Revised November 2007

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

GENERAL MEDIATION AND CASE EVALUATION ORDER

All counsel and parties in matters referred by the court to mediation or case evaluation administered by the Multi-Door Dispute Resolution Division are hereby

ORDERED that, in accordance with the Scheduling Order and the attached Procedural Memorandum for Mediation and Case Evaluation, all parties must be able to certify at the scheduled ADR conference that (1) this case is ready for Mediation or Case Evaluation; which includes that discovery is completed and the attached confidential settlement statement is filed with the Multi-Door Division, (2) all parties and at least one counsel of record for each represented party are present unless excused by Court order, and (3) the individual where authority may be needed to settle the case is present unless excused by Court order. Failure of any party or counsel to comply with these procedures may result in determining the scheduling of a status conference before a Judge for the purpose of whether it is appropriate to impose sanctions for the failure to comply with this order.

Judge

Date: 01/08/2010

MEDIATION AND NEUTRAL CASE EVALUATION PROCEDURES AND CONFIDENTIAL SETTLEMENT STATEMENT

Extensive experience throughout the country has shown that a high percentage of civil cases referred for mediation or neutral case evaluation are amicably settled without the need for an expensive and time-consuming trial. The likelihood of settlement is enhanced when *all* parties to the lawsuit meet face-to-face for discussions in the presence of a neutral party. This is true even where an insurance company is involved. The Court has therefore instituted the following procedures for all cases ordered to participate in mediation or neutral case evaluation. Parties and counsel are cautioned that sanctions may be imposed on those who do not comply.

I
SCHEDULING AND ATTENDANCE

1. All parties and their attorneys must appear at the mediation or case evaluation conference set by the Multi-Door Dispute Resolution Division in accordance with the Scheduling Order entered in the case. See attached filing instructions on the procedure for filing Confidential Settlement Statements and for rescheduling mediations. Parties not represented by counsel need not secure an attorney for the mediation or neutral case evaluation conference. You may contact the Multi-Door Dispute Resolution Division at 202-879-1557 with questions regarding the mediation, case evaluation conference, or the Confidential Settlement Statement.

2. Any party or attorney who believes that he or she has been incorrectly notified to appear for mediation or case evaluation must contact the Quality Review Branch and provide the appropriate documentation. Where no such action is taken, the party or counsel will be required to participate fully in the mediation or case evaluation.

3. Corporations, partnerships and other business entities must bring an officer, partner or other individual with settlement authority to the mediation or case evaluation conference, unless previously excused by the Judge. WMATA, the District of Columbia and other government entities are required to send a representative whose authority may be needed to settle the case unless excused by the Court for good cause shown.

4. If authorized by Court order, an insurance representative with full settlement authority may attend the conference in place of the insured party.

5. An insurance representative whose authority may be needed to settle the case is required to attend the mediation unless excused by the Court for good cause shown.

6. A party or an insurance representative residing outside the local metropolitan area who has been excused from attending by Court order must be available by long-distance collect telephone call throughout the entire mediation session. Counsel must advise the Multi-Door Division prior to the mediation or case evaluation conference of any such arrangement and provide the name of the individual party who will be available by telephone.

II
CONFERENCE PROCEDURES

1. Prior to the conference, each party must complete the attached "Confidential Settlement Statement" and file it or the digital version* with the Multi-Door Dispute Resolution Division, 515 5th Street, N.W. Suite 105, Washington, D.C. 20001; or by email to: CivilCSS@dcsc.gov, by the "CSS Return" date indicated on the scheduling notice. **DO NOT SEND COPIES OF THE CONFIDENTIAL STATEMENT TO THE CLERK, THE ASSIGNED JUDGE, OR OTHER COUNSEL/PARTIES.** A party who fails to file the Statement on time may be ordered to appear and show cause why sanctions should not be imposed. Counsel may file one settlement statement for all the parties he or she represents, provided that all those parties are clearly and expressly indicated on the statement.

2. If the case settles prior to the conference, the original and one copy of the praecipe or document disposing of the case must be filed with the clerk's office. A copy must also be sent to the Multi-Door Dispute Resolution Division in lieu of a Confidential Settlement Statement. Counsel must be certain to inform the Multi-Door Division of settlements occurring prior to the mediation or case evaluation conference. If no praecipe or document disposing of the case is filed, the mediation shall go forward.

3. Both mediation and neutral case evaluation sessions are confidential. The participants will be asked to sign a "Statement of Understanding" at the beginning of the session confirming their understanding of the session's confidential nature. All proceedings at the mediation or case evaluation conference, including any statement made by any party, attorney or other participant, are privileged. They may not be construed as an admission against interest and nothing said at such sessions may be used in court in connection with the case or any other litigation. No party is bound by anything said or done at the mediation or case evaluation conference unless a settlement is reached and a settlement praecipe is filed with the Court.

4. **Mediation**. If the case is set for mediation, the mediator will meet initially with all the parties, the insurance representative, or other government representative and counsel. He or she may then meet with each side privately as necessary to clarify important issues and to allow parties to reveal in confidence the factors viewed as critical to settlement. Through a series of meetings with the parties, individually and together, the mediator will try to facilitate an agreement that will satisfy the interests of all concerned.

5. **Neutral Evaluation**. If the case is set for neutral evaluation, counsel or *pro se* parties will be expected to present a summary of the factual and legal arguments of their case. The evaluator will help the parties identify the issues in dispute and provide a nonbinding opinion of the settlement value of the case, including the likelihood of liability and the likely range of damages. The parties are encouraged to continue settlement discussions with or without the evaluator's further assistance.

6. If the case is settled at the time of mediation or neutral case evaluation, a copy of the settlement *praecipe* or other document memorializing the settlement must be filed promptly with the Multi-Door Division case manager. If the parties need approval of the settlement by the Court, Multi-Door will set a status hearing on the judges' calendar. The parties are responsible for filing a motion for court approval of the settlement. Please note that settlements involving minors require judicial approval. See 21 D.C. Code § 120 (2001 ed.)

7. If the case does not settle, it will proceed to pretrial conference and trial as directed by the governing scheduling order.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
MULTI-DOOR DISPUTE RESOLUTION DIVISION

Confidential Settlement Statement
FILING INSTRUCTIONS

The General Mediation and Case Evaluation Order requires each party to file a Confidential Settlement Statement (CSS) with the Multi-Door Dispute Resolution Division 10 days before the mediation for car accident cases placed on CA Track V1 Fast and CA Track V2 Fast and **30 days** before the mediation date for all other cases. *Parties and counsel are cautioned that Multi-Door will request that sanctions be imposed on those who do not file the statement timely.*

Delivery: Confidential Settlement Statements are accepted by e-mail at CivilCSS@dcsc.gov. You will receive a reply message as proof of filing. For recordkeeping purposes, CSS's sent after 5:00 pm. are considered received on the next working day. If you cannot e-mail your CSS, please deliver or mail it to the Multi-Door Dispute Resolution Division, 515 5th St. N.W., Suite 105, Washington, D.C. 20001. Delivery must be made between the hours of 8:30 am and 5:00 pm; *there is no after-hours filing box for CSS forms*. Do not deliver CSS forms to the Civil Division or any after-hours filing box. Proper filing with the Multi-Door Division will ensure that the CSS remains confidential and is not filed in the Court's case jacket nor shown to anyone other than the mediator or case evaluator assigned to the case. For additional filing information please call our office at 202-879-1557.

CSS Response: Please be candid in your responses; this information is important to the mediation or case evaluation process. You are encouraged to include additional information that may be helpful to the mediator.

Settlement: If the case has been settled, a settlement *praecipe* must be filed in the Civil Clerk's Office, Suite 5000, with a copy sent to the Multi-Door Dispute Resolution Division, in lieu of the statement.

Continuance: Except for car accident vehicle (CAV) cases, a one-time consent request for rescheduling mediation, before the CSS return date (30 days before mediation), may be granted by contacting the Quality Review Office at 879-1751. All requests to continue thereafter must be submitted to the assigned judge through a motion. Any request to continue a CAV case goes to the assigned judge.

If your mediation is rescheduled, you must resubmit the original or a revised CSS, with the correct date indicated.

CONFIDENTIAL SETTLEMENT STATEMENT
Multi-Door Dispute Resolution Division

Judge _____ Calendar # _____

Case Number _____

Case Caption _____

This case is scheduled for a:

☐ Mediation Conference on _____ at ☐9:00☐11:00
or
☐ Case Evaluation Conference on _____ at ☐9:00☐11:00

Check Case Type: ☐ Personal Injury ☐ Contract ☐ Other _____

Special Mediator Expertise Needed: _____
(please specify)

Submitted by:

_____
Attorney or *Pro Se* Party

Check one

☐Plaintiff ☐Defendant
☐3rd party Plaintiff
☐3rd party Defendant

_____
Firm

_____
Address

_____
City State Zip

_____
Telephone

List below the names of <u>all</u> parties you represent. (Attach an additional page if necessary). The filing of one settlement statement will suffice for all of the parties that you represent in this matter, provided all of the parties are listed.

_____ _____
Name of party Name of party

_____ _____
Name of party Name of party

Do any of the parties involved require an interpreter? ☐ Yes ☐ No
If yes, please check one:
☐ I or my insurance company are providing a certified interpreter **or**
☐ I need a court interpreter certified in (specify language): _____

* Please contact the Office of Interpreter Services at 202-879-4828 to confirm that your interpreter is certified/qualified.

Plaintiff Only: (including Counter-Plaintiff)

1. Describe in detail the facts of the case and the claims being raised:

2 (a). Describe the type and scope of injuries and any monetary and/or equitable relief being sought (please list items separately, such as lost wages, medical costs, etc.):

2(b). List any expert witnesses and the claims their testimony will support:

3. Describe any settlement offers that you have made and the current status of settlement discussions:

4. How do you assess the value of this case for settlement purposes?

minimum $_____ maximum $_____

5(a). What additional information, if any, is required by you in order to engage in meaningful settlement negotiations? (Remember that the discovery deadline precedes the mediation date.)

5(b). Describe any pending motions:

_____ _____

Signature Date

Defendant Only: (including Counter-Defendant)

1. Describe the facts of the case and the contentions of the opposing party(ies) as you understand them:

2. Describe the defenses or counterclaims being raised:

3. Describe any settlement offers that have been made, and the current status of settlement discussions:

4. How do you assess the value of this case for settlement purposes?

minimum $_____ maximum $_____

5(a). What additional information, if any, is required by you in order to engage in meaningful settlement negotiations?

5(b). Describe any pending motions:

6(a). Are the claims at issue covered by insurance? ☐ yes ☐ no

6(b). If yes, what are the policy limits?

6(c). If yes, please identify the insurance company and the name of the claims representative who you anticipate will be attending the session because his authority may be needed to settle the case. (Rule 16j).

_____

name and title

7. For purposes of mediation, is liability at issue? ☐ yes ☐ no

_____ _____

Signature