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Directive #06-20

[Questions or comments may be directed to (609) 815-2900, ext. 55350]

TO: Assignment Judges
Family Presiding Judges
Trial Court Administrators
Family Division Managers

FROM: Glenn A. Grant, J.A.D., Acting Administrative Director 

SUBJ: Family - Domestic Violence Economic Mediation Program -- Operational Guidelines; Forms

DATE: January 15, 2020

This Directive promulgates statewide operational guidelines for the Domestic Violence Economic Mediation (DVEM) program as approved by the Supreme Court. The program is the result of the collaborative efforts of the DVEM Joint Committee comprised of members of the domestic violence community, the Supreme Court Complementary Dispute Resolution Committee, the Supreme Court State Domestic Violence Working Group, judges, resource persons and Judiciary staff. Before the Court approved the DVEM program for statewide implementation, it was piloted in six counties for three years.

Rule 1:40-5(b)(1) governs referral to post-Early Settlement Panel (ESP) programs for the mediation of the economic aspects of dissolution actions. That Rule also provides that no matter shall be referred to mediation if a temporary or final restraining order is in effect in the matter pursuant to the Prevention of Domestic Violence Act (N.J.S.A. 2C:25-17 et seq.). To make the DVEM program possible, the Supreme Court relaxed Rule 1:40-5(b)(1) and has requested the development of conforming amendments to the rule. Those proposed amendments will be presented to the Court in the near future.

The DVEM program enables litigants to mediate economic issues in dissolution matters where there is an active domestic violence final restraining order (FRO) between the parties. The mediation is to address economic issues only, not any custody or parenting time aspects of the case. The approved program guidelines are appended to this Directive as Attachment 1. In authorizing the DVEM program, the Supreme Court and the Judiciary remain committed to ensuring the protections of domestic violence final restraining orders in all instances.

The DVEM program is limited to those dissolution (FM) cases with a FRO between the parties where the protected party in the active FRO has consented to mediation. It includes litigants who have mutual

FROs. Litigants with temporary restraining orders are not eligible to participate in the program. Also excluded from the program are cases where there has been a charge of contempt or a conviction for a violation of the FRO. In-person DVEM sessions must be held at the courthouse and employ shuttle diplomacy. Shuttle diplomacy is a method of mediation in which the mediator travels between the parties who are located in different rooms. The Vicinage must coordinate with the county Sheriff's Office to ensure that the security measures detailed in the Operational Guidelines (Attachment 1) are in place for every in-person DVEM. Videoconferencing can be an option to conduct the mediation, if available in the county.

Forms to be used in the DVEM program are appended to this Directive as Attachments 2 through 10, as follows:

- FAQ's for Protected Party (Attachment 2)
- FAQ's for Non-Protected Party (Attachment 3)
- Certification of Plaintiff in Support of Request for Amendment of Final Restraining Order to Allow Economic Mediation (Attachment 4)
- Judge's Colloquy and Suggested Language to be Included in the Amended FROs (Attachment 5)
- Order of Referral to the DVEM Program (Attachment 6)
- Protective Order (Attachment 7)
- Protected Party post mediation Questionnaire (Attachment 8)
- Non-Protected Party post mediation Questionnaire (Attachment 9)
- DVEM Case Information Form (to be completed by mediator) (Attachment 10)

Before any mediator may participate in the DVEM program, that mediator must be trained in accordance with the training curriculum developed by the Judiciary in conjunction with the New Jersey Institute for Continuing Legal Education. Two training sessions have already taken place, with a third scheduled for January 29 and 30, 2020 in Mount Laurel. The training incorporates specific domestic violence components, including: the history of the program; power and control; progression of abuse; the cycle of violence; and issues relating to the victim and to the perpetrator. Each training session will also include a panel discussion with a judge and an attorney who participated in the pilot program, as well as mediation simulation exercises.

Family judges and Judiciary staff from each participating county will be required to take part in a mandatory training at a date(s) to be determined.

The target date for the program to be operational statewide is April 15, 2020. Accordingly, all vicinages that do not currently have DVEM in place must submit an implementation plan to Assistant Director Joanne M. Dietrich by February 26, 2020. Evaluative telephone conference calls will be held with

Administrative Office of the Courts Family Practice Division staff during the first three months of implementation. The effectiveness of this program depends on the commitment of necessary resources and a certain degree of uniformity in the counties. To that end, each implementation plan should include the following information:

- The name of the staff designated as the primary contact in your county;
- The name of the staff designated as the back-up contact in your county;
- The names of the judges who will be referring cases to mediation;
- Details of the physical location where the mediations will occur;
- How safe arrival and departure will be ensured;
- If a county will be using videoconferencing as an option, details regarding its implementation; and
- Potential barriers to implementation and possible solutions to those problems.

Questions regarding the DVEM program, the attached operational guidelines, and forms may be directed to the Family Practice Division at (609) 815-2900 ext. 55350.

Attachments

cc: Chief Justice Stuart Rabner
Steven D. Bonville, Chief of Staff
AOC Directors and Assistant Directors
Clerks of Court
Special Assistants to the Administrative Director
Amelia Wachter-Smith, Chief, Family Practice
Kathleen Gaskill, Manager, CDR/Volunteer Programs
Assistant Family Division Managers
Domestic Violence Team Leaders
Dissolution Team Leaders
Gina G. Bellucci, Family

Attachment List

1. Operational Guidelines for the Domestic Violence Economic Mediation Program
2. FAQ's for Protected Party
3. FAQ's for Non-Protected Party
4. Certification of Plaintiff in Support of Request for Amendment of Final Restraining Order to Allow Economic Mediation
5. Judge's Colloquy and Suggested Language to Be Included in the Amended FROs
6. Order of Referral to the DVEM Program
7. Protective Order
8. Protected Party post mediation Questionnaire
9. Non-Protected Party post mediation Questionnaire
10. DVEM Case Information Form (to be filled out by mediator)

Attachment 1

Operational Guidelines for the Domestic Violence Economic Mediation Program

Operational Guidelines for the Domestic Violence Economic Mediation Program

The Domestic Violence Economic Mediation (DVEM) Program permits mediation of economic issues in certain dissolution matters where a domestic violence final restraining order (FRO) is in effect between the parties. While the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq. expressly prohibits mediation of custody and parenting time, it does not expressly prohibit economic mediation. Rule 1:40-5(b)(1) will be relaxed to enable litigants to mediate economic issues within the confines of these operational guidelines. The DVEM program is limited to those dissolution (FM) cases with an active FRO between the parties where the protected party has consented to mediation. Litigants with temporary restraining orders (TRO) are not eligible participants. Also excluded from the program are cases where there has been a charge of contempt or a conviction for a violation of the FRO. Parties who have mutual active FROs are eligible to participate in the program.

The following operational guidelines constitute minimum standards for implementation of the DVEM program:

1. Following the Early Settlement Panel (ESP), if there are outstanding economic issues, cases may be referred to the DVEM program. Court staff must screen cases to determine eligibility. The case is not eligible if the following exists:
 - A TRO exists between the parties.
 - There has been a contempt of a restraining order involving the same parties.
2. After screening cases, staff should advise the domestic violence advocate if there are any potential DVEM cases on the ESP calendar. The advocate should be available to meet with the party who is the protected party on the active FRO to review the Frequently Asked Questions (FAQs) and Protected Party Certification (Appended here as Attachment 2 and Attachment 4).
3. If court staff finds that a FRO exists between the parties in another county, staff should contact the staff or manager in that other county and request that venue of the FRO be transferred to the FM county.
4. Before the court can refer the financial issues to economic mediation, several steps must be taken. Both parties need to read a FAQs document in its entirety. There is a separate FAQ for the protected party and the non-protected party. These documents are appended here as Attachments 2 and 3. The protected party will then meet with a member of the local domestic violence organization or a trained court staff member who will speak to them about economic mediation and the DVEM program.
5. If after reading the FAQ document and speaking to a member of the local domestic violence organization or a trained court staff member, the protected party would still like to have the case considered for the DVEM program, they will be asked to

read and fill out a document titled "Certification of Protected Party in Support of Request for Amendment of Final Restraining Order to Allow Economic Mediation." This document is appended here as Attachment 4. This Certification is a formal request to the judge in the dissolution matter (FM) requesting that the case be referred to the DVEM program. The protected party in the FRO is the only party who may request that the court refer the financial issues to the DVEM program. Even after agreeing to participate in the DVEM program, the protected party has the right to cease participation and terminate the mediation at any time.

6. After reviewing the protected party's request, the court will give the other party the opportunity to give their position on whether they would like to proceed to economic mediation. The court may still refer the case to the DVEM program even over the other party's objection. Before being permitted to participate in the DVEM program, the judge presiding over the dissolution (FM) matter will question both parties about participation in the DVEM program. Appended to these guidelines as Attachment 5 is a form "Judge's Colloquy and Suggested Language to Be Included in the Amended FROs." The FM judge must be satisfied that the protected party is voluntarily consenting to participate in the DVEM program and understands the parameters of their participation. Consent of the defendant is not required for the court to order the parties into the DVEM program.
7. If the case is not referred by the court to the DVEM program, the case will proceed as it would normally, with the court setting a date for the next event. This next event may be either an intensive settlement conference or a trial.
8. If the court grants the protected party's request to allow economic mediation, the FRO will be amended to allow participation. All other provisions of the Final Restraining Order will remain in place. Suggested language to include in the FRO is contained in the form appended here as Attachment 5 titled "Judge's Colloquy and Suggested Language to be Included in the Amended FROs."
9. The "Order of Referral" to the DVEM program is appended here as Attachment 6 and will be sent to the mediator with the Protective Order appended here as Attachment 7. Court staff also will send the DVEM mediator copies of the TRO, the amended FRO and a protective order.
10. If the ESP is not successful, there is an active FRO between the parties, there is no contempt between the parties and the protected party has signed the Certification, then county staff should assist the litigants in selecting a mediator. County staff should also coordinate dates of mediation to occur in separate rooms and stagger litigant arrival/departure to the courthouse.
11. County staff should provide case files and tentative mediation dates to the FM judge. If the court refers the case to the DVEM program, the parties will be asked to agree upon a mediator. If the parties are unable to agree on a particular mediator, the court will assign one to the case. The court will then enter an order referring the case to the DVEM program. The Order of Referral is appended here as

Attachment 6. Only those mediators on the court approved roster for Family Economic Mediation cases who undergo additional DVEM training will be permitted to mediate DVEM cases.

12. County staff shall screen each case on the date of the scheduled DVEM program for a newly filed contempt (FO). If an FO is found, that case is no longer eligible for DVEM participation. This must be noted on the case file.
13. County staff should record the order in FACTS as O205 (Economic Mediation Order). The signed Protected Party Certification should be added to the case file. Mediation must be scheduled in FACTS using the newly created Domestic Violence Economic Mediation Code 2811. Staff must ensure that locations have been entered in FACTS for the separate mediation rooms.
14. The calendar should be created using the county staff's court official identification.
15. If either party requests an adjournment of the scheduled mediation session, each county should handle such request pursuant to local adjournment policy. If an adjournment is granted, county staff should contact the mediator to obtain a new date and time in accordance with room availability. The new date should be scheduled in FACTS using the appropriate 2811 FACTS code. Notices should be sent to the parties and the FAQs should again be sent to each party.

The day before the rescheduled date, county staff must again screen the matter for any FOs or FRO dismissal. If the FRO was dismissed or a contempt (FO) was filed, county staff shall cancel the mediation session and notify both parties and the mediator. County staff should also schedule for the next event.

16. On the date of the mediation session, Family staff must advise the Sheriff of the DVEM calendar. Family staff shall also ensure that the staggered parties' arrival/departure is scheduled. County staff is to provide three (3) evaluation forms (appended hereto as Attachments 8, 9, and 10) to the mediator prior to the start of the mediation.
17. Each vicinage must have a method for staggering litigants' entrances and exits to/from the courthouse. The protected party and non-protected party will be escorted to separate mediation rooms if the mediation is being conducted in the courthouse (as opposed to by video). This prevents any direct communication from occurring. Sheriff officers will be readily available. The mediator assigned to the case will use "shuttle" diplomacy to facilitate the mediation. Shuttle diplomacy is a method of mediation conducted when the mediator travels between the parties who are located in separate rooms. If the county courthouse has the capabilities, mediation may take place with the assistance of video conferencing.
18. Economic mediation will only take place at the courthouse where Sheriff Officers are available. Economic mediation is prohibited from taking place at the mediator's office or at any other location. Mediation is confidential.

19. A protected party will be advised that they may attend the mediation session(s) accompanied by their attorney or by any other person of their choice pursuant to the Uniform Mediation Act, N.J.S.A. N.J. Stat. § 2A:23C-1, et. seq.
20. Pursuant to Rule 1:40-4(b) subject to the provisions of Guidelines 2 and 15 in Appendix XXVI, Guidelines for the Compensation of Mediators, if the parties select a mediator from the court's rosters of civil and family mediators, the parties may opt out of the mediation process after the mediator has expended two hours of service, which shall be allocated equally between preparation and the first mediation session, and which shall be at no cost to the parties. As provided in Guideline 7 in Appendix XXVI, fees for roster mediators after the first two free hours shall be at the mediator's market rate as set forth on the court's mediation roster. As provided in Guideline 4 in Appendix XXVI, if the parties select a non-roster mediator, that mediator may negotiate a fee and need not provide the first two hours of service free.
21. After each mediation session both parties are to submit questionnaires to court staff. See Attachments 8 and 9. The mediator is required to submit a DVEM Case Information Form to court staff as well. See Attachment 10. It is important that after each session, before anyone leaves the courthouse, three forms are submitted to court staff. Staff should review the forms and address any concerns raised in the parties questionnaires.
22. In cases with mutual FROs, the protected party FAQs, Attachment 2, must be sent to both parties with the ESP notice. Both parties must sign the Protected Party Certification, Attachment 4. The FM judge will question both parties to ensure knowing consent. After each mediation session, both parties are to complete the protected party evaluation form, Attachment 8.

Attachment 2

FAQ's for Protective Party



New Jersey Judiciary
Domestic Violence Economic Mediation Program
FAQ's for Protected Party

Q: What is “economic mediation”?

A: Economic mediation is a means of resolving differences related to financial issues with the help of a trained, impartial third party. A mediator does not represent either side and does not offer legal advice. Parties are encouraged to retain an attorney to advise them of their rights during the mediation process, but if they do not have an attorney, they are allowed to have someone else accompany them to the mediation. The mediator helps the parties identify the issues, gather the information they need to make informed decisions, and communicate so that they can find a solution agreeable to both. Mediation is designed to facilitate settlements in an informal, non-adversarial manner. The court maintains a roster of approved mediators that have mediation training as well as specialized domestic violence training.

Q: Because I have a Final Restraining Order against the other party, is there a special process for me to request that the financial issues be referred to economic mediation?

A: Yes. Before the court can refer the financial issues to economic mediation, several steps must be taken. First, you need to read this document in its entirety. You will then meet with a member of the local domestic violence organization or a trained court staff member who will speak to you about economic mediation. If you have any questions about economic mediation or anything related to the process, you can ask them; however, they cannot give you any legal advice.

If after reading this document and speaking to a member of the local domestic violence organization or a trained court staff member you would still like to have your case considered for economic mediation, you will be asked to read and fill out a document entitled "Certification of Plaintiff in Support of Request for Amendment of Final Restraining Order to Allow Economic Mediation." This document is your formal request to the judge in your case asking that your case be referred to economic mediation. It is also the document indicating that you understand what it means to have your Final Restraining Order amended to allow economic mediation to take place.

Q: Why do I need to file a request with the court to request economic mediation?

A: The law prohibits mediation because you have an active Final Restraining Order against the other party. However, the Judiciary has established Domestic Violence Economic Mediation Program to permit referral of financial issues in a dissolution case to economic mediation where a final restraining order exists between the parties

However, under the terms of the Domestic Violence Economic Mediation Program the court can refer the unresolved financial issues to economic mediation **only** if you, as the Plaintiff in the Final Restraining Order, request it directly from the court.

Q: If I file a request for economic mediation and to amend my Final Restraining Order to allow economic mediation, what can I expect to happen in court?

A: Your request that the court refer the financial issues in your dissolution matter to economic mediation and that your Final Restraining Order be amended to allow mediation does not guarantee that the court will refer your case to economic mediation.

After reviewing your request and making sure you understand what economic mediation is, the court will give the other party the opportunity to give her or his position on whether s/he would like to proceed to economic mediation. If the other party agrees to proceed with economic mediation, the court will enter an order amending your Final Restraining Order to allow economic mediation under the terms of the Domestic Violence Economic Mediation Program.

If the other party objects to economic mediation, s/he will be asked to state her or his objection.

The court will then decide whether the case is referred to economic mediation. The court can still refer the case to economic mediation even over the other party's objection.

If the court refers your case to economic mediation, you and the other party will be asked to agree upon a mediator. If you are unable to agree on a mediator, the court will assign one to your case. The court will then enter an order referring the case to economic mediation.

Q: What happens if the case is not referred to economic mediation?

A: If the case is not referred by the court to economic mediation, the case will proceed as it would normally, with the court setting a date for the next event, which may be either an intensive settlement conference or a trial. At the trial, both parties will have to present their testimony, witnesses and evidence so that the court can make decisions regarding the economic and other possible unresolved issues that are part of the dissolution matter.

Q: What does it mean to amend the Final Restraining Order to allow economic mediation?

A: If the court grants your request to allow economic mediation, the Final Restraining Order will be amended to allow economic mediation. All other provisions of the Final Restraining Order will remain in place. Any contact with you with the other party remains a violation of the Final Restraining Order.

Q: What if, after reading this document and speaking to someone about economic mediation, I decide I do not want my case referred to economic mediation?

A: Under the Domestic Violence Economic Mediation Program, the court can only refer the financial issues in the dissolution matter to economic mediation if you, as the protected party in the Final Restraining Order, file a request to participate in mediation. If you decide that you do not want your case referred to economic mediation, then you should not fill out the request. If you choose not to fill out the request, then your case will proceed to the next event to be scheduled.

Under the terms of this Domestic Violence Economic Mediation Program, the other party, the non-protected party in the Final Restraining Order, cannot request that the case proceed

to economic mediation. You, as the protected party in the Final Restraining Order are the only party who can request that the court refer the financial issues to economic mediation.

If you choose not to request that the court refer the unresolved financial issues to economic mediation, please be aware that this will **not** be held against you in any way.

Q: If the financial issues are referred to economic mediation what safeguards are in place to protect me from the non-protected party during the mediation itself?

A. Some of the safeguards available are as follows: Economic mediation will only take place at the courthouse where trained sheriff's officers are available. Economic mediation is prohibited from taking place at the mediator's office or at any other location.

The mediator assigned to your case will use "shuttle" diplomacy to facilitate the mediation. This means that you will be in one room and the other party will be in another room. This prevents any direct communication from occurring. Additionally, if the county courthouse you are in has the technology available, mediation can take place with the assistance of video conferencing.

Under this program, only those mediators who have completed specific domestic violence training will be eligible to be chosen as a mediator for your case.

Q: What if during the economic mediation I feel like the other party is intimidating me or attempting to coerce me?

A. If you have an attorney, you should tell them and you should also let the economic mediator know that this is how you feel. If you choose not to continue with the economic mediation, you can choose to terminate the mediation. The mediator will be required to let the judge know that the mediation was unsuccessful. This will not be held against you in any way.

Q: What if the court enters an order referring my case to economic mediation, but I change my mind and don't want to attend?

A: The judiciary understands that victims of domestic violence may not feel comfortable about proceeding with economic mediation, even though a number of safeguards are in place for your protection. If at any point you decide that you do not want to go forward with the economic mediation, you may choose to end it. It is suggested that before canceling the economic mediation that you speak to your attorney if you have one. If there are concerns about your safety, please let your attorney and the economic mediator know at the time they arise.

Q: Is anyone responsible for paying the economic mediator?

A. The first two hours of mediation are free. These two hours include the time it takes for a mediator to prepare for the actual mediation as well as a mediation session. Travel time is not included in the first two hours and mediators are not allowed to charge for their travel.

During the mediation, the mediator will let you know when the two free hours have been reached. Either party can then choose to end the mediation.

If the mediation goes beyond the free two hours, the court will decide how much each party will have in paying the mediator.

Q: Can the mediator also address other issues like custody and parenting time?

A: No, by law and the terms of this Domestic Violence Economic Mediation Program, the only issues that may be discussed at mediation are financial issues.

Attachment 3

FAQ's for Protective Party



New Jersey Judiciary
Domestic Violence Economic Mediation Program
FAQ's for Non-Protected Party

Q: What is “economic mediation”?

A: Economic mediation is a means of resolving differences related to financial issues with the help of a trained, impartial third party. A mediator does not represent either side and does not offer legal advice. Parties are encouraged to retain an attorney to advise them of their rights during the mediation process, but if they do not have an attorney, they are allowed to have someone else accompany them to the mediation. The mediator helps the parties identify the issues, gather the information they need to make informed decisions, and communicate so that they can find a solution agreeable to both. Mediation is designed to facilitate settlements in an informal, non-adversarial manner. The court maintains a roster of approved mediators that have mediation training as well as specialized domestic violence training.

Q: Is economic mediation available to parties in a divorce action where one party has an active Final Restraining Order against the other party?

A: The law prohibits any kind of mediation when there is an active Final Restraining Order. The Judiciary established a Domestic Violence Economic Mediation Program to permit the referral of unresolved financial issues in a dissolution case.

The court can only refer a case to economic mediation if the protected party consents to participate in the program.

Q: If the protected party files a request for to amend the Final Restraining order to permit what can I expect to happen in court?

A: The protected party's request that the court refer the financial issues in your case to economic mediation and that the Final Restraining Order be amended to permit economic mediation does not guarantee that the court will refer your case to the program.

After reviewing the request and making sure the protected party understands what economic mediation is, the court will give you the opportunity to explain whether you would like to proceed to economic mediation. If you agree to proceed with economic mediation, the court will enter an order amending the Final Restraining Order to permit participation under the terms of the Domestic Violence Economic Mediation Program.

If you object to economic mediation, you will be asked to state your objection. The court will then decide whether the case is referred to economic mediation. **The court can still refer the case to economic mediation over your objection.**

If the court refers your case to economic mediation, you and the other party will be asked to agree upon a mediator. If you are unable to agree on a particular mediator, the court will assign one to your case. The court will then enter an order referring the case to economic mediation.

Q: What happens if the case is not referred to economic mediation?

A: If the case is not referred by the court to economic mediation, the case will proceed as it would normally, with the court setting a date for the next event, which can be either an intensive settlement conference or a trial. At the trial, both parties will have to present their testimony, witnesses and evidence so that the court can make decisions regarding the economic and other possible unresolved issues that are part of the divorce action.

Q: What does it mean to amend the Final Restraining Order to allow economic mediation?

A: If the court grants the protected party's request to allow economic mediation, the Final Restraining Order will be amended to allow economic mediation. All other provisions of the Final Restraining Order will remain in place. Any contact by you with the protected party remains a violation of the Final Restraining Order.

Q: If the protected party does not request to participate in economic mediation but the non-protected party wants to participate, can economic mediation occur?

A: No. Under the terms of this Domestic Violence Economic Mediation Program, the non-protected party in the Final Restraining Order cannot request that the case proceed to economic mediation. The protected party in the Final Restraining Order is the only party that can request that the court refer the financial issues to economic mediation.

Q: If the unresolved financial issues proceed to economic mediation how and where does the mediation occur?

A: Economic mediation will only take place at the courthouse where trained sheriff's officers are available. Economic mediation is prohibited from taking place at the mediator's office or at any other location.

The mediator assigned to your case will use "shuttle" diplomacy to facilitate the mediation. This means that you will be in one room and the other party will be in another room. This prevents any direct communication from occurring. Additionally, if the county courthouse you are in has the technology available, mediation can take place with the assistance of video conferencing.

Under this program, only those mediators who have completed specific domestic violence training will be eligible to be chosen as a mediator for your case.

Q: What if court enters an order referring the dissolution matter to economic mediation, but the protected party changes their mind and does not want to attend?

A: The Domestic Violence Economic Mediation Program permits the protected party to end the mediation at any time.

Q: Is anyone responsible for paying the economic mediator?

A: The first two hours of mediation are free. These two hours include the time it takes for a mediator to prepare for the actual mediation as well as a mediation session. Travel time is not included in the first two hours and mediators are not allowed to charge for their travel.

During the mediation, the mediator will let you know when the two free hours have been reached. Either party can then choose to terminate mediation.

If the mediation goes beyond the free two hours, the court will decide how much each party will have in paying the mediator.

Q: Can the mediator also address other issues like custody and parenting time?

A: No, by the law and the terms of this Domestic Violence Economic Mediation Program, the only issues that can be discussed at mediation are financial issues.

Attachment 4

Certification of Plaintiff in Support of Request of Amendment of Final Restraining Order to Allow Economic Mediation

Plaintiff,
v.

Defendant,

Superior Court of New Jersey
Chancery Division - Family Part
County of Select County
Docket Number: FV

**Certification of Plaintiff in Support of
Request for Amendment of
Final Restraining Order to
Allow Economic Mediation**

The Plaintiff _____ hereby certifies and says:

1. I am the Plaintiff in the above captioned matter.
2. I am married to the Defendant, _____.
3. Divorce proceedings are presently ongoing between myself and the Defendant under docket number FM- _____.
4. I understand that the Final Restraining Order I have against the Defendant prohibits us from attending economic mediation in our pending divorce matter.
5. I am making this request to amend my Final Restraining Order to allow economic mediation in our pending divorce. I reviewed the materials provided to me regarding economic mediation and know what to expect. I have met with a member of a domestic violence advocate or a trained court staff member who answered all of my questions regarding the process.
6. I understand that as the Plaintiff in the Final Restraining Order I can choose to withdraw from the economic mediation process for any reason. I understand I can attend economic mediation with my attorney or, if I am unrepresented, anyone else of my choosing can attend with me.
7. I also understand that if the Court grants my request and amends the Final Restraining Order to allow economic mediation, all of its other provisions will remain in full force and effect. I understand that if the Defendant violates any of the Final Restraining provisions, I can call the police and/or file a criminal contempt complaint.
8. I am asking of my own free will and without coercion or interference from any person for the Final Restraining Order to be amended.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Date

Plaintiff Signature

Attachment 5

**Judge's Colloguy and Suggested Language
to be Included in the Amended FROs**

Domestic Violence Economic Mediation Program

Judge's Colloquy and Suggested Language to Be Included in the Amended FROs

If the protected party agrees to participate in economic mediation, the protected party will be returned to the courtroom and the parties and counsel will be seated at counsel table, at which time the judge will make the following inquiries of the protected party:

1. Have you met with a domestic violence legal advocate or trained court staff to discuss economic mediation?
2. Did that individual provide you with written materials about economic mediation?
3. Did you read and understand all of the written information provided to you?
4. Did you also discuss the process of economic mediation with the staff member or legal advocate?
5. Do you understand all of the information that was provided to you?
6. Do you understand that you are not required to participate in economic mediation and your participation is entirely voluntary?
7. Do you desire to participate in economic mediation?
[Assuming the answer is "yes," continue below.]
8. Have you read and signed the form setting forth your desire to participate in economic mediation?
9. Do you understand that the mediation will take place here at the Courthouse and that if at any time you wish to terminate the mediation you will be free to do so?
10. Do you understand that even though you have expressed a willingness to participate in economic mediation, I will make the final decision as to whether the case should go to economic mediation?

After being satisfied that the protected party wants to participate in economic mediation, the non-protected party should be asked whether or not they wish to participate in mediation as well as the reason for his or her response.

After having heard from the protected party and the non-protected party (understanding that the non-protected party's consent is not required), the Court shall make a decision as to whether or not economic mediation is appropriate for the case. If mediation is appropriate, the judge asserts jurisdiction over the FV matter and directs that the final restraining order be amended to include the language that permits the parties to participate in economic mediation pursuant to the procedures set forth in the program.

Suggested language to be included in the amended FROs is:

"[n]otwithstanding any other provision in this Order, the parties are permitted to participate in economic mediation at the _____ Courthouse.

Attachment 6

Order of Referral to the DVEM Program

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION, FAMILY PART
COUNTY OF

DOCKET NO.: FV- _____ - _____

Plaintiff(s)

v.

Defendant(s)

**ORDER OF REFERRAL TO
DOMESTIC VIOLENCE
ECONOMIC MEDIATION PROGRAM**

This matter having been opened to the court by Case Management Conference;

_____, appearing for plaintiff, and

_____, appearing for defendant; and good cause having been shown;

IT IS on this _____ day of _____ 20____, **ORDERED AS FOLLOWS:**

1. This Order is entered pursuant to R.1:40-5(b).
2. The above-captioned matter is hereby referred to the Domestic Violence Economic Mediation Program.
3. Domestic Violence Economic Mediation Program next event shall occur at _____ County Courthouse on date _____ at time _____. Please report to _____.
4. _____ is designated as the mediator. The mediator was selected from the statewide approved list. The mediator shall serve on a *pro bono* basis for the initial two hours of service, which includes reasonable preparation time (one hour), and the first mediation session (one hour). After the first two hours, the mediator shall be compensated at the mediator's hourly rate, together with reasonable expenses. The mediator's fee shall be paid by the parties as follows: plaintiff _____ % and defendant _____ %. Payment shall be made

as billed, unless other arrangements are made with the mediator. Any outstanding bills shall be paid within _____ days of receipt. Either party may opt out of the mediation process after the first two hours.

5. After the first session ordered herein, the date(s), time(s), and place(s) of subsequent mediation session(s) shall be set in coordination with judiciary staff.
6. The parties may be accompanied to the mediation sessions by their attorney or any other person of their choice as defined by the Uniform Mediation Act. The court expects and requires all litigants and their attorneys (if applicable) to participate in the mediation sessions in good faith. The parties shall cooperate in providing accurate and complete information to the mediator including, but not limited to, tax returns, Case Information Statements, and appraisal reports.
7. Termination of mediation generally shall be governed by R. 1:40-4 (h).
8. Upon termination of the mediation process, the mediator shall promptly report to the court in writing as to whether or not the case is settled. If the case is not fully settled, the mediator shall within fourteen days provide the court and the parties notice of which issues are settled and which issues remain open.
9. Unless otherwise agreed by the parties, and subject to R.1:40-4(c), all mediation proceedings shall be confidential and non-evidential. No verbatim record shall be made thereof.

Judge, Superior Court of New Jersey

*** Please provide mediator with parties' Case Information Statements and ESP Statements prior to the first mediation session.**

MEDIATOR NAME, ADDRESS AND TELEPHONE NUMBER:

Attachment 7

Protective Order

Prepared by the Court

Superior Court of New Jersey
Chancery Division - Family Part
County of Select County
Docket Number: _____

Plaintiff,

v.

Defendant,

Civil Action
Protective Order

THIS MATTER being opened to the Court, and it appearing that copies of the following confidential reports are being released to the attorneys and parties or the self-represented litigants;

- | | |
|--|--|
| <input type="checkbox"/> Home Inspection Report | <input type="checkbox"/> Psychiatric Report |
| <input type="checkbox"/> Social Investigation Report | <input type="checkbox"/> Risk Assessment |
| <input type="checkbox"/> Psychological Report | <input checked="" type="checkbox"/> Other <u>TRO/FRO FV-</u> |

and for good cause shown;

IT IS ON THIS _____ day of _____, 20__;

- ORDERED** that copies of these reports shall be released to the attorneys and their clients or self-represented litigants with the understanding that the information contained therein is to be used only for purposes for the pending custody/parenting time matter including distribution to experts and may not be used in any other matter without the express written permission of the Court; and it is further
- ORDERED** that this information shall not be disclosed to any other person for any reason, nor may it be disseminated or made public by any means, direct or indirect, without the express written permission of the Court; and it is further
- ORDERED** that the use of information contained in the investigation and/or report, or information obtained from the investigation for any purpose other than set forth by the Court, shall be a violation of this Court Order and subject to sanctions; and it is further
- ORDERED** that under no circumstances is (are) the report(s) to be discussed, revealed, or disclosed to the child(ren).

Date

, J.S.C.

Attachment 8

Protective Party Post Mediation Questionnaire



New Jersey Judiciary Domestic Violence Economic Mediation Litigant Questionnaire

(To be completed by the Protected Party)

Name of Mediator	County	The mediator for this case was selected by: <input type="checkbox"/> parties/attorneys <input type="checkbox"/> court/judge				
How are we doing? Please tell us. (Please check one box on each line)	Strongly Agree 1	Somewhat Agree 2	Neither Agree nor Disagree 3	Somewhat Disagree 4	Strongly Disagree 5	No Opinion 6
1. The mediator explained the process to me.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. The mediation was conducted fairly and impartially.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. The mediator gave me full opportunity to convey my positions and interests.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. The mediator was free from bias.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. The mediator understood the issues in my case.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. I was not pressured to reach an agreement.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. The mediator explained his/her fee structure to me.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. I was satisfied with the mediation process.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. The mediation saved me time.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. The mediation saved me money.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. I felt safe during the process.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. I felt free from fear during the mediation process, including arriving at the courthouse.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. I felt comfortable throughout the mediation process.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. I felt that the mediator respected my request for confidentiality.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15. I knew that I was able to leave the mediation at any time.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16. If you had the choice to do this again would you do it? <input type="checkbox"/> Yes <input type="checkbox"/> No						
17. Is there anything else that you would like to add to describe your experience with this program?						
18. Did your case settle? <input type="checkbox"/> Yes <input type="checkbox"/> No						
19. Any other suggestions for how we can improve?						

Attachment 9

Non-Protected Party Post Mediation Questionnaire



New Jersey Judiciary Domestic Violence Economic Mediation Litigant Questionnaire

(To be completed by the Non-Protected Party)

Name of Mediator	County	The mediator for this case was selected by: <input type="checkbox"/> parties/attorneys <input type="checkbox"/> court/judge					
How are we doing? Please tell us. (Please check one box on each line)		Strongly Agree 1	Somewhat Agree 2	Neither Agree nor Disagree 3	Somewhat Disagree 4	Strongly Disagree 5	No Opinion 6
1. The mediator explained the process to me.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. The mediation was conducted fairly and impartially.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. The mediator gave me full opportunity to convey my positions and interests.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. The mediator was free from bias.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. The mediator understood the issues in my case.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. I was not pressured to reach an agreement.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. The mediator explained his/her fee structure to me.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. I was satisfied with the mediation process.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. The mediation saved me time.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. The mediation saved me money.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Did your case settle? <input type="checkbox"/> Yes <input type="checkbox"/> No							
12. Any other suggestions for how we can improve?							

Attachment 10

**DVEM Case Information Form
(To Be Filled Out By Mediator)**



New Jersey Judiciary
Domestic Violence Economic Mediation Case Information Form

For Office Use Only

Date Received:

Date Entered:

Directions: This form is to be completed by the mediator when mediation is concluded or the case is returned to court.

FM Case Docket Number	FM Case Name	Name of Mediator
FV Case Docket Number	FV Case Name	

Outcome

- mediation held / full agreement on all issues
- mediation held / some issues still pending
- mediation held / no agreement
- no mediation held / parties settled case before mediation session
- no mediation held / party failed to attend

Date Case Assigned to Mediator	Date of Initial Mediation Session	Date of Final Mediation Session
Number of Mediation Sessions	Number of Hours for Preparation	Number of Mediation Hours

Did the attorneys/parties submit proper case summaries? <input type="checkbox"/> Yes <input type="checkbox"/> No	Were the attorneys/parties prepared for the mediation sessions? <input type="checkbox"/> Yes <input type="checkbox"/> No
---	---

Did the parties participate in the mediation sessions?
 Yes No If no, please provide explanation:

Without violating mediator confidentiality, is there anything else that you would like to add to describe your experience with this program?

Please return to: Family Division