

Mediation

The most commonly used ADR process is called "mediation." Mediation is a process in which the various parties in the dispute meet with a trained neutral person--the mediator--and work out a resolution with which they can live. Unlike resolution by a magistrate or judge in which one party generally wins while the other loses, in mediation, the parties themselves find options for resolving their matter. Parties voluntarily enter into settlement agreements. This means that no mediator will decide who is right or wrong, identify how a matter should be resolved, or otherwise take sides. The mediator's job is to help parties communicate, clarify the issues involved in the dispute, and find mutually beneficial solutions for the matter in dispute.

Resolving Your Dispute

At the time of filing, the Mecosta and Osceola County Circuit Court Alternative Dispute Resolution Clerk will provide each filer with a brochure from the Michigan Supreme Court State Court Administrative Office (Office of Dispute Resolution). It is called ["Resolving Your Dispute... Without Going to Trial."](#)

If you decide to try mediation on your own, or if you are ordered to try mediation, you and the other persons involved in the dispute have the right to select your own mediator. Some factors you should consider in selecting your own mediator include:

- ≈ the extent of the person's mediation training and continuing education;
- ≈ how much experience the person has had as a mediator;
- ≈ how quickly the mediator would be able to work with you;
- ≈ the mediator's fees and the services included;
- ≈ the type of mediation process used by the mediator.

If you are ordered to try mediation and you and the other party(ies) do not select a mediator on your own, the court will select one. Mediators on the Court's Domestic Mediator roster have completed a training program and have mediation experience.

When interviewing mediators in family matters, if you have any concern about domestic violence, you should immediately alert the mediator. The mediator will help you determine whether you should proceed with mediation, and if so, how to proceed to ensure your maximum safety.

Domestic Mediation

In domestic relations cases when a responsive pleading is received and filed, the parties are responsible to submit a Scheduling Conference Statement and Domestic Violence Screening Form with the Court. The Family Division Judge reviews the statement and determines if the matter is appropriate for mediation. The Judge may order the parties into mediation in which case the parties may select their own mediator, or the ADR Clerk will randomly select from the [court-approved domestic mediators'](#)

[roster](#). The Judge also determines indigent status and may refer the matter to the Friend of the Court for mediation. Additionally, the Friend of the Court Unit Manager assists the Court with a pro bono list of mediators. During the course of mediation, the mediator will be responsible to file periodic Domestic Relations Mediation Status Report every sixty days unless the matter is deemed not appropriate for mediation or settled, in which case the status report is due within 7 days.

Civil Mediation

In civil cases when the first responsive pleading is received and filed, Case Management sends to the parties a scheduling conference notice. The parties are instructed to submit a Proposed Pretrial Statement to the judicial staff agreed upon dates for inclusion into a scheduling order. The judges encourage the parties to discuss ADR and address it in the scheduling order. If the parties agree to some form of ADR, the details need to be included in the scheduling order, namely, which form of ADR, selection of the neutral party, cost allocation of ADR and the timing of ADR (whether before, during or after discovery). The ADR Clerk maintains a [court-approved civil mediators' roster](#). If the parties cannot agree on the ADR details, the judge will assist the parties in arriving at a decision. If the parties agree mediation is not appropriate, the judges will accept that determination, though the judge reserves the right to order the case into mediation after the settlement conference. If parties disagree as to the appropriateness of ADR, the judge will ask the parties to attend the scheduling conference to resolve the ADR issues. The judges agree that parties cannot opt out of case evaluation. This continues to be an effective ADR tool.

Case Evaluation (civil only)

The Case Evaluation Office was created in 1982 pursuant to MCR 2.403. Mediation serves as the Court's alternative dispute resolution component to facilitate settlement of cases where the relief sought is primarily money damages. To utilize the mediation services, a case must be ordered into mediation by the assigned Judge.

Case Evaluations are held primarily on Tuesdays and Thursdays, in the ADR conference room, Room 3100.

A Case Evaluation Panel is composed of three attorneys who review written submissions and hear the parties' attorneys orally present their case. The panel members then confer to assess the case and issue a recommended resolution.

Case Evaluation Briefs are sent to the ADR Office 14 days prior to the scheduled mediation hearing. Three copies are provided for distribution to the case evaluators.

The Cost of a Case Evaluation Hearing is \$25.00 per attorney. Briefs submitted untimely result in a \$150.00 penalty with each case evaluator receiving one third of the imposed penalty. All checks are to be made payable to each attorney serving on the case evaluation panel. The late briefs are sent directly to the attorneys serving on the case evaluation panel, and the original proof of service is filed with the ADR Office.

A Case Evaluation Acceptance/Rejection is required of each party. Acceptance is the agreement by all parties with the case evaluation panel's award. A rejection is only needed from one party to move the case forward to a settlement conference and, ultimately, a trial.

A Case Evaluation Adjournment can only be done by Stipulation and Order. The stipulation and order must be submitted to the assigned Judge for signature.

Applications to be Case Evaluators are available in the ADR Office or can be downloaded.

To qualify as a case evaluator, a person must:

be a member in good standing of the State Bar of Michigan

have been licensed to practice law for at least (5) years

demonstrate that a substantial portion of your practice during the last (5) years has been devoted to civil litigation matters

reside, maintain an office, or have an active practice in Mecosta County.

Private Case Evaluation

You may download the Notice of Case Evaluation form.

If you represent yourself, you may contact this office.

If you are represented, please contact your attorney.