

MEDIATION RULES

FORMS AND DIRECTIONS

FOR USE IN THE EIGHTH JUDICIAL DISTRICT

The **NOTES** on these forms are for informational purposes only and should not be included in case documents.

Effective 03/01/05

RULES GOVERNING ALTERNATIVE DISPUTE RESOLUTION

C. NEVADA MEDIATION RULES

Rule 1. The court annexed mediation program.

(A) The Court Annexed Mediation Program (the program) is an alternative to the Court Annexed Arbitration Program and is intended to provide parties a prompt, equitable and inexpensive method of dispute resolution for matters otherwise mandated into the arbitration program.

(B) These rules may be known and cited as the Nevada Mediation Rules, or abbreviated N.M.R.

Rule 2. Matters entering the mediation program.

Any matter that is otherwise subject to the Court Annexed Arbitration Program may be voluntarily placed into the Mediation Program. Participation in the Mediation Program shall be by mutual consent of the parties pursuant to written stipulation. The stipulation must be filed with the commissioner within 15 days after the filing of an answer by the first answering defendant. For good cause shown, an appropriate case may be placed into the program upon the filing of an untimely stipulation; however, such filing may subject the parties to sanctions by the commissioner.

Rule 3. Assignment to mediator.

(A) Parties may stipulate to use a private mediator who is not on the panel of mediators assigned to the program, or who is on the panel but who has agreed to serve on a private basis. The private mediator must possess the qualifications as stated in Rule 4 and must present a resume demonstrating said qualifications to the commissioner prior to serving as mediator. Such stipulation must be made and filed with the commissioner no later than the date set for the return of the mediator selection list. The stipulation must include an affidavit that is signed and verified by the mediator expressing his or her willingness to comply with the timetables set forth in these rules. Failure to file a timely stipulation shall not preclude the use of a private mediator, but may subject the dilatory parties to sanctions by the commissioner.

(B) Any and all fees or expenses related to the use of a private mediator shall be borne by the parties equally.

(C) Unless the parties have stipulated to a mediator pursuant to subdivision (A), the commissioner shall serve the two adverse appearing parties with identical lists of 3 mediators selected at random from the panel of mediators assigned to the program.

(1) Thereafter the parties shall, within 10 days, file with the commissioner either a private mediator stipulation and affidavit or each party shall file the selection list with no more than one name stricken.

(2) If both parties respond, the commissioner shall appoint a mediator from among those names not stricken.

(3) If only one party responds within the 10-day period, the commissioner shall appoint a mediator from among those names not stricken.

(4) If neither party responds within the 10-day period, the commissioner shall appoint one of the 3 mediators.

(5) If there are more than 2 adverse parties, one additional mediator per each additional party shall be added to the list with the above method of selection and service to apply. For purposes of this rule, if several parties are represented by one attorney, they shall be considered as one party.

(D) If the selection process outlined above fails for any reason, including a recusal by the mediator, the commissioner shall repeat the process set forth in subdivision (C) of this rule to select an alternate mediator.

Rule 4. Qualifications of mediators.

(A) Each commissioner shall create and maintain a panel of mediators consisting of attorneys licensed to practice law in Nevada and a separate panel of non-attorney mediators.

(B) Mediators must have the equivalent of at least 10 years of civil experience as a practicing attorney or judge or must have the equivalent of at least 5 years' experience as a mediator or must be a senior judge or justice.

(C) The panel of mediators shall be selected by a committee composed of the Chief Judge or the Chief Judge's designee, the commissioner and a representative of the Alternative Dispute Resolution (ADR) Committee of the State Bar of Nevada.

(D) Each mediator who desires to remain on the panel shall fulfill at least 3 hours of accredited continuing educational activity in mediation annually and provide proof thereof to the commissioner. Failure to do so may constitute grounds for temporary suspension or removal from the panel.

Rule 5. Stipulations and other documents.

During the course of mediation proceedings commenced under these rules, no documents may be filed with the district court. All stipulations and other documents relevant to the mediation proceedings must be lodged with the mediator.

Rule 6. Scheduling of mediation proceedings.

All mediation proceedings shall take place no later than 60 days from the date of the mediator's appointment.

Rule 7. Conduct of the mediation proceeding.

The mediator shall have complete discretion over the conduct of the proceeding. The parties present at mediation must have authority to resolve the matter.

Rule 8. Report to the commissioner.

Within 5 days after the conclusion of the mediation proceedings, the mediator shall file with the commissioner and serve copies on the attorneys of record and on any unrepresented parties, a report advising whether the matter was resolved, an impasse has been declared, or that no agreement was reached, or that the matter has been continued, and whether all requisite parties with authority to resolve the matter were present. The report will be similar to the settlement conference report submitted by settlement judges in the appellate settlement program under N.R.A.P. 16(g), and shall not disclose any matters discussed at the mediation proceedings.

Rule 9. Matters not resolved in mediation.

All matters not resolved in the program shall forthwith enter the short trial program set forth in the Nevada Short Trial Rules.

Rule 10. Fees and costs for mediators.

(A) Mediators shall be entitled to remuneration of up to \$1,000 per case, unless otherwise authorized by the commissioner for good cause shown.

(B) Mediators are entitled to recover the costs, not to exceed \$250, that the mediator reasonably incurs. Costs recoverable by the mediator are limited to:

- (1) Reasonable costs for facsimiles;
- (2) Reasonable costs for photocopies;
- (3) Reasonable costs for long distance telephone calls;
- (4) Reasonable costs for postage;
- (5) Reasonable costs for travel and lodging; and
- (6) Reasonable costs for secretarial services.

(C) Fees and costs of the mediator are paid equally by the parties unless otherwise stipulated.

(D) If required by the mediator, each party to a case within the program shall deposit with the mediator, within 15 days of request by the mediator, a sum of up to \$250 as an advance toward the mediator's fees and costs. If any party fails to pay their portion of the mediator's fees and costs within the time prescribed in this subsection, the district court shall, after giving appropriate notice and opportunity to be heard, enter a judgment and a writ of execution against the delinquent party for the amount owed by the party to the mediator, together with any fees and costs incurred by the mediator in the collection of the fees and costs.

(E) If one of the parties to the mediation is an indigent person who was exempted under NRS 12.015 from paying a filing fee, the mediator may not collect a fee or costs from any party to the mediation.

Rule 11. Confidentiality; immunity of mediators.

(A) Each party involved in a mediation proceeding pursuant to these rules has a privilege to refuse to disclose, and to prevent any person present at the proceedings from disclosing, communications made during the proceeding. All oral and written communications in a mediation proceeding, other than an executed settlement agreement, shall be confidential and inadmissible as evidence in any subsequent legal proceeding, unless all parties agree otherwise.

(B) Mediators in the program shall be afforded the statutory immunity provided by NRS 48.109 and also shall be afforded the same statutory immunity as arbitrators pursuant to N.R.S. 38.229 and 38.253.

Nevada Mediation Rules effective March 1, 2005