

DANE COUNTY BAR ASSOCIATION
CASE MEDIATION PROGRAM

GUIDELINES FOR CONDUCT OF MEDIATION

The following guidelines apply to mediation conducted pursuant to the Dane County Bar Association Case Mediation Program:

1. The Case Mediation Program is a service sponsored by the Dane County Bar Association. Parties participating in the Case Mediation Program and their counsel should endeavor to make the work of the program and the individual mediators as efficient and productive as possible, exercising good faith, common courtesy and a professional demeanor at all times.
2. When requesting a panel from which to pick a mediator, the parties shall provide adequate information concerning the nature of the case and the parties involved so that an appropriate panel may be selected.
3. All parties should promptly pay the required \$75 fee to the Case Mediation Program when ordered by the court or upon agreement to mediate, so as to facilitate prompt issuance of a panel and coordinated file administration by the Case Mediation Program.
4. In the absence of conflicts of interest, counsel for the parties shall endeavor to choose a mediator from the initial panel of mediators provided. The program administrator will offer no more than two (2) panels of mediators per case.
5. The mediator should determine and reveal all monetary, contractual, psychological, emotional, associational, authoritative or any other affiliations that he or she has with any of the parties to a dispute or their counsel that might cause a conflict of interest or affect the perceived or actual neutrality of the mediator.
6. Upon selection of a mediator, all parties, their counsel and the mediator shall sign an Agreement to Mediate in a form provided by the Case Mediation Program.
7. The parties should not expect mediation to last more than 3 to 4 hours. If the mediator intends to charge the parties a professional fee in the event the mediation session requires more than 3 or 4 hours of the mediator's time, the mediator must disclose this intention and make appropriate arrangements with the parties in advance of the mediation session.
8. The mediator determines the location of the mediation and she/he may charge reasonable travel costs.
9. The mediator must maintain impartiality toward all parties. Impartiality means freedom from favoritism or bias either by word or by action, and a commitment to serve all parties as opposed to a single party. It also means not playing an adversarial role in the process of dispute resolution.

- 10.** At least three (3) business days in advance of the scheduled mediation, the plaintiff in each case should provide a copy of the relevant pleadings to the mediator, and each party should provide a concise summary of the case, relevant portions of any depositions and copies of relevant documents for review by the mediator. Each party should strive to insure that the mediator is required to spend no more than one hour reviewing the party's submissions prior to mediation. Due care should be taken to submit only relevant testimony and documents so that the mediator does not have to search through whole depositions or stacks of documents to find relevant information.
- 11.** Prior to mediation, each party should inform the mediator of the status of settlement negotiations leading to the mediation. Each party may submit further confidential information regarding his or her settlement position. The mediator shall hold such information in confidence unless the party consents to disclosure.
- 12.** All proceedings are confidential. Information received by the mediator should not be revealed to parties outside of the negotiations. The mediator shall advise all parties during caucuses that any information will not be shared with other parties unless the revealing party consents to disclosure.
- 13.** During the mediation session, the basic rules of common courtesy should apply. One person speaks at a time, there are no interruptions and each party speaks for him or herself. The mediator facilitates communication, provides a setting for problem solving and maintains order. The mediator is not empowered to impose a judgment or fine or to enforce a settlement or ruling.
- 14.** Upon completion of a mediation, all agreements should be reduced to writing. It is recommended that a Memorandum of Understanding be drafted by the parties and signed before the end of the mediation session. The mediator may draft a letter or Memorandum of Understanding setting forth any settlement but will not draft any final stipulations, orders or agreements. The parties should accept responsibility for preparing a stipulation and/or settlement agreement for review and signature by all involved.
- 15.** If the parties are unable to reach an agreement on all issues, the parties should independently report to the Court on any progress that was made and remaining issues after mediation.