

**SHAKER HEIGHTS MUNICIPAL COURT
NOTICE OF PROPOSED AMENDMENT TO LOCAL RULE 20**

In accordance with Rule 5 of the Rules of Superintendence for the Courts of Ohio, notice is hereby given of the new Local Rule 20 of the Shaker Heights Municipal Court. The amendment listed below is effective on January 27, 2020.

If the court or division determines that there is an immediate need for this rule, the court or division may adopt the rule without prior notice and opportunity for comment, but promptly shall afford notice and opportunity for comment.

Comments regarding the change can be forwarded in writing for consideration to Magistrate Anne Keller, Shaker Heights Municipal Court, 3355 Lee Road, Shaker Heights, Ohio 44120, or in email to akeller@shakerheightscourt.org on or before January 24, 2020.

Rule 20 Mediation (effective date January 27, 2020)

Rule 20.1 Ohio Uniform Mediation Act

Shaker Heights Municipal Court incorporates by reference the R.C. 2710 “Uniform Mediation Act” (UMA).

20.2 Cases Eligible for Mediation

(a) General. The Shaker Heights Municipal Court has discretion to refer parties to mediation in any civil or small claims action filed in this court. The Shaker Heights Municipal Court may issue an order on its own motion, upon the motion of counsel, upon the request of a party, or upon referral by the mediator. Mediation is only available for civil and small claims cases.

20.3 Confidentiality

(a) General. All mediation communications related to or made during the mediation process are subject to and governed by the Uniform Mediation Act. Mediation communications are confidential, and no one shall disclose any of these communications unless all parties and the mediator consent to disclosure, in writing. This court may impose penalties for any improper disclosures made in violation of this rule. In the event the case does not settle at mediation, the mediator will not be permitted to be called as a witness.

By participating in meditation, a nonparty participant, as defined by R.C. 2710.01(D), submits to the Court’s jurisdiction to the extent necessary for enforcement of this rule. Any nonparty participant shall have the rights and duties under this rule as are attributed to parties.

(b) Exceptions. All mediation communications are confidential with the following exceptions:

- (i) Parties may share all mediation communications with their attorneys;
- (ii) Statements made during the mediation process to plan or hide an ongoing crime;
- (iii) Statements made during the mediation process that reveal a felony.

20.4 Procedures

(A) In accordance with all applicable provisions of this rule, if a case is deemed appropriate by the Court for mediation, mediation may be scheduled. All mediations are generally scheduled three weeks in advance. All parties shall personally attend the mediation session prepared to discuss all relevant issues, including settlement terms. In the case of a party represented by counsel, counsel is not required to be present for the mediation. Insurance company representatives or any other person with decision making authority or otherwise necessary for settlement must be present. An insured's presence is required even if the insured's consent is not necessary for settlement.

(B) Failure to attend mediation. If any individual identified in this paragraph fails to attend the mediation session without good cause, his or her claim may be dismissed. In the event a party is unable to attend mediation, a continuance must be requested in writing.

(C) A mediator may meet with the parties individually. A mediator may schedule a second mediation session, if necessary, for the resolution of the issues.

(D) No Stay of Proceedings. All remaining court orders and deadlines shall remain in effect if a case is referred to mediation. No order is stayed or suspended during the mediation process.

(E) Settlement. If the mediation results in a settlement of the case, the parties (or counsel for the parties, if represented by counsel) shall prepare and execute a written settlement agreement. Cases successfully mediated shall be disposed of by the Judge by way of dismissal or otherwise as by agreement of the parties. The written settlement agreement becomes an order of the court. When a file has been marked "Hold for Settlement Agreement" and the entry is not received within thirty (30) days, then the case shall be set for a dismissal hearing and notice of the hearing shall be sent to all parties or counsel.

(F) Failure to Reach a Settlement. An unsuccessful mediation shall be immediately referred back to the Judge or Magistrate for trial, pretrial or other disposition of the case.

(G) Conclusion of Mediation. At the conclusion of the mediation, the Chief Magistrate shall be informed of the status of the mediation as required by R.C. 2710.06, including but not limited to all of the following:

- Whether the mediation occurred or was cancelled;

- Whether a settlement was reached;
- Attendance of the parties;
- Future mediation session, including the date and time;
- Request to the Magistrate for pre-trial date and trial date, if applicable.

No other information shall be directly or indirectly communicated by the mediator to the Court unless all who hold a mediation privilege, including the mediator, have consented to such disclosure in writing.

20.5 No Advice

The efforts of the mediator shall not be construed as giving legal advice. The Court may have materials for legal or other support services available in the community. The Mediator is authorized to provide such resource information; however, such distribution shall not be construed as a recommendation of or referral to such resource. The recipient of that information is charged with the duty to evaluate those resources independently.

20.6 Referral to Resources

The Mediator may direct parties to the Clerk of Court's office which maintains information for the public regarding attorney referrals.