

STATE OF MICHIGAN
33RD JUDICIAL DISTRICT COURT
COUNTY OF WAYNE

**ADMINISTRATIVE ORDER
NO. 2007-1**

ORDER ADOPTING LOCAL ALTERNATIVE DISPUTE RESOLUTION PLAN

At a session of said Court held in the 33rd District Court in the
City of Woodhaven, County of Wayne on MAR 9 2007

**Present: HON. MICHAEL K. MCNALLY
HON. JAMES K. KERSTEN
HON. EDWARD J. NYKIEL**

Effective Date: Immediately

IT IS ORDERED:

Issued in accordance with Michigan Court Rule 2.410 (B) (1), the purpose of this order is to adopt an Alternative Dispute Resolution (ADR) plan.

This order supersedes any and all previous 33rd District Court Administrative Orders or Court policies that may address the same matter. This order is subject to approval by the State Court Administrative Office.

Definition

By alternative dispute resolution, the Court means "mediation" as defined in MCR 2.411 (A)(2). "Mediation" is a process by which a neutral third party facilitates communication between parties, assists with identifying issues, and helps explore solutions to promote a mutually acceptable settlement. A mediator has no authoritative decision-making power.

Program Description

It is the policy of the 33rd District Court that the following types of cases may be submitted to mediation under MCR 2.410 in accordance with this Plan and the attached Agreement to Provide Mediation Services (hereinafter Agreement) with Wayne Mediation Center (hereinafter Center).

Small Claims Cases - There will be a standing order pursuant to this local administrative order that all small claims cases are to be mediated on the date of the scheduled hearing if the case has not had a default judgment, consent judgment or dismissal entered, or has not been removed to the general civil docket.

Mediation services will be provided by the Center as provided in the attached Agreement.

The Court will inform the parties that mediation services will be provided by trained mediators from the Center at no charge to the parties. The parties may request that mediation be waived for good cause and proceed directly to trial.

If the case is not resolved at mediation, it will be tried by the judge on that day, or the earliest possible date.

General Civil and Landlord Tenant Cases - A Judge may order a general civil and/or landlord/tenant case to mediation, after consultation with the parties. An Order for Mediation (MC 274) shall be completed and signed by the Judge. Within 14 days from the date of the Order for Mediation, the parties may agree upon a mediator of their choice for ADR pursuant to MCR 2.410, and provide notice to the Court of the mediator selected. If no such agreement is reached within 14 days, the parties will be referred to the Wayne Mediation Center, who shall assign a mediator in a rotational manner as provided in this Plan and in accordance with MCR 2.411. The cost of mediation shall be \$75.00 per party, unless as otherwise provided below, payable at least thirty (30) days prior to the date of the scheduled Mediation.

The parties may request that mediation be waived for good cause by making a written request prior to the scheduled mediation date.

Plan Contents

1. **ADR Clerk** - The ADR Clerk is the Court Administrator of the 33rd District Court.
2. **List of Mediators** The ADR Clerk shall enter into an agreement with the Wayne Mediation Center, Inc.(Center), a non-profit corporation. The Center shall maintain a list of available qualified mediators to be used by this Court and shall be responsible for assigning mediators in a rotational manner in accordance with the court rules. The ADR Clerk shall maintain, and make available to the parties upon request, a copy of the list of qualified mediators from the Mediation Tribunal.
3. **Information Dissemination** - The ADR Clerk shall make available a brochure or document describing the Court's ADR Plan and ADR processes used by the Court for the above-mentioned case types. Copies of this brochure shall be given to all litigants. Copies of the ADR Plan shall also be available at the ADR Clerk's office.
4. **Indigent Access to ADR** - Indigent parties shall have equal access to mediation provided by the Center *at no cost* as provided in the attached Agreement. In the event only one party qualifies for waiver of filing fees under MCR 2.002, the \$75 fee will be waived only for that party.
5. **Referral Relationships** - Pursuant to MCR 2.405, the Court has entered into a

referral relationship with the Wayne Mediation Center. The Center will, minimally, maintain a list of qualified mediators, assign mediators in a rotational manner, maintain confidentiality, operate in the highest ethical standards, and enforce non-discrimination policies. A copy of the written agreement between the Court and the Center is attached and incorporated herein by reference.

6. **ADR Program Evaluation** - The Court shall evaluate and provide oversight to the mediation process to assure continuous improvement and quality service. The ADR Clerk will have primary responsibility for oversight and program monitoring. The ADR Clerk will meet annually with the Chief Judge and review program performance. The evaluation review will include, but not necessarily be limited to:
 - a. A summary of program activity and outcomes.
 - b. Analysis of program operation in compliance with selected, appropriate Court Rules.
 - c. Review of program service complaints.
 - d. Recommendations for program improvement.

7. **Attachments** - Referral Agreement between the 33rd District Court and the Wayne Mediation Center. 33rd District Court Mediation Program Information Sheet for General Civil and Landlord Tenant Cases. Order for Mediation (MC274).

3-9-07

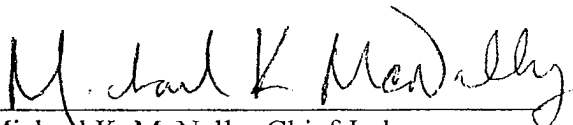
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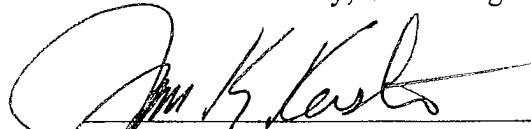
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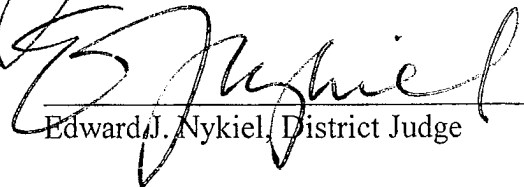
Date



Michael K. McNally, Chief Judge



James K. Kersten, District Judge



Edward J. Nykiel, District Judge

AGREEMENT TO PROVIDE MEDIATION SERVICES

The 33rd District Court (District Court) and the Wayne Mediation Center (WMC) enter into an agreement dated the 14th day of May, 2007.

Since the District Court has adopted a Local Alternative Dispute Resolution Plan (LADRP), which has been approved by the Michigan State Court Administrative Office (SCAO), and WMC is a SCAO-funded Community Dispute Resolution Program, which operates under MCL 691.1551, the parties agree as follows:

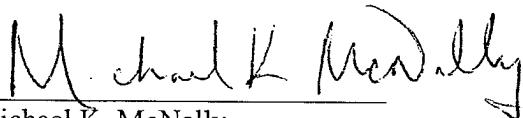
1. LADRP. The SCAO-approved LADRP for the District Court is incorporated into this agreement.
2. MCR 2.411. WMC shall operate in accordance with the requirements of MCR 2.411 and will:
 - a. Keep all communications during intake and mediation confidential, except to advise WMC mediators of the facts and issues involved.
 - b. Operate under WMC's written non-discrimination policy which is incorporated into this agreement by reference.
 - c. Equitably rotate WMC volunteer mediators, as needed, who are assigned to handle cases referred by the District Court to ensure that each mediator is assigned the same number of cases over a two year period.
 - d. Report, as required, to the District Court's ADR Clerk to ensure compliance with MCR 2.411.
3. Training Services. WMC may provide at least 4 hours of training on an annual basis to the ADR Clerk and other court personnel on mediation and procedures for processing litigants through mediation. The training will be initiated by request from either WMC or the District Court. WMC will coordinate with the District Court to schedule the training and WMC will provide this training free of charge to the District Court.
4. Court Staff Enrichment. WMC will provide the District Court with a schedule of dispute resolution and collaborative problem solving trainings and their associated costs at least quarterly.
5. Annual Feedback. WMC will meet with the Judges and/or the Court Administrator at least semi-annually to ensure that the mediation program meets the expectations of both the District Court and WMC.

6. Compensation. *Free service.* WMC will provide free mediation services in Small Claims cases. *Charge for service.* WMC will charge \$75.00 per side to the litigants for mediation services in General Civil cases and Landlord Tenant. The fee for mediation services (fee) shall be paid by the litigants to the court before mediation occurs. The fee is deemed a cost of the action and the District Court may make an appropriate order to enforce payment of the fee. Once the fee for a case is paid to the District Court, it will forward the fee to WMC within 30 days. Fees for indigent clients will be waived. *Fee Review and Increase.* Due to program and administration costs, the fee is scheduled to be increased on January 1st, 2008. The District Court and WMC will meet prior to January 1st, 2008 to negotiate the fee increase.
7. Term. The term of this agreement shall be effective January 1st, 2007. It will continue indefinitely until terminated or modified. It may be terminated or modified by either WMC or the District Court. If either side wishes to terminate or modify the agreement it will give the other side 60 days written notice of the termination or modification.

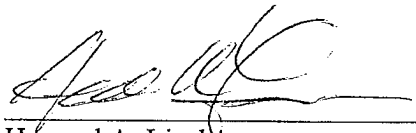
By signing below the parties show that they agree with the terms listed above.

33rd District Court

Wayne Mediation Center



Michael K. McNally
Chief Judge



Howard A. Lischeron
Executive Director

33RD DISTRICT COURT MEDIATION PROGRAM

SMALL CLAIMS

The 33rd District Court has adopted a Mediation Program for Small Claims cases. The attached notice of hearing sets forth the date and time for you to appear in Court. Prior to appearing before the Judge, you are scheduled to discuss your case with a mediator. Mediation is an effective method of resolving disputes that provides parties with the opportunity to reach mutually-satisfactory agreements in a non-adversarial manner.

Please read the following information about the 33rd District Court's Mediation Program, including a description process, a procedural overview and a summary of your procedural options.



What is Mediation?

The Michigan Court Rules define “mediation” as a process in which a neutral third party (mediator) facilitates communication between parties, assists in identifying issues, and helps to explore solutions to promote a mutually-acceptable settlement. Unlike litigation, where one party wins and one loses, mediation helps parties reach their own mutually-satisfactory resolution in a non-adversarial manner.



Benefits of Mediation

The decision-making process belongs to you. You decide how to best resolve your dispute; unlike going to court, no one judges your problem and tells you what to do.

It works. Thousands of cases have been successfully mediated to all parties' satisfaction. Mediation is a “win/win” rather than a “win/lose” solution. In court, someone wins and someone loses.

It's effective. About 80% of all mediated cases end in agreement. In fact, the likelihood of settling a dispute to both parties' satisfaction through mediation is much higher than in small claims court. Mediation also reduces the likelihood that the problem will occur again.



Who Will Mediate My Case?

The 33rd District Court has a referral agreement with the Wayne Mediation Center to conduct mediation. There is no charge to the parties for mediation conducted by the Center.

The Wayne Mediation Center is a Community Dispute Resolution Program funded in part by the State of Michigan.

All mediators used by the Center meet or exceed the qualifications required under the Michigan Court Rules. Small claims mediators have completed a 40 hour training program approved by the State Court Administrative Office and either are attorneys or have a graduate degree in conflict resolution or have 40 hours of mediation experience over a two-year period.



What Happens at Mediation?

When you appear at the Court on the date scheduled for hearing, the mediator will review the case with you. Both sides will have an opportunity to discuss their views about the case. The mediator will assist in negotiations to find a solution that satisfies the needs of all parties. Mediators may speak with each party privately to explore alternatives, if it is reasonable or necessary.

Mediation is confidential and mediators can neither be called as witnesses nor have their records subpoenaed if the case is not resolved at mediation.

Parties appearing on this date must have authority to settle the case. If the parties agree to a settlement, the mediator will write the terms of the settlement on a judgment form and ask both sides to sign it. The judge will review the judgment and sign it, thereby making the agreement binding upon both parties.

If both sides do not agree to a settlement, the case will proceed to trial before the judge.

Please note: If the Plaintiff fails to appear for mediation, the case may be dismissed.

If the Defendant fails to appear, a default judgment may be entered.

**If you have any questions about the 33rd District Court Mediation Program,
please contact the Civil Division at 734-671-0225**

33RD DISTRICT COURT MEDIATION PROGRAM

GENERAL CIVIL AND LANDLORD TENANT CASES

The 33rd District Court has adopted a Mediation Program for certain General Civil and Landlord/Tenant cases. Mediation is an effective method of resolving disputes that provides parties with the opportunity to reach mutually-satisfactory agreements in a non-adversarial manner.

Please read the following information about the 33rd District Court's Mediation Program, including a description process, a procedural overview and a summary of your procedural options.



What is Mediation?

The Michigan Court Rules define “mediation” as a process in which a neutral third party (mediator) facilitates communication between parties, assists in identifying issues, and helps to explore solutions to promote a mutually-acceptable settlement. Unlike litigation, where one party wins and one loses, mediation helps parties reach their own mutually-satisfactory resolution in a non-adversarial manner.



Benefits of Mediation

The decision-making process belongs to you. You decide how to best resolve your dispute; unlike going to court, no one judges your problem and tells you what to do.

It works. Thousands of cases have been successfully mediated to all parties' satisfaction. Mediation is a “win/win” rather than a “win/lose” solution. In court, someone wins and someone loses.

It's effective. About 80% of all mediated cases end in agreement. In fact, the likelihood of settling a dispute to both parties' satisfaction through mediation is much higher than in small claims court. Mediation also reduces the likelihood that the problem will occur again.



Who Will Mediate My Case?

The 33rd District Court has a referral agreement with the Wayne Mediation Center to conduct mediation. There is a \$75 fee to each of the parties for mediation conducted by the Center, **payable at least thirty (30) days prior to the date Mediation is scheduled.**

Indigent parties may qualify for waiver of filing fees under MCR 2.002.

All mediators used by the Center meet or exceed the qualifications required under the Michigan Court Rules. Mediators have completed a 40 hour training program approved by the State Court Administrative Office and either are attorneys or have a graduate degree in conflict resolution or have 40 hours of mediation experience over a two-year period.

The parties may agree upon a mediator of their choice. The parties must notify the Court within 14 days from the date of the Order for Mediation the name of the mediator selected. A copy of the list of qualified mediators from the Mediation Tribunal is available upon request.



What Happens at Mediation?

When you appear at the Court on the date scheduled for Mediation, the mediator will review the case with you. Both sides will have an opportunity to discuss their views about the case. The mediator will assist in negotiations to find a solution that satisfies the needs of all parties. Mediators may speak with each party privately to explore alternatives, if it is reasonable or necessary.

Mediation is confidential and mediators can neither be called as witnesses nor have their records subpoenaed if the case is not resolved at mediation.

Parties appearing on this date must have authority to settle the case. If the parties agree to a settlement, the mediator will write the terms of the settlement on a judgment form and ask both sides to sign it. The judge will review the judgment and sign it, thereby making the agreement binding upon both parties.

If both sides do not agree to a settlement, the case will proceed to trial before the judge.

Please note: If the Plaintiff fails to appear for mediation, the case may be dismissed.

If the Defendant fails to appear, a default judgment may be entered.

**If you have any questions about the 33rd District Court Mediation Program,
please contact the Civil Division at 734-671-0225**

33rd STATE OF MICHIGAN JUDICIAL DISTRICT	ALTERNATIVE DISPUTE RESOLUTION ORDER FOR MEDIATION	CASE NO.
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Court address 19000 Van Horn Road, Woodhaven, MI 48183	Court telephone no. (734) 671-0201
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Plaintiff

V

Defendant

Attorney for Plaintiff

Attorney for Defendant

Mediation Date: _____

Time: _____

IT IS ORDERED:

1. This case is ordered to mediation under MCR 2.411(A)(2).
2. Unless the parties notify the Court within 14 days from the date of this order of their agreement to appoint a different mediator, the mediator will be provided by the Wayne Mediation Center, pursuant to the Court's ADR Plan.
3. Mediation will be conducted on the date and time listed above at
 - The 33rd District Court, 19000 Van Horn Road, Woodhaven, Michigan.
 - Wayne Mediation Center, 19855 W. Outer Drive, Suite 206 East, Dearborn, MI 48124.
4. The cost of mediation shall be \$75 per party. The \$75 mediation fee shall be paid to the 33rd District Court thirty (30) days prior to the mediation, unless the fee is waived by the Court upon a party's motion based on indigency pursuant to MCR 2.002.
5. Unless otherwise ordered by the court,
 - a. persons with authority to settle the case, including the parties to the action, their agents, representatives of lien holders, and representatives of insurance carriers shall be: present at the mediation. available by telephone at the time of the conference.
 - b. the attorneys who intend to try the case shall attend the mediation.

Date

Judge P-

CERTIFICATE OF MAILING

I certify that on this date a copy of this order was mailed to the parties/attorneys by ordinary mail at the addresses stated above.

Date

Signature