



Michigan Supreme Court

State Court Administrative Office
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Laura Hutzell
Statistical Research Director

MEMORANDUM

DATE: January 24, 2017
TO: Judges
cc: Court Administrators
Probate Registers
FROM: Laura Hutzell
RE: Statistical Snapshot – Cases Referred to Mediation

In an effort to better understand the extent to which courts are referring cases to mediation and how SCAO can support courts’ use of mediation, in September court administrators were asked to respond to a brief surveyⁱ about mediation practices. This memo summarizes the survey responses and incorporates data received from Community Dispute Resolution Program (CDRP) centersⁱⁱ. We appreciate the contributions of both the courts and the centers in making this analysis possible.

At least two-thirds of trial courts refer cases to mediation, either private or a CDRP center. Only 10 percent of courts indicated that cases are not referred to mediation. Another 24 percent did not respond to the survey and did not have any referrals to a CDRP. The percentage of courts that use mediation varied from 82 percent of circuit courts to 54 percent of probate courts.

Number of Courts that Refer Cases to Mediation (Private or CDRP)				
	Refers Cases	Does Not Refer Cases	Unknown	Total
Circuit Courts	47	1	9	57
District Courts	74	15	22	111
Probate Courts	42	9	27	78
Total	163	25	58	246
Percentage of Courts that Refer Cases to Mediation (Private or CDRP)				
	Refers Cases	Does Not Refer Cases	Unknown	Total
Circuit Courts	82%	2%	16%	100%
District Courts	67%	14%	20%	100%
Probate Courts	54%	12%	35%	100%
Total	66%	10%	24%	100%

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Nearly two-thirds of the cases handled by CDRPs were from district courts. About one-third were from circuit courts and only two percent were from probate courts. Trial courts referred over 8,000 cases to a CDRP from January to September in 2016.

	#	%	
Circuit Courts	2,805	34%	
District Courts	5,225	64%	
Probate Courts	136	2%	
Total	8,166	100%	

Of the **91 courts that refer cases to private mediators**, over half are not able to provide the number of cases referred.

	Data Is Available	Data Is Not Available
Circuit Courts	13	18
District Courts	8	20
Probate Courts	19	13
Total	40	51

SCAO does not require courts to track or report cases referred to mediation, however, when asked **what SCAO could do to support courts' mediation efforts**, a few respondents mentioned that SCAO could provide tracking methods and statistics on success rates. Respondents also indicated that it would be helpful if SCAO recruited, certified, and trained mediators. Respondents would like SCAO to encourage judges to use mediation and maintain a list of mediators. Time guidelines for mediation or facilitation would be helpful, as would a mediation summary form which parties are required to submit to the court. Also, respondents indicated that SCAO could help control costs or provide additional funding to offset costs of mediation.

If you have any questions about this memo or additional ideas for how SCAO could support your court's mediation efforts, please contact Doug Van Epps, SCAO Dispute Resolution Director, by phone at 517-373-4839 or by e-mail at vaneppsd@courts.mi.gov.

ⁱ The survey was distributed by the regional offices and contained the following three questions:

1. Does your court use MCR 2.411 (general civil), 3.216 (domestic relations), or 5.143 (probate) to refer (by order or recommendation) parties to private mediators?
2. If so, does your court have any data regarding the number of referrals to mediation or the settlement of cases by mediation? If your court is willing, please send this data for a recent period of time by e-mail to your Regional Administrator.
3. What could SCAO do to best support your court's mediation efforts?

ⁱⁱ In November, SCAO obtained the number of referrals made by each trial court between January and September, 2016 from the CDRP centers.