

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

IN THE MATTER OF AMENDMENT
TO LOCAL CIVIL RULES 16.2 and 16.3
RE: ALTERNATIVE DISPUTE RESOLUTION
and VOLUNTARY FACILITATIVE MEDIATION

Administrative Order
No. 24-RL-078

At a regular meeting of the Judges of this Court conducted on September 20, 2024, the Court approved modifications to Local Civil Rule 16.2 and Local Civil Rule 16.3, striking language that is no longer applicable and modifying language regarding pro bono service. The rule amendments in both mark-up form and as amended are attached to this order. Accordingly:

NOW, THEREFORE, under 28 U.S.C. § 2071, Rule 83 of the Federal Rules of Civil Procedure, the Court hereby adopts and promulgates the attached amended Local Civil Rule 16.2 and Local Civil Rule 16.3.

IT IS FURTHER ORDERED that the foregoing amendments shall take effect immediately, because they do not affect substantive or procedural rights and will afford immediate improvement to the record keeping of this Court. *See* 28 U.S.C. § 2071(e). Any member of the public may, however, submit a comment in writing to the Clerk of the Court by mail or electronically to ecfhelp@miwd.uscourts.gov, within 30 days of the date of this order. The Court will consider all comments and determine whether further amendments to the Rules are required.

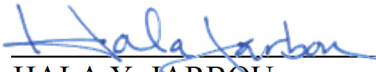
IT IS FURTHER ORDERED that the Clerk of the Court shall provide a copy of this Administrative Order to the Judicial Council of the Sixth Circuit, the U.S. District Court's Advisory Committee on Local Rules, the Federal Bar Association, West Michigan Chapter, and the State Bar of Michigan Committee on the United States Courts. All attorneys who are registered

for electronic service on the CMECF system shall be given electronic notice of this rule amendment, and the official rules posted on the Court's website will be amended accordingly.

IT IS SO ORDERED.

FOR THE COURT:

Dated: September 30, 2024



HALA Y. JARBOU
CHIEF UNITED STATES DISTRICT JUDGE

16.2 Alternative Dispute Resolution: General provisions

1. ADR favored - The judges of this district favor alternative dispute resolution (ADR) methods in those cases where the parties and the court agree that ADR may help resolve the case. The ADR methods approved by these rules include Voluntary Facilitative Mediation ([LCivR 16.3](#)); Early Neutral Evaluation ([LCivR 16.4](#)); Case Evaluation ([LCivR 16.5](#)); and Settlement Conferences ([LCivR 16.6](#)). In addition, the court will consider other ADR methods proposed by the parties (e.g., Summary Trials).
2. Court administration of the ADR program
 1. Program description and administration - Each ADR program is governed by these rules and the provisions of a program description, which is incorporated into these rules by reference. The program description for each ADR method is available on the [court's website](#) and is published in a form suitable for reference by attorneys and their clients. The ADR program is administered by the clerk's office. Problems are initially handled by the ADR Administrator.
3. Consideration of ADR in appropriate cases - In connection with the conference held pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, all litigants and counsel must consider and discuss the use of an appropriate ADR process at a suitable stage of the litigation.
4. Confidentiality - All ADR proceedings are considered to be compromise negotiations within the meaning of Fed. R. Evid. 408.
5. Status of discovery, motions and trial during the ADR process - Any case referred to ADR continues to be subject to management by the judge to whom it is assigned. Parties may file motions and engage in discovery. Selection of a case for ADR has no effect on the normal progress of the case toward trial. Referral of a case to ADR is not grounds to avoid or postpone any deadline or obligation imposed by the case management order unless so ordered by the court.
6. Qualifications for neutrals - To be qualified to act as a neutral (i.e., facilitative mediator, early neutral evaluator, case evaluator, or arbitrator), an attorney must satisfy all special requirements applicable to a particular ADR program as identified in the program description available on the [court's website](#).
7. Attorneys' responsibility for payment of fees - The attorney or law firm representing a party participating in ADR is directly responsible for fees payable to the court or to neutrals. *Pro se* parties are personally responsible for fees. To the extent consistent with ethical rules, the attorney or firm may seek reimbursement from the client. If any attorney or *pro se* party is delinquent in paying any fee required to be paid to a neutral under these rules, the neutral may petition the court for an order directing payment, and any judge assigned to the case may order payment, upon pain of contempt.
8. Pro bono service - In cases in which one or more parties cannot afford the fees of a neutral, the court may request that the neutral serve pro bono, by waiving or reducing the fee for ~~the indigent party. All other parties are expected to pay the full fee~~ all participating parties.

16.3 Voluntary Facilitative Mediation

1. Definition - Voluntary Facilitative Mediation (VFM) is a flexible, nonbinding dispute resolution process in which an impartial third party—the mediator—facilitates negotiations among the parties to help them reach settlement. VFM seeks to expand traditional settlement discussions and broaden resolution options, often by going beyond the issues in controversy. The mediator, who may meet jointly and separately with the parties, serves as a facilitator only and does not decide issues or make findings of fact.
~~Cases will be assigned to VFM only if the presiding judge is satisfied that the selection of VFM is purely voluntary and with full approval of all parties.~~
2. Program description - Procedures and other details regarding the VFM process are governed by the program description, available on the [court's website](#).

16.2 Alternative Dispute Resolution: General provisions

1. ADR favored - The judges of this district favor alternative dispute resolution (ADR) methods in those cases where the parties and the court agree that ADR may help resolve the case. The ADR methods approved by these rules include Voluntary Facilitative Mediation ([LCivR 16.3](#)); Early Neutral Evaluation ([LCivR 16.4](#)); Case Evaluation ([LCivR 16.5](#)); and Settlement Conferences ([LCivR 16.6](#)). In addition, the court will consider other ADR methods proposed by the parties (e.g., Summary Trials).
2. Court administration of the ADR program
 1. Program description and administration - Each ADR program is governed by these rules and the provisions of a program description, which is incorporated into these rules by reference. The program description for each ADR method is available on the [court's website](#) and is published in a form suitable for reference by attorneys and their clients. The ADR program is administered by the clerk's office. Problems are initially handled by the ADR Administrator.
3. Consideration of ADR in appropriate cases - In connection with the conference held pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, all litigants and counsel must consider and discuss the use of an appropriate ADR process at a suitable stage of the litigation.
4. Confidentiality - All ADR proceedings are considered to be compromise negotiations within the meaning of Fed. R. Evid. 408.
5. Status of discovery, motions and trial during the ADR process - Any case referred to ADR continues to be subject to management by the judge to whom it is assigned. Parties may file motions and engage in discovery. Selection of a case for ADR has no effect on the normal progress of the case toward trial. Referral of a case to ADR is not grounds to avoid or postpone any deadline or obligation imposed by the case management order unless so ordered by the court.
6. Qualifications for neutrals - To be qualified to act as a neutral (i.e., facilitative mediator, early neutral evaluator, case evaluator, or arbitrator), an attorney must satisfy all special requirements applicable to a particular ADR program as identified in the program description available on the [court's website](#).
7. Attorneys' responsibility for payment of fees - The attorney or law firm representing a party participating in ADR is directly responsible for fees payable to the court or to neutrals. *Pro se* parties are personally responsible for fees. To the extent consistent with ethical rules, the attorney or firm may seek reimbursement from the client. If any attorney or *pro se* party is delinquent in paying any fee required to be paid to a neutral under these rules, the neutral may petition the court for an order directing payment, and any judge assigned to the case may order payment, upon pain of contempt.
8. Pro bono service - In cases in which one or more parties cannot afford the fees of a neutral, the court may request that the neutral serve pro bono, by waiving or reducing the fee for all participating parties.

16.3 Voluntary Facilitative Mediation

1. Definition - Voluntary Facilitative Mediation (VFM) is a flexible, nonbinding dispute resolution process in which an impartial third party—the mediator—facilitates negotiations among the parties to help them reach settlement. VFM seeks to expand traditional settlement discussions and broaden resolution options, often by going beyond the issues in controversy. The mediator, who may meet jointly and separately with the parties, serves as a facilitator only and does not decide issues or make findings of fact.
2. Program description - Procedures and other details regarding the VFM process are governed by the program description, available on the [court's website](#).