

CIVIL MEDIATION INSTRUCTIONS IN MOTOR TORT CASES

1. Establishing a Mediation Conference Date and Completing Mediation: Within thirty (30) days from the date of the Order for Mediation, each party, through counsel, is **required to contact the mediator** to establish a mediation conference date. Failure to contact the mediator may result in a mediation date being scheduled without input from counsel or parties.

If the parties must reschedule or cancel the mediation conference, they must promptly notify the mediator of this change no later than two (2) business days prior to the scheduled date. Upon failing to give the required notice of postponement or cancellation of a mediation session, parties shall pay the mediator for two (2) hours of mediation time. Mediation conferences must be completed by the date set forth in the Order for Mediation.

2. Selection and Requests to Change Mediators: The mediator designated by the Court appears on the Order for Mediation. By agreement of all parties to the case, the Court appointed mediator named in the Order for Mediation may be replaced with a new mediator of the parties' choice within thirty (30) days from the date of the Order for Mediation. Parties must submit a written "Request to Substitute Mediator," substantially in the form set forth in MD Rule 17-202(g) to the Civil Mediation Program at the address below or by fax. (A sample request form can be found on the Court's website at <http://www.baltocts.state.md.us/civil/adr.htm>.) Mediators selected by the parties are not bound by the Court's fee schedule described below. See Rule 17-208(b).

Should any party and/or counsel determine there is a conflict with the mediator assigned by the Court, the parties shall notify the Civil Mediation Program, within thirty (30) days from the date of the Order for Mediation, or within a reasonable period after the conflict is known.

3. Mediation Fees: Payment for mediation services is due prior to or at the initial mediation session. The fee for the mediator designated by the court shall be no more than \$200.00 per hour. A minimum of two (2) hours of mediation will be billed for each case. The parties, by agreement, may extend the mediation beyond the two hours. During any extension of the mediation, the mediator may not increase his or her hourly rate for providing services relating to this action. See Rule 202 (e).

4. Attendance at Mediation: It is mandatory for all attorneys, parties, and parties' representatives having actual settlement authority to attend and participate in the mediation conference. Failure to attend and participate in the mediation may subject the parties and /or counsel to sanctions, including contempt or removal of the case from the trial docket.

5. Late and Failure to Appear Policy: If a party is going to be more than fifteen (15) minutes late with good reason to a mediation session, the party must inform the mediator; the mediator and on-time parties are required to wait for late parties for thirty (30) minutes before the mediation is cancelled. After the thirty (30) minutes, parties who have not arrived are considered as having failed to appear and are responsible for payment of the full two (2) hours of mediation.

6. Confidential Mediation Conference Statement: Parties must complete and send to the mediator the Confidential Mediation Conference Statement (CMCS) form, which is enclosed with the Order for Mediation, at least **five (5) days** prior to the scheduled mediation session. **Only** the Mediator shall have access to the CMCS. Parties should not exchange CMCS's or file it with the Court. The mediator **shall not** share the CMCS with the Court.

7. Confidentiality: The mediator shall maintain the confidentiality of all mediation communications and may not disclose or be compelled to disclose mediation communications in any judicial, administrative, or other proceeding, except as provided by statute. The parties may enter into a written agreement to maintain the confidentiality of all mediation communications consistent with applicable rule. See MD Rule 17 -105.

8. Exemption from Court Ordered Mediation: Any party may file a motion for exemption from mandatory mediation. The motion must be filed **within 60 days** of the date of the Order for Mediation, or provide good cause for later filing. Parties failing to appear at a scheduled mediation, without a court order granting exemption from mediation, may be subject to sanctions and/or payment of the full mediation fee. Any questions about a filed motion for exemption should be directed to the Office of Mediation at 410-396-7374. Copies of late filed motions should be directed to Judge Pamela J. White, ADR Supervisory Judge, in care of Ronna Jablow.

9. Opt-out of Pre-Trial Conference: If the parties complete mediation in accordance with the Order for Mediation entered in this case, then the pre-trial conference will be canceled upon the request of either party. In order to secure cancellation of the pre-trial conference, a party must submit a request for cancellation to the mediation director, contact information below, accompanied by a certification signed by the court-appointed mediator (with copies served upon opposing parties) attesting that mediation has occurred in accordance with the terms of the Court's order.

10. Settlement of a Case Prior to Mediation Session: If the case is dismissed or a settlement is reached with all parties as to all issues prior to the scheduled mediation, parties must notify the mediator, immediately, in writing.

11. Disposition of Mediation: Attorneys must complete an *Attorney Evaluation Form* immediately following the final mediation conference, and Mediators must complete an *ADR Data Sheet*. *All forms should be faxed or mailed to the Civil Mediation Program Coordinator within seven (7) days of the last mediation session.* (Forms may be found on the Court's website at <http://www.baltocts.state.md.us/civil/adr.htm>.)

Contact information for the Circuit Court for Baltimore City Civil Mediation Program:

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