any event, arrangements for payment of the cost of mediation and incidental expenses must be coordinated directly with the mediator. Attorneys for each party shall see to prompt payment of the fees and expenses. If satisfactory arrangements for compensation cannot be made, then the parties shall so advise the appellate mediation office, and the appellate mediation administrator will name another mediator.

(g) Billings to Parties. The mediator shall bill the parties based upon the rates and terms agreed to by the mediator and parties. It is not necessary to send copies of fee agreements or billings to the appellate mediation office. The parties are solely responsible for any billings by the mediator.

It is highly recommended that the private mediator fully disclose and explain to the parties the basis of compensation, fees, and charges to the parties in advance of the mediation and that the fee arrangement be memorialized in a written contract. Such disclosures and explanations usually include:

(1) The basis for and amount of any charges for services to be rendered, including minimum fees and travel time;

(2) The amount charged for the postponement or cancellation of mediation sessions and the circumstances under which such charges will be assessed or waived;

(3) The basis and amount of charges for any other items; and

(4) The parties' pro rata share of mediation fees and costs if the parties have previously agreed to share those fees and costs.

Neither the appellate court nor the appellate mediation office will aid in the enforcement of the terms and conditions of the contract, including the collection of any outstanding fees, costs, and expenses.

(h) Pro Bono Mediators. Upon request from the court, all appellate mediators must mediate two cases each year for which they will not be paid.

(1) The Motion for Waiver of Mediator Fees. Any party may file a motion for a waiver of mediator fees (Form 9 to these Rules) <u>before</u> a mediator is appointed to mediate the party's case. The motion for waiver of mediation fees must be accompanied by an affidavit in support of a motion for appointment of pro bono mediator (see Form 9A, Alabama Forms of Appellate Mediation). Only valid reasons for the waiver of mediation fees, such as undue financial hardship, will be considered.

(2) Order Appointing Pro Bono Mediator. All pro bono appointments shall be so indicated in the Order Appointing Pro Bono Mediator (Form 10 to these Rules).

(i) Disqualification of an Appellate Mediator. An appellate mediator may be disqualified from mediating appellate cases pending in the Supreme Court of Alabama and the Alabama Court of Civil Appeals for:

(1) Violating Rule 55, Ala. R. App. P., the Alabama Appellate Mediation Rules, or the Alabama Code of Ethics for Mediators;

(2) Failure to remain in good standing and abide by the standards of practice established by the Alabama State Bar or the Alabama Center for Dispute Resolution, or, if the mediator is a nonroster mediator, failure to remain in good standing with the licensing board for the profession in which the person practices; or

(3) At the discretion of the Court.

[Adopted effective January 1, 2004; amended effective January 6, 2004; January 27, 2005; September 15, 2008.]

Note from the reporter of decisions: The order adopting the Alabama Appellate Mediation Rules, effective January 1, 2004, is published in that volume of the Alabama Reporter that contains Alabama cases from 858 So.2d.

Note from the reporter of decisions: The order amending the Alabama Rules of Appellate Mediation, effective January 6, 2004, is published in that volume of the Alabama Reporter that contains Alabama cases from 862 So.2d.

Note from the reporter of decisions: The order amending Rule 4(a)(1), Alabama Rules of Appellate Mediation, effective January 27, 2005, is published in that volume of Alabama Reporter that contains Alabama cases from 890 So.2d.

Note from the reporter of decisions: The order amending Rule 1(a), Rule 2(f), Rule 4(h), Rules 5(f)(2), and Rule 6(b) and adopting the Court Comment to Amendment to Rule 6(b) Effective September 15, 2008, effective September 15, 2008, is published in that volume of Alabama Reporter that contains Alabama cases

RULE 5. MEDIATION PROCEDURES

(a) Time and Place of Mediation. The mediator shall fix the time and place of any mediation session at a location that is conducive to discussion and that provides security so as to maintain confidentiality. The mediation should be conducted in a manner appropriate to the dignity of the court.

(b) Rescheduling Mediation. Any requests to reschedule the mediation within the 63-day time frame are to be made directly to the mediator, not to the appellate mediation office.

(c) Additional Mediation Sessions. If a settlement is not reached at the initial mediation session, but the mediator believes further mediation sessions or discussion would be productive, the mediator may conduct additional mediation sessions in person or telephonically within the 63 days allowed by these Rules for mediation. If the mediation is not completed within 63 days of the Order of Referral to Mediation, mediation shall be deemed to be at an impasse, unless an extension has been granted pursuant to subsection (e) of this rule.

(d) No Record. There shall be no record made of the mediation proceeding.

(e) Extensions. A mediator may request an extension of time beyond the 63-day period allowed by Rule 3(d) if he or she is of the opinion that the additional time for mediation would be productive. The request for an extension must be made in writing or telephonically to the appellate mediation administrator within the time allowed for mediation. The mediator must send a confirmation letter to the appellate mediation office, copied to all counsel. That letter should read as follows:

> "Re: [Appeal number and style]. This confirms that to facilitate settlement the appellate mediation administrator has granted my request to extend the time to mediate this appeal from the current due date of [date] to the new due date of [date]."

(f) Attendance at Mediation Session. Mediation by telephone conferencing may be used if permitted by the mediator. A party is deemed to appear at a mediation session if the following persons are physically present or, if the mediator so authorizes, are reasonably available to authorize settlement during the mediation session:

(1) The party or its representative having full authority to settle without further consultation.

(2) The party's counsel of record.

(3) A representative of the insurance carrier for any insured party who is not such carrier's outside counsel and who has full authority to settle up to the amount of the plaintiff's last demand or policy limits, whichever is less, without further consultation.

As to a governmental or other entity for which settlement decisions must be made collectively, the availability or presence requirement may be satisfied by a representative authorized to negotiate on behalf of that entity and to make recommendations to it concerning settlement.

The failure of a party, and/or the party's counsel, to attend the mediation session may be grounds for sanctions against the party, the party's counsel, or both, to be imposed by the appellate court in which the case is pending. (See subsection (i) of this Rule.)

(g) Submission of Mediation Statement and Documents. The mediator may require the parties to prepare and submit a Mediation Statement. If a Mediation Statement is required, the Mediation Statement should include:

(1) a brief recitation of the facts established to the satisfaction of the fact-finder;

(2) the history of any efforts to settle the case, including any offers or demands and previous mediations;

(3) a statement of the issue or issues on appeal and the manner in which each issue was preserved;

(4) a statement of the standard of review applicable to each issue;

(5) a summary of the parties' legal positions and a candid assessment of the respective strengths and weaknesses of those positions;

(6) the present posture of the appeal, including any matters pending in the trial court or in any related litigation;

(7) any recent developments that may impact the resolution of the appeal;

(8) identification of the individual or individuals and counsel the parties believe should be directly involved in the settlement discussions;

(9) a description of any sensitive issues that may not be apparent from the court records, but that may or will influence the settlement negotiations;

(10) the nature and extent of the relationship between the parties or their counsel;

(11) the parties' priority of interests;

(12) any suggested approach for the mediator to take in an attempt to settle the appeal (e.g., "problem" to be settled, sequence of issues);

(13) any suggested creative solutions;

(14) necessary terms in any settlement;

(15) any particular concerns about confidentiality;

(16) any limitations in counsel's authority to make commitments on behalf of the client; and

(17) any additional information that the counsel's client or the other party needs to settle the case and whether it should be provided before the mediation.

Mediation Statements are confidential. (See Rule 8 to these

Rules.) Copies of the Mediation Statements submitted by the parties should go directly to the mediator and should not be served upon opposing counsel. Documents prepared for mediation sessions are not to be filed with the appellate mediation office or with the clerk's office of the appellate court in which the case is pending and are not to be part of the record on appeal.

(h) Conduct of Mediation. Although the mediation sessions are relatively informal, they are proceedings of the court and shall be conducted with that spirit in mind. The mediation process is nonbinding, so no settlement is reached unless all parties agree.

The mediator should begin the mediation by describing the mediation process, discussing confidentiality, and inquiring whether any procedural questions or problems can be resolved by agreement. The parties and the mediator may then discuss, either jointly or separately, and in no particular order, the following topics:

(1) The legal issues and the appellate court's decision-making process regarding these issues (e.g., preservation of error, waiver, standards of review, etc.);

(2) The history of any efforts to settle the case;

(3) the parties' underlying interests, preferences, motivations, assumptions, and new information or other changes that may have occurred;

(4) future events based upon the various outcome alternatives of the appeal;

(5) how resolution of the appeal impacts the underlying problem;

(6) cost-benefit and time considerations; and

(7) any procedural alternatives possibly applicable to the appeal (e.g., vacatur, remand, etc.).

The discussion is not limited to these topics and, because each appeal has its own circumstances, will vary considerably. The mediator will also attempt to generate offers and counteroffers and may have several follow-up mediation

sessions by telephone or in person until the appeal is settled or it is determined that it will not settle.

Because appellate mediation is based on the principles of self-determination by the parties and the impartiality of the mediator, the mediator may apply the facilitative model of mediation.

(i) Sanctions. Neither the appellate mediation office nor the appellate mediation administrator has the authority to impose sanctions. If, however, a party refuses to attend a mediation session or sessions, unreasonably delays the scheduling of mediation, or otherwise unreasonably impedes the conduct of the program, the court may reinstate the case to the appellate docket, and the court may impose sanctions. Sanctions may include, but are not limited to, assessing reasonable expenses caused by the failure of the mediation, including an award of mediator and/or attorney fees; assessing all or a portion of the appellate costs; dismissal of the appeal; or taking such other appropriate action as the circumstances may warrant. No motion for sanctions by litigants or recommendation for sanction by the mediation office will be presented to the appellate court until after the court has decided the case on the merits.

[Adopted effective January 1, 2004; amended effective January 6, 2004; October 31, 2005; September 15, 2008.]

Note from the reporter of decisions: The order adopting the Alabama Appellate Mediation Rules, effective January 1, 2004, is published in that volume of the Alabama Reporter that contains Alabama cases from 858 So.2d.

Court Comment

One of the goals of the appellate mediation program is to help the parties save costs in preparing the record and briefs. It is not the aim of the appellate mediation program to have parties submit a brief as a Mediation Statement.

Note from the reporter of decisions: The order amending the Alabama Rules of Appellate Mediation, effective January 6, 2004, is published in that volume of the Alabama Reporter that contains Alabama cases from 862 So.2d.

Note from the reporter of decisions: The order amending Rule

2(a), Rule 5(e), Rule 5(i), and Rule 8 and adopting Rule 2(e) and Rule 2(f) of the Alabama Rules of Appellate Mediation, effective October 31, 2005, is published in that volume of the Alabama Reporter that contains Alabama cases from 912 So.2d.

Note from the reporter of decisions: The order amending Rule 1(a), Rule 2(f), Rule 4(h), Rules 5(f)(2), and Rule 6(b) and adopting the Court Comment to Amendment to Rule 6(b) Effective September 15, 2008, effective September 15, 2008, is published in that volume of Alabama Reporter that contains Alabama cases from 994 So.2d.

RULE 6. COMPLETION OF MEDIATION PROCESS

(a) Mediator's Report. Within seven days of the completion of the mediation, the mediator shall file with the appellate mediation office a Mediator's Report (Form 13 to these Rules). Upon the filing of the Mediator's Report or the expiration of the time allowed for mediation, whichever occurs first, all appellate time requirements shall resume.

(1) No Agreement. If the parties do not reach an agreement as to any matter as a result of mediation, the mediator shall so indicate in the Mediator's Report, without comment or recommendation.

(2) Agreement. If a partial or final agreement is reached, the mediator shall indicate the fact in the Mediator's Report. Such report shall be signed by all parties and their attorneys.

A. In those cases where a partial agreement is reached, the case will be reinstated on the appellate docket for appellate determination of the remaining issues and the stay of proceedings lifted. All appellate time requirements shall resume.

B. Where the mediation results in resolution of the appeal, dismissal of the appeal will be governed by Rule 42, Alabama Rules of Appellate Procedure. (See Rule 7 of these Rules.)

(b) Evaluations. At the conclusion of all mediation proceedings in which the mediation office requests

evaluations, the mediator shall distribute evaluations to the counsel and parties of record inviting their candid responses about the effectiveness of the appellate mediation program in assisting the parties to resolve their issues on appeal.

The mediator shall distribute evaluations (Forms 14, 15, and 16 to these Rules) at the mediation session and the attorney and parties shall be informed that completion of the evaluations is essential to the program. Evaluations are to be completed by the mediator, the attorneys, and the parties. Counsel and parties are to return evaluations in a sealed envelope to the mediator. The mediator shall return the completed evaluations with the Mediator's Report to the appellate mediation office within seven days of completion of mediation.

[Adopted effective January 1, 2004; amended effective January 6, 2004; September 15, 2008.]

Note from the reporter of decisions: The order adopting the Alabama Appellate Mediation Rules, effective January 1, 2004, is published in that volume of the Alabama Reporter that contains Alabama cases from 858 So.2d.

Note from the reporter of decisions: The order amending the Alabama Rules of Appellate Mediation, effective January 6, 2004, is published in that volume of the Alabama Reporter that contains Alabama cases from 862 So.2d.

Court Comment to Amendment to Rule 6(b)
Effective September 15, 2008

The evaluations have proven helpful in making the appellate mediation program user friendly. The appellate mediation office suggests reducing the number of cases in which evaluations are to be filed from every case sent to an appellate mediator to only the first five cases of any mediator. Thereafter, evaluations will not be required except at the request of the mediation office.

Note from the reporter of decisions: The order amending Rule 1(a), Rule 2(f), Rule 4(h), Rules 5(f)(2), and Rule 6(b) and adopting the Court Comment to Amendment to Rule 6(b) Effective September 15, 2008, effective September 15, 2008, is published in that volume of Alabama Reporter that contains Alabama cases from 994 So.2d.

RULE 7. POST-SETTLEMENT DISMISSAL PROCEDURES

(a) Joint Stipulation for Dismissal of Case After Mediation (Form 11 to these Rules). If the parties reach an agreement as a result of the mediation, they may file a joint (or agreed) motion to dismiss the case pursuant to Rule 42, Alabama Rules of Appellate Procedure, in the clerk's office of the appellate court in which the case is pending. A copy of the order to dismiss the case shall be served on the mediator. The motion to dismiss should address the following:

(1) Whether the dismissal pertains to all parties and claims on appeal;

(2) Whether the case should be remanded to the trial court for further proceedings in conformance with the parties' settlement agreement; and

(3) Whether the parties are to bear their own costs or whether, pursuant to the parties' agreement, the costs are to be otherwise apportioned.

(b) Termination of Mediation and Notice to Reinstate Appeal (Form 12 to these Rules). The mediator may terminate the mediation process at any time, if, in the opinion of the mediator, further attempts at mediation will serve no useful purpose.

(1) Once mediation has been terminated without the parties' reaching an agreement, the appeal will be reinstated on the appellate docket and the stay of proceedings lifted to reinstate the appeal and the clerk of the appellate court shall send the Notice to Reinstate Appeal (Form 12 to these Rules) to the parties.

(2) ALL APPELLATE TIME REQUIREMENTS SHALL RESUME. The appellant shall make satisfactory arrangements with trial court clerk and court reporter for preparation of the record on appeal within seven days of the date of the Notice to Reinstate Appeal.

[Adopted effective January 1, 2004; amended effective January

6, 2004.]

Note from the reporter of decisions: The order adopting the Alabama Appellate Mediation Rules, effective January 1, 2004, is published in that volume of the Alabama Reporter that contains Alabama cases from 858 So.2d.

Note from the reporter of decisions: The order amending the Alabama Rules of Appellate Mediation, effective January 6, 2004, is published in that volume of the Alabama Reporter that contains Alabama cases from 862 So.2d.

RULE 8. CONFIDENTIALITY

Except as otherwise required by law, the appellate mediation program operates under the rules of confidentiality as provided below.

All information disclosed in the course of screening for mediation, referral to mediation, and mediation, including oral, documentary, or electronic information, shall be deemed confidential and shall not be divulged by anyone involved in the mediation program or in attendance at the mediation except as permitted under this Rule, by statute, or by the Alabama Rules of Appellate Procedure.

There shall be no reference, whatsoever, in any appellate motions, briefs, or argument to the appellate mediation program or to the fact that the appeal was mediated or that mediation reached an impasse, except in those cases where mediation was partially successful and disclosure is necessary for a complete statement of the case. It is the responsibility of the counsel to bring this exception to the rules to the attention of the clerk's office or the mediation office. Failure to do so may result in a waiver of this exception.

The mediator and mediation program employees shall not be compelled in any adversary proceeding or judicial forum to divulge the contents of any documents revealed during mediation or the fact that such documents exist or to testify in regard to the mediation. The mediator's notes and the parties' Mediation Statements do not become part of the court's file.

The phrase, "information disclosed in the course of screening for mediation, referral to mediation, and mediation," as used in this Rule, shall include, but not be limited to: (1) views expressed or suggestions made by another party with respect to a possible settlement of the dispute; (2) admissions made by another party in the course of the mediation proceedings; (3) proposals made or views expressed by the mediator; (4) the fact that another party had or had not indicated a willingness to accept a proposal for settlement made by the mediator; and (5) all records, reports, or other documents received by a mediator while serving as mediator.

The confidentiality rule applies in all mediated cases conducted by an appellate mediator. The court strictly enforces this Rule.

[Former Rule 7 adopted effective January 1, 2004; renumbered as Rule 8 and amended effective January 6, 2004; amended effective October 31, 2005.]

Note from the reporter of decisions: The order adopting the Alabama Appellate Mediation Rules, effective January 1, 2004, is published in that volume of the Alabama Reporter that contains Alabama cases from 858 So.2d.

Note from the reporter of decisions: The order amending the Alabama Rules of Appellate Mediation, effective January 6, 2004, is published in that volume of the Alabama Reporter that contains Alabama cases from 862 So.2d.

Note from the reporter of decisions: The order amending Rule 2(a), Rule 5(e), Rule 5(i), and Rule 8 and adopting Rule 2(e) and Rule 2(f) of the Alabama Rules of Appellate Mediation, effective October 31, 2005, is published in that volume of the Alabama Reporter that contains Alabama cases from 912 So. 2d.

RULE 9. GENERAL

(a) Service. All documents filed with the appellate mediation office shall be served on opposing counsel, except as otherwise indicated by these Rules.

(b) Questions or Complaints. A party's or counsel's complaints or concerns regarding the appellate mediator or the conduct of the mediation should be addressed to the appellate mediation administrator of the court in which the appeal is pending. Questions and complaints shall not be addressed to the Supreme Court of Alabama, the Alabama Court of Civil Appeals, or the clerk's staff of the respective courts, unless the party, counsel, or appellate mediator is directed to do so by the appellate mediation office.

(c) Applicability. * These Rules govern the procedure for all matters in appellate mediation. If no procedure is specifically provided in these Rules or by statute, the Alabama Civil Court Mediation Rules shall be applicable to the extent not inconsistent herewith.

[Former Rule 8 adopted effective January 1, 2004; renumbered as Rule 9 and amended effective January 6, 2004.]

* Suggested title added by Publisher.

Note from the reporter of decisions: The order adopting the Alabama Appellate Mediation Rules, effective January 1, 2004, is published in that volume of the Alabama Reporter that contains Alabama cases from 858 So.2d.

Note from the reporter of decisions: The order amending the Alabama Rules of Appellate Mediation, effective January 6, 2004, is published in that volume of the Alabama Reporter that contains Alabama cases from 862 So.2d.

(Form 1)

Appellate Mediation Program
Mediator Application

PLEASE PRINT OR TYPE APPLICATION

Name: _____ Firm or Agency: _____
Street or P.O. Box: _____ City/Town: _____
County: _____ Zip Code: _____
Phone: _____ Fax No: _____
E-mail: _____ State Bar No: _____

---

1. Have you completed the Alabama appellate mediation training? If so, please attach a copy of your certificate.

2. List the types of mediation training in which you are registered and the dates you received the training.

3. Describe the subject matter of disputes, if any, for which you have been a mediator in the past five years, with the dates. Do not give the names of the parties. State whether you were a sole mediator or a co-mediator.

4. State the name of any organization for which you have provided mediation services during the past five years.

5. Check your areas of substantive expertise:

[ ]	Administrative agencies	[ ]	Employment/Labor	[ ]	Personal injury
[ ]	Arbitration	[ ]	Environment	[ ]	Probate
[ ]	Attorney fees	[ ]	Family law	[ ]	Products liability
[ ]	Business/Contract	[ ]	Health care	[ ]	Professional negligence
[ ]	Construction	[ ]	Housing	[ ]	Public entity
[ ]	Corporate	[ ]	Insurance	[ ]	Real property
[ ]	Defamation	[ ]	Intellectual property	[ ]	Securities
[ ]	Domestic violence	[ ]	Landlord/Tenant	[ ]	Workers' compensation
[ ]	Eminent domain	[ ]	Medical malpractice	[ ]	Wrongful death

Other (specify): _____

6. What is your fee for mediation?

7. How many years have you been in active practice? If none, please explain.

8. What is or was the nature of your practice?

9. Are you certified in any speciality? If so, please list.

10. What percentage of your practice has been representing plaintiffs? _____ defendants? _____

11. Describe your appellate experience.

12. Have you mediated an appellate case? Please state when, where, and the type of case mediated.

13. Is your mediation style facilitative or evaluative? Please explain.

14. Please state any restrictions on your ability to travel throughout the State of Alabama.

15. Would you be willing to conduct a mediation by telephone conference if necessary?
_____ Yes _____No

16. List any languages, other than English, in which you can conduct a mediation.

Please read and sign the following agreement:

- *I agree to be bound by the Alabama Supreme Court's Appellate Mediation Rules.*
- *I agree to waive any and all claims against the appellate court in connection with my mediation of any court-referred dispute.*
- *I agree to mediate pro bono two cases each year.*
- *I agree to adhere to the Alabama Code of Ethics for Mediators.*

Signature: _____

Date: _____

Mail this application to:

Appellate Mediation Office
Alabama Supreme Court
300 Dexter Avenue
Montgomery, Alabama 36104

(Form 2)

IN THE SUPREME COURT OF ALABAMA
OR
ALABAMA COURT OF CIVIL APPEALS

DATE

[INSERT CASE # AND STYLE]

MEDIATION CASE-SCREENING FORM

This screening form is sent to obtain information to be used by the appellate mediation administrator in determining whether this case is an appropriate one for appellate mediation. **Each party must file a copy of the completed Mediation Case-Screening Form and the Confidential Statement to Enter Appellate Mediation with the Appellate Mediation Office, 300 Dexter Avenue, Montgomery, Alabama 36104, within 14 days of the date of this notice,** and serve a copy of the completed Mediation Case-Screening Form on opposing counsel.

In addition to the documents required in the first paragraph, the **appellant shall** attach (1) a copy of the docketing statement, (2) a copy of the complaint and any amendments to the complaint; (3) a copy of the order or judgment to be reviewed by the appellate court; (4) a copy of the order on any postjudgment motion, if applicable; and (5) a copy of the postjudgment motion if it will assist the administrator to determine the nature of the dispute.

FAILURE TO RETURN THE MEDIATION CASE- SCREENING FORM MAY RESULT IN SANCTIONS (SEE RULE 5 (i)).

Please complete your portion of this form.

_____
Appellant's attorney Alabama Bar No.

_____
Address, City, State, Zip

_____
Phone Fax E-mail

_____
Appellee's attorney Alabama Bar No.

_____
Address, City, State, Zip

_____
Phone Fax E-mail

ISSUES ON APPEAL *(to be completed by appellants/cross-appellants only)*:

Are there any issues you expect to be raised on appeal that are not listed on the docketing statement? If so, please attach to this form a statement of those additional issues.

IN FORMA PAUPERIS

Were you granted leave to proceed in forma pauperis on appeal at the trial level? If so, attach a copy of the order granting such leave.

MEDIATION

Was the case mediated at the trial level?

Yes _____ No _____

Has the case been mediated since entry of the order appealed?

Yes _____ No _____

THE APPELLANT IS TO ATTACH A COPY OF THE DOCKETING STATEMENT, A COPY OF THE COMPLAINT AND ANY AMENDMENTS TO THE COMPLAINT, A COPY OF THE ORDER OR JUDGMENT TO BE REVIEWED BY THE APPELLATE COURT, A COPY OF THE ORDER ON ANY POSTJUDGMENT MOTION, IF APPLICABLE, AND A COPY OF THE POSTJUDGMENT MOTION IF IT WILL ASSIST THE ADMINISTRATOR TO DETERMINE THE NATURE OF THE DISPUTE.

_____ Date

_____ Signature

_____ Print Name

Lead counsel for: _____

F2 8/09

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document has been served on

this _____ day of _____, 20_____, to the following:

Served by:

_____ U.S. Mail to their regular mailing addresses or by

_____ Email to their regular email addresses:

s/_____
Of Counsel

(Form 3)

IN THE SUPREME COURT OF ALABAMA
OR
ALABAMA COURT OF CIVIL APPEALS

DATE

[INSERT CASE # AND STYLE]

CONFIDENTIAL STATEMENT TO ENTER APPELLATE MEDIATION

NOT TO BE SERVED ON OPPOSING PARTY

I believe appellate mediation is (select one):

( ) appropriate

( ) inappropriate

for my appeal for the following reasons (please explain in detail):

_____ _____

Date Signature

_____

Print Name

Counsel for: _____

NOTE: This form is to be filed with the Appellate Mediation Office, 300 Dexter Avenue, Montgomery, Alabama 36104, within 14 days from the date of this form, but it is not to be served on opposing counsel. Although requests to enter mediation are not automatically granted, the appellate mediation administrator will review this information to determine whether this appeal should be mediated.

(Form 4)

IN THE SUPREME COURT OF ALABAMA
OR
ALABAMA COURT OF CIVIL APPEALS

DATE

[INSERT CASE # AND STYLE]

NOTICE TO CLERK/COURT REPORTER TO STAY PROCEEDINGS ON APPEAL

This is to notify you that this appeal may be selected for appellate mediation. It is, therefore, now on the appellate mediation docket.

The Appellate Mediation Office will be sending a Mediation Case-Screening Form to the parties. Preparation of the record and/or transcript is stayed pending further order of this Court. THE COURT REPORTER SHALL, HOWEVER, NOTIFY THE APPELLANT OF THE ESTIMATED COST OF PREPARING THE TRANSCRIPT.

THIS ORDER DOES NOT STAY THE FILING OF A CROSS-APPEAL OR THE FILING OF ANY RELATED APPEAL.

(Form 5)

IN THE SUPREME COURT OF ALABAMA
OR
ALABAMA COURT OF CIVIL APPEALS

DATE

[INSERT CASE # AND STYLE]

ORDER OF REFERRAL TO MEDIATION

The foregoing case, having been reviewed by the appellate mediation administrator, is hereby referred to appellate mediation.

ORDERED:

1. The above-styled case is referred to mediation. Within 14 days from the date of this order, **the appellant** shall advise the mediation office of the mediator chosen, using the enclosed Report on Status of Selection of Mediator form. The parties may agree on a mediator from the enclosed list of court-approved mediators to mediate this case, or they may agree on a mediator not on the list so long as that individual meets the qualifications set out in Rule 4 (a) (2) of the Alabama Appellate Mediation Rules. Please note that before a person can be accepted as an appellate mediator, he or she must submit a Mediator Application (Form 1) to the Appellate Mediation Office. It is the **appellant's** responsibility to obtain and submit a completed Mediator Application on all non-roster mediators to the Appellate Mediation Office. The Application and other forms can be found online at www.judicial.state.al.us/mediation. The parties are required to contact the mediator before returning the Report on Status of Selection of Mediator form to determine if the mediator they have agreed upon can serve. Upon receipt of the Report on Status of Selection of Mediator form, the appellate mediation administrator will enter an order appointing that mediator for this case. If the parties are not able to agree on a mediator, the appellate mediation administrator will appoint a mediator for this case from the appellate court mediator roster. If a party believes that the payment of mediation fees will cause an undue financial hardship on that party, the party may file a motion for wavier of mediator's fees and an affidavit of hardship with the appellate mediation administrator.

2. When a mediator is contacted regarding mediation, the parties should begin scheduling for mediation time(s) that are within the 63 days of the date of this order as provided in Rule 3(d), Alabama Rules of Appellate Mediation.

3. The parties shall submit Mediation Statements if the mediator so requests. Parties with full settlement authority and counsel are required to attend mediation sessions. Mediation by telephone conferencing may be used if permitted by the mediator. See Rule 5 (f), Alabama Rules of Appellate Mediation. If a party refuses to attend a mediation session or sessions, unreasonably delays the scheduling

of mediation, or otherwise unreasonably impedes the conduct of the appellate mediation program, and the case is returned to the appellate docket as a result of those actions, the court may impose sanctions including, but not limited to, assessing reasonable expenses caused by the failure, including an award of mediator and/or attorney fees; assessing all or a portion of the appellate costs; dismissal of the appeal; or such other appropriate action as the circumstances may warrant.

4. Each party shall appear at the mediation session or sessions. A party is deemed to appear at a mediation session if the following persons are physically present:

    1. The party or its representative having full authority to settle without further consultation;

    2. The party's counsel of record; and

    3. A representative of the insurance carrier for any insured party who is not such carrier's outside counsel and who has full authority to settle up to the amount of the plaintiff's last demand or policy limits, whichever is less, without further consultation.

5. Public entities shall be deemed to appear by the physical presence of a representative with full authority to negotiate and to recommend settlement to the public entity.

6. All appellate mediation sessions shall be confidential as provided in Rule 8 of the Alabama Appellate Mediation Rules, and the mediation will be conducted in accordance with the Alabama Appellate Mediation Rules, the Alabama Code of Ethics for Mediators, and Rule 55, Alabama Rules of Appellate Procedure.

7. The appellate process, including the times for preparing and transmitting the record and filing briefs in this case are stayed pending further order of this Court. THE TIME FOR FILING ANY CROSS APPEAL OR RELATED APPEAL IS NOT STAYED.

8. THE MEDIATION SHALL BE COMPLETED WITHIN 63 DAYS FROM THE DATE OF THIS ORDER.

_____
Appellate Mediation Administrator

_____
Date

cc: Counsel
Mediator

Enclosures: Appellate Mediation Roster
Report on Status of Selection of Mediator

(Form 6)

IN THE SUPREME COURT OF ALABAMA
OR
ALABAMA COURT OF CIVIL APPEALS

DATE

[INSERT CASE # AND STYLE]

REPORT ON STATUS OF SELECTION OF MEDIATOR

As attorney of record for the appellant, I have consulted with the attorney(s) for the appellee(s) and I hereby advise the appellate court that: (please check one and complete)

( ) 1. The parties have jointly selected, and I have confirmed service as mediator with _____(name), _____(address), _____(telephone) to mediate this dispute.

( ) 2. The parties are unable to stipulate to the appointment of a mediator.

DATED this _____day of _____, 200_____.

_____
Counsel for appellant

cc: Mediator (if number 1 above is checked)
Counsel

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document has been served on

this _____ day of _____, 20_____, to the following:

Served by:

_____ U.S. Mail to their regular mailing addresses or by

_____ Email to their regular email addresses:

s/_____
Of Counsel

NOTE: This form is to be filed with the Appellate Mediation Office, 300 Dexter Avenue, Montgomery, Alabama, 36104, within 14 days from the date of issuance of the Order of Referral to Mediation.

(Form 7)

IN THE SUPREME COURT OF ALABAMA
OR
ALABAMA COURT OF CIVIL APPEALS

DATE

[INSERT CASE # AND STYLE]

Mediator
[Mediator Contact Info]

ORDER APPOINTING MEDIATOR PURSUANT TO STIPULATION OF THE PARTIES

The above-named mediator is hereby appointed as appellate mediator in this matter. Mediation shall be conducted in conformity with the Alabama Appellate Mediation Rules; Rule 55, Alabama Rules of Appellate Procedure; and the Alabama Code of Ethics for Mediators. Mediation shall be completed within 63 days from **[DATE OF ORDER OF REFERRAL]**, the date of the issuance of the Order of Referral to Mediation.

The mediator shall be compensated at a rate to be agreed upon between the parties and the mediator, which compensation shall be shared equally between the parties unless otherwise determined by final mediation agreement. An advance deposit covering the estimated cost of mediation may be required by the mediator, but in any event arrangements for payment of the cost of mediation must be coordinated directly with the mediator.

ORDERED this [DATE].

_____
Appellate Mediation Administrator

cc: Counsel
Mediator, with enclosures

NOTE: Mediation is to conclude within 63 days from the date of the issuance of the Order of Referral to Mediation. The mediator shall file with the Appellate Mediation Office, 300 Dexter Avenue, Montgomery, Alabama 36104, a mediator's report along with completed evaluations within seven days after the completion of mediation.

(Form 8)

IN THE SUPREME COURT OF ALABAMA
OR
ALABAMA COURT OF CIVIL APPEALS

DATE

[INSERT CASE # AND STYLE]

Mediator
[Mediator Contact Info]

ORDER APPOINTING MEDIATOR ABSENT STIPULATION OF THE PARTIES

The above-named mediator is hereby appointed as appellate mediator in this matter. Mediation shall be conducted in conformity with the Alabama Appellate Mediation Rules; Rule 55, Alabama Rules of Appellate Procedure; and the Alabama Code of Ethics for Mediators. Mediation shall be completed within 63 days from [DATE OF ORDER OF REFERRAL], the date of the issuance of the Order of Referral to Mediation.

The mediator shall be compensated at a rate to be agreed upon between the parties and the mediator, which compensation shall be shared equally between the parties unless otherwise determined by final mediation agreement. An advance deposit covering the estimated cost of mediation may be required by the mediator, but in any event arrangements for payment of the cost of mediation must be coordinated directly with the mediator.

ORDERED this [DATE].

_____
Appellate Mediation Administrator

cc: Counsel
Mediator, with enclosures

NOTE: Mediation is to conclude within 63 days from the date of issuance of the Order of Referral to Mediation. The mediator shall file with the Appellate Mediation Office, 300 Dexter Avenue, Montgomery, Alabama 36104, a mediator's report along with completed evaluations within seven days after the completion of mediation.

(Form 9)

IN THE SUPREME COURT OF ALABAMA
OR
ALABAMA COURT OF CIVIL APPEALS

DATE

[INSERT CASE # AND STYLE]

MOTION FOR WAIVER OF MEDIATOR'S FEES

_____, through undersigned counsel, hereby moves for a waiver of the mediator's fees and, as grounds therefor, would state that this party has been granted leave to appeal in forma pauperis. (See attached order from the trial court or the appellate court.)

_____
Appellant/Appellee

_____
Counsel for:_____

_____
Date

NOTE: Signatures by both the party and counsel are required. This form is to be filed with the Appellate Mediation Office, 300 Dexter Avenue, Montgomery, Alabama 36014, within14 days after the issuance of the Order of Referral to Mediation, AND BEFORE THE REPORT ON STATUS OF SELECTION OF MEDIATOR HAS BEEN FILED WITH THE APPELLATE MEDIATION OFFICE.

APPENDIX

State of Alabama Ala. App. Med. Form 9A Page 1 of 2 Rev. 10/2008	**Affidavit in Support of Motion for Appointment of Pro Bono Mediator**	Appellate Case Number

IN THE ALABAMA (SUPREME COURT) (COURT OF CIVIL APPEALS)

STYLE OF CASE _____ v. _____
Appellant/Petitioner Appellee/Respondent

☐ I am unable, because of substantial hardship, to pay the mediator's fee. I request that payment of the mediator's fee be waived.

AFFIDAVIT

IDENTIFICATION

Full name: _____ Date of birth: _____

Spouse's full name (if married): _____

Complete home address: _____

_____

_____

Number of people living in household: _____ Home telephone number: _____

Cell phone number: _____ Work phone number: _____

Employer: _____ Length of employment: _____

Employer's address: _____

Employer's telephone number: _____

Occupation/Job title: _____

Driver's license number: _____ *Social Security Number: _____

*Optional

ASSISTANCE BENEFITS

Do you or anyone residing in your household receive benefits from any of the following sources? If so, please check those that apply.

☐ AFDC ☐ Food Stamps ☐ SSI ☐ Medicaid ☐ Other _____

INCOME/EXPENSE STATEMENT

MONTHLY GROSS INCOME:

Monthly gross income:	$_____
Spouse's monthly gross income (unless a marital offense)	_____
Other earnings (commissions, bonuses, interest income, etc.):	_____
Contributions from others living in household:	_____
Unemployment/workers' compensation, Social Security, retirement, etc.:	_____
Other income (specify source of income): _____	_____

TOTAL MONTHLY GROSS INCOME I. $ _____

Affidavit in Support of Motion for Appointment of Pro Bono Mediator

MONTHLY EXPENSES

A. Living expenses: $_____
Rent/mortgage: _____
Total utilities (electricity, gas, water, etc.) : _____
Food: _____
Clothing: _____
Health care/medical: _____
Insurance: _____
Car payment(s)/transportation expenses: _____
Loan payments: _____
Credit card payments: _____
Educational/employment expenses: _____
Other expenses (be specific): _____ _____
_____

SUBTOTAL A. $ _____

B. Child support payment(s)/alimony: $ _____

SUBTOTAL B. $ _____

C.. Exceptional expenses: $ _____

SUBTOTAL C. $ _____

TOTAL MONTHLY EXPENSES (add subtotals from A and B only) A + B = T. $ _____

TOTAL MONTHLY GROSS INCOME I. $_____
LESS TOTAL MONTHLY EXPENSES - T. $_____
DISPOSABLE MONTHLY INCOME $ _____

LIQUID ASSETS:

Cash on hand/bank (or otherwise available such as stocks, bonds, certificates of deposit): $ _____
Equity in real estate (value of property, less what you owe): _____
Equity in personal property (such as value of motor vehicles, jewelry, tools, guns, furnishings, electronic equipment, less what you owe) : _____
Other (be specific) : _____ _____
Do you own anything else of value? ☐ Yes ☐No _____
(Land, house, boat, etc.) :
If so, please describe: _____
_____
_____

TOTAL LIQUID ASSETS $ _____

AFFIDAVIT/REQUEST

I swear or affirm that the answers are true and reflect my current financial status. I understand that a false statement or answer to any question in this Affidavit may subject me to the penalties of perjury. I authorize the court or its authorized representative to obtain records and information pertaining to my financial status from any source in order to verify information provided by me.

_____
Affiant's signature

_____
Print or type name

Sworn to and subscribed before me this _____ day of _____, _____.

_____
Judge/Clerk/Notary

(Form 10)

IN THE SUPREME COURT OF ALABAMA
OR
ALABAMA COURT OF CIVIL APPEALS

DATE

[INSERT CASE # AND STYLE]

Mediator
[MEDIATOR CONTACT INFO]

ORDER APPOINTING PRO BONO MEDIATOR

The above-named mediator is hereby appointed as a mediator in this matter. Mediation shall be conducted in conformity with the Alabama Rules of Appellate Mediation; Rule 55, Alabama Rules of Appellate Procedure; and the Alabama Code of Ethics for Mediators. The Motion of Waiver of Mediator's Fees filed by the appellant/appellee, _____, is granted. The mediator's fees shall be waived for appellant/appellee only. Counsel and mediator shall adjust the fees charged accordingly. Mediation shall be completed within 63 days from [DATE OF REFERRAL TO MEDIATION], the date of the issuance of the Order of Referral to Mediation.

ORDERED this [DATE].

_____
Appellate Mediation Administrator

cc: Counsel
Mediator, with enclosures

NOTE: Mediation is to conclude within 63 days from the date of issuance of the Order of Referral to Mediation. The mediator shall file with the Appellate Mediation Office, 300 Dexter Avenue, Montgomery, Alabama 36104, a mediator's report along with completed evaluations within seven days after the completion of mediation.

(Form 11)

IN THE SUPREME COURT OF ALABAMA
OR
ALABAMA COURT OF CIVIL APPEALS

DATE

[INSERT CASE # AND STYLE]

JOINT MOTION FOR DISMISSAL OF APPEAL AFTER MEDIATION

Appellant, _____, and appellee,

_____, pursuant to Rule 42, Alabama

Rules of Appellate Procedure, hereby file this joint motion for dismissal.

Dated this _____ day of _____, _____.

_____ _____
Counsel for appellant Counsel for appellee

cc: Appellate Mediation Office
Mediator

NOTE: This form is to be filed with the appellate court clerk's office, 300 Dexter Avenue, Montgomery, Alabama 36104, within seven days after the completion of mediation.

(Form 12)

IN THE SUPREME COURT OF ALABAMA
OR
ALABAMA COURT OF CIVIL APPEALS

DATE

[INSERT CASE # AND STYLE]

NOTICE TO REINSTATE APPEAL

This is to notify you that this appeal is hereby reinstated on the appellate docket. The stay formerly imposed in the appellate proceedings is lifted. All appellate time requirements shall resume. The appellant shall make satisfactory arrangements with the trial court clerk and the court reporter for preparation of the record on appeal within seven days of this date. Failure to comply in this may result in dismissal of this appeal.

DATED this _____ day of _____,

20_____.

_____
Clerk of the Supreme Court of Alabama or Alabama Court of Civil Appeals

cc: Counsel
Clerk
Court reporter

(Form 13)

IN THE SUPREME COURT OF ALABAMA
OR
ALABAMA COURT OF CIVIL APPEALS

DATE

[INSERT CASE # AND STYLE]

MEDIATOR'S REPORT

In accordance with the Court's mediation order, mediation occurred on the following date(s)_____

_____

_____.

The results of that mediation are indicated below:

1. _____ The parties reached an agreement that disposes of all issues and all claims. A motion to dismiss will be filed with the clerk of the court.
2. _____ A partial agreement was reached. The appeal will continue as to the remaining claims.
3. _____ An impasse as to all issues.
4. _____ Other. _____

_____

_____

Completed evaluations by the mediator, the attorneys, and the parties are attached hereto; the evaluations by the attorneys and the parties are in sealed envelopes. I have submitted this report and the evaluations within seven days after the conclusion of the mediation.

DONE this _____day of _____, _____, in _____, Alabama.

_____
Signature of mediator

Name of mediator:_____

Mailing address:_____

_____

Telephone number:_____

E-mail: _____

Fax: _____

Appellant: _____

Appellant's Counsel: _____

Appellee: _____

Appellee's counsel: _____

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document has been served on

this _____ day of _____, 20_____, to the following:

Served by:

_____ U.S. Mail to their regular mailing addresses or by

_____ Email to their regular email addresses:

s/_____

Mediator

NOTE: This form is to be filed within seven days after the completion of mediation by the appellate mediator. The mediator shall file this report with completed evaluations with the Appellate Mediation Office, 300 Dexter Avenue, Montgomery, Alabama 36104.

(Form 14)

Date:_____

Appellate Mediation Program

Mediator Evaluation

(To be completed by mediator)

Mediator: _____

Type of Case: [ ] _____

Other (specify): _____

Your responses will serve as a guide to the appellate mediation office about changes or improvements that need to be made to the program. ***Your responses are confidential and will not be part of the appellate court file.***

The appeal was from a:

____Summary judgment

____Final judgment after nonjury trial

____Final judgment after jury trial

____ Other appealable order; if so, please indicate statutory provision or rule allowing appeal. _____

____ Other

Prep Time: _____**hours**

Session Time: _____**hours**

Follow up Time: _____**hours**

No. of Sessions: _____

Total mediation fees for all parties: $ _____

How did the case resolve?

____Full resolution ____Partial resolution ____No resolution

____Other (specify) _____

If the mediation resolved more than one dispute, check all that were resolved:

____Another appeal ____A trial court matter ____A matter not in litigation

On a scale of 1 (very dissatisfied) to 5 (very satisfied) please rate the court's mediation program as to:

____Efficiency (scheduling, etc.) ____Paperwork

____Courtesy and cooperation ____Pro bono requirement

Comments on the above, including suggestions for program improvements:

_____

_____

_____

PLEASE COMPLETE THIS FORM WITHIN SEVEN DAYS OF COMPLETION OF MEDIATION AND RETURN TO:

Appellate Mediation Office, Alabama Supreme Court, 300 Dexter Avenue, Montgomery, Alabama 36104

(Revised 10/04)

(Form 15) Date:_____

Appellate Mediation Program

Attorney Evaluation

Mediator: _____

Type of Case: [ ] _____

Other (specify): _____

Your responses will serve as a guide to the appellate mediation office about changes or improvements that need to be made to the program. ***Your responses are confidential and will not be part of the appellate court file.***

I am the: ____Appellant's attorney ____Other (specify)_____

____Appellee's attorney

How did the case resolve?

____Full resolution ____Partial resolution ____No resolution

____Other (specify)_____

What effect did the mediation process have on the following (Insert "ND" if no difference):

Attorney fees: ____Reduced fees ____Increased fees By how much? (estimate) $_____

Other costs: ____Reduced fees ____Increased fees By how much? (estimate) $_____

Court time: ____Reduced time ____Increased time By how much? (estimate) _____Months

On a scale of 1(very dissatisfied) to 5 (very satisfied) please rate:

The mediation process:

____Appropriateness of the process for your dispute ____Confidentiality

____Fairness ____Satisfaction with outcome

____Opportunity to participate **Would you use this process again?** ____**Yes** ____**No**

On a scale of 1(very dissatisfied) to 5 (very satisfied) please rate:

The mediator (name): _____

____Impartiality ____Knowledge of the appellate process

____Temperament ____Knowledge of the subject matter

On a scale of 1(very dissatisfied) to 5 (very satisfied) please rate:

Program administration:

____Efficiency (scheduling, etc.) ____Courtesy and cooperation

____Paperwork ____Mandatory participation

Comments on the above, including suggestions for program improvements:

_____

_____

_____

NOTE: PLEASE COMPLETE THIS FORM AT THE TIME MEDIATION IS COMPLETED AND RETURN TO APPELLATE MEDIATOR IN A SEALED ENVELOPE.

(Revised 10/04)

(Form 16) Date:_____

Appellate Mediation Program
Party Evaluation

Mediator: _____

Type of Case: [ ] _____

Other (specify): _____

Your responses will serve as a guide to the appellate mediation office about changes or improvements that need to be made to the program.
Your responses are confidential and will not be part of the appellate court file.

I am the: ____Appellant ____Other (specify)_____ ____Appellee

How did the case resolve?

____Full resolution ____Partial resolution ____No resolution

____Other (specify)_____

On a scale of 1(very dissatisfied) to 5 (very satisfied) please rate:

The mediation process:

____Appropriateness of the process for your dispute ____Confidentiality

____Fairness ____Satisfaction with outcome

____Opportunity to participate **Would you use this process again?** ____**Yes** ____**No**

On a scale of 1(very dissatisfied) to 5 (very satisfied) please rate:

The mediator (name): _____

____Impartiality ____Knowledge of the appellate process

____Temperament ____Knowledge of the subject matter

On a scale of 1(very dissatisfied) to 5 (very satisfied) please rate:

Program administration:

____Efficiency (scheduling, etc.) ____Courtesy and cooperation

____Paperwork ____Mandatory participation

Comments on the above, including suggestions for program improvements:

_____

_____

_____

NOTE: PLEASE COMPLETE THIS FORM AT THE TIME MEDIATION IS COMPLETED AND RETURN TO APPELLATE MEDIATOR IN A SEALED ENVELOPE.

(Revised 10/04)