

### **Mandatory participation once the parties agree to mediate**

Although the Mediation Program is voluntary, once the parties agree to participate, it becomes **MANDATORY** that they comply with the procedures set forth in the court's scheduling order or risk the imposition of sanctions. In particular, all parties and their counsel must attend all mediation sessions in person. If a party is not an individual, then a party representative with full authority to settle all appeals and cross-appeals must attend in person. In cases where insurance coverage may apply, a representative of each carrier with full settlement authority must attend in person.

### **Intake procedures and scheduling of the mediation process**

The mediation process commences as soon as possible after the filing of the *Notice of Appeal*, to save the parties as much money and time as possible in record and brief preparation. If the parties have indicated their agreement to mediate on the Mandatory Docketing Statement (MDS), or otherwise choose to participate in the Mediation Program, the Court will issue an order setting the date and time of the mediation, appoint a mediator and describe the court's requirements for participation, including providing the mediator with information and assuring that the appropriate individuals appear at the mediation. All questions should be directed to the Mediation Coordinator (the court's administrator in charge of the Mediation Program, including scheduling mediations).

### **Effect of mediation on the timing of the appellate process**

Participation in the Mediation Program does not affect the court schedule for preparation of the record or for briefing. Any requests for continuances or stays must be addressed to the court under the local rules. Neither the Mediation Coordinator nor the mediator may approve any continuance.

### **Additional ways to participate in the Mediation Program**

If the parties do not indicate in the MDS their agreement to participate in the Mediation Program, they may do so at a later time in the following ways:

**By agreement:** If at any point in the appeal process the parties decide to participate in the Mediation Program, counsel may contact the Mediation Coordinator to schedule mediation.

**By confidential request:** If a party would like to participate in the Program, but is reluctant to contact the other side, counsel may contact the Mediation Coordinator confidentially to discuss the case and request that she contact the other counsel to discuss the possibility of participating in the Program.

**By invitation of the court:** The Mediation Coordinator may contact counsel to invite parties to participate in the Mediation Program. Participation in the Program is

entirely voluntary and any contact initiated by the Mediation Coordinator is intended merely to inform counsel about the program and to offer assistance in settlement.

## **Mediation**

Mediation is an informal, ***confidential*** process in which a neutral party (the mediator) assists the parties to understand their own interests, the interests of the other parties, and the practical and legal realities they all face. The mediator helps the parties explore options and arrive at a mutually acceptable resolution of the dispute. The mediator does not resolve the dispute. The parties do.

## **The mediators**

The court has recruited to its panel experienced mediators and appellate specialists, based on their training, experience and performance. In addition, the court provides its mediators with intensive training in appellate mediation. The Mediation Coordinator matches mediators to specific disputes.

## **Mediator compensation**

Mediators will volunteer a **total** of four point five (4.5) hours of time for the mediation. This includes time spent to conduct pre- mediation conferences and to read and analyze materials provided by counsel in advance of the mediation and the time in the mediation session.

After a total of four point five (4.5) hours used in preparation and/or in mediation, mediators are permitted to charge the parties for additional mediation services rendered, at their hourly rate, provided all parties agree.

Mediators who intend to request compensation must notify counsel or the party of the policy and their hourly rate in the pre-mediation telephone conferences and provide written confirmation of the mediator and the parties' agreement regarding fees to counsel prior to the mediation.

Where the mediator anticipates exceeding one point five (1.5) hours of preparation time, reducing pro bono mediation hearing time to less than three hours, the mediator should discuss this expectation with counsel during the pre-mediation conference and confirm the resolution reached in the discussion to counsel in writing. If preparation time exceeds one point five (1.5) hours, the mediator should, at the outset of the mediation, inform the participants of the number of pro bono hours available for the mediation session.