

Facilitative and Information- Gathering Conferences

September 2020

Introduction

- Some of the issues we are going to talk about today:
 - Domestic violence screening and consent statements
 - Attorney participation
 - Child custody factors in ADR reports
 - Zoom ADR
 - FOC Forms
 - Trainings

Domestic Violence

All cases must be screened for domestic violence before a facilitative and information-gathering conferences (FIGs). FOC 124

A FIG conference should not be held unless the case has been screened for domestic violence.

Domestic Violence Continued

- Domestic violence discovered by the court.
- Domestic violence discovered by the FOC.

Consent Form

What to do if the domestic violence victim does not sign the consent form?

Can the domestic violence victim have an advocate with him or her during the FIG conference?

Safety Options

- Have the parties meet at different times.
- Have the parties in separate rooms.
- Have the domestic violence victim have an advocate with him or her.
- Let the domestic violence victim have his or her attorney of record with him or her.
- Zoom meeting.
 - Considerations for on-line mediation
- MCR 3.224(F)(2)(a)(iii) recommendation for further action the court may take to resolve the dispute.

Attorney Involvement

- What does the court rule say about attorneys being allowed to attend FIG conferences?
 - MCR 3.224: Provide that attorneys of record will be allowed to attend, and participate in, all friend of the court ADR processes, or elect not to attend upon mutual agreement with opposing counsel and their client.
- Why was that provision included in the court rule?

What Can You Do When an Attorney Becomes Very Involved?

Options:

Opening Statement: "I appreciate that both parties and their attorneys are here today for their Facilitative and Information-Gathering Conference. When I ask the parents questions regarding their child, or other issues I would like to hear from the parents themselves. If one or both attorneys feel a need to speak to their respective clients-we can take a short break and the attorney and the client can caucus in the hallway or in a separate conference room. If at any time I believe the attorneys are not allowing their clients to speak or trying to speak for them I may do one of the following:

I will have one parent and his or her attorney in a separate room.

I will ask one of the parents and his or her attorney make a separate appointment.

The attorneys will be given an opportunity to review the court order.

Child Custody Factors and the FOC 125

- MCR 3.224(F)(2) If the parties resolve all contested issues, the facilitator **shall submit a report** to the court as provided in subrule (I) and may provide a proposed order to the court setting forth the parties' agreements.
- MCR 3.224(F)(2)(a) If the parties do not resolve all contested issues at the conference or the parties agree to resolve all or some contested issues but do not sign the proposed order, the facilitator **shall submit a report** as provided in subrule (I) and may do one of the following:

Child Custody Factors and the FOC 125 Continued

- What information does the FOC have to provide in reference to the Child Custody Factors listed on the FOC 125?
- Why is it necessary to provide information about the child custody factors on the FOC 125?

Forms

Friend of the Court Mediation

- When Parties Do Not Agree-Report MC 280.
- When Parties Do Agree-Report MC 280, and FOC 89.

Friend of the Court Facilitative and Information-Gathering Conferences

- When parties agree and disagree FOC 125 and FOC 89.

Joint Meetings

- When parties agree and disagree FOC 125 and FOC 89.

Trainings

Training. The applicant must have completed a training program approved by the state court administrator providing training on:

- Custody, parenting time, and child support principles and concepts;
- Interest-based negotiations;
- Diversity and cultural competency;
- Experiential learning (i.e. role-playing);
- General knowledge of domestic relations statutes, court rules, and case law;
- Domestic violence training; and
- Report writing

Contact Information

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