

SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

COURT MEDIATION INFORMATION SHEET

For parties/counsel
(Local Rule, Title 3, Division 2)

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A. What is “Court Mediation”?

Court Mediation gives selected parties the opportunity to resolve their case with the help of a mediator instead of going through the time, expense, and stress of trial. The court-ordered mediation program provides three (3) hours of mediation services with a Civil Mediation Panel member at no cost to the parties. The mediator may bill the parties for additional time if all parties agree. If the parties cannot reach an agreement during Court Mediation, the case proceeds to trial.

B. Who are the mediators on the Civil Mediation Panel?

The Court’s Civil Mediation Panel is limited to selected attorneys who have years of experience as practicing attorneys and as mediators, settlement officers, arbitrators, and/or temporary judges. Many have also received extensive mediation training. These attorney-mediators provide three (3) hours of court-ordered mediation services at no cost to the parties, and they may only bill the Court \$150 for this time, a fraction of their market rates. In addition, they often donate time before and after the mediation to help parties resolve their case.

The Panel mediators do all of this as a public service to the court, the bar and the community, not only to help the court manage its caseload, but to provide the most effective dispute resolution process for the parties in each case.

The Court could not offer this mediation program without this generous support from the bar. As parties who have received the opportunity to work with a Civil Mediation Panel member at no cost, you can also contribute to the success of this program simply by showing respect to the mediator and the mediation process and by assisting the mediator with the scheduling and other preparation for your mediation session.

C. Why was your case selected?

The judge determined that:

1. Your case may be ordered to judicial arbitration or mediation because it is valued at \$50,000 or less

AND

2. Mediation will be more effective than judicial arbitration in your case. In arbitration, the arbitrator decides who wins and how much money he/she should receive. Any party that is not satisfied with the arbitrator's ruling can ask for a trial. In mediation, the mediator does not decide who wins or loses. Instead, the mediator helps the parties discuss the case and work out a final settlement agreement.

D. How is the mediation scheduled?

Step 1: The court will send the "Notice of Court-Ordered Mediation" and a "Response to Notice of Court-Ordered Mediation" to the attorneys/self-represented parties in your case. The "Notice of Court-Ordered Mediation" will contain the name of a randomly assigned mediator from the Civil Mediation Panel. This person will be your mediator, unless the parties timely file the Response to Notice of Court-Ordered Mediation stipulating to another mediator.

Step 2: The parties have 15 days to file the "Response to Notice of Court-Ordered Mediation" stating that they selected a different mediator. If the Court does not receive the Response within 15 days, the randomly selected Civil Mediation Panel member listed on the Notice of Court-Ordered Mediation will be assigned to the case. Follow the instructions on the Response form.

Step 3: The parties should try to agree upon a mediator. To select a mediator from the Court's Civil Mediation Panel, go to:

<http://www.riverside.courts.ca.gov/adr/adr.shtml> and click on "Search Civil Mediation Panel list" (you may search by name; case type or location)

OR

Ask for the Civil Mediation Panel list at the Civil Clerk's office at the Historic Courthouse; Larson Justice Center; Banning Court; Hemet Court or Temecula Court.

Consider the mediator's background, location, and fees (if the mediation takes more than three hours, and the parties wish to continue). Note that many mediators work throughout Riverside County and will provide extra time at reduced rates.

Step 4: The parties must select three (3) mediation dates/times that are acceptable to all parties.

Step 5: The plaintiff must contact the selected mediator. Tell him/her:

- you have an "Order to Court Mediation"
- your Mediation Completion Date (stated on the Order)
- the 3 mediation dates/times that are acceptable to all parties
- what type of case you have
- concerns about location or costs

The plaintiff must give the mediator a copy of the "Notice of Court-Ordered Mediation."

Step 6: The mediator will review the "Notice of Court-Ordered Mediation" and other information before letting you know if he/she can accept the case.

If yes:

- All parties must sign the Response. Plaintiff must file and serve it with a proof of service.
- The mediator and parties schedule the mediation session.

If no:

- Contact another mediator and follow Steps 3 through 6.

When the Court Assigns a Mediator

If the plaintiff does not file the "Response" within 15 days, the Court clerk will assign the mediator identified on the Notice of Court-Ordered Mediation to the case. Parties may not reject the assigned mediator.

The assigned mediator will send the "Notice of Acceptance or Recusal". If the mediator accepts the case, the parties must cooperate with each other and the mediator to schedule the mediation. Plaintiff must provide the mediator with three (3) mediation dates/times that are acceptable to all parties. If the mediator does not accept the case ("recuses"), the Court will assign another mediator.

E. What should parties and mediators discuss before the mediation?

Scheduling; location for the mediation; the mediator's requirements; confidentiality of the mediation process; and fees (if the mediation lasts longer than three hours).

- Before the mediation begins, the mediator and the parties should make a written agreement about fees for additional time. **The court is not involved in setting or collecting mediation fees.** An optional form, [“Stipulation Re Fee for Ongoing Services for Court Mediation”](#) is posted on the ADR website.

F. When should mediation be scheduled?

The mediation must be completed before the Mediation Completion Date stated in the “Notice of Court-Ordered Mediation” and after the preparation described in section “G,” below. The parties (not the mediator) are responsible for completing mediation by the Mediation Completion Date.

G. How should parties prepare for a meaningful mediation session?

1. Complete enough discovery (get the information you need) to make serious decisions at the mediation session.
2. Make sure that all necessary people attend the mediation.
3. Complete any necessary motions before the mediation or try to resolve or limit the need for such motions.
4. Calculate the costs of further litigation and trial (include time off work for parties and witnesses; discovery; motions; attorneys’ fees; expert witness fees; court costs; jury fees).
5. Consider: What do you hope to achieve in this case? What do you think the other parties hope to achieve? Write a settlement agreement that you think would be fair to all parties.
6. Consider: The risks and uncertainty of trial compared to the possible benefits of trial. What are the strengths and weaknesses of your case? What are the best/worst things about going to trial?
7. Consider: The risks, costs and benefits of working out a settlement agreement during a free 3-hour mediation session.

H. What must parties do after the mediation?

1. **Complete the “Post-Mediation Survey.”** The Post-Mediation Survey is available on the Court’s ADR website under “Civil Mediation Forms” and from your Civil Mediation Panel mediator. Although no longer required, providing survey feedback helps the Court make sure the program is running as effectively as possible.

2. **Statement of Agreement or Non Agreement:** The mediator must file this form within ten (10) days after the mediation or the mediation completion date. If you do not receive a copy of this form within that time, contact your mediator.

If this form is not filed, the Court will assume the mediation did not occur and will schedule a hearing for an Order to Show Cause (OSC) and Sanctions for Failure to Complete Mediation.

3. **If the entire case settled:**
- The parties must file the “[Notice of Settlement](#)” (Form CM –200). Serve the notice on all parties and the mediator.
 - Plaintiff must file the “[Request for Dismissal](#)” (Form CIV-110) within 45 days of the date of settlement.
4. **If the case did not settle or only partially settled:**
The Court will send notice of the date, time, and place of the Trial Setting Conference (TSC).

I. What if the parties cannot complete the mediation by the Mediation Completion Date?

You may ask for more time by filing a “Stipulation and Order to Continue the Mediation Completion Date.” File this in the Civil Clerk’s office. You may be eligible to receive up to a 60-day continuance. If your request is granted, send a copy of the order to your mediator and to all parties with a proof of service.

J. What if the case fully settles before the mediation?

You must give the mediator notice of settlement at least two (2) days before your mediation session or you are subject to an Order to Show Cause (OSC) why sanctions should not be imposed. (CRC 3.1385) Plaintiff must file the Notice of Settlement and Request for Dismissal as described in section H.

K. What if counsel or parties fail to appear at a scheduled mediation session?

Expect an Order to Show Cause (OSC) and sanctions unless you gave the mediator at least two (2) days notice of cancellation.

L. What if the parties fail to participate in mediation by the Mediation Completion Date and have not received an order granting them additional time?

Expect an Order to Show Cause (OSC) and sanctions for Failure to Complete Mediation.

For further information and the Court Mediation forms, see the court’s web page:
<http://www.riverside.courts.ca.gov/adr/adr.shtml>