

District Court, Small Claims Division Mediation in Michigan:  
Comparing Collection Rates in Adjudicated and Mediated Cases

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## **District Court, Small Claims Division Mediation in Michigan: Executive Summary**

Michigan's Community Mediation program works extensively with small claims courts to assist disputants in the settlement of their cases. The question driving this study is whether or not the collection rates differ between mediated and adjudicated cases in the small claims division. To answer this question, a total of 600 recent small claims court plaintiffs from five Michigan courts were surveyed about the collection rates associated with their judgments. Here are the key findings:

**Collection progress.** Among plaintiffs in mediation cases, a total of 79% received full or partial payment. A total of 52% received the full amount of the judgment (more than two-thirds of these payments were received within first few weeks); partial payment was received in 27% of cases and no payment in 21% of cases.

In non-mediation cases, a total of 56% received full or partial payment. Further, 30% of plaintiffs received the full amount (one-third within the first few weeks); partial payment was received in 26% of these cases, and no payment had been made in 44% of the cases.

**Mediation agreement.** Agreement was reached by plaintiff and defendant in 82% of mediation cases.

**Judgment amount.** In mediation cases, the median amount of judgment was \$724 vs. \$698 in non-mediation cases. In 69% of the mediation cases, the judgment amount was the same as or greater than the amount sought by the plaintiff. The judgment was less than sought in 31% of the cases (median shortfall = \$250). For the non-mediation cases, 92% of the plaintiffs obtained a judgment of the same or greater amount than sought. In only 8% of the cases was the amount less than the plaintiff sought (these few cases yield a large shortfall, with median = -\$400).

**Process satisfaction.** When asked to evaluate the small claims process, 80% of mediation plaintiffs were satisfied or neutral and 20% were dissatisfied compared to 83% of non-mediation plaintiffs who were satisfied or neutral and 17% were dissatisfied.

The overall picture that emerges from these findings is that collection rates differ significantly between the mediated and non-mediated cases. The plaintiffs using mediation were significantly more successful in receiving payment than plaintiffs who did not use mediation. In addition, the mediated cases involved more money, and settled at a very high rate. Thus, it appears that mediation is an effective strategy for addressing small claims issues.

These results suggest three main recommendations involving creating a statewide database of mediation cases, conducting a simple process analysis of mediation activities across courts, and expanding mediation to cases over \$3,000.

## **District Court, Small Claims Division Mediation in Michigan: Comparing Collection Rates in Adjudicated and Mediated Cases**

### **Introduction**

Michigan's Community Dispute Resolution Program centers work extensively with District Court Small Claims Division to assist disputants in the settlement of their cases. The question driving this study is whether or not the collection rates between mediated and adjudicated cases differ. To answer this question, a total of 600 recent small claims division plaintiffs from five courts in Michigan were surveyed about collection rates associated with their judgments. The policy implications of answering this question are important. If disputants receive significantly higher collection rates through mediation, then the small claims resolution process may need to be reexamined. To begin this study it might be useful to provide an overview of the community mediation process.

### **Community Mediation**

According to Roehl and Cook (1989), the largest and best known community mediation program at that time in the United States is the San Francisco Community Boards Program which began in 1977 which operates outside the court system to help neighborhoods manage their own disputes. Since then, these programs have expanded substantially. According to the National Association for Community Mediation, there are over 550 community programs operating in the U.S., with over 20,000 mediators. Many states fund (often through court fees) a state-wide program offering community mediation services to all citizens. For example, the Michigan program has 21 different offices scattered around the state covering all 83 counties.

In the typical adjudicated setting, the plaintiff, but not often the defendant, appears before the court to determine an outcome. If the defendant does not appear, a default judgment for the plaintiff is issued. Cases that were not successfully mediated are then adjudicated.

Based on research by Long (2003) we would expect that the mediated cases would achieve significantly higher collection rates for three main reasons. First, and probably most importantly, both plaintiffs and defendants participate in the process indicating that both are invested in solving the problem. In an adjudicated case, the defendant is much less likely to appear and demonstrate an interest in addressing the plaintiff's needs. Second, by participating in the mediation process, the defendant demonstrates respect for the court and an interest in maintaining a positive reputation with the court. Third, the mediation process is more likely than adjudication to positively impact the relationship between the parties thereby enhancing the defendant's interest in complying with a mediated outcome.

However, several factors might also encourage defendants to comply with an adjudicated settlement. Even though they are less likely to appear in court, the weight of a court judgment against them may motivate them to satisfy the judgment to maintain their reputation in the community or protect a credit record. In addition, many plaintiffs are businesses whose services the defendants may need to use again, such as a medical office. Long (2003) indicated that mediation defendants comply because they gave their word to do so, whereas defendants who only use the adjudication process comply because of the external pressure from the judge. Given these opposing forces, it will be interesting to determine if collection rates differ between mediated and adjudicated cases.

## **Research Methods**

Lists of hundreds of cases were obtained from district court officials in Kent County (Courts D61 and D62B), Isabella County (Unified Trial Court), and Oakland County (Courts D46 and D52-1). Mediation services were provided by the Dispute Center of West Michigan (Kent County), the Mid-Michigan Dispute Resolution Center (Isabella County), and the Oakland Mediation Center (Oakland County). These centers also provided lists of plaintiffs who used their mediation services. The lists contained plaintiff names, addresses, and the amount of the claim. Interviewers contacted plaintiffs (both individuals and company representatives) via telephone and conducted interviews to determine the amount of claim, whether defendant appeared in court, whether financial collection was received, etc. The actual questionnaire used in the study is contained in Appendix A.

Telephone calling was conducted over the period of May 1 to June 15, 2004. An overall total of N=600 interviews were completed across the three sites. A total of N=254 interviews were completed with the Oakland sample, which had the lengthiest list of cases with plaintiff telephone numbers. In Oakland, N=104 plaintiffs reported that their cases went to mediation. In Isabella, N=170 interviews were completed, including N=67 mediation cases. The Kent courts had a relatively lower number of mediation cases, with N=31 out of a total of N=176. There is a total of N=206 respondents who participated in mediation; a total of N=394 respondents are non-mediation cases.

## Final Results

**Collection progress.** Among plaintiffs in mediation cases, 52% received the full amount of the judgment by the date of the interview; more than two-thirds of these payments were received within the first few weeks after the judgment (and almost all within a half-year; the typical time is 3.5 months). Partial payment was reported by an additional 27% of mediation plaintiffs; in more than two-thirds of these situations, arrangements were made to collect the remaining portion. No payment had yet been received in 21% of mediation cases; in one-fourth of these situations, arrangements were made to collect payment.

In non-mediation cases, 30% of plaintiffs received the full amount of the judgment by the date of the interview; one-third of these payments were received within the first few weeks (and three-fourths within a half-year, typically 4 months). Partial payment was reported by an additional 26% of non-mediation plaintiffs; in more than half of these situations, arrangements were made to collect the remaining portion. No payment had yet been received in 44% of the non-mediation cases; in one-fourth of these situations, arrangements were made to collect payment. (It should be noted that commonly, filing fee costs are included in the judgment.) These results appear in Table 1.

**Table 1: Collection Outcomes for Mediated and Non-Mediation Cases**

Overall	Mediation	Non-mediation	
38%	52%	30%	Received full amount
27	27	26	Received partial payment
9	5	11	No payment received; arrangements made
26	16	33	No payment; no arrangements

**Mediation agreement.** Among cases where the plaintiff and defendant participated in mediation, 82% reached agreement.

**Judgment amount.** The median amount of the judgment was almost identical for the two types of cases: \$724 for mediation cases and \$698 for non-mediation cases. The gap between the median sought amount and the median judgment amount is minus \$36 for mediation cases; the difference is plus \$3 for non-mediation cases.

In 69% of the mediation cases, the judgment amount was the same as or greater than the amount sought by the plaintiff. The judgment was less than sought in 31% of the cases (median shortfall = \$250). For the non-mediation cases, 92% of the plaintiffs obtained a judgment of the same or greater amount than sought. In only 8% of the cases was the amount less than the plaintiff sought (these few cases yield a large shortfall, with median = -\$400).

**Lawsuit amount.** The first item asked the plaintiff to report the “original amount for which you sued in small claims court.” The cases ranged from \$40 to \$3,000, with a median amount slightly over \$700; about one-quarter of cases fell below \$400 and one-quarter exceeded \$2,000; the full distribution of amounts is shown in Table 2. The cases that went to mediation tended to be slightly higher in amount, with the median number of dollars at \$761 vs. \$695 for non-mediation cases. It should be noted that there is a relatively higher number of mediation cases above \$2,000.

Table 2: Amount Sought by Plaintiff in Original Small Claims Suit

	<b>Overall</b>	<b>Mediation</b>	<b>Non-mediation</b>
\$101-200	11%	10%	12%
\$201-300	10	9	9
\$301-400	6	7	7
\$401-500	9	9	9
\$501-600	7	5	8
\$601-700	7	5	7
\$701-1000	12	10	13
\$1001-1500	13	14	13
\$1501-2000	7	8	7
\$2001-3000	18	23	15

**Collection options.** In 55% of mediation cases, the plaintiff was given a list of options on how to collect on the judgment. A list was given in 70% of the non-mediation cases. It should be noted that if collection was received at the table, a list of collection options likely would not have been distributed. Therefore, a low number of lists distributed might be appropriate.

**Options tried.** In mediation cases where collection options were given, one or more of the listed options was tried by 37% of the plaintiffs, compared to 61% of the plaintiffs in non-mediation cases. The options cited by plaintiffs are presented in Appendix B. The largest category in each type of case is “garnish wages.”

**Defendant appearance in non-mediated cases.** The defendant appeared in court on the day the case was heard in only 16% of the non-mediation cases.

**Obtaining judgment.** In mediation cases where agreement was reached, the plaintiffs were asked if they obtained a judgment following mediation; 58% replied that a judgment was obtained.

**Judgment order.** Plaintiffs who reported that the defendant did not appear in mediation, or an agreement was not reached in mediation indicated that a judgment was ordered by a judge or magistrate in 52% of these cases; this figure is 64% for the subset of mediation cases where the plaintiff obtained a judgment following mediation. By comparison, 98% of the plaintiffs in non-mediation cases reported that a judgment was ordered by a judge or magistrate.

**Process satisfaction.** Each plaintiff was asked to evaluate the small claims process: “Overall, were you satisfied or dissatisfied with the small claims process in this case.” It is important to note that this question is NOT a measure of satisfaction with the mediation process itself but rather an overall assessment of the entire small claims process. From this perspective, in mediation cases, 65% of plaintiffs are satisfied with the overall process vs. 20% dissatisfied (the remaining 15% have a mixed opinion or no opinion). Among non-mediation plaintiffs, 69% are satisfied vs. 17% dissatisfied (14% mixed or no opinion).

Satisfaction is clearly related to receiving payment. A total of 80% of those who received payment were satisfied with the process. However, only 6% of those who did not receive any payment were satisfied. The overall satisfaction level is equal for the two types of cases (80% for mediation and 79% for non-mediation). For plaintiffs who received partial payment or made arrangements to collect, 67% are satisfied; satisfaction is higher for non-mediation cases (71%) than mediation cases (58%). Where no

payment had been arranged, 50% were satisfied and 35% dissatisfied with 15% expressing a mixed opinion on the issue. Dissatisfaction was especially pronounced among the relatively small number of mediation plaintiffs who haven't collected or arranged payment (25% satisfied, 65% dissatisfied, 10% mixed opinion), compared to non-mediation plaintiffs (57% satisfied, 27% dissatisfied, 16% mixed opinion).

It is noteworthy that satisfaction is not strongly related to amount of judgment obtained relative to amount sought. For those who obtained a judgment equal or greater than the amount sought, 69% are satisfied and 15% dissatisfied. Satisfaction is only slightly lower for those obtaining less money than sought; 65% are satisfied and 22% dissatisfied.

**Legal understanding.** Plaintiffs were also asked a question about their comprehension of the process: "Do you have an understanding of the legal process in small claims court?" The vast majority of each group replied positively, including 95% for mediation cases and 93% for non-mediation cases.

**Comparisons by Amount for Which Plaintiff Sued in Small Claims Division**

For each of the key outcomes measure in the survey, comparisons were made between three levels of money sought in the suit: low (\$500 or less), moderate (\$501-999), and high (\$1000 or more). The data are presented in Table 3.

Table 3: Comparisons by Amount for Which Plaintiff Sued in Small Claims Division

<b>\$500 or less</b>	<b>\$501-999</b>	<b>\$1000 or more</b>	
39%	41%	49%	Defendant appeared in court
32%	25%	38%	Participated in mediation
79%	97%	81%	Reached agreement in mediation

50%	52%	71%	Obtained judgment following mediation
82%	83%	83%	Judgment ordered by judge/magistrate
64%	60%	70%	Given list of options on how to collect
45%	38%	50%	Tried any of the listed options
95%	94%	92%	Given document listing amount of judgment
+\$8	-\$20	-\$114	Average net amount of judgment
45%	35%	32%	Paid full amount of judgment
70%	71%	64%	Satisfied with small claims process in this case
95%	95%	92%	Understood legal process in small claims court

The main findings indicate that the defendant is slightly more likely to appear in court if the amount sought is relatively high; in cases for these higher amounts, the defendant is also more likely to participate in mediation. In addition, there is a higher rate of reaching agreement in mediation for cases involving the moderate amount of money. Judgment is more often obtained in the high amount mediation cases. Size of the suit is not substantially related to being given a list of collection options, trying any of the listed options, and being given a document listing amount of judgment.

The amount of the judgment tended to be lower than the amount sought in the high cases of \$1,000 or more. The net shortfall averaged \$114, compared to an average of \$20 less in the moderate cases and \$8 more in low cases. Those plaintiffs pursuing a low amount of money were more likely to have received payment for the full amount of judgment by the time of the interview.

Finally, neither the satisfaction with small claims process nor the understanding of the legal process in small claims court is related to the size of the amount for which the plaintiff sued.

**Comparisons by Locale of the District Court**

For several key outcomes measured in the survey, comparisons were made between the three sites where the cases were filed: Kent County, Oakland County, and Isabella County. The data are presented in Table 4. The findings indicate that the rate of judgments being ordered by the judge/magistrate was slightly higher in Kent than the other two locales. Oakland had the highest rate of giving the list of collection options. A large majority of plaintiffs in all three locales were given the document listing the judgment amount.

Regarding satisfaction with the small claims process, the rates were lower in Isabella (59%) than in Kent (69%) or Oakland (71%), even though Isabella had higher rates of full or partial judgment payment. Finally, large majorities in all three locales said they understand the legal process in small claims court.

Table 4 Comparisons across Three Locales of Small Claims Division

<b>Kent</b>	<b>Oakland</b>	<b>Isabella</b>	
89%	77%	78%	Judgment was ordered by judge/magistrate
57%	74%	58%	Given a list of options on how to collect
63%	62%	72%	Received full or partial amount of judgment
69%	71%	59%	Satisfied with small claims process in this case
92%	93%	97%	Understand legal process in small claims court

## **Conclusions and Recommendations**

The expectation that plaintiffs participating in mediation would receive a significantly higher collection rate than those using the traditional adjudication process was upheld. Plaintiffs who participate in mediation are significantly more likely to collect than those in the traditional adjudication process. A total of 52% of plaintiffs participating in mediation received the full payment soon after judgment. An additional 27% received partial payment, but two-thirds of these individuals made arrangements to collect the remaining portion. About 21% of the mediation cases failed to secure any kind of financial satisfaction, but some of these litigants had arrangements to collect.

This profile changes substantially for the adjudicated cases. Recall that only 30% of these plaintiffs received full payment soon after judgment, with 26% receiving partial payment, with about half of this group forming arrangements to collect the remaining portion. Strikingly, no payment had been received by 44% of these non-mediated cases, but some had made arrangements for future collection.

These results suggest a number of recommendations that might be useful to further improved the mediation and adjudication processes:

- 1. Create a state-wide database of mediation cases across the various centers.**

The purpose of the database would be to track collection rates, and to learn more about the kinds of cases that are being serviced through mediation.

- 2. Conduct a simple process analysis of mediation activities across courts.** A

process analysis involves tracking someone from the time they file a case to the time that it is resolved. The tracking will determine how the process varies from

court to court, and whether these processes are associated with greater or smaller levels of satisfaction.

- 3. Consider mediation for cases over \$3,000 since it seems to work effectively in cases in the higher dollar range.** The data are quite clear that mediation tends to be used more often in cases with higher claims. Given that mediation cases are more likely to be settled financially, the court might consider expanding it to cases that go beyond small claims.

### **References**

- Long, J.J. (2003). Compliance in small claims court: Exploring the factors associated with defendants' level of compliance with mediated and adjudicated outcomes. Conflict Resolution Quarterly, 21, 139-153.
- Roehl, J.A. & Cook, R.F. (1989). Mediation in interpersonal disputes: Effectiveness and limitations. In K. Kressel and D. Pruitt (Eds.), Mediation research (pp. 31-52) San Francisco, CA: Jossey-Bass.

## APPENDIX A: Small Claims Satisfaction Study Questionnaire

Hello, this is \_\_\_\_\_ calling from the Legal Communication Research Institute in East Lansing. We're calling several hundred plaintiffs to determine if they received payment on their judgment in a small claims case. You should have received a notification from the State Court Administrative Office regarding this study. The case we want to ask about is (P) \_\_\_\_\_ vs. (D) \_\_\_\_\_, which occurred last \_\_\_\_\_. Do you recall the details of this case and can you answer just a few questions about the case? Your answers are confidential.

1. What was the original amount for which you sued in small claims court? \$ \_\_\_\_\_
2. Did the Defendant appear in court on the day your case was heard? YES NO *(If NO, skip to 6)*
3. If YES: Did you and the defendant participate in mediation? YES NO *(If NO, skip to 6)*
4. If YES: Did you reach an agreement in mediation? YES NO *(If NO, skip to 6)*
5. If YES: Did you obtain a judgment in this case following mediation? YES NO
6. Was your judgment ordered by a judge/magistrate? YES NO
7. Were you given a list of options on how to collect on your judgment? YES NO
8. IF YES: Did you try any of these options? YES NO If YES: Which ones: A B C D \_\_\_\_\_ **List actual options here; plaintiff unlikely to remember.**
9. Were you provided a document listing the amount of your judgment? YES NO
10. What was the amount of the judgment? \$ \_\_\_\_\_ DON'T KNOW
11. Have you received the full amount of the judgment? YES NO *(If NO, skip to 13)*
12. IF YES: How long did it take for you to receive the money? \_\_\_\_\_ MONTHS *(Skip to 16)*
13. IF NO on 11: Have you received a portion of the money? YES NO *(If NO, skip to 15)*
14. IF YES: Have arrangements been made to collect the remaining amount? YES NO *(Skip to 16)*
15. IF NO on 13: Have arrangements been made to collect the money? YES NO
16. Overall, were you satisfied or dissatisfied with the small claims process in this case?

SATISFIED MIXED OPINION DISSATISFIED

17. Do you have an understanding of the legal process in small claims court? YES NO

18. Do you have any suggestions or comments: About the mediation process? About the legal process in small claims court?

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Thank you for your cooperation.

## **Appendix B: Collection Options Tried by Plaintiffs**

“Were you given a list of options on how to collect your judgment? IF YES: Did you try any of these options? Which ones?”

### **Mediation Plaintiffs**

- 17% Garnish wages
- 5% Payment plan
- 2% Garnish tax refund
- 2% Seize property
- 2% Return to courts
- 1% Bail bondsmen
- 1% Freeze assets
- 1% Discovery hearing
- 1% Verbal agreement
- 1% Show cause
- 4% Other/can't recall

### **Non-mediation Plaintiffs**

- 17% Garnish wages
- 8% Show Cause
- 7% Garnish tax refunds
- 7% Warrant
- 3% Seize property
- 3% Freeze assets
- 2% Discovery hearing
- 1% Payment plans
- 1% Bail bondsmen
- .5% Bench warrant
- .5% Default
- .5% Send letters
- .5% License Suspended
- .5% Subpoena
- .5% Serve notice
- 9% Other/can't recall