

**THE MEDIATION PROCESS
PINELLAS COUNTY
INSTRUCTIONS FOR COUNTY AND SMALL CLAIMS (Excluding pretrials)**

Authority: Pursuant to §44.1011 and 44.108 Fla. Stat., and Fla. R. P. 1.700, *et seq.*, judges have the authority to order most types of contested county and small claims cases to mediation prior to trial. Exclusions from the mediation process are found in Fla. R. Civ. P. 1.710(b).

To help make mediation more accessible to all parties, Chapter 2004-265, Laws of Florida, amended 44.108 Florida Statutes. Through funding for the State Court System, the Sixth Judicial Circuit will implement Fl Stat 44.108 with a mediation model that provides paid family and county civil mediation services to certain parties.

Definition: Mediation is statutorily defined as “...[A] process whereby a neutral third person called a mediator acts to encourage and facilitate the resolution of a dispute between two or more parties.” It is an informal and nonadversarial process with the objective of helping the disputing parties reach a mutually acceptable and voluntary agreement. In mediation, decision making authority rests with the parties. The role of the mediator includes, but is not limited to, assisting the parties in identifying issues, fostering joint problem solving, and exploring settlement alternatives. The mediator has no decision making power. Any agreement reached will be by mutual consent of the parties. A written agreement that is signed may be filed and submitted to the court with the parties’ consent.

Special Rules or Procedures: **Mediation program staff shall select a mediator for court provided cases by rotation. The mediator is selected from a list of court contracted mediators.** The court provided mediation session shall be set for 60 minutes for small claims cases and 90 minutes for county cases. Parties not eligible for court provided mediation shall select their own mediator and hold a mediation conference in accordance with the order of referral.

County Civil Court-Provided Mediation Services (Excluding Small Claims)

Requirements

1. Only the presiding judge in the case can determine eligibility for court provided mediation. Therefore, to seek eligibility, both parties must request a hearing before the presiding judge. Parties cannot stipulate to court-provided county civil mediation without a hearing.

If the Court determines that you have an inability to pay for private mediation, you will be mailed an order of referral to court-provided county mediation with the rate of the mediation fee included. Parties deemed otherwise eligible for court provided mediation may also opt instead to retain private mediation, in which case the mediation fees below will not apply.

County Civil Court-Provided County Mediation

Fee is established by statute and is as follows:

\$60.00 per party per session unless deemed otherwise by the Court.

Co-party plaintiffs (Husband/Wife; Parent/Child) will be treated as one party.

Co-party Defendants (Husband/Wife; Parent/Child) will be treated as one party.

Commercial eviction cases will require a \$60.00 per party per session mediation fee if deemed eligible for court provided mediation services. No mediation fees shall be assessed under this subsection in residential eviction cases, against a party found to be indigent, or for any small claims action.

Any party may pay any other party’s mediation fee. A mediation fee collected from any party is nonrefundable.

2. Parties must take a copy of the order of referral to one of the offices of the Clerk of Circuit Court in Pinellas County and pay the designated fee in the order within ten days of receiving the order of referral. **Important: Keep and bring receipt of payment to the mediation conference**

Clerk of Circuit Court locations for payment of fees:

**545 1st Avenue North, First Floor St. Petersburg, FL 33701 (727) 582-7771 or
315 Court Street, First Floor, Clearwater, FL 33756 (727) 464-3267**

3. Mediation Program staff shall select a mediator by rotation from the list of court contracted mediators.

Small Claims Court-Provided Mediation(Post pretrial)

Mediation shall be provided at no cost to the parties if the parties request, and agree upon court-provided mediation services.

For mediation held after pretrial. Mediation Program staff shall select a mediator by rotation from the list of court contracted mediators. It is the parties responsibility to coordinate the date, time, and location of the mediation conference with the mediator within ten days (10) of the date of this order.

Small Claims Pretrial Mediation

Mediation shall be provided at no cost to the parties. Small Claims pretrial mediators are chosen and scheduled by the Court on specific pre trial days.

Private Mediation

If the parties choose their own private mediator, they may select a mutually acceptable mediator from the list of certified mediators upon a stipulation with the court or by selecting a mediator who does not meet the certification requirements, but who, in the opinion of the parties and upon review by the presiding judge, is otherwise qualified by training or experience to mediate all or some of the issues in the particular case. Parties must select a mediator and notify the Program at (727) 582-7696 of this selection within ten days of receipt of the order of referral, or the Program will select a mediator for you. The parties and the mediator agree upon a fee, and the parties pay the mediator at the time of the mediation.

The parties must coordinate with the mediator a date and time of mediation and notify the Program.

Procedures Applicable to Both Court-Provided Mediation and Private Mediation

Appearances: The presence of legal counsel is required by the rules of civil procedure, unless otherwise agreed by the mediator and the parties. A corporate party must send a corporate representative, other than the attorney, with **full authority** to settle the case. An insurance carrier must send a company representative, other than the attorney, who has **full authority** to resolve the matter for an amount which is the lesser of the policy limits or the recent demand of the adverse party. Proceeding to mediation with authority limited to a prior evaluation of the case is not acceptable and may subject the parties to sanctions.

The Conference: ATTORNEYS SHOULD SUBMIT A BRIEF WRITTEN SUMMARY OF THE FACTS/ISSUES OF THE CASE TO THE MEDIATOR AT LEAST ONE WEEK BEFORE THE SCHEDULED CONFERENCE. During the conference, counsel should be prepared to discuss the facts and legal issues involved in the case and to generally help the parties evaluate the case. The ultimate decision making authority of whether or not to settle the case rests with the parties, with the advice of counsel.

Upon motion or request of any party, the Court will not refer a case to mediation if it finds there has been a history of domestic violence that would compromise the mediation process. The Court on its own motion may determine that a case will not be referred to mediation because of a history of domestic violence.

Your mediator will be explaining the process in greater detail the day of the conference. In the meantime, if you have any questions about these or any other court-ordered mediation procedures, you should call the mediation program at (727) 582-7696.

PLEASE READ CAREFULLY

Scheduling, rescheduling and cancellations: Staff will prepare notices reflecting your coordinated date and mediator selection. Court provided county cases are typically scheduled for 90 minutes and small claims cases for 60 minutes. Private county and small claims cases are generally scheduled for 3 hours. Program staff may select a conference room in one of the court facilities on a space available basis.

Please see below for more detailed information regarding our scheduling policies.

Completion of mediation is usually a prerequisite to trial. The initial mediation conference shall be held within sixty (60) days of the signed referral order.

The party or attorney who is requesting that a mediation session be rescheduled must obtain consent from opposing counsel and the assigned mediator. ***The Program must also be notified of any rescheduling attempts.*** If opposing counsel and/or the mediator do not give consent to reschedule the conference, the attorney must apply for relief through the presiding judge prior to the scheduled conference. Cancellation (with no attempt to reschedule) of the mediation conference will only be permitted where one or both parties have applied for relief from the presiding judge and has had the case properly deferred or removed from mediation. **NO OTHER UNILATERAL CANCELLATION OR RESCHEDULING WILL BE PERMITTED AND IS A VIOLATION OF THE COURT'S ORDER TO ATTEND.**

Notifying the Mediator: The mediator must be notified at least forty-eight (48) hours in advance (not including weekends and holidays) of any rescheduling or cancellation, for whatever reason. If the late cancellations was due to a unilateral request through the court for a continuance or deferment, the moving party may be assessed the entire cancellation fee. If the late rescheduling was due to a stipulation between parties, any fee charged by the mediator (excludes cases involving a court mediator) will be divided equally between or among them.

Settlement Prior to Mediation: Settlement before mediation is always encouraged but is still considered a cancellation. Consequently, the forty-eight (48) hours notice requirement applies. It is the responsibility of plaintiff's counsel to notify the Program and the mediator in a timely manner of any settlement before the initial conference. Written confirmation is required by the court order.

Payment: If the parties are utilizing a court-provided mediator for a county civil case over and above small claims, the fee of \$60.00 per party must be paid prior to the mediation conference, unless the Court has deemed one or both parties indigent. See page 1 for requirements regarding fees. Small Claims court-provided mediation, upon the request of the parties, shall be offered at no cost to the parties.

If the parties choose their own private mediator in the absence of a written fee agreement providing for the private mediator's compensation, the mediator shall be paid at the rate of not more than \$150.00 per hour. Payment of the agreed upon fee is due to the mediator on the day of the mediation conference.