

Supreme & County Civil

- Tort & Commercial
 - Preliminary Conference within 45 days
 - Parties must submit ADR certification – 2 options
 - Immediate ADR
 - Determine prerequisites for completion prior to referral to ADR
 - Scheduling Order
 - Pre-trial conference within 45 days of filing the Note of Issue
 - Settlement discussion led by Judge
 - Schedule for ADR
 - Court may require the parties to submit an updated ADR certification
- Foreclosures – conferences pursuant to CPLR 3408(a)(1)
- Lead Paint & Asbestos
 - Asbestos – conferences pursuant to current Case Management Order
 - Lead Paint – Private mediator agreed upon by the parties
- Medical Malpractice
 - Use of ADR procedure for Torts and Commercial
 - Combined with requirements of CPLR 3406(b) and CPLR 3045

Contested Matrimonial Cases

- Preliminary conference
 - Consideration of ADR
 - Appoint AFC
 - Direct disclosure prior to ADR
 - Court signs Order to Mediation – if a party objects, upon good cause, the Court may defer the order (prior participation in ADR, litigant(s) safety is in issue, power imbalance)
 - Court may order pendente lite relief prior to mediation.
- Mediation upon OSC
 - Court reviews for mediation on return date
 - Direct disclosure prior to ADR
 - Court signs Order to Mediation – if a party objects, upon good cause, the Court may defer the order (prior participation in ADR, litigant(s) safety is in issue, power imbalance)
- Mediation upon filing Note of Issue
 - Consideration of ADR
 - If a party objects, upon good cause, the Court may defer the order (prior participation in ADR, litigant(s) safety is in issue, power imbalance)
- Mediation for post-judgment matters
 - Court reviews for mediation on return date
 - Appoint AFC
 - Direct disclosure prior to ADR
 - Court signs Order to Mediation – if a party objects, upon good cause, the Court may defer the order (prior participation in ADR, litigant(s) safety is in issue, power imbalance).

Family Court

- Article 10 Matters
 - Permanency Mediation (Protocol created by OCA)
 - Referral at any time during the pendency of the Article 10
 - Must be ordered at least one time
 - Court Attorney Conferencing
 - Following the initial court appearance
 - Used to consider: suitability of proposed resources, visitation plans, dispositional plans, surrenders

- Custody and Visitation (Article 6)
 - Screen for referral to CDS
 - If case is not sent to CDS, second screen for case conferencing eligibility
 - Assign to Judge or Court Attorney Referee for mandatory case conferencing
 - Conference to be held by the Judge's Court Attorney immediately prior to court appearance.
 - For cases assigned to a CAR, the case will be conferenced by an assigned court attorney or trained OCA employee.
 - If the matter is resolved, the Court will place the stipulation on the record.
 - If the matter is not resolved, the case is called per normal protocols.
 - If case is returned from CDS, schedule for mandatory case conferencing
 - If a case is determined to be not eligible for CDS or case conferencing, the assigned Judge or CAR will determine if a discretionary conference is warranted.

Surrogates Court

- If there has been no prior use of ADR, the case should immediately be scheduled for ADR with a private pay mediator or a settlement conference with the Judge, Court Attorney or JHO.
- If there has been private mediation by the parties, then the matter should be scheduled for a discovery conference.

City Court

- Small Claims/Commercial Cases under \$6,000 in Rochester City Court are sent to arbitration conducted by Court Attorneys in Family Court.
- Cases between \$6,000 and \$15,000
 - The Court will discuss ADR at the first appearance with the following options
 - Immediate referral to ADR
 - Set a deadline for completion of prerequisites to ADR
 - The Court may require the completion of an ADR certification
 - Prior to setting a trial date, the ADR options must be revisited with the parties
 - After the Note of Issue is filed
 - Case is conference
 - The Court may require the completion of an ADR certification
- Landlord/Tenant cases
 - If agreed upon, referral to ADR at the first appearance
 - Utilize Legal Aid as quasi-advocates