

ADR in Superior Court – Mediated Settlement Conference

WHAT ARE THE MOST COMMONLY USED METHODS OF ADR ?

- **SUPERIOR COURT – COURT ORDERED MEDIATION**

WHICH TYPES OF CASES ARE EXEMPTED FROM ADR?

- **SUPERIOR COURT – CAVEAT PROCEEDINGS; ADMINISTRATIVE APPEALS (DWI); MINOR SETTLEMENTS**

WHAT IS THE PURPOSE OF ADR?

- **BRINGS LITIGANTS TOGETHER IN A NEUTRAL ENVIRONMENT IN AN ATTEMPT TO RESOLVE A DISPUTE PRIOR TO TRIAL**
- **HELPS PREVENT OVER CROWDING ON THE TRIAL DOCKETS**
- **KEEPS THE COSTS DOWN BY UTILIZING A MEDIATOR VS. A JURY**

WHEN SHOULD ADR BE COMPLETED?

- **IN ALL CASES THAT ARE NOT EXEMPT FROM ADR PROCEEDINGS:**
 - **SUPERIOR COURT – NO LATER THAN 8 WEEKS PRIOR TO THE TRIAL DATE**
- **MY ATTORNEY WANTS TO KNOW WHICH ADR DEADLINE IS CORRECT...THE ONE ON THE SCHEDULING ORDER OR THE ORDER TO ADR?** The scheduling order does not assign the actual deadline to mediate the case, it only references the rule regarding the deadline. The actual mediation deadline is assigned in the Order to ADR.
- **DO I SEND THE DESIGNATION OF MEDIATOR TO THE JUDGE OR TO THE CLERK?** Neither. The designation of mediator should be sent directly to the ADR Coordinator with the original, one copy and self addressed postage-paid envelope. Once the ADR Coordinator has entered the designation, the original will go to the Clerk of Court's file and the copy will be mailed back to the submitting party.
- **IS THE ADR DEADLINE AUTOMATICALLY EXTENDED BECAUSE THE TRIAL DATE WAS CONTINUED?** No, a separate motion and order must be submitted to the ADR Coordinator.
- **I RECEIVED A PAST DUE NOTICE FOR THE REPORT OF MEDIATOR...WHAT DO I NEED TO DO?** The mediator needs to submit the Report of Mediator to the ADR Coordinator within 10 days of the date on the notice.
- **I RECEIVED A PAST DUE NOTICE AND THIS CASE IS CLOSED...**The mediator still must submit a Report of Mediator form to report whether a mediation was held prior to the case closing and if so, the results.

- **DO I NEED TO GET MY EXTENSION / DESIGNATION / CONTINUANCE / REPORT OF MEDIATOR FILE STAMPED?** No, all of the above forms should be submitted directly to the ADR Coordinator before going anywhere else.
- **WHY DID THE COURT APPOINT A MEDIATOR? I FILED THE DESIGNATION WITH THE CLERK ON 00/00/07.** The Designation of Mediator forms must be sent to the ADR Coordinator; otherwise they are not properly approved and entered into the system and are not valid.
- **I DO NOT WANT TO USE THE MEDIATOR THAT THE COURT APPOINTED; I WANT TO USE THE ONE THAT I AGREED UPON WITH THE OTHER PARTY TO MY CASE. HOW CAN I HAVE THIS CHANGED?** You may submit a Motion and Order to Substitute Mediator to the ADR Coordinator.
- **I “FAXED” THE EXTENSION / DESIGNATION / CONTINUANCE ON 00/00/07...WAS IT APPROVED?** Faxed copies are not accepted. The original must be submitted; otherwise it can not go into the Court file.

INFORMATION REGARDING MEDIATIONS...

- **The Order to ADR will follow the Scheduling Order by approximately 30 days. As set out in the Scheduling Order, a general date for ADR to be completed is given, however, it specifically reads that the actual deadline will be set by the ADR Order.**
- **Once the Order to ADR has been issued, the parties will have 21 days from the date of that order to select a mediator. The selection of mediator should be submitted on form AOC-CV-812. Please use the revised 02/06 edition. Also, please notice that the entire section for a Non-Certified Mediator is no longer on this form. Per the Supreme Court revisions in March 2006, the use of Non-Certified Mediators is no longer permitted.**
- **A complete list of mediators in North Carolina may be found on the nccourts.org website. At the homepage, click “Mediators” which is under favorites on the right hand side of the page. Then click “List of Mediators” on the left hand side of the next page. Then click “Mediated Settlement Conference Mediators (Superior Court)”. To view the entire list in alphabetical order, press “enter” or to locate an individual, type the first and/or last name and press “enter”.**
- **Again, faxed copies of designations, extensions, continuances, or reports of mediator are not accepted. E-mailed copies are also not accepted. Please mail the original, one copy, and a self addressed stamped envelope. Additional copies and mailings may be done by your office when you receive the returned copy.**
- **If an additional copy is sent, but no envelope accompanies the copy, it will be placed on the front counter in our office in the basket for pick up.**

- If you have questions for the Clerk, please, call the Clerk. If they don't answer their phone, you will need to come to the courthouse in person, or send someone to obtain the information. I cannot make any other office or person answer their calls.
- You must notify the mediator that they have been designated by you to mediate the case and they must agree to do it. Simply calling them to find out their rates is not an agreement between the parties and the mediator. Check their available dates and make sure they will be able to mediate the case prior to the deadline. (*****Remember, from now on the deadline will be set 8 weeks prior to the trial and will not be extended. There will not be any exceptions for parties who choose a mediator who cannot mediate prior to that deadline.*****)

QUICK TIPS...

- DESIGNATIONS OF MEDIATOR, ADR EXTENSIONS, REPORTS OF MEDIATOR, AND ARBITRATION CONTINUANCES ALL COME DIRECTLY TO THE ADR COORDINATOR.
- WHEN SENDING IN ONE OF THE ABOVE FORMS, REMEMBER, ONLY THE ORIGINAL, ONE COPY, AND A SELF ADDRESSED STAMPED ENVELOPE IS APPROPRIATE.
- FAXED COPIES ARE **NOT** ACCEPTED AND WILL NOT BE SIGNED.
- REMEMBER, THERE IS NO FORM FOR SUBSTITUTION OF MEDIATOR: MOTIONS AND ORDERS TO SUBSTITUTE MUST BE DRAFTED BY YOUR OFFICE AND INCLUDE: THE NEW MEDIATOR'S NAME, THE PREVIOUSLY APPOINTED MEDIATOR AND CERTIFICATION THAT THE ADMINISTRATIVE FEE HAS BEEN PAID TO THE COURT APPOINTED MEDIATOR.