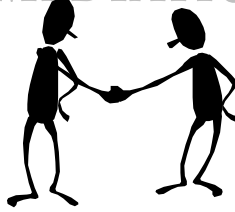


MEDIATION



Metropolitan Court - Civil Division

This pamphlet is general in nature and is not designed to give legal advice. The Court does not guarantee the legal sufficiency of this pamphlet or that it meets your specific needs. Also, as the law is constantly changing, the information in this pamphlet may not be current. Therefore, you may wish to seek the advice and assistance of an attorney.

WHAT IS MEDIATION?

If you are involved in a lawsuit at the Metropolitan Court, you may be able to resolve it by participating in **Mediation**.

Mediation is one way for people to settle disputes. In **Mediation**, the people involved in a dispute talk about solutions that might work for them. The people who help them work out a solution are called **Mediators**.

Mediators do not decide who's right or wrong or who wins or loses. The purpose of a **Mediation** is to find solutions that meet the needs of the people involved in the dispute.

*Mediations can last between
30 minutes and 2 hours.*

WHAT CAN MEDIATION DO FOR ME?

Mediation can help you resolve the problem that has brought you to Court. The best resolution to any problem is usually the one worked out by the people involved.

Through **Mediation**, people often arrive at a resolution more quickly than by going to **Trial** and asking a **Judge** and/or a **Jury** to decide their case.

Mediation is an informal process, although the **Mediator** does provide structure. Most people find it a comfortable and productive process. Many people prefer to take an active part in solving their own problem, rather than waiting for a **Judge** and/or **Jury** to impose a solution.

WHO WILL ATTEND THE MEDIATION?

Typically, only the parties involved in the lawsuit and their attorneys, if any, attend the **Mediation**. Persons attending the **Mediation** should have the authority to negotiate and enter into a settlement agreement (if one is reached). *Please do not bring witnesses or children to the Mediation.*

If you want to bring anyone else who is not a party to the lawsuit to the Mediation, it must be okay with the other party. Everyone has to agree about who will attend the Mediation before it takes place.

Sometimes an attorney will attend a **Mediation** without a client when the client is a large corporation, collection agency, or insurance company. Some people will choose to attend **Mediation** without their attorney. They will be given the opportunity to consult with their attorney before any potential Agreement is signed.

WHO WILL BE THE MEDIATOR(S)?

The Metropolitan Court's Mediation Division has a pool of approximately 100 professionally trained **Mediators** who offer their services free of charge. The **Mediators** are not employees of the Court. They do not take sides and they know how to deal with situations that can sometimes be tense or emotional.

Mediators **DO NOT** give legal advice, provide legal services, decide who's right or wrong, or decide who wins or loses.

HOW DOES MY CASE GET TO MEDIATION?

After the **Defendant** files an *Answer*, the Mediation Division reviews the case. If the case is selected, a **Mediation** is scheduled and letters are mailed to the parties.

You can also request **Mediation** by writing "request mediation" either on the *Complaint* form or *Answer* form when you file it with the Court Clerk. If you forget to write it on the form, you can also call the Mediation Division.

The **Judge** who is assigned to your lawsuit may also refer your case to **Mediation**.

If **Mediation** is scheduled on a date or time that won't work for you, please call the Mediation Division. **Mediation** can be rescheduled for a date and time that works for both parties.

REMEMBER, MEDIATION IS A VOLUNTARY PROCESS. IF YOU DON'T WANT TO HAVE A MEDIATION, CALL THE MEDIATION DIVISION AND IT WILL BE CANCELED.

DO I HAVE TO BE WILLING TO COMPROMISE?

No. Sometimes agreements will include compromises, but not always.

Even if the parties don't reach an agreement through **Mediation**, they've had the opportunity to talk about the situation and share their perspective about the dispute. It may help you be better prepared to go to Court.

WHAT SHOULD I BRING TO THE MEDIATION?

Bring any documents – statements, invoices, photographs, etc. – that are related to, or support your claim or defense.

HOW CAN I PREPARE MYSELF FOR THE MEDIATION?

Think about what you want to discuss and what's important to you. Think about the following questions:

What is the best result I can hope for?

What is the worst result that could happen?

What might be a sensible, realistic and fair resolution?

WHAT WILL HAPPEN AT THE MEDIATION?

The **Mediators** and the parties will sit around a table in one of the Metropolitan Court's Mediation Conference Rooms. You and the other party will have the opportunity to talk about what's happened and what's important to you. You'll talk about different ways the case might be resolved. The **Mediators** will ask questions, try to help clarify issues, and try to make sure each party is understood and acknowledged.

ANY AGREEMENT YOU REACH IN MEDIATION IS VOLUNTARY. YOU WON'T BE REQUIRED TO AGREE TO ANYTHING UNLESS YOU WANT TO.

Whatever is said in **Mediation** (offers, etc.) cannot be used as evidence in Court.

Before entering into a settlement agreement, you may want to think about it for a day or two. You may want to talk with an attorney, your spouse, a family member, or friend, etc. before you make a final decision.

If you resolve your case through **Mediation** an Agreement will be signed by all parties and will become part of the case file unless the parties want the Agreement to be confidential. The case will not have to proceed to **Trial**, and a Stipulation of Dismissal will be signed.

WHAT IF THE OTHER PARTY DOES NOT ABIDE BY THE AGREEMENT?

Most times, people follow through on their Mediated Agreements. If the Mediated Agreement is not followed, call the Mediation Division. We will follow up and try to salvage the Agreement. If that doesn't work, a party

may, within five (5) years of the Dismissal, file a ***Motion for Judgment and Statement of Non-Compliance***, together with a copy of the ***Mediated Agreement*** with the Court. The Court will reopen the case. The other party (who has not followed the Agreement) will have fifteen (15) days (after service of the Motion) to respond and request a hearing be set before the assigned **Judge**. If the party does not respond or request a hearing, the Court may enter a Judgment against the party who did not follow the Agreement without holding a hearing.

WHAT IF MEDIATION DOES NOT RESOLVE THE CASE?

The case will be sent on to the assigned **Judge** and set for hearing or **Trial** (if one has not already been set). The **Mediators** do not report to the **Judge** about what happened in the **Mediation**. They report that a **Mediation** was held, but no agreement was reached.

IF YOU HAVE ANY OTHER QUESTIONS ABOUT MEDIATION, YOU CAN CALL THE COURT'S MEDIATION DIVISION AT 841-8167.

OTHER PAMPHLETS AND FORMS ARE AVAILABLE IN CUSTOMER SERVICE ON THE 1ST FLOOR OF THE COURT, IN THE SELF-HELP CENTER, OR ON THE COURT'S WEBSITE.

Metropolitan
401 Lomas, NW
Albuquerque, NM 87102
(505) 841-8151

<http://metro.nmcourts.gov/> (Self Help Pamphlet No. SH-107; Created 2002; Revised 05/09; 8/15; 1/17) ©2009



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