

MEDIATING IN THE MIDDLE DISTRICT OF ALABAMA

VOLUNTARY AND CONFIDENTIAL

This court has established a program of voluntary mediation to assist litigants in resolving their disputes prior to trial. The court stresses that **mediation is completely voluntary and confidential**, and confidentiality is strictly enforced.

BENEFITS OF MEDIATION

The court encourages litigants to consider the salutary benefits of resolving at an early stage their dispute through voluntary mediation. Mediation is a process of confidential negotiation through which parties may often achieve results which could not be gained through submission of their case to a jury. Successful mediation saves the substantial time and expense involved with a trial. Successful mediation allows parties to alleviate the risk of trial and, at the same time, permits the parties to play an active role in the final decision about their case.

MEDIATION PROCESS

The mediation process generally involves a joint meeting with all parties and counsel to discuss the case and each side's position. After this meeting the mediator will meet with each side individually for a full discussion of that side's case. Throughout the process the goal of the mediator is to assist the parties in negotiating a settlement. Often the mediator will provide to the parties a frank, honest opinion about the strengths and weaknesses of their case. Often an objective viewpoint assists parties in making good decisions about settlement.

INITIATING MEDIATION

The standard scheduling order issued in this district requires that not less than 14 days after the date for filing dispositive motions, counsel for the parties shall personally meet and attempt to reach settlement of the case. If counsel in good faith cannot reach settlement, counsel are also required to consider whether mediation will assist the parties in resolving this case. Within five days after this conference counsel are to notify the trial judge in writing whether they have settled the case and, if not, whether they believe mediation will assist the parties in resolving the case. If the parties agree to mediate, the court will assign a mediator whom counsel must contact to schedule the mediation.

The court also encourages parties to consider settlement negotiations and mediation well before the time when a settlement conference is required. At any time while a case is pending, the parties may seek assistance in settling their dispute through mediation.

JUDGE AS MEDIATOR

The mediator will be a judicial officer. In cases assigned to a district court judge, the magistrate judge also assigned to the case will serve as the mediator. If a magistrate judge is the presiding officer, a mediator will be selected in accordance with procedures implemented by the Clerk of Court.

PREPARING CLIENTS FOR MEDIATION

The goal of mediation is finality: to allow the parties to reach a compromise, resolve the dispute, and end the litigation. To minimize any effects surprising evidence may have on the parties' willingness to compromise, attorneys representing mediating parties should begin preparing their clients by fully informing them of the strengths and weaknesses of their case. Once the parties understand the risks they face, **prior to mediation**, they should determine the specific compromises they are willing to make and be prepared to inform the mediator when asked. As noted above, mediation is confidential, and the mediator will not share confidential information with a party's opponent or the trial judge.

LOCAL RULE 16.2: COURT ANNEXED MEDIATION

(a) Purpose. This court has established a program of voluntary mediation to assist litigants in resolving their disputes prior to trial. The court stresses that mediation is completely voluntary and confidential. The court strictly enforces the confidentiality of mediation. The court encourages litigants to consider the salutary benefits of resolving their dispute at an early stage through voluntary mediation.

(b) Nature of Mediation. Mediation is a process of confidential negotiation through which parties may often achieve results which could not be obtained through submission of their case to a jury. Successful mediation saves the substantial time and expense involved with a trial. Successful mediation allows parties to alleviate the risk of trial and at the same time permits the parties to play an active role in the final decision about their case. The mediation process generally involves a joint meeting with all parties and counsel to discuss the case and each side's position. After this meeting, the mediator will meet with each side individually for a full discussion of that side's case. Throughout the process, the goal of the mediator is to assist the parties in negotiating a settlement. Often the mediator will provide to the parties a frank, honest opinion about the strengths and weaknesses of their case. Frequently, an objective viewpoint assists parties in making good decisions about settlement.

(c) Procedures. The parties will normally be advised by the court's Rule 16 scheduling order of procedures to be used.