

**MEDIATION PROCEDURES
FOR CIVIL APPEALS
FROM GENERAL DISTRICT COURT**

Since April 1, 2003, all matters that are appealed or removed pursuant to Virginia Code Section 8.01-576.5 from the General District Court have been referred for mediation. The mediation program was set up by the Supreme Court of Virginia through the Dispute Resolution Services and additional information may be derived by visiting their website www.courts.state.va.us/drs. Below is a brief summary of the mediation procedures for civil appeals.

- 1) Upon receipt of the papers by the Clerk of this court a file shall be created and forwarded to a member of the judges staff for processing. The staff member will assign a mediation date and time and will prepare the Order of Referral for Mediation. This order will then be endorsed by the Judge.
- 2) Following the entry of the order a copy will be mailed to each of the parties or their counsel, however the case may be, along with the Procedures for Referral information sheet. **For your reference a copy of a sketch order along with the Procedures is attached for reference purposes. Both of these documents set out specific dates, procedures and deadlines, which must be adhered to during this process.**
- 3) A form letter shall be used to transmit the order and the attachment.
- 4) Contemporaneously with the mailing, Mediation and Arbitration Services of Virginia LLC is advised of the scheduled mediation date so that they may secure a mediator.
- 5) After the mediation session if an agreement is reached then the court will prepare an order confirming the agreement and ending the matter. If an agreement is not reached then the parties are directed, through correspondence, to contact the docket control clerk and schedule a trial date in compliance with normal docketing procedures.

Civil Appeal – Order for Referral for Mediation

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF PORTSMOUTH

NAME

Plaintiff

vs.

Law No. _____

NAME,

Defendant.

ORDER

The court has determined that this matter currently pending before the court is appropriate for referral to a dispute resolution proceeding pursuant to Virginia Code Section § 8.01-576.5. It is hereby ORDERED that:

- (1) Pursuant to Virginia Code Section § 8.01-576.5, this matter is referred to a dispute resolution orientation session, for which there shall be no cost to the parties. The orientation session is to be arranged by Mediation & Arbitration Services of Virginia, LLC, Post Office Box 11166, Norfolk, Virginia 23517, Telephone (757) 274-0046, who will appoint a Certified Mediator.
- (2) The said orientation shall be conducted at Portsmouth Circuit Court, 601 Crawford Street, Portsmouth, Virginia, in the Mediation Room located on the second floor of the courthouse.
- (3) The date and time for the orientation session shall be _____ at _____ .m. with the mediation session immediately following.
- (4) Such further proceedings following this referral shall be determined by the court as to date and time and pending receipt of the mediators report further proceedings are stayed.

The court shall be informed, in writing, if the dispute is resolved prior to the above date or if a continuance is required to pursue a further dispute resolution proceeding. Otherwise, the parties shall appear at the date and time set out herein.

The names and addresses of the respective parties are:

(Plaintiff)

NAME
ADDRESS

**NOT REPRESENTED BY COUNSEL (OR
REPRESENTED BY COUNSEL)**

(Defendant)

NAME
ADDRESS
**NOT REPRESENTED BY COUNSEL (OR
REPRESENTED BY COUNSEL)**

PLEASE NOTE THAT YOUR FAILURE TO APPEAR FOR THE MEDIATION HEARING, NOT OBJECTING TO THE MEDIATION PROCESS OR REQUESTING A CONTINUANCE OF THE MEDIATION HEARING MAY RESULT IN A DEFAULT JUDGEMENT BEING ENTERED AGAINST YOU.

It is so ORDERED.

ENTER: *DATE*

Judge

PROCEDURES FOR REFERRAL TO A DISPUTE RESOLUTION PROCEEDING

1. If any party objects to this Order of Referral, a written statement signed by such party must be filed with this court within fourteen (14) days after the entry of this order. The statement must indicate that the dispute resolution process has been explained to the party and that he or she objects to the court's Order of Referral. **Copy of said objection must also be faxed to Judge Sword's Secretary, at (757) 399-1555 so that proper notice of objection can be received.**
2. If no objection is filed to the order within fourteen (14) days, and the parties do not accept referral to a particular neutral or program offered by the Court, the parties and their attorneys are directed to select a neutral to conduct the orientation.
3. Referral to the dispute resolution orientation session has no impact on the docketing procedures followed by this court and this case either has been or will be set for trial in accordance with normal docketing procedures.
4. Attorneys for any party may be present at the dispute orientation session.
5. After the orientation session, further participation in a dispute resolution proceeding shall be by consent of all parties. The decision to proceed shall be made at the close of the orientation session or no more than ten (10) days after the orientation session.
6. If the parties chose to proceed with mediation or some other alternative dispute resolution mechanism, they may proceed with a neutral who conducted the orientation session or select another neutral. A Directory of Certified Mediators is maintained by and can be viewed on the Supreme Court's website (www.courts.state.va.us/drs) for this purpose. The parties and their attorneys have seven days to agree upon a neutral or dispute resolution program on the list. If they cannot agree, they may request that the Court select a neutral or dispute resolution program from the list. The Court shall make such referral on the basis of a fair and equitable rotation, in accordance with the statute.
7. Any payment for the services of a mediator or other neutral following the no-cost orientation session shall be made by the parties. All costs and fees associated with the services shall be disclosed to the parties prior to the services being provided.
8. Upon request of a party, the Court shall inquire as to the availability of a neutral or dispute resolution program from the list that will provide services at no cost to the parties.
9. Regardless of the method of resolution selected by the parties, the case will proceed along the same time line as if the referral to the dispute resolution proceeding had never occurred. Thus, if the parties elect to proceed with mediation, they may be required to request that the Court grant a continuance to allow them to complete the mediation process.

MEDIATION PROCEDURES
PENDENTE LITE MOTIONS

Since April 1, 2003, all request for pendente lite relief in the Circuit Court have been referred for mediation. The mediation program was set up by the Supreme Court of Virginia through the Dispute Resolution Services and additional information may be derived by visiting their website www.courts.state.va.us/drs. Below is a brief summary of the mediation procedures for civil appeals. Below is a brief summary of the mediation procedures for pendente lite requests.

1. Upon receipt of a pendente lite motion date request the docket clerk will provide an available date for the mediation session as well as a date for the actual pendente lite motion (to be heard before a Judge.)
2. Once the date is assigned, the secretary for the duty judge will be advised of the request and she will deliver the file and request to the duty judge.
3. The duty judge will review the file to determine if mediation is appropriate.
4. Once the duty judge has determined that mediation should be ordered, his secretary shall prepare the form order and transmittal letters.
5. When the duty judge enters the order and signed the letters they should be mailed to the parties. The mailing should include two attachments: A) a copy of the order and B) the Procedures For Referral information sheet. **For your reference a copy of a sketch order along with the Procedures is attached for reference purposes. Both of these documents set out specific dates, procedures and deadlines, which must be adhered to during this process.**
6. A form letter shall be used to transmit the order and the attachment.
7. Contemporaneously with the mailing, Mediation and Arbitration Services of Virginia LLC is advised of the scheduled mediation date so that they may secure a mediator.
8. After the mediation session if an agreement is reached then the court will prepare an order confirming the agreement and the pendente lite motion will be removed from the court's docket as resolved. If an agreement is not reached then the pendente lite motion will proceed as previously scheduled with the docket as set out in section 1 above.

Pendente Lite: Order of Referral for Mediation

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF PORTSMOUTH

NAME

Plaintiff

vs.

CL _____
(DIVORCE PROCEEDING)

NAME

Defendant

O R D E R

The court has determined that this matter motion currently pending before the court is appropriate for referral to a dispute resolution proceeding pursuant to Virginia Code Section § 8.01-576.5. It is hereby ORDERED that:

- (5) Pursuant to Virginia Code Section § 8.01-576.5, this matter is referred to a dispute resolution orientation session, for which there shall be no cost to the parties. The orientation session is to be arranged by Mediation & Arbitration Services of Virginia, LLC, Post Office Box 11166, Norfolk, Virginia 23517, Telephone (757) 274-0046, who will appoint a Certified Mediator.
- (6) The said orientation shall be conducted at Portsmouth Circuit Court, 601 Crawford Street, Portsmouth, Virginia, at such room as posted at the courthouse.
- (7) The date and time shall be _____ at _____
____.m.

- (8) Such further proceedings following this referral shall be determined by the court as to date and time and pending receipt of the mediators report further proceedings are stayed.

The court shall be informed, in writing, if the dispute is resolved prior to the above date or if a continuance is required to pursue a further dispute resolution proceeding. Otherwise, the parties shall appear at the date and time set out herein.

The names and addresses of the respective parties are:

(Plaintiff) *NAME*
Represented by Counsel (OR NOT REPRESENTED BY COUNSEL)
ATTORNEY NAME AND ADDRESS OF JUST PARTY
NAME IF NO ATTORNEY

(Defendant) *NAME*
Represented by Counsel (OR NOT REPRESENTED BY COUNSEL)
ATTORNEY NAME AND ADDRESS OF JUST PARTY
NAME IF NO ATTORNEY

It is so ORDERED.

ENTER: *DATE*

Judge

PROCEDURES FOR REFERRAL TO A DISPUTE RESOLUTION PROCEEDING

1. If any party objects to this Order of Referral, a written statement signed by such party must be filed with this court within twenty-four hours prior to the date scheduled for the orientation session. A copy of said objection must also be provided to the Docket Control Clerk, who can be reached at (757) 393-5373. The statement must indicate that the dispute resolution process has been explained to the party and that he or she objects to the court's Order of Referral.
2. If no objection is filed to the order within the time stated in paragraph 1, and the parties do not accept referral to a particular neutral or program offered by the Court, the parties and their attorneys are directed to select a neutral to conduct the orientation.
3. Referral to the dispute resolution orientation session has no impact on the docketing procedures followed by this court and this case either has been or will be set for trial in accordance with normal docketing procedures.
4. Attorneys for any party may be present at the dispute orientation session.
5. After the orientation session, further participation in a dispute resolution proceeding shall be by consent of all parties. The decision to proceed shall be made at the close of the orientation session or no more than ten (10) days after the orientation session.
6. If the parties chose to proceed with mediation or some other alternative dispute resolution mechanism, they may proceed with a neutral who conducted the orientation session or select another neutral. A Directory of Certified Mediators is maintained by and can be viewed on the Supreme Court's website (www.courts.state.va.us/drs) for this purpose. The parties and their attorneys have seven days to agree upon a neutral or dispute resolution program on the list. If they cannot agree, they may request that the Court select a neutral or dispute resolution program from the list. The Court shall make such referral on the basis of a fair and equitable rotation, in accordance with the statute.
7. Any payment for the services of a mediator or other neutral following the no-cost orientation session shall be made by the parties. All costs and fees associated with the services shall be disclosed to the parties prior to the services being provided.
8. Upon request of a party, the Court shall inquire as to the availability of a neutral or dispute resolution program from the list that will provide services at no cost to the parties.
9. Regardless of the method of resolution selected by the parties, the case will proceed along the same time line as if the referral to the dispute resolution proceeding had never occurred. Thus, if the parties elect to proceed with mediation, they may be required to request that the Court grant a continuance to allow them to complete the mediation process.