

Riverside County Superior Court

COURT-ORDERED MEDIATION

Local Rule, Title 3, Division 2

INFORMATION FOR MEDIATORS

NOTE: This Information Sheet applies to mediators who accept a Court-Ordered Mediation (Local Rule, Title 3, Division 2), who are on the Civil Mediation Panel.

For forms, [click here](#).

For general background information on Court-Ordered Mediation, [click here](#).

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1. Mediator Selection/Assignment: How are mediators selected for Court-Ordered Mediation cases?

Parties ordered to mediation receive a Notice of Court-Ordered Mediation and a [Response to Notice of Court-Ordered Mediation \(RI-ADR02.\)](#) The Notice of Court-Ordered Mediation will contain the name of a randomly assigned Civil Mediation Panel Member, who will be assigned to the case if the parties do not file the Response to Notice of Court-Ordered Mediation stipulating to another mediator.

If the parties do not file the Response within 15 days, the previously selected randomly assigned mediation from the Civil Mediation Panel is assigned to the case.

a. Stipulation to a specific mediator:

Parties contact mediators from the Civil Mediation Panel or other sources. If they agree upon a mediator and that mediator agrees to take the case, the parties must file the Response and serve a copy on the mediator. If the parties stipulate to a mediator and file the Response to Notice of Court-Ordered Mediation, the Court does not require the stipulated mediator to file the Mediator's Notice of Acceptance or Recusal.

b. Random assignment of a mediator

If the parties do not agree upon a particular mediator, the court randomly selects a Civil Mediation Panel member. The court sends a Notice of Court-Assigned Mediator to the mediator and parties. The Notice includes a link to the [Mediator's Notice of Acceptance or Recusal \(RI-ADR03\)](#), which the mediator must submit to the court.

2. Mediator Acceptance/Recusal: How do mediators accept/reject a Court-Ordered Mediation?

The mediator must file and serve the [Mediator's Notice of Acceptance or Recusal \(RI-ADR03\)](#) form within fifteen (15) days of the Notice of Court-Assigned Mediator.

Before accepting:

- a. Note the Mediation Completion Date and determine your availability.
- b. Check for conflicts and disclosures. (California Rule of Court, Rule 3.855)
Panel members: For free on-line access to the case, contact the ADR Director for a user name and password at courtADRdirector@riverside.courts.ca.gov
- c. Panel members: Discuss with counsel or self-represented parties fee arrangements if the mediation takes more than three (3) hours. You may

wish to use the optional form “[Stipulation re Fee for On-Going Services for Court-Ordered Mediation](#)” (RI-ADR04.) If you intend to charge fees after 3-hours, be sure to have a signed agreement before you start the mediation.

- d. Discuss scheduling, location, briefs, attendance by insurance representatives and other logistics with counsel. The plaintiff is required to provide you with three (3) mediation dates/times that are acceptable to all parties. For scheduling difficulties, see #11, below.
- e. Notify the parties of your decision and timely submit the [Mediator’s Notice of Acceptance or Recusal \(RI-ADR03.\)](#)

Acceptance:

If you accept the case, immediately calendar the Mediation Completion Date. (You must file the [Statement of Agreement or Non Agreement \(ADR-100\)](#) within ten (10) days after this date – even if the mediation does not take place.)

Recusals:

Mediators may recuse without stating a reason. If you recuse, the court will simply assign another mediator to the case.

If you accept the case, but later determine you must recuse, simply file an amended [Mediator’s Notice of Acceptance or Recusal \(RI-ADR03\)](#) form and serve it on all parties.

3. Compensation for panel members:

Panel members provide 3 hours of mediation services at no charge to the parties in court-ordered mediation. After 3 hours of actual mediation, panelists may bill the court \$150, and may bill the parties at market rates pursuant to a written agreement signed before the mediation began.

4. Compensation for non-panel members:

Parties ordered to mediation may make private arrangements to retain and compensate non-panel mediators for court-ordered mediations without court involvement. The parties must complete mediation by the Court Ordered completion date, unless a continuance is obtained.

5. Fax: Can mediators fax Court-Ordered Mediation documents to the court?

Yes, if you signed up for the Court’s Direct Fax Filing Program, you may fax to the Civil Clerk the

- Mediator’s Notice of Acceptance or Recusal and the
- Statement of Agreement or Non Agreement

If you do not have a fax account, you must mail or email these forms.

Whether or not you have a fax account, you may fax, at no charge, the

- Mediator's Fee Statement
- Mediator's Record of Service

Fax to the ADR Director: 951-777-3164.

6. Conference Rooms: How can panel members reserve conference rooms at no cost for Court-Ordered Mediations?

Historic: Rooms 159 & 163 are available by reservation only. To make a reservation, contact the ADR Director at courtadrdirector@riverside.courts.ca.gov.

Larson: The Law Library has generously offered its conference room, by appointment only. Call (760) 863-8316.

Southwest: One meeting room may be available by appointment only. Contact Cindy Gill at (951) 304-5330.

The above conference rooms are only available to Civil Mediation Panel members to provide Court-Ordered Mediations.

7. Mediation Completion Date: Why is this date so important?

This is the date the court uses to track court-ordered mediation cases. After this date, the case will be scheduled for one of three dispositions.

- a. If the mediation is not completed by this date and the case has not settled, the court schedules an OSC re Failure to Complete Mediation and possible sanctions.
- b. If the mediation occurred but the case has not settled by this date, the court schedules the case for a Trial Setting Conference.
- c. If the case has settled by this date, the court schedules an OSC re dismissal.

8. Statement of Agreement/Non Agreement (ADR-100): Why is this form so important?

This is the form the court uses to determine whether the case should be set for an OSC re Failure to Complete Mediation; a Trial Setting Conference; or an OSC re Dismissal. If the court does not receive this form within 10 days after the Mediation Completion Date, the court assumes that mediation did not occur and schedules an OSC re Failure to Complete Mediation and possible sanctions.

9. Continuances: What if the mediation cannot be scheduled or completed before the Mediation Completion Date?

The parties may request a 60-day continuance by filing the form [Stipulation and Order for Continuance of Court-Ordered Mediation \(RI-ADR05.\)](#) Parties must serve a copy on the mediator.

Mediators do not have the authority to continue the Mediation Completion Date or to schedule a mediation beyond that date. If you do not receive a copy of an Order with a new completion date, assume that the original completion date stands, and file the Statement of Agreement or NonAgreement within 10 days of the original date.

If there is a mediation session before the completion date, but the parties and mediators agree that another session is needed after that date, the parties must still file the Stipulation and Order for Continuance of Court-Ordered Mediation.

10. Mediation Dates: Should mediators notify the court of the mediation date and any changes?

No. The court does not keep track of mediation dates. Before the Mediation Completion Date, mediators and parties are free to schedule and reschedule mediation sessions as they wish without notifying the court. The Notice of Acceptance or Recusal form provides a space for the date, time and place of the mediation only as a convenience to the mediator and parties.

11. Scheduling challenges: How should mediators handle scheduling difficulties?

You may wish to

- a. Send the parties written notice of a mediation date/time/place that works for you and instruct them to confirm in writing. (But see 12a below.)
- b. Remind the parties of the final paragraph in the Notice of Court-Ordered Mediation: "Parties who fail to complete mediation by the mediation completion date or who fail to appear at a scheduled mediation session without providing the mediator at least 2 days notice of cancellation are subject to an Order to Show Cause (OSC) and Sanctions.
- c. Inform the parties that it is their responsibility (not the mediator's) to schedule and complete the mediation by the completion date ordered by the court and if they fail to do so, you are required to file the [Statement of Agreement/Non Agreement \(ADR-100\)](#) stating that the mediation did not take place, subjecting the parties to the OSC re Failure to Complete

Mediation and possible sanctions as described in the Notice of Court-Ordered Mediation.

- d. Inform the parties that they may file a [Stipulation and Order for Continuance of Court-Ordered Mediation Completion Date \(RI-ADR05\)](#), but that the mediator has no authority to continue that date or to schedule a mediation beyond the current completion date.
- e. Submit an amended [Mediator's Notice of Acceptance or Recusal \(RI-ADR03\)](#) to recuse, stating that the parties were unable to schedule a mediation.

12. Cancellations: How should mediators handle cancellations of mediation sessions?

- a. Prevent cancellations by confirming the date, time and place of the mediation session 24 – 48 hours before the scheduled session.
- b. Remind parties that pursuant to California Rule of Court, Rule 3.1385: Parties must notify the mediator at least 2 days before a scheduled mediation session if the case has already settled. The court may order parties to compensate the mediator or the court \$150 for failure to provide this notice. When parties fail to provide notice under these circumstances, instead of requesting this payment from the court, mediators may request that parties pay the \$150 directly to them.
- c. File the [Statement of Agreement or Non Agreement \(ADR-100.\)](#) Check Box 3a(1), but do not provide specific information. At an OSC hearing for failure to complete mediation, the party that appeared at the mediation session may provide more information to the court.

13. Settlements before mediation: What if the case settles before the mediation session?

If the case settles...

- After assignment, but before you file the Notice of Acceptance or Recusal: Submit the Notice of Acceptance or Recusal. Check Box C.
- After you file the Notice of Acceptance, but before the mediation session begins:
Submit the [Statement of Agreement or Non Agreement \(ADR-100\)](#) within ten (10) days after the Mediation Completion Date. Check Box 3a (2) and state: Parties report that case settled.
Do not submit a Mediator Fee Statement if the case settled prior to the mediation session.

Note that the parties must timely file a Notice of Settlement and Request for Dismissal.

If you did not receive notice of settlement at least 48 hours before a scheduled mediation session, see 12b above.

14. Forms at the mediation: What forms are required at the session?

a. Attendance Sheets (Judicial Council form ADR-107)

The mediator must request that all mediation participants complete the Attendance Sheet. (CRC 3.860(a)). Mediators must retain these sheets for at least two (2) years and provide them to the court on request. **Do not send these to the Court or to the ADR Director, unless requested.**

b. Post-Mediation Survey form (RI-ADR11)

Although not required, the Court values parties'/counselors' feedback on the program, and uses this information to evaluate possible ways to improve the program. Encourage them to complete the forms before leaving the mediation room, but please step out of the room while they do so, and do not collect the forms. The survey may also be completed on-line.

c. Stipulation re Fee for On-Going Services for Court-Ordered Mediation (ADR-04) (optional)

d. Your own mediation confidentiality agreement and other agreements.

15. Forms after the mediation: What forms are required after the session?

a. File and serve the Statement of Agreement or Nonagreement (ADR-100) no later than ten (10) days after the Mediation Completion Date.

- If the court does not receive this form, it assumes the mediation did not occur and will issue the parties an OSC re Failure to Complete Mediation and possible sanctions.
- File this form even if the mediation did not take place, and even if the parties reported that the case settled or had a bankruptcy stay before the mediation could be scheduled.
- Do not include any confidential information about the mediation. Do not report the names of any parties who did not appear at the mediation. See Campagnone v. Enjoyable Pools & Spas Service & Repairs (2008) 163 Cal.App.4th 566.
- If applicable, you may wish to state that the mediation was scheduled for a specific date; that one or both parties failed to appear and that you did not receive at least 48 hours notice of cancellation.

Panel Members

- b. **Mediator's Fee Statement (RI-ADR07)**: Submit this form only if you are requesting payment from the court, and are eligible for payment (i.e., you are an active member of the Panel, you were stipulated/assigned a case ordered to Court-Ordered Mediation, and the case did not settle prior to the mediation session). If there are changes to your name or address contact the ADR Director at courtADRdirector@riverside.courts.ca.gov for a "Vendor Address Change Form."
- c. **Mediator's Record of Service (RI-ADR09)** This form is no longer required, but you are welcome to submit this form to provide feedback to the Court.

16. **Submitting forms: Where should court forms be filed or submitted?**

Forms with captions: File at the appropriate court.

Forms without captions: Send to the ADR Director, Historic Courthouse, 4050 Main Street, Riverside, CA 92501 or courtADRdirector@riverside.courts.ca.gov.

Do not submit Attendance Sheets.

17. **Temporary Leave: Can mediators put a temporary hold on mediation assignments?**

No. If a mediator can no longer accept mediation assignments, the mediator can ask the ADR Director to be removed from the Panel. If the mediator simply cannot accept a particular assignment due to a scheduling conflict, the mediator can recuse themselves as to that assignment.

18. **Post-Mediation: What if the case does not resolve at mediation?**

Within 10 days after the Mediation Completion Date, the mediator must file the **Statement of Agreement or Nonagreement (ADR-100.)** If that form reports that the session ended in non-agreement, the Trial Setting Conference (TSC) is usually set 60 days after the filing of that form. Trials and Mandatory Settlement Conferences are scheduled within 6 months of the TSC. Once trial is set, stipulations to continue will not be accepted.

If the parties wish to continue working toward settlement before moving toward the TSC, they may file a Stipulation and Order to Continue the Mediation Completion Date.

19. Post-Mediation: What if the case resolves at the mediation session?

If the case resolves at the mediation, the mediator files the Statement of Agreement within ten (10) days after the mediation session. (If the court does not receive this form, it will set an OSC Re Failure to Complete Mediation.) The parties must file a Notice of Settlement and Request for Dismissal, or the court will set an OSC re Dismissal.

20. Post-Mediation: What if the case resolves after the mediation session but before the Mediation Completion Date?

If the case does not settle at the mediation session, but there is a good chance it will settle shortly thereafter, mediators may wish to hold off on filing the Statement of Agreement or Non Agreement as long as they file it no later than ten (10) days after the Mediation Completion Date.