

1 **Rule 28A. Appellate Mediation Office.**

2 **(a) Appellate Mediation Office; Purpose of Mediation Conference.** The court may direct the  
3 attorneys for the parties and the parties to appear before a mediator appointed by the court for a  
4 mediation conference to explore the possibility of settlement and ~~such any other matters as that~~ may aid  
5 in the efficient management and disposition of the case.

6 ~~**(b) Case referral.** When a case is referred to the Appellate Mediation Office, the clerk of the  
7 appellate court shall forthwith forward to the Appellate Mediation Office all filings in the case. The court  
8 will advise the parties by order that the case has been referred to the Appellate Mediation Office. All  
9 decisions regarding conduct of the mediation conference shall be are within the sole discretion of the  
10 mediator appointed by the court.~~

11 ~~**(c) Transmittal of record on appeal.** The record will be transmitted by the clerk of the trial court to  
12 the clerk of the appellate court upon request. Following the mediation conference, the record will be  
13 returned to the clerk of the trial court.~~

14 ~~**(d) Participation of Counsel and Parties.** Upon receipt of the order referred to in section (b),  
15 participation by counsel and clients in the mediation process or related discussions shall be is  
16 mandatory.~~

17 ~~**(e)(b) Confidentiality.** Unless contained in a written settlement agreement as contemplated under  
18 section (i) paragraph (f), statements and comments made during mediation conferences and in related  
19 discussions, and any record of those statements, are confidential and shall may not be disclosed by  
20 anyone (including the appellate mediation office, counsel, or the parties; and their agents or employees)  
21 to anyone not participating in the mediation process. Proceedings under this rule may not be recorded by  
22 counsel or the parties. Pursuant to Utah Code Ann. § 78-2a-6, the records of the Appellate Mediation  
23 Office are protected as defined by Utah Code Ann. § 63-2-304 and may be disclosed only as provided by  
24 Utah Code Ann. § 63-2-202. Mediators shall not be called as witnesses, and the information and records  
25 of the Appellate Mediation Office shall not be disclosed to judges, staff, or employees of any court.~~

26 ~~**(f)(c) Continuances.** Mediation conferences will not be rescheduled or continued absent good cause  
27 as determined by the mediator appointed by the court.~~

28 ~~**(g)(d) Extensions/Tolling.** The time for filing briefs, or motions for summary disposition or and for  
29 other appellate proceedings is not automatically tolled pending a mediation conference. In cases in which  
30 a mediation conference has been scheduled, counsel The parties may seek an extension by motion or  
31 stipulation as provided in Rule 22, Utah Rules of Appellate Procedure.~~

32 ~~**(h)(e) Request for Mediation Conference by a Party.**~~

33 (e)(1) For cases pending in the Supreme Court, the parties may request a mediation conference by  
34 stipulated motion filed with the Court. The Court will determine whether the case will be referred to  
35 mediation. If a mediation conference is ordered, the mediation will be conducted in accordance with this  
36 rule.

37 ~~(e)(2) Counsel~~ For cases pending in the Court of Appeals, the parties may request a mediation  
38 conference ~~either~~ by motion, letter, or confidential request. The Chief Appellate Mediator ~~shall~~will  
39 determine whether a mediation conference will be conducted. The decision of the Chief Appellate  
40 Mediator is final and not subject to ~~further~~ review. If a mediation conference is ~~scheduled~~ordered, the  
41 mediation ~~shall~~will be conducted in accordance with ~~the provisions in~~ this rule.

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

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

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

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