



**PRACTICE DIRECTIONS ON
COURT CONNECTED ADR
(UNDER HIGH COURT CIVIL
PROCEDURE AMENDMENT
RULES 2020 CI 133)**

2024



COMPENDIUM OF PRACTICE DIRECTIONS &
ADMINISTRATIVE GUIDELINES IN GHANA
2024

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Practice Directions on Award of Cost:

- H/L Justice Dorothy Kingsley Nyinah
- H/H Ellen Ofei Ayeh
- Mr. Charles Idun

Practice Directions on Adjournments and Adoption of Proceedings in Part Heard Trials in Courts:

- H/L Justice Richard Adjei-Frimpong (JSC)
- H/L Justice Yaw Darko Asare (JSC)
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- H/H Afia Owusuaa Appiah

Practice Directions on Commercial Pre-Trial Settlement under High Court Civil Procedure Amendment Rules 2020, C. I. 133:

- H/L Justice Angelina Mensah-Homiah (JA)
- H/L Justice Jerome Noble Nkrumah (JA)
- Mr. Alex Nartey

Practice Directions on Court Connected ADR under High Court Civil Procedure Amendment Rules 2020, C. I. 133:

- H/L Justice Koomson (JSC)
- H/L Justice Angelina Mensah-Homiah (JA)
- H/L Justice Jerome Noble Nkrumah (JA)
- Mr. Alex Nartey

Practice Directions in respect of Prerogative Writs involving Chiefs/Chieftaincy Issues

- H/L Justice Samuel Alan Brobbey (JSC) (Rtd)
- H/L Justice Philip Bright Mensah (JSC)
- H/H Angela Attachie

Practice Directions on Plea Bargaining 2024

- H/L Justice Afia Serwaa Asare-Botwe (JA)
- H/L Justice Marie-Louise Simmons (J)
- Ms. Evelyn Keelson

Practice Directions for Determination of Applications for Interlocutory Injunctions to Restrain Burial of a Deceased Person

- H/L Justice Francis Obiri (J)

Administrative Guidelines on Procedures for Online Publication of Judgments and Rulings:

- H/L Justice Jennifer Abena Dadzie (JA)
- H/L Justice Barbara Tetteh-Charway (J)

Administrative Directions on Courtroom Proceedings:

- H/L Justice Jennifer Abena Dadzie (JA)
- H/L Justice Emmanuel Lodoh (J)
- H/L Justice Tandoh Aboagye (J)
- Mrs. Patricia Naa Afarley Dadson
- Mr. Dennis Adjei Dwomoh

Administrative Directions to aid Expeditious Disposal of Trials by Jury

- H/L Justice Afia Serwaa Asare-Botwe (JA)
- H/L Justice Frederick Tetteh (J)
- H/L Justice Lydia Osei Marfo (J)

Administrative Guidelines on using the Supreme Court Registry

- H/H Ellen Ofei Ayeh

Administrative Guidelines on the Generation of Suit Numbers:

- Mr. John K. Bannerman
- Mr. Papa Kwasi Maisie

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- Mr. Dennis Adjei Dwomoh (ESQ)
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- Miss Judith Lois Abena Addo

a. Long Title

A Direction to provide guidelines for effective case planning, direction and resolution of disputes before the High Court and Circuit Courts.

b. Citation

This practice direction may be cited as **Practice Direction On Court Connected ADR under High Court Civil Procedure Amendment Rules 2020, C. I. 133, 2024**

c. Preamble

- Being guided by section 72 of the Courts Act 1993, Act 459, where the courts are mandated to *promote reconciliation, encourage and facilitate the settlement of disputes in an amicable manner between and among persons over whom the court has jurisdiction,*
- Mindful of sections 63 and 64 of the Alternative Dispute Resolution Act 2010, Act 789, which permits parties to agreements to submit disputes arising to mediation and powers granted the court to facilitate resolution of disputes via mediation, respectively, and,
- Further guided by Order 1 Rule1 [2] of the High Court [Civil Procedure] Rules, C. I. 47, which enjoins the courts to interpret and apply the rules in order *to achieve speedy and effective justice, avoid delays and unnecessary expense, while ensuring that as far as possible, all matters in dispute between parties may be completely, effectively and finally determined* and,
- Taking cognizance of Order 32 of C.I. 47 as amended by C.I. 133, which makes it optional for parties to seek settlement by ADR, while making it mandatory for the

court for the court to enquire from parties if they wish to settle their disputes by ADR.

d. APPLICATION

These Directions shall apply to only the High Courts and Circuit Courts.

No case involving Government of Ghana, Ministries, Departments or Agencies shall be referred for external mediation.

1. At the hearing of an Application for Directions, the Judge shall enquire from the parties if they are willing to settle their case by ADR or other means.[**Order 32 Rule 1 (1A) C.I. 133**]

CONSENT TO MEDIATION

2. Where the parties agree to have their case settled by means of ADR or other means [**Order 32 Rule 5 (1A) C.I. 133**], the Judge shall record this and present parties with **Form No. 1, Part A** of which shall contain an Agreement to Pre-trial Settlement. This is to be signed by the parties and their witnesses where court connected ADR facilities are available.

NOMINATION AND REFERRAL TO MEDIATOR

3. The Judge shall next present the parties with the Courts Register of qualified Mediators/Arbitrators.
4. The parties may signify their preference of Mediator/Arbitrators by ticking and signing against their preference on **Part B Form No. 1** to indicate their preference in order of priority. *In Circuit Courts with ADR officers attached to the court, the Judge shall refer the parties to the ADR Officer attached to the court who shall guide the parties with respect to matters ' above on Part B Form No. 1 which shall be in duplicate. The ADR Officer shall forward a copy of the completed Form No. 1 to the Registrar of the court, while retaining the other copy.*

5. In cases of specialized nature, parties may also request the Judge to nominate a Mediator from the requisite institute for them. The Judge in this case shall record this request and shall proceed to sign against the name of the agreed Mediator.

ISSUES FOR RESOLUTION

6. In the High Court, the Judge shall next set down the issues in the dispute to be settled by the Mediator/Arbitrator in **Form No. 2**.

- a) In Circuit and District Courts with ADR officers, the parties shall next, in duplicate, set down briefly and numbered, a Summary of Issues in dispute to be settled by the Mediator in Form No. 2. This Summary of Issues shall bear the full names of the parties, physical location, Ghana Post GPS address, postal address as well as email and telephone numbers of the parties and counsel as the case may be. Form No. 2 shall be delivered to the ADR Officer who shall keep a copy and forward the other copy to the Registrar.

7. The Judge shall stay proceedings for a period of one month and order **Form No. 1** and **Form No. 2**, [as the case may demand], to be sent to the Registrar of the court at the close of the day's proceedings.

8. The Registrar of Circuit and District Courts with ADR officers shall transmit the forms to the selected Mediator/Arbitrator[s] together with a formal Notice of Appointment.

- a) The ADR Unit of the JSG shall periodically compile a list of persons qualified as Mediators/Arbitrators.

PROCEEDINGS BEFORE THE MEDIATOR/ARBITRATOR

9. The Mediator shall fix date and time in addition to naming a place, including a place within the court premises, for sessions and shall notify the Registrar of the Court by

email, SMS text and/or telephone call at least 7 days regarding the date fixed before the mediation.

10. As with all mediation sessions, the Mediator shall at the initial session, read and explain to the parties, the rules and protocols relating to mediation under the ADR Act 2010, Act 798.

11. Mediation proceedings shall commence and conclude within 30 days from date of referral.

12. The Mediator may seek extension of time by letter to the Judge at least 10 days prior to the expiration of the 30 days, should the circumstances so require

13. The Judge shall not grant extension beyond 14 days of the original expiry date and with special reference to **Order 32 Rule 5 (1C) of C.I. 133**.

14. Where there is the need for the appointment of an expert to provide resolution of primary facts in the suit, whether for reconciliation of accounts in dispute or settlement of boundaries on site plans, the Mediator/Arbitrator shall with the consent of the parties, forward a request for such appointment to the Judge.

15. It is the Judge who shall make the order following hearing of parties and costs and fees and in it, He/she shall set the time within which such expert record or report shall be presented to the Registrar of the Court for onward transmission to the Mediator/Arbitrator.

16. The Registrar of the Court on receipt of such Report and transmission to the mediator, shall keep a record of said transmission on the court docket.

17. Upon conclusion of the mediation process the parties shall execute Terms of Settlement to be witnessed by their Counsel pursuant to **Order 32 Rule 5 (1D) (a) C.I. 133**. The Mediator shall also append his/her signature as the Presiding Mediator. The

signed and witnessed terms of Settlement shall be on **Form No. 4** and shall be in four copies when submitted manually.

There is in existence a Settlement Agreement Form for use under the Court Connected ADR Program which shall be used wherever CCADR facilities are available.

18. Within 3 days of conclusion of mediation, the Mediator shall forward **Form No. 4** to the Registrar of the Court with a cover letter.

19. The Registrar shall stamp the date and time of receipt of said **Form No. 4** and provide each of the parties with a certified copy of the parties Terms of Settlement found in **Form No. 4**. The Registrar shall also at the time of delivery of the Terms of Settlement, inform the parties to appear before the Judge for Terms of Settlement to be adopted on a date not later than 7 days after the said delivery pursuant to Order **32 Rule 5 (1D) (b) C.I.133**

FAILURE OF SETTLEMENT

20. In the situation where the settlement process has failed, the Mediator shall make a Ruling certifying Failure of Settlement on **Form No. 3** and place same before the Registrar. The Registrar shall stamp the date and time of receipt and shall place **Form No. 3** before the Judge.

21. The Judge shall record the failure of settlement, and proceed in accordance with Orders 32, 33, 34, of the rules of court. Same procedure as would occur when at the Directions stage, the parties opt not to settle their dispute via ADR shall apply.

INTERPRETATION

In this direction, unless the context otherwise requires;

- a. **'Agreement'**: a promise or commitment given by one party to another party.
- b. **'Arbitration'**: a procedure in which a dispute is submitted, by agreement of the parties, to one or more arbitrators who make a binding decision on the dispute.
- c. **'Arbitrator'/Mediator**: a neutral third party officially chosen to oversee and settle a dispute outside the court.
- d. **'Court'** means the High Court, the Circuit Court or the District Court.
- e. **'Judge'**: includes Magistrate.
- f. **'Mediation'**: the intervention of a neutral third person helping the parties to a dispute find solution.
- g. **'Parties'**: refers to applicant/respondent, plaintiff/defendant or petitioner/respondent, claimant/respondent as the case may be.

Date for Entry into force

This Practice Direction comes into force on the ...day of....2024.

**GERTRUDE ARABA ESAABA SACKY TORKORNOO
CHIEF JUSTICE OF THE REPUBLIC OF GHANA**

FORM NO.1

IN THE HIGH/CIRCUIT COURT OF JUSTICE

IN THE MATTER OF

PLAINTIFF

AND

DEFENDANT

Suit No.....

PART A

AGREEMENT TO PRE-TRIAL SETTLEMENT

We the undersigned and parties to this suit, do thisday of20..... agree to a pre-trial settlement of our Dispute. We further agree to have our dispute settled via Mediation.

Plaintiff.....

Witness.....

Defendant

Witness

PART B

NOTICE OF APPOINTMENT OF MEDIATOR AND REFERRAL TO MEDIATION

TO:

THE PLAINTIFF AND DEFENDANT

TAKE NOTICE THAT:

3. The above cause scheduled for mandatory mediation.

4. You are required to state in order of priority your preference of two Mediators from the list below

A.....

B.....

C.....

5. You are required to further a Summary of Issues in prescribed Form 2 within three (3) days of the date on this Referral to the Mediator.

Date at Day of20

.....

JUDGE

TO: ADMINISTRATOR/REGISTRAR

Copied to the parties (and counsel if represented)

FORM NO.2

IN THE HIGH/CIRCUIT COURT OF JUSTICE

IN THE MATTER OF

PLAINTIFF

AND

DEFENDANT

Suit No.....

SUMMARY OF ISSUES

(To be provided to the Mediator by the Parties before the mediation session)

1. Issues in dispute

The Plaintiff (or Defendant) state that the above issues are in dispute and remain to be resolved.

2. Address of service

Name, physical and postal address, email and telephone number of parties.

Date..... Party's

Signature

FORM NO. 3

IN THE HIGH/ CIRCUIT COURT OF JUSTICE

IN THE MATTER OF

PLAINTIFF

AND

DEFENDANT

Suit No.....

Certificate of Non Settlement

(To be signed by the Mediator at the close of a failed mediation)

This is to certify that the Mediation Session has closed with non-settlement of the dispute.

Date

Mediator

To the Administrator/ Registrar

FORM NO. 4

IN THE HIGH/CIRCUIT COURT OF JUSTICE

IN THE MATTER OF

PLAINTIFF

AND

DEFENDANT

Suit No.....

SETTLEMENT AGREEMENT

We, the undersigned parties to this action have settled our dispute/differemnces as

Follows:

- 1.
- 2.

Dated

.....

Plaintiff

.....

Defendant

.....

Plaintiff's Lawyer

.....

Defendant's Lawyer

.....

Mediator