

Mediation of Civil Cases and Small Claims cases in the Delaware Municipal Court

Local Rule 20A, Mediation of Civil Cases, was adopted May 27, 2008 and effective for all cases filed after June 15, 2008. It was **revised October 15, 2010** as Local Rule 304 as follows:

Rule 304: Mediation

Parties in civil cases at the court are encouraged to participate in mediation whenever the parties believe that mediation may lead to a resolution of their dispute. If the parties wish, their attorneys and other individuals designated by the parties may accompany them to any mediation sessions and may participate in the mediation. When a corporation or other legal entity is a party to a scheduled mediation session at the court, a person with the authority to settle the case on behalf of the corporation or other entity should attend the mediation session.

If the parties in a civil case are directed by the court to participate in mediation, the parties must select a mediator from the court's roster of approved mediators. That list is posted on the court's web page (www.municipalcourt.org). If the parties fail to select a mediator as ordered, the court will assign a mediator to the case.

Mediation sessions may be rescheduled by agreement of the parties and with the consent of the mediator without the parties having to request the court's permission. If one or more parties want to reschedule a mediation session and one or more parties oppose that request, the party seeking a continuance should file a motion listing proposed dates for the mediation session.

The parties should provide a case summary to the mediator not less than five days before the first mediation session. That summary should describe the key factual disputes in the case, the status of the parties' compliance with any discovery requests, the amount of damages requested, and any settlement negotiations between the parties.

The definitions contained in Section 2710.01 of the Ohio Revised Code apply to mediation sessions at the court, as do the privileges contained in Section

2710.03 of the Revised Code and the exceptions contained in Section 2710.05 of the Revised Code. The privileges may be waived under Section 2710.04 of the Revised Code.

Information communicated in the course of mediation is confidential, and no one should disclose any mediation communications unless all parties and the mediator consent to disclosure. The court may impose penalties for any improper disclosures in violation of this rule.

If the opposing parties in any case (1) are related by blood, adoption, or marriage, (2) have resided in a common residence, or (3) have accused one or more parties to the case of committing the offense of domestic violence at any time prior to or during the mediation session, then the parties and their counsel should disclose that information to the mediator at the earliest opportunity.