

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

**IN RE: PROPOSED AMENDED RULE 31,
RULES OF THE TENNESSEE SUPREME COURT**

M2006-01303-SC-RL2-RL - Filed: May 9, 2007

ORDER

Rule 31 of the Rules of the Supreme Court, as filed on January 2, 2007, substantially revised the then-existing Rule 31 based on a proposal submitted to the Court by the Alternative Dispute Resolution Commission. It has come to the Court's attention that the lack of a definition for the term "days" has caused confusion. Accordingly, the Court hereby amends Section 2 of Rule 31 to include a definition of "days." The proposed amendment is attached hereto as Exhibit A.

In the interest of providing prompt and fair consideration of the proposed amended Rule 31, the Court hereby solicits written comments on the proposed amended rule from the bench, the bar, and the public. The deadline for submitting written comments is Monday, June 11, 2007. Written comments should be addressed to:

Michael W. Catalano, Clerk
Re: Proposed Amended Rule 31
100 Supreme Court Building
401 Seventh Avenue North
Nashville, TN 37219-1407

The Clerk shall provide a copy of this order to the media and to the Alternative Dispute Resolution Commission. In addition, this order and the proposed amended Rule 31 shall be posted on the Tennessee Supreme Court's website.

It is so ORDERED.

PER CURIAM

Exhibit A

Rule 31. Alternative Dispute Resolution.

The following amended Section 2 of Rule 31 replaces the existing Section 2 in its entirety:

Section 2. Definitions.

- (a) "Alternative Dispute Resolution Commission" or "ADRC" is the Alternative Dispute Commission established by the Supreme Court pursuant to this Rule.
- (b) "Baccalaureate degree" and "graduate degree" are only those degrees awarded by an institution of higher education accredited by an agency recognized by the Council for Higher Education Accreditation (CHEA) and approved or listed by the United States Department of Education as a recognized accrediting agency.
- (c) "Case Evaluation", as set forth in sections 16 and 22 herein, is a process in which a neutral person or three-person panel, called an evaluator or evaluation panel, after receiving brief presentations by the parties summarizing their positions, identifies the central issues in dispute, as well as areas of agreement, provides the parties with an assessment of the relative strengths and weaknesses of their case, and may offer an evaluation of the case.
- (d) "Court" includes the Tennessee Supreme Court, the Tennessee Court of Appeals, Circuit, Chancery, Law & Equity and Probate Courts, General Sessions Courts, Juvenile Courts, and Municipal Courts.
- (e) "Days," for purposes of the deadlines imposed by this Rule, means calendar days.
- (f) "Eligible Civil Action" includes all civil actions except forfeitures of seized property, civil commitments, adoption proceedings, habeas corpus and extraordinary writs, or juvenile delinquency cases. The term "Extraordinary writs" does not encompass claims or applications for injunctive relief.
- (g) "Judicial Settlement Conference" is a mediation conducted by a judicial officer as set forth in section 20 herein.
- (h) "Mediator" is a neutral person who conducts discussions among disputing parties to enable them to reach a mutually acceptable agreement among themselves on all or any part of the issues in dispute.
- (i) "Mediation" is an informal process in which a neutral person conducts discussions among the disputing parties designed to enable them to reach a mutually acceptable agreement among themselves on all or any part of the issues in dispute.

(j) "Mini-Trial", as set forth in sections 15 and 23 herein, is a settlement process in which each side presents an abbreviated summary of its case to the parties or representatives of the parties who are authorized to settle the case. A neutral person may preside over the proceeding. Following the presentation, the parties or their representatives seek a negotiated settlement of the dispute.

(k) "Neutral" is an impartial person who presides over alternative dispute resolution proceedings as defined in this Rule.

(l) "Non-Binding Arbitration" is a process in which a neutral person or a panel, called an arbitrator or an arbitration panel, considers the facts and arguments presented by the parties and renders a decision which is non-binding as set forth in sections 14 and 21 herein.

(m) "Order of Reference" is an order of a court entered in an eligible civil action in accordance with Section 3 (Initiation), directing the parties to participate in a Rule 31 ADR Proceeding.

(n) "Rule 31 ADR Proceedings" are proceedings initiated by the court pursuant to this Rule, including "Case Evaluations", "Mediations", "Judicial Settlement Conferences", "Non-Binding Arbitrations", "Summary Jury Trials", "Mini-Trials", or other similar proceedings.

(o) A "Rule 31 Mediator" is any person listed by the ADRC as a mediator pursuant to section 17 herein.

(p) A "Rule 31 Neutral" is any person who acts as a Neutral in a Mediation, Case Evaluation, Mini-Trial, Non-Binding Arbitration, Summary Jury Trial, or any other similar proceeding initiated by the court pursuant to this Rule. Rule 31 Neutrals, other than Rule 31 Mediators, are required to be licensed attorneys.

(q) A "Summary Jury Trial" as set forth in section 24 herein, is an abbreviated trial with a jury in which litigants present their evidence in an expedited fashion. The litigants and the jury are guided by a presiding neutral person. After an advisory verdict from the jury, the presiding neutral person may assist the litigants in a negotiated settlement of their controversy.