

HOUSE BILL No. 5073

October 10, 2017, Introduced by Reps. Kesto, Chang, Liberati, Lucido, Lilly and Yaroch and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending the heading of chapter 49 and sections 4901, 4903, 4905, 4907, 4909, 4911, 4913, 4915, 4917, 4919, 4921, and 4923 (MCL 600.4901, 600.4903, 600.4905, 600.4907, 600.4909, 600.4911, 600.4913, 600.4915, 600.4917, 600.4919, 600.4921, and 600.4923), as added by 1986 PA 178, and by adding section 4902; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER 49

MEDIATION AND CASE EVALUATION

Sec. 4901. (1) **THIS CHAPTER PROVIDES FOR MEDIATION OF NONDOMESTIC RELATIONS DISPUTES IN COURTS IN THIS STATE. MEDIATION**

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1 IS ALSO GOVERNED BY MICHIGAN COURT RULES.

2 (2) As used in this chapter: ~~7 "panel"~~

3 (A) "ADR CLERK" MEANS THE ALTERNATIVE DISPUTE RESOLUTION CLERK
4 FOR THE COURT.

5 (B) "ALTERNATIVE DISPUTE RESOLUTION PROCESS" MEANS A PROCESS
6 DESIGNED TO RESOLVE A LEGAL DISPUTE IN THE PLACE OF COURT
7 ADJUDICATION.

8 (C) "CASE EVALUATION" MEANS A PROCESS IN WHICH 3 NEUTRAL
9 ATTORNEYS ARE APPOINTED BY THE COURT TO REVIEW THE FACTS AND LAW IN
10 A COURT CASE, HEAR THE POSITIONS OF THE PARTIES, AND RENDER AN
11 AWARD THAT CAN BE ACCEPTED OR REJECTED BY THE PARTIES AND IS
12 GOVERNED BY THE MICHIGAN COURT RULES.

13 (D) "MEDIATION" MEANS A PROCESS IN WHICH A NEUTRAL THIRD PARTY
14 FACILITATES COMMUNICATION BETWEEN PARTIES TO, ASSISTS IN
15 IDENTIFYING ISSUES IN, AND HELPS EXPLORE SOLUTIONS TO PROMOTE A
16 MUTUALLY ACCEPTABLE SETTLEMENT OF A DISPUTE AND IS GOVERNED BY THE
17 MICHIGAN COURT RULES.

18 (E) "MEDIATION COMMUNICATIONS" INCLUDES STATEMENTS, WHETHER
19 ORAL OR IN A RECORD, VERBAL OR NONVERBAL, THAT OCCUR DURING THE
20 MEDIATION PROCESS OR ARE MADE FOR PURPOSES OF RETAINING A MEDIATOR
21 OR CONSIDERING, INITIATING, PREPARING FOR, CONDUCTING,
22 PARTICIPATING IN, CONTINUING, ADJOURNING, CONCLUDING, OR
23 RECONVENING A MEDIATION.

24 (F) "MEDIATION PARTICIPANT" MEANS A MEDIATION PARTY, A
25 NONPARTY, AN ATTORNEY FOR A PARTY, OR A MEDIATOR WHO PARTICIPATES
26 IN OR IS PRESENT AT A MEDIATION.

27 (G) "MEDIATION PARTY" MEANS A PERSON THAT PARTICIPATES IN A

1 MEDIATION AND WHOSE AGREEMENT IS NECESSARY TO RESOLVE THE DISPUTE.

2 (H) "MEDIATOR" MEANS AN INDIVIDUAL WHO CONDUCTS A MEDIATION.

3 (I) "PANEL" means a ~~mediation~~CASE EVALUATION panel selected
4 ~~pursuant to~~UNDER section 4905.

5 (J) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,
6 ASSOCIATION, GOVERNMENTAL ENTITY, OR OTHER LEGAL ENTITY.

7 (K) "PROTECTED INDIVIDUAL" MEANS THAT TERM AS DEFINED IN
8 SECTION 1106 OF THE ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA
9 386, MCL 700.1106.

10 (l) "VULNERABLE" MEANS THAT TERM AS DEFINED IN SECTION 11 OF
11 THE SOCIAL WELFARE ACT, 1939 PA 280, MCL 400.11.

12 SEC. 4902. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION
13 AND UNLESS THERE IS AN OBJECTION TO MEDIATION, IN A COUNTY WITH AN
14 ALTERNATIVE DISPUTE RESOLUTION PLAN APPROVED BY THE STATE COURT
15 ADMINISTRATIVE OFFICE, THE FOLLOWING ACTIONS AND PROCEEDINGS MUST
16 BE REFERRED TO MEDIATION, ABSENT AN OBJECTION TO MEDIATION:

17 (A) A CIVIL NONDOMESTIC RELATIONS ACTION IN WHICH IT IS
18 CLAIMED THAT DAMAGES EXCEED \$25,000.00.

19 (B) A CONTESTED PROBATE PROCEEDING.

20 (2) SUBJECT TO SUBSECTION (3), A COURT SHALL NOT REFER AN
21 ACTION TO WHICH ANY OF THE FOLLOWING APPLY TO MEDIATION:

22 (A) A PARTY TO THE ACTION IS SUBJECT TO A PROTECTION ORDER
23 PROTECTING ANOTHER PARTY TO THE ACTION.

24 (B) A PARTY TO THE ACTION IS SEEKING ENTRY OF A PROTECTION
25 ORDER AGAINST ANOTHER PARTY TO THE ACTION.

26 (C) A PARTY TO THE ACTION IS INVOLVED IN AN ABUSE OR NEGLECT
27 PROCEEDING.

1 (D) THERE IS AN ALLEGATION THAT A PARTY TO THE ACTION ABUSED
2 ANOTHER PARTY TO THE ACTION.

3 (E) THERE IS A REQUEST FOR INVESTIGATION OF A PARTY TO THE
4 ACTION PENDING WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

5 (3) SUBSECTION (2) DOES NOT APPLY IN EITHER OF THE FOLLOWING
6 CIRCUMSTANCES:

7 (A) THE COURT HAS DETERMINED THAT MEDIATION OF THE ACTION IS
8 APPROPRIATE.

9 (B) THE PROTECTED PARTY, PARTY SEEKING PROTECTION, OR PARTY TO
10 THE ACTION WHO IS ALLEGEDLY THE VICTIM OF THE ABUSE REQUESTS
11 MEDIATION.

12 (4) THE JUDGE TO WHOM AN ACTION DESCRIBED IN SUBSECTION (1) IS
13 ASSIGNED OR THE CHIEF JUDGE SHALL REFER THE ACTION TO MEDIATION BY
14 WRITTEN ORDER WITHIN 30 DAYS AFTER A RESPONSE TO THE COMPLAINT IS
15 FILED, UNLESS AN OBJECTION TO MEDIATION IS TIMELY FILED.

16 (5) THE MEDIATOR SHALL FACILITATE COMMUNICATION BETWEEN THE
17 MEDIATION PARTIES, ASSISTING THE PARTIES IN REACHING ANY AGREEMENTS
18 THEY WISH TO DISCUSS, INCLUDING, BUT NOT LIMITED TO, SETTLEMENT,
19 NARROWING OF ISSUES, DEFINING DISCOVERY PARAMETERS, AND
20 ESTABLISHING ANY DEADLINES THAT DO NOT CONFLICT WITH DEADLINES
21 IMPOSED BY COURT RULE OR COURT ORDER.

22 (6) ADDITIONAL MEDIATION SESSIONS MAY BE HELD IF AGREED BY ALL
23 MEDIATION PARTIES.

24 (7) ALL OF THE FOLLOWING APPLY TO OBJECTIONS TO MEDIATION:

25 (A) TO OBJECT TO MEDIATION, A MEDIATION PARTY MUST EITHER
26 NOTIFY THE COURT THAT THE MATTER IS NOT APPROPRIATE FOR MEDIATION,
27 AS PROVIDED IN SECTION 1035, OR FILE A WRITTEN OBJECTION TO

1 MEDIATION CONTAINING FACTS TO ESTABLISH GOOD CAUSE, INCLUDING, BUT
2 NOT LIMITED TO, ANY OF THE FOLLOWING:

3 (i) CHILD ABUSE OR CHILD NEGLECT.

4 (ii) DOMESTIC ABUSE.

5 (iii) INABILITY OF 1 OR BOTH MEDIATION PARTIES TO NEGOTIATE
6 FOR THEMSELVES AT THE MEDIATION.

7 (iv) REASON TO BELIEVE ANY MEDIATION PARTY'S HEALTH OR SAFETY
8 WOULD BE ENDANGERED BY PARTICIPATION IN MEDIATION.

9 (v) INABILITY TO AFFORD THE FEES AND COSTS OF MEDIATION.

10 (vi) LACK OF JURISDICTION OR IMPROPER VENUE.

11 (vii) STIPULATION OF ALL MEDIATION PARTIES.

12 (viii) MEDIATION IS UNNECESSARY BECAUSE THE MATTER IS
13 RESOLVED.

14 (ix) THE MATTER WAS ASSIGNED TO ANOTHER ALTERNATIVE DISPUTE
15 RESOLUTION PROCESS.

16 (B) A COPY OF THE OBJECTION OR MOTION TO REMOVE THE ACTION
17 FROM MEDIATION MUST BE FILED WITH THE COURT AND SERVED ON ALL
18 ATTORNEYS OF RECORD AND PRO SE PARTIES WITHIN 14 DAYS AFTER ENTRY
19 OF AN ORDER ASSIGNING THE ACTION TO MEDIATION.

20 (C) THE MOTION TO REMOVE THE ACTION FROM MEDIATION MUST BE SET
21 FOR HEARING WITHIN 14 DAYS AFTER IT IS FILED, UNLESS THE HEARING IS
22 ADJOURNED BY AGREEMENT OF COUNSEL OR THE COURT ORDERS OTHERWISE.

23 (D) A TIMELY FILED MOTION MUST BE HEARD BEFORE THE ACTION IS
24 MEDIATED.

25 (8) MEDIATION MUST BE CONDUCTED IN ACCORDANCE WITH THE
26 MICHIGAN STANDARDS OF CONDUCT FOR MEDIATORS, OR SUCCESSOR STANDARDS
27 ADOPTED BY THE STATE COURT ADMINISTRATIVE OFFICE, AND APPLICABLE

1 MICHIGAN COURT RULES.

2 (9) MEDIATION PROCEEDINGS MUST BE HELD IN PRIVATE, AND
3 MEDIATION COMMUNICATIONS MUST BE CONFIDENTIAL AND PRIVILEGED.
4 EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, PRIVILEGED MEDIATION
5 COMMUNICATIONS ARE NOT SUBJECT TO DISCOVERY AND ARE INADMISSIBLE IN
6 ANY PROCEEDING.

7 (10) EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, A MEDIATOR,
8 A MEDIATION PARTY, AND ANY OTHER INDIVIDUAL INVOLVED IN MEDIATION
9 ARE NOT COMPETENT TO TESTIFY TO CONFIDENTIAL MEDIATION
10 COMMUNICATIONS.

11 (11) MEDIATION COMMUNICATIONS MAY BE DISCLOSED UNDER ANY OF
12 THE FOLLOWING CIRCUMSTANCES:

13 (A) ALL MEDIATION PARTIES AGREE IN WRITING TO DISCLOSURE.

14 (B) A STATUTE OR COURT RULE REQUIRES DISCLOSURE.

15 (C) THE MEDIATION COMMUNICATION IS PART OF THE MEDIATOR'S
16 REPORT APPROVED UNDER MICHIGAN COURT RULES.

17 (D) THE DISCLOSURE IS NECESSARY FOR A COURT TO RESOLVE
18 DISPUTES ABOUT THE MEDIATOR'S FEE.

19 (E) THE DISCLOSURE IS NECESSARY FOR A COURT TO CONSIDER
20 ORDERING SANCTIONS UNDER MICHIGAN COURT RULES FOR A MEDIATION
21 PARTY'S FAILURE TO ATTEND.

22 (F) THE DISCLOSURE IS MADE DURING A MEDIATION SESSION THAT IS
23 OR IS REQUIRED BY LAW TO BE OPEN TO THE PUBLIC.

24 (G) COURT PERSONNEL REASONABLY REQUIRE DISCLOSURE TO
25 ADMINISTER AND EVALUATE THE MEDIATION PROGRAM.

26 (H) THE MEDIATION COMMUNICATION IS A THREAT TO INFLICT BODILY
27 INJURY OR COMMIT A CRIME, A STATEMENT OF A PLAN TO INFLICT BODILY

1 INJURY OR COMMIT A CRIME, OR USED TO PLAN A CRIME, ATTEMPT TO
2 COMMIT OR COMMIT A CRIME, OR CONCEAL A CRIME.

3 (I) ALL OF THE FOLLOWING APPLY TO THE DISCLOSURE:

4 (i) THE DISCLOSURE INVOLVES A CLAIM OF ABUSE OR NEGLECT OF A
5 CHILD, A PROTECTED INDIVIDUAL, OR A VULNERABLE ADULT.

6 (ii) THE DISCLOSURE IS INCLUDED IN A REPORT ABOUT THE CLAIM OR
7 SOUGHT OR OFFERED TO PROVE OR DISPROVE THE CLAIM.

8 (iii) THE DISCLOSURE IS MADE TO A GOVERNMENTAL AGENCY OR LAW
9 ENFORCEMENT OFFICIAL RESPONSIBLE FOR PROTECTION AGAINST SUCH
10 CONDUCT OR IS MADE IN A SUBSEQUENT OR RELATED PROCEEDING BASED ON
11 THE DISCLOSURE.

12 (J) THE DISCLOSURE IS INCLUDED IN A REPORT OF PROFESSIONAL
13 MISCONDUCT FILED AGAINST A MEDIATION PARTICIPANT OR IS SOUGHT OR
14 OFFERED TO PROVE OR DISPROVE MISCONDUCT ALLEGATIONS IN THE ATTORNEY
15 DISCIPLINARY PROCESS.

16 (K) THE MEDIATION COMMUNICATION OCCURS IN AN ACTION OUT OF
17 WHICH A CLAIM OF MALPRACTICE ARISES AGAINST A MEDIATION PARTICIPANT
18 AND THE DISCLOSURE IS SOUGHT OR OFFERED TO PROVE OR DISPROVE THE
19 CLAIM OF MALPRACTICE.

20 (l) THE DISCLOSURE IS IN A PROCEEDING TO ENFORCE, RESCIND,
21 REFORM, OR AVOID LIABILITY ON A DOCUMENT SIGNED BY THE MEDIATION
22 PARTIES OR ACKNOWLEDGED BY THE MEDIATION PARTIES ON AN AUDIO OR
23 VIDEO RECORDING THAT AROSE OUT OF MEDIATION, IF THE COURT FINDS,
24 AFTER AN IN CAMERA HEARING, THAT THE PARTY SEEKING DISCOVERY OR THE
25 PROPONENT OF THE EVIDENCE HAS SHOWN THAT THE EVIDENCE IS NOT
26 OTHERWISE AVAILABLE, AND THAT THE NEED FOR THE EVIDENCE
27 SUBSTANTIALLY OUTWEIGHS THE INTEREST IN PROTECTING CONFIDENTIALITY.

1 (12) ALL OF THE FOLLOWING APPLY TO THE DISCLOSURE OF A
2 MEDIATION COMMUNICATION:

3 (A) IF THE DISCLOSURE IS UNDER AN EXCEPTION UNDER SUBSECTION
4 (9), ONLY THE PORTION OF THE COMMUNICATION NECESSARY FOR THE
5 APPLICATION OF THE EXCEPTION MAY BE DISCLOSED.

6 (B) DISCLOSURE UNDER SUBSECTION (11) DOES NOT RENDER THE
7 MEDIATION COMMUNICATION SUBJECT TO DISCLOSURE FOR ANOTHER PURPOSE.

8 (C) EVIDENCE OR INFORMATION THAT IS OTHERWISE ADMISSIBLE OR
9 SUBJECT TO DISCOVERY DOES NOT BECOME INADMISSIBLE OR PROTECTED FROM
10 DISCOVERY SOLELY BECAUSE OF ITS DISCLOSURE OR USE IN MEDIATION.

11 Sec. 4903. (1) An action alleging medical malpractice ~~shall~~
12 **MUST** be mediated pursuant to ~~EVALUATED AS PROVIDED IN~~ this chapter.

13 (2) The judge to whom an action alleging medical malpractice
14 is assigned or the chief judge shall refer the action to ~~mediation~~
15 **CASE EVALUATION** by written order ~~not less than~~ **WITHIN** 91 days after
16 ~~the filing of the answer or answers~~ **ARE FILED**.

17 (3) An action referred to ~~mediation pursuant to~~ **CASE**
18 **EVALUATION UNDER** subsection (2) shall ~~shall~~ **MUST** be heard by a ~~mediation~~
19 panel selected pursuant to ~~UNDER~~ section 4905.

20 Sec. 4905. (1) A ~~mediation~~ **CASE EVALUATION** panel shall ~~shall~~ **MUST** be
21 composed of 5 voting members, 3 of whom shall ~~shall~~ **MUST** be licensed
22 attorneys, 1 of whom shall ~~shall~~ **MUST** be a licensed or registered health
23 care provider selected by the defendant or defendants, and 1 of
24 whom shall ~~shall~~ **MUST** be a licensed or registered health care provider
25 selected by the plaintiff or plaintiffs. If a defendant is a
26 specialist, the health care provider members of the panel shall
27 **MUST** specialize in the same or a related, relevant area of health

1 care as the defendant.

2 (2) Except as otherwise provided in subsection (1), the
3 procedure for selecting ~~mediation~~ panel members and their
4 qualifications ~~shall be~~ **IS** as prescribed by the Michigan court
5 rules or local court rules.

6 (3) A judge may be selected as a member of a ~~mediation~~ panel ~~7~~
7 but ~~may~~ **SHALL** not preside at the trial of ~~any~~ **AN** action in which he
8 or she served as a ~~mediator~~. **AN EVALUATOR.**

9 (4) The grounds for disqualification of a ~~mediator~~ **AN**
10 **EVALUATOR** are the same as ~~that~~ **THOSE** provided in the Michigan court
11 rules for the disqualification of a judge.

12 Sec. 4907. (1) The court shall designate the clerk of the
13 court, the court administrator, the assignment clerk, or some other
14 person to serve as the ~~mediation~~ **ADR** clerk.

15 (2) The ~~mediation~~ **ADR** clerk shall set a time and place for the
16 ~~mediation~~ **CASE EVALUATION** hearing and send notice to the ~~mediators~~
17 **EVALUATORS** and the attorneys of record at least 28 days before the
18 date set for the ~~mediation~~ **CASE EVALUATION** hearing.

19 ~~Adjournments of mediation hearings shall be granted only~~
20 **THE COURT SHALL ONLY GRANT AN ADJOURNMENT OF A CASE EVALUATION**
21 **HEARING** for good cause, in accordance with the Michigan court
22 rules.

23 Sec. 4909. (1) Within 14 days after the mailing of the notice
24 of the ~~mediation~~ **CASE EVALUATION** hearing, each party shall submit
25 payment to the ~~mediation~~ **ADR** clerk of a ~~mediation~~ **CASE EVALUATION**
26 fee of \$75.00 in the manner specified in the notice of the
27 ~~mediation~~ **CASE EVALUATION** hearing. However, if a judge is a member

1 of the panel, the fee ~~shall be~~ **IS** \$50.00. Only a single fee is
 2 required of each party, even if there are counterclaims, cross-
 3 claims, or third-party claims. The ~~mediation-ADR~~ clerk shall
 4 arrange payment to the ~~mediators-~~**EVALUATORS**.

5 (2) If a claim is derivative of another claim, the claims
 6 ~~shall~~ **MUST** be treated as a single claim, with 1 fee to be paid and
 7 a single award made by the ~~mediators-~~**EVALUATORS**.

8 (3) ~~In the case of~~ **IF THE ACTION ALLEGES** multiple injuries to
 9 members of a single family, the plaintiffs may elect to treat the
 10 action as involving 1 claim, with the payment of 1 fee and the
 11 rendering of 1 ~~lump sum~~ **LUMP-SUM** award to be accepted or rejected.
 12 If such an election is not made, **THE PLAINTIFFS SHALL PAY** a
 13 separate fee ~~shall be paid for~~ each plaintiff ~~and the mediation~~
 14 panel shall ~~then~~ make separate awards for each claim, which may be
 15 individually accepted or rejected.

16 Sec. 4911. (1) At least 7 days before the ~~mediation-~~**CASE**
 17 **EVALUATION** hearing date, each party shall submit to the ~~mediation~~
 18 **ADR** clerk 5 copies of the documents pertaining to the issues to be
 19 ~~mediated-~~**EVALUATED** and 5 copies of a concise brief or summary
 20 setting forth ~~that~~ **THE** party's factual or legal position on issues
 21 presented by the action. In addition, **THE PARTY SHALL SERVE** 1 copy
 22 of each ~~shall be served on~~ each attorney of record.

23 (2) Failure to submit the materials to the ~~mediation-ADR~~ clerk
 24 as prescribed in subsection (1) ~~shall subject~~ **SUBJECTS** the
 25 offending party to a \$60.00 penalty to be paid at the time of the
 26 ~~mediation-~~**CASE EVALUATION** hearing and distributed equally among the
 27 ~~mediators-~~**EVALUATORS**.

1 Sec. 4913. (1) A party has the right, but is not required, to
2 attend a ~~mediation~~**CASE EVALUATION** hearing. If scars,
3 disfigurement, or other unusual conditions exist, they may be
4 demonstrated to the ~~mediation~~ panel by a personal appearance;
5 however, testimony ~~shall~~**MUST** not be taken or permitted of any
6 party.

7 (2) The Michigan rules of evidence ~~shall~~**DO** not apply before
8 ~~the mediation~~**A** panel. Factual information ~~having~~**THAT HAS** a
9 bearing on damages or liability ~~shall~~**MUST** be supported by
10 documentary evidence, if possible.

11 (3) Oral presentation ~~shall be~~**IN A CASE EVALUATION HEARING IS**
12 limited to 15 minutes per side unless multiple parties or unusual
13 circumstances warrant additional time. The ~~mediation~~ panel may
14 request information on applicable insurance policy limits and may
15 inquire about settlement negotiations, unless a party objects.

16 (4) Statements by the attorneys and the briefs or summaries **IN**
17 **A CASE EVALUATION** are not admissible in any subsequent court or
18 evidentiary proceeding.

19 Sec. 4915. (1) Except as otherwise provided in subsection (2),
20 within 14 days after the ~~mediation~~**CASE EVALUATION** hearing, the
21 panel shall make an evaluation and notify the attorney for each
22 party of its evaluation in writing. The evaluation ~~shall~~**MUST**
23 include a specific finding on the applicable standard of care. If
24 an award is not unanimous, the evaluation ~~shall~~**MUST** so indicate.

25 (2) If the panel unanimously determines that a complete action
26 or defense is frivolous as to any party, the panel shall so state
27 as to that party. If the action proceeds to trial, the party who

1 has been determined to have a frivolous action or defense shall
2 post a cash or surety bond, approved by the court, in the amount of
3 \$5,000.00 for each party against whom the action or defense was
4 determined to be frivolous. If judgment is entered against the
5 party who posted the bond, the bond ~~shall~~**MUST** be used to pay all
6 reasonable costs incurred by the other parties and any costs
7 allowed by law or by court rule, including court costs and
8 reasonable attorney fees.

9 (3) ~~The~~**A CASE** evaluation ~~shall~~**MUST** include a separate award
10 as to each cross-claim, counterclaim, or third-party claim that has
11 been filed in the action. For the purpose of this subsection, all
12 such claims filed by any 1 party against any other party ~~shall be~~
13 **ARE** treated as a single claim.

14 Sec. 4917. (1) Each party shall file a written acceptance or
15 rejection of ~~the mediation~~**A** panel's evaluation with the ~~mediation~~
16 **ADR** clerk within 28 days after service of the panel's evaluation.
17 The failure to file a written acceptance or rejection within the 28
18 days constitutes acceptance.

19 (2) A party's acceptance or rejection of ~~the~~**A** panel's
20 evaluation ~~shall~~**MUST** not be disclosed until the expiration of the
21 28-day period, at which time the ~~mediation~~**ADR** clerk shall send a
22 notice indicating each party's acceptance or rejection of the
23 panel's evaluation.

24 (3) In ~~mediations~~**CASE EVALUATIONS** involving multiple parties,
25 the following rules apply:

26 (a) Each party has the option of accepting all of the awards
27 covering the claims by or against that party or of accepting some

1 and rejecting others. However, as to any particular opposing party,
2 the party shall either accept or reject the evaluation in its
3 entirety.

4 (b) A party who accepts all of the awards may specifically
5 indicate that he or she intends the acceptance to be effective only
6 if all opposing parties accept. If this limitation is not included
7 in the acceptance, an accepting party is considered to have agreed
8 to entry of judgment as to that party and those of the opposing
9 parties who accept, with the action to continue between the
10 accepting party and those opposing parties who reject.

11 (c) If a party makes a limited acceptance under subdivision
12 (b) and some of the opposing parties accept and others reject, for
13 the purposes of the cost provisions of section 4921, the party who
14 made the limited acceptance is considered to have rejected as to
15 those opposing parties who accept.

16 Sec. 4919. (1) If all the parties accept ~~the mediation~~ **A**
17 panel's evaluation, **THE COURT SHALL ENTER** judgment ~~shall be entered~~
18 in that amount, which ~~shall include~~ **INCLUDES** all fees, costs, and
19 interest to the date of judgment.

20 (2) In ~~a case involving~~ **AN ACTION THAT INVOLVES** multiple
21 parties, **THE COURT SHALL ENTER** judgment ~~shall be entered as to~~
22 those opposing parties who have accepted the portions of the
23 evaluation that apply to them.

24 (3) Except as otherwise provided in this chapter for multiple
25 parties, if all or part of the evaluation of the ~~mediation~~ panel is
26 rejected, the action ~~shall~~ **MUST** proceed to trial.

27 (4) The ~~mediation~~ **ADR** clerk shall place a copy of the

1 ~~mediation~~-**A CASE** evaluation and the parties' acceptances and
2 rejections in a sealed envelope for filing with the clerk of the
3 court. In a nonjury action, the envelope ~~shall~~-**MUST** not be opened
4 and the parties shall not reveal the amount of the evaluation until
5 the judge has rendered judgment.

6 (5) If the ~~mediation~~-**CASE** evaluation of an action pending in
7 the circuit court does not exceed the jurisdictional limitation of
8 the district court, the ~~mediation~~-**ADR** clerk shall so inform the
9 trial judge.

10 Sec. 4921. (1) If a party has rejected an ~~a~~-**A CASE** evaluation
11 and the action proceeds to trial, ~~that~~-**THE** party shall pay the
12 opposing party's actual costs unless the verdict is more favorable
13 to the rejecting party than the ~~mediation~~-**CASE** evaluation. However,
14 if the opposing party has also rejected the **CASE** evaluation, ~~that~~
15 **THE OPPOSING** party is entitled to costs only if the verdict is more
16 favorable to ~~that~~-**THE OPPOSING** party than the ~~mediation~~-**CASE**
17 evaluation.

18 (2) For the purpose of subsection (1), a verdict ~~shall~~-**MUST** be
19 adjusted by adding to it assessable costs and interest on the
20 amount of the verdict from the filing of the complaint to the date
21 of the ~~mediation~~-**CASE** evaluation. After this adjustment, the
22 verdict is considered more favorable to a defendant if it is more
23 than 10% below the evaluation, and is considered more favorable to
24 the plaintiff if it is more than 10% above the evaluation.

25 (3) For the purpose of this section, actual costs include
26 those costs taxable in any civil action and a reasonable attorney
27 fee as determined by the trial judge for services necessitated by

1 the rejection of the ~~mediation~~**CASE** evaluation.

2 (4) ~~Costs~~**THE COURT** shall not be awarded ~~AWARD COSTS UNDER~~
3 **THIS SECTION** if the ~~mediation~~**CASE EVALUATION** award was not
4 unanimous.

5 Sec. 4923. A **COURT SHALL NOT DELAY A** trial date scheduled in
6 advance of the date set for a ~~mediation~~**CASE EVALUATION** hearing
7 ~~shall not be delayed~~ because the ~~mediation~~**CASE EVALUATION** hearing
8 was not held, unless the court finds that the interests of justice
9 ~~are~~**WILL BE** served by the ~~mediation~~**CASE EVALUATION** proceeding.
10 This section ~~shall~~**DOES** not apply if the ~~mediation~~**CASE EVALUATION**
11 hearing was adjourned under section 4907(3).

12 Enacting section 1. Chapter 49A of the revised judicature act
13 of 1961, 1961 PA 236, MCL 600.4951 to 600.4969, is repealed.