



State of Michigan
Court of Claims

MICHAEL J. TALBOT
CHIEF JUDGE
PAT M. DONOFRIO
DEBORAH A. SERVITTO
AMY RONAYNE KRAUSE
JUDGES

JEROME W. ZIMMER JR.
CLERK

Local Administrative Order 2014-10

Alternative Dispute Resolution Plan

The Court of Claims is committed to providing litigants with an array of dispute resolution options to afford parties opportunities to resolve their matters without formal adjudication. Accordingly, all cases filed in the Court of Claims are subject to ADR processes unless otherwise provided by statute or court rule.

This Alternative Dispute Resolution (ADR) Plan is adopted pursuant to MCR 2.410. If there is a conflict between the ADR Plan and the Michigan Court Rules, the Michigan Court Rules control. Unless otherwise ordered by the court upon stipulation of the parties, the court's default ADR process is mediation conducted pursuant to MCR 2.411 and MCR 2.412.

Copies of the Local Administrative Order adopting the ADR Plan are available at the Michigan Court of Claims, 925 West Ottawa, Lansing, MI 48909, and on the Michigan Court of Claims website, <http://courts.mi.gov/courts/coc/pages/default.aspx>.

ADR CLERK

The court appoints the Clerk of the Court of Claims as the court's ADR Clerk. The ADR Clerk maintains all records pertaining to the Court's ADR program, including applications for and lists of mediators.

ACCESS TO ADR

If a party qualifies for waiver of filing fees under MCR 2.002 or the court determines on other grounds that a party is unable to pay the full cost of an ADR provider's services, and free or low-cost dispute resolution services are not available, the Court shall either refer the case to a Community Dispute Resolution Program center, or not order that party to participate in an ADR process.

OBJECTIONS TO ADR

Within 14 days after entry of an order referring a case to an ADR process, a party may move to set aside or modify the order. A timely motion must be decided before the case is submitted to the ADR process. Information advising litigants of their right to object to an order referring a case to an ADR process will appear on the Court of Claims website.

MEDIATION

Roster of Approved Mediators

The Court will maintain a roster of mediators available for parties to consult in selecting a mediator, however parties may select a mediator not appearing on the court's roster. Parties are strongly encouraged to select their own mediator early in the litigation. A mediator can help parties overcome contested issues which may arise during the course of the litigation, without necessarily reaching an agreement resolving the case in its entirety.

Appearance of Community Dispute Resolution Program (CDRP) Centers on the Roster

Dispute resolution centers approved by the State Court Administrative Office to receive CDRP funding may appear on the roster. Only CDRP mediators who meet all the qualifications outlined in MCR 2.411 may be assigned to Court of Claims cases.

Publication of the Roster

A roster of approved mediators will be published on the Court of Claims website and will include the mediator's name and contact information, the name of the local trial court issuing an approval letter, the period of approval, and an hourly or per diem fee.

Recruitment and Qualification of Mediators

Prospective mediators will be recruited through a notice posted on the court's website and by announcement to the ADR Section of the State Bar of Michigan. Applications will only be accepted from mediators currently approved on a circuit court general civil mediation roster. Prospective mediators for the Court of Claims should send a copy of the mediator's current approval letter from a Michigan circuit court that clearly specifies the period for which the mediator is approved, and the mediator's hourly or per diem rate. Thereafter, it is the obligation of the mediator on the Court of Claims roster to advise the ADR Clerk that the mediator's approval has been extended or revoked.

The initial roster will include persons submitting applications within 30 days of the approval of the court's Local Administrative Order adopting this ADR Plan. Thereafter, new applications will be considered at least biennially.

Roster Approval Process; Appeal

The ADR Clerk will review applications and notify prospective mediators of their selection for the roster.

Applicants not placed on the mediator roster shall be notified in writing of that decision. Within 21 days of notification of the decision to reject an application, the applicant may seek reconsideration, in writing, by the chief judge of the Court of Claims. The court does not need to provide a hearing.

Mediator Selection by Stipulation of the Parties

Parties may stipulate to the selection of a mediator. A mediator selected by agreement of the parties need not meet the qualifications set for in MCR 2.411(F). Plaintiff shall notify the court of the name of the mediator selected by the parties within 14 days of the order to mediate or in the time established in the case scheduling order.

Mediator Selection by the Court

In the event parties do not submit a stipulation regarding their selection of a mediator within 14 days of the order to mediate or in the time established in the case scheduling order, the court will select a mediator from its roster. If for any reason the mediator selected by the court elects not to serve as the mediator in the particular case, the court will assign a different mediator within 7 days of notification by the mediator.

The ADR Clerk will select a mediator in a random or rotating manner which assures, as nearly as possible, that each mediator on the list is assigned approximately the same number of cases over a period of one year. If a substitute mediator must be assigned, the same or similar assignment procedure shall be used to select the substitute.

Scheduling Mediation

Within 14 days of the selection of the mediator, the Plaintiff shall arrange a telephone conference between all counsel and the mediator to schedule the mediation. If a telephone conference is not arranged within 14 days of the selection of the mediator, the mediator may schedule a date and time for the mediation.

Location of Mediation Sessions

Unless otherwise agreed upon by the parties and mediator, cases having exclusive jurisdiction in the Court of Claims will be mediated in the County where the judge hearing the case is sitting.

Mediation Status Report

Within 7 days of the completion of the mediation, the mediator shall return a mediation status report to the ADR Clerk stating only the date of completion of the process, who participated in the mediation, whether settlement was reached, and whether further ADR proceedings are contemplated.

Mediator Standards of Conduct

Mediators on the court roster shall adhere to the Mediator Standards of Conduct approved by the State Court Administrative Office pursuant to MCR 2.411(G).

COMPLAINTS REGARDING ADR PROVIDERS

The ADR Clerk may remove from the roster mediators who have demonstrated incompetence, bias, made herself/himself consistently unavailable to serve as a mediator, or for other just cause. Within 21 days of written notice of the decision to remove a mediator from the roster, the mediator may seek reconsideration, in writing, by the chief judge. The court does not need to provide a hearing.

CASE EVALUATION

MCR 2.403 case evaluation applies to actions in which the relief sought is primarily money damages or division of property. The process is mandatory for tort and medical malpractice claims pursuant to MCL 600.4901-600.4969. The process is generally not applicable to actions seeking declaratory or equitable relief in the Court of Claims. MCR 2.403 case evaluation of claims for money damages and property division can be requested in the trial court in which a demand for jury trial has been filed.

Parties seeking case evaluation of actions over which the Court of Claims has exclusive jurisdiction may stipulate to use a case evaluation process of their own design, however, the Court of Claims would not administer the process and except by stipulation, MCR 2.403 and MCR 2.404 would not apply.

ADDITIONAL FORMS OF ADR

Parties are encouraged to assess whether additional forms of ADR would assist in resolving their cases. Additional ADR processes include: early neutral evaluation, early expert evaluation, nonbinding case evaluation, and nonbinding arbitration.

SUPERVISION OF THE ADR PLAN

The ADR Clerk shall annually prepare a report of the Court's ADR program for the chief judge, including the number of assignments per mediator per year. The chief judge, ADR Clerk, and designated staff shall meet at least annually to review the program.

8/6/16

Date

Chief Judge