

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT

CHAMPAIGN COUNTY, ILLINOIS

COUNTY ADMINISTRATIVE ORDER 2024-2

Re: SMALL CLAIMS MEDIATION PROGRAM

A. PURPOSE

In an effort to provide an expeditious and expense-saving alternative to traditional litigation in the resolution of controversies, there is hereby established a Small Claims Mediation Program (Program) which shall operate in cases pending in the Small Claims Division of the Circuit Court of Champaign County. Mediation pursuant to this Rule involves a confidential process by which a neutral mediator assists the litigants in reaching a mutually acceptable agreement. The role of the mediator is to assist in identifying the issues, reducing misunderstandings, exploring and clarifying the parties' respective interests and priorities, and identifying and discussing possible solutions that will satisfy the interests of all parties, thereby resolving some or all of the issues in dispute. Any agreement reached by the parties is to be based on the autonomous decisions of the parties and not the decisions of the mediator.

B. AUTHORITY FOR PROGRAM

The Sixth Judicial Circuit Champaign County Small Claims Mediation Program (Program) is established by, and remains under, the authority of the Champaign County Court through the Chief Judge, or designee, as permitted by Illinois Supreme Court Rule 99.

C. PROGRAM ADMINISTRATOR

The position of Small Claims Mediation Program Administrator (the "Administrator") is established to oversee the daily operations of the Program. The designated duties of the Administrator are set out within these rules. The Dispute Resolution Institute, Inc. (DRI) will serve as the Administrator.

D. ACTIONS ELIGIBLE FOR MEDIATION

Litigants in small claims proceedings filed after the effective date of this Administrative Order may be eligible for the Program, subject to discretion of the Court and the stipulations set forth herein. The parties may not proceed to a judicial hearing on contested issues in that case without leave of court, or until the mediation process has been concluded and its outcome has been reported to the court. Program applies to Small Claims cases seeking \$10,000 or less.

E. ENTRY INTO PROGRAM

1. Cases may enter the Program by the discretion of the presiding judge over small claims civil actions by order of the Court, which may be ordered by the presiding judge over one or both of the parties' objections.
2. Once a case has entered the Program by agreement or court order, the parties must contact the Administrator to begin the intake and screening process within three days (not including weekend or court holidays) or such other time as the Court permits.

F. MEDIATION RULES AND PROCEDURES

1. Stay of Small Claims Court Case

Once a case has entered the Program, the Court shall prohibit any judgment from being entered until the case has been terminated from the Program by the Administrator.

2. Failure to Participate or Appear for Mediation Intake and/or Mediation Session

- a. Failure to participate by the plaintiff and/or their counsel may result in the case being rescheduled, subject to the Administrator's discretion. In the event a party fails to attend mediation without good cause shown, the Court upon motion may impose sanctions, including but not limited to, costs.
- b. Failure to participate by the defendant and/or their counsel may result in termination of the case from the Program, subject to the Administrator's discretion.

3. Mediation Intake Process

- a. The Administrator will screen all cases sent to mediation.
- b. If the Administrator finds any case is inappropriate for mediation or if an impediment to mediation exists that cannot be mitigated, the Administrator has the discretion to remove or reject the case from the Program.
- c. If the Administrator finds the case is appropriate for mediation, the Administrator will schedule the mediation at a mutually convenient time for both parties. This date shall be prior to the next status hearing, unless otherwise agreed to by the parties or by order of the Court.

4. Mediation Process

- a. The party(s) are required to participate in the mediation process. If the party(s) have counsel, their counsel may attend the mediation with their client(s) or on behalf of their client if they have full settlement authority.
- b. Mediations may take place in-person or via video conferencing, at the discretion of the Administrator.
- c. Additional mediation sessions may be set at the discretion of the Mediator or by agreement of the parties. If an additional session is scheduled, the Mediator shall fill out a Mediator Report (Exhibit B) and submit the Report to the Administrator. The Administrator will ensure the parties and the Court receive a copy of the Report.
- d. Either party may request disqualification of a mediator for good cause. Mediators may also disqualify themselves or refuse an assignment for good cause. Good cause includes, but is not limited to, a conflict of interest or the appearance of impropriety. If a mediator is disqualified an alternative mediator will be assigned, and the mediation will be rescheduled accordingly.
- e. Termination of Mediation Process
 - i. Termination of Mediation Process – The Mediator shall terminate the mediation process when an agreement has been reached or if the mediator believes no purpose would be served by continuing the mediation process.
 - ii. Mediator Report – Upon conclusion of the mediator process, the mediator shall fill out a Mediator Report (Exhibit B) and submit the Report to the Administrator. The Administrator will ensure the parties and the Court receive a copy of the Report. The Report shall indicate the outcome of the Mediation.
 - iii. Agreement Reached – If an agreement has been reached in mediation, the Mediator shall have the parties complete a Mediation Agreement form (Exhibit C) and submit the Agreement to the Administrator. The Administrator shall submit the Agreement to the Court for final approval. In the event of any breach or failure to perform under the written settlement agreement, the Court upon motion may impose sanctions, including costs, attorneys' fees, or other appropriate remedies, including entry of the judgement on the agreement.

- iv. No Agreement Reached – If no agreement is reached, the case will be terminated from the Program and the case shall be referred to Court for future appearances.

G. MEDIATOR LIST, QUALIFICATIONS, AND REQUIREMENTS

1. The Administrator shall maintain a list of volunteer mediators who have been approved by the Administrator to mediate in the Program.
2. Mediators shall be advised that this Program is provided at no cost to the litigants and the mediator agrees to serve in a volunteer capacity.
3. Mediators shall have successfully completed at a minimum a thirty-two (32) hour mediation training skills program, the contents of which are acceptable to the Administrator, plus successfully complete additional training as required by the Administrator. Administrator shall provide application process for prospective mediators which outlines the acceptable trainings, skills, and conduct.
4. The Administrator shall assess prospective volunteer mediators' competency and shall provide further mentorship and assistance to mediators, as needed. The Administrator may require a mediator to observe a small claims mediation prior to being assigned a case.
5. Mediators shall comply with these rules, applicable law, and standards developed by the Administrator. The Administrator's standards may include, but are not limited to, guidelines for conducting the mediation process, documentation requirements, and ethical standards. Mediators shall be provided with a copy of the Administrator's standards.

H. MEDIATOR REMOVAL

The Administrator may decertify a mediator previously certified and approved for participation in this program.

1. If, in the opinion of the Chief Judge or the Administrator, the mediator does not demonstrate the ability and willingness to comply with all the specific and general mediator standards described in the local rules, and any other standards required by the Chief Judge and/or the Administrator, the mediator may be removed from the mediator roster.
2. The Administrator shall inform the mediator of any concerns.
3. The frequency of assigned mediation cases may be reduced or stopped until the mediator demonstrates an ability and willingness to comply with the mediator rules and standards.

4. A course for improvement may be required by the Administrator for the mediator to continue to stay on the roster, including, but not limited to, additional training, observation, and training material review.

I. CONFIDENTIALITY

Pursuant to the Illinois Uniform Mediation Act, 710 ILCS 35/1 et seq., all oral and written communications made in the mediation process, other than written agreements between the parties and documents filed of record, shall be exempt from discovery and shall be confidential and inadmissible as evidence in the underlying cause of action.

1. Exceptions to General Rule of Mediator Confidentiality:

- a. In situations where professional misconduct reporting rules, such as the Rules of Professional Conduct, require reporting of a mediation communication.
- b. As necessary to defend against a lawsuit or claim for malpractice or other misconduct.
- c. In the case of threat of a prospective crime or of serious imminent harm to any person. In such circumstances, the reporting party may testify to or report only the necessary information to the appropriate authorities. The mediator shall not be compelled to provide evidence of a mediation communication in any lawsuit or claim against an attorney or party participating in the mediation.

J. PRIVILEGE AGAINST DISCLOSURE, ADMISSIBILITY, AND DISCOVERY

Pursuant to the Illinois Uniform Mediation Act, 710 ILCS 35/1 et seq., mediation communications are privileged against disclosure and not subject to discovery or admissible in evidence in a judicial, administrative, arbitral, or other adjudicative process, including related pre-hearing and post-hearing motions, conferences, and discovery. Mediation communications are also privileged against disclosure and not subject to discovery or admissible in evidence in a legislative hearing or similar process. Disclosure of mediation communications shall not be compelled in any arbitration, administrative hearing, adjudication, civil action, or non-criminal proceeding in which, pursuant to law, testimony can be compelled to be given. Evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely by reason of its disclosure or use in mediation.

K. IMMUNITY

The Administrator and any person approved to act as a mediator under these rules, while acting within the scope of their duties as mediator, shall have judicial immunity in the same manner and

to the same extent as a judge in the State of Illinois, as provided in Illinois Supreme Court Rule 99 and the Illinois Uniform Mediation Act (710 ILCS 35/).

L. IMPARTIALITY

Mediators shall conduct all mediations in an impartial manner and avoid conduct that gives the appearance of partiality or impropriety. Mediators shall not act with partiality or prejudice based on any participant's personal characteristics, background, values, beliefs, or for any other reason. If at any time a mediator is unable to conduct a mediation in an impartial manner, the mediator shall withdraw and inform the Administrator.

M. CONFLICTS OF INTEREST

Mediators shall avoid any conflict of interest or the appearance of any conflict of interest during the mediation process. A mediator shall not mediate a case if the mediator has any past, present, or foreseen future personal or professional relationship with either party involved in the mediation that reasonably raises a question of the mediator's impartiality, without both parties' written consent. A mediator shall disclose, as soon as possible, all actual and potential conflicts of interest that are reasonably known to the mediator and could reasonably be seen as raising a question about the mediator's impartiality. After disclosure, if all parties agree in writing, the mediator may proceed with the mediation.

N. LANGUAGE ACCESS AND ACCESSIBILITY

It is the policy of this Program to provide meaningful language access to limited English proficient (LEP) program participants at all stages of participation. Language Access services shall be provided at no additional cost to the participants. The Administrator shall make a good faith effort to accommodate any other accessibility needs, including the use of ASL interpreters.

O. SUSTAINABILITY PLAN

Funds for the Program may be obtained through available grants throughout the calendar year. The Administrator will support the Program through its available funding and volunteer mediator roster, as funding allows. If the Program proves valuable but will require funding beyond available grants available to the Court and/or Administrator, the Chief Judge may consider instituting a filing fee to sustain the Program.

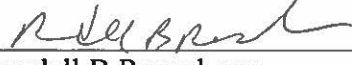
P. STATISTICAL AND DATA COLLECTION AND REPORTING

The Administrator shall maintain aggregated, non-identifying data and statistical data on the number of cases accepted and the outcomes of those cases. The Administrator shall report required statistical data to the Administrative Office of the Illinois Courts (AOIC), the Chief Judge's Office, and/or the Administrator's grant funders at such times and in such manners as may be required.

ATTACHMENTS

1. Mediation Order (Exhibit A)
2. Mediator Report (Exhibit B)
3. Mediation Agreement (Exhibit C)

DATED: 7/29/24

ENTERED: 

Randall B Rosenbaum,
Chief/Presiding Judge

IN THE CIRCUIT COURT
FOR THE SIXTH JUDICIAL CIRCUIT
CHAMPAIGN COUNTY, ILLINOIS

_____)	
Plaintiff,)	
)	
vs.)	No. _____
)	
)	
_____)	
Defendant)	

SMALL CLAIMS MEDIATION ORDER

The Court finds this case is appropriate for the Small Claims Mediation Program. It is therefore ordered into the Small Claims Mediation Program. The case is set for a case management conference with the Court on:

_____ at _____

In Courtroom _____
Via Zoom (please see court Zoom info)

Please check the applicable box

- Both the Defendant and Plaintiff agree to participate in the Small Claims Mediation Process
- Parties were ordered to Mediate by Judge, over a party's objection

IMPORANT NOTICE

You must contact the program administrator (Dispute Resolution Institute, Inc.) within **three business days** to schedule your mediation conference. DRI can be reached at **case@dri-inc.org** or **(618) 549-1200**.

HON. RONDA HOLLIMAN
Associate Judge
Champaign County Courthouse

Date

IN THE CIRCUIT COURT
FOR THE SIXTH JUDICIAL CIRCUIT
CHAMPAIGN COUNTY, ILLINOIS

SMALL CLAIMS MEDIATION CONFERENCE REPORT

_____)	
Plaintiff,)	
)	
vs.)	No. _____
)	
_____)	
Defendant.)	

Mediation Conference was held on: _____
 First Mediation Follow-up Mediation # _____

Parties Present:

Plaintiff:	By Counsel	In Person	Did not appear
Defendant:	By Counsel	In Person	Did not appear

The following failed to appear:

OUTCOME (Select all that apply)

Case currently held open

Parties agree to a continuance

Plaintiff failed to appear. Case will be set for a follow-up mediation.

Other reason: _____

Case set for a Follow-up Mediation on _____ at _____

Case returned to Court and mediation process terminated for the following reason:

Defendant failed to appear

No agreement reached

Partial agreement reached

Full agreement reached

Interpreter needed:	Yes	No	Pre-Mediation held remotely:	Yes	No
Notice sent to Plaintiff by:	E-mail	Hand Delivered	Phone	Mail	
Notice sent to Defendant by:	E-mail	Hand Delivered	Phone	Mail	

Submitted by: _____

Exh. C

IN THE CIRCUIT COURT FOR THE
SIXTH JUDICIAL CIRCUIT
CHAMPAIGN COUNTY, ILLINOIS

AGREEMENT

Date of Mediation: _____

Case Number: _____

Mediator Name: _____

County: _____

Referring Judge: _____

The parties agree as follows:

I have read the terms of this agreement, and it accurately reflects my understanding of the terms agreed upon in the mediation session.

Party 1 signature

Party 2 signature

Party 1

Party 2