

Rule 28A. Appellate Mediation Office.

(a) **Appellate Mediation Office; purpose of mediation conference.** The court may order the attorneys for the parties and the parties to appear before a mediator appointed by the court for a mediation conference to explore the possibility of settlement and any other matters that may aid in the efficient management and disposition of the case. The court will advise the parties by order that the case has been referred to the Appellate Mediation Office. All decisions regarding conduct of the mediation conference are within the sole discretion of the mediator.

(b) **Confidentiality.** Unless contained in a written settlement agreement under paragraph (f), statements and comments made during mediation conferences and in related discussions, and any record of those statements, are confidential and may not be disclosed by anyone (including the ~~appellate~~ Appellate mediation ~~Mediation office~~ Office, counsel, or the parties; and their agents or employees) to anyone not participating in the mediation process. Proceedings under this rule may not be recorded by counsel or the parties. Mediators may not be called as witnesses, and the information and records of the Appellate Mediation Office may not be disclosed to judges, staff, or employees of any court.

(c) **Continuances.** Mediation conferences will not be rescheduled or continued absent good cause as determined by the mediator.

(d) **Extensions/tolling.** If a case is in mediation, the appeal process is stayed, including any due dates under the appellate rules. The stay will be lifted if the matter is withdrawn from mediation. ~~The time for filing briefs or motions for summary disposition and for other appellate proceedings is not automatically tolled pending a mediation conference. The parties may seek an extension by motion or stipulation as provided in Rule 22.~~

(e) **Request for mediation conference by a party.**

(1) For cases pending in the Supreme Court, the parties may request a mediation conference by stipulated motion filed with the Court. The Court will determine

whether the case will be referred to mediation. If a mediation conference is ordered, the mediation will be conducted in accordance with this rule.

(2) For cases pending in the Court of Appeals, the parties may request a mediation conference by motion, letter, or confidential request. The Chief Appellate Mediator will determine whether a mediation conference will be conducted. The decision of the Chief Appellate Mediator is final and not subject to review. If a mediation conference is ordered, the mediation will be conducted in accordance with this rule.

(3) The denial of a mediation request will not prevent the parties from engaging in private settlement negotiations or private mediation.

(f) **Settlement/termination.** In appeals settled in whole or in part pursuant to this rule, the court will enter an appropriate order upon written stipulation of all parties, or in the case of voluntary dismissal by the appellant pursuant to these rules, and send the order to the parties. In appeals not settled and terminated from mediation, the court will enter an appropriate order and send the order to the parties. A motion to enforce a settlement agreement will be considered only if the alleged agreement is in writing. The motion and related documents will be filed under seal.

(g) **Sanctions.** The court may impose sanctions, including costs, fees, or dismissal, for the failure of counsel or a party to comply with the provisions of this rule or with orders entered pursuant to this rule.