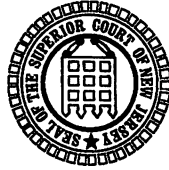


#009

# SUPERIOR COURT OF NEW JERSEY

CHAMBERS OF  
CHARLES W. DORTCH, JR., P.J.F.P.  
PRESIDING JUDGE FAMILY PART



CAMDEN COUNTY HALL OF JUSTICE  
101 SOUTH FIFTH STREET  
SUITE 270  
CAMDEN, NEW JERSEY 08103-4001  
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CAMDEN COUNTY

## MEMORANDUM

**TO:** Hon. Glenn A. Grant, J.A.D., Acting Administrative Director

**FROM:** Hon. Charles W. Dortch, P.J.F.P., Chair, Conference of Family Presiding Judges

**DATE:** April 16, 2019

**RE:** Report of the Supreme Court Complementary Dispute Resolution Committee  
2017 – 2019 Rules Cycle

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The Conference of Family Presiding Judges (Conference) has reviewed the six 2017-2019 Supreme Court Committee reports. The Conference submits the within concerns regarding proposed amendments in the Supreme Court Complementary Dispute Resolution (CDR) Committee Report. Of concern are the proposed amendments regarding mediators' two free hours. These are proposed amendments to Rule 1:40-4(b), Appendix XXVI, and the Disclosure Concerning Continuation of Mediation and Mediation Preparation Time form.

Presently, if a dissolution matter does not settle at the Early Settlement Panel stage, economic mediation is required pursuant to Rule 1:40-5. Rule 1:40-4(b) provides that parties may opt out of the mediation process after the mediator has expended two hours of services at no cost to the parties. These two free hours are allocated as one hour of preparation time and one hour of in-person mediation. Under the proposal, the first two hours of mediation services will remain free if the parties do not wish to continue with the in-person mediation beyond the first hour. If, however, the parties elect to proceed with the in-person mediation session beyond the first hour, then the mediator will be compensated for those first two hours. Those first two hours will be compensated at one-half of the mediator's market rate for the first hour of preparation time and for the first hour of the in-person session. After those first two half-priced hours, the mediator can charge her full rate.

The proposed amendments to Rule 1:40-4(b) are not clearly written and might be difficult for litigants to follow. Moreover, if adopted, the proposal could have a chilling effect on the economic mediation process. The proposal infuses an element of disincentive into that process by encouraging litigants to terminate mediation after the initial two free hours. The Judiciary has operated with the two free hour rule for nearly a decade and it has resulted in countless resolved cases.

The Conference does not support the proposed amendments and recommends that the Supreme Court not approve these amendments. Thank you for your consideration.

cc: Steven D. Bonville, Chief of Staff  
Jennifer Perez, Director, Trial Court Services  
Joanne M. Dietrich, Assistant Director, Family  
Amelia Wachter-Smith, Chief, Family  
Kathleen Gaskill, CDR Committee Staff  
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Gina G. Bellucci, Family Staff Attorney