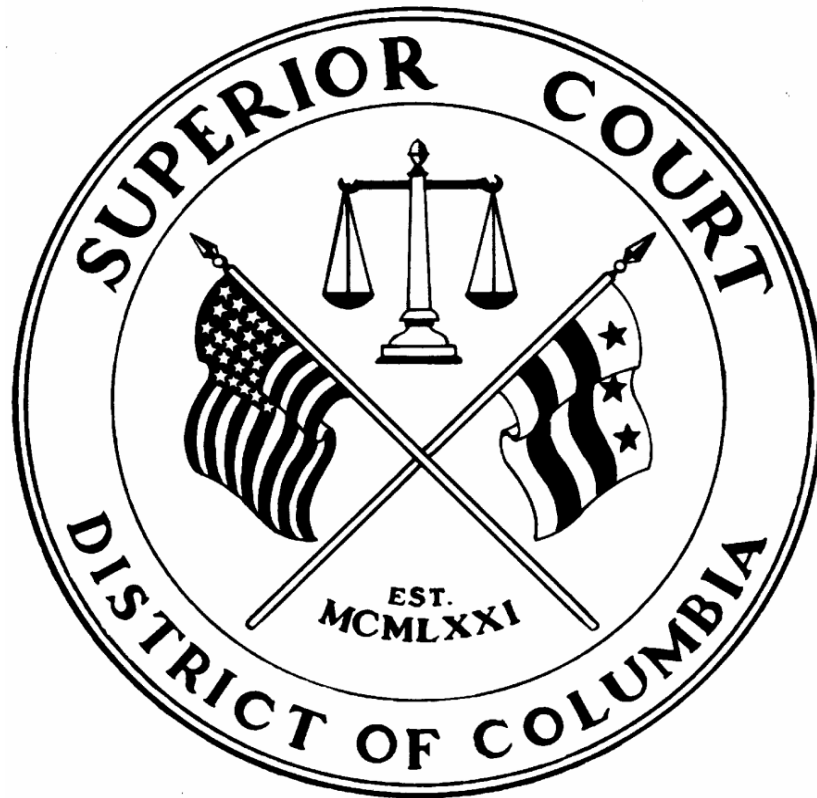


THE ELDER MEDIATION PROGRAM

**Serving Older Adults and Persons
with Disabilities**



**Office of the Register of Wills
Probate Division
515 5th Street, NW, Third Floor
Washington, DC 20001**

All attached forms and documents are available through the division's website:
<http://www.dccourts.gov/internet/formlocator.jsf>

July 2013

THE MEDIATION PROCESS

Generally for wards age 50 or older and those with disabilities in guardianship cases pending before the Probate Division, the Elder Mediation Program provides a unique opportunity for families and others concerned about the welfare of an incapacitated adult to discuss and resolve issues that may arise during the course of a guardianship or conservatorship. The issues for mediation may vary from whether a particular person should or should not be appointed as guardian or conservator, whether limitations should be placed on the fiduciary's powers, or whether a certain person should or should not be allowed visitation. With the assistance of a professional mediator and the full participation of the ward, mediation participants will explore ideas and options to enhance the care, living environment, or quality of life of the ward. All information shared during mediation is confidential.

HOW THE PROCESS STARTS

A case is referred to mediation by Court order only after a judicial finding of incapacity. The Court may refer a matter to mediation:

- Upon recommendation of the Probate Division's Guardianship Assistance Program when an issue is discovered during the course of a student visitor assessment or a review of the semi-annual guardianship report;
- As a result of the hearing on an *Petition for General Proceeding* seeking to open a new guardianship or conservatorship, but only after the Court makes a finding of incapacity and appoints a temporary guardian or conservator;
- As a result of a hearing on a *Petition Post-Appointment* where the Court determines that the matter at issue would benefit from mediation; or
- Based upon the filing of a *Petition for Referral to Mediation* (Attachment A) filed by a party or other person interested in the welfare of an incapacitated adult in a pending Intervention case (INT or IDD).

When the Court issues an order for mediation, the Court will appoint a lawyer to represent the interest of the ward at mediation and any related hearings. Lawyers will not be appointed for anyone else. If a party or mediation participant needs legal guidance, it is recommended that counsel be retained. The Probate Division staff and the mediators/staff of the Multi-

Door Dispute Resolution Division cannot advise or advocate for any person participating in the mediation process.

WHAT TO EXPECT & WHAT IS EXPECTED OF PARTICIPANTS

The order for mediation will provide the date, time, and place for mediation. After receiving the Court order for mediation, the Multi-Door Dispute Resolution Division will assign a mediator to the case.

Pre-Mediation Call:

The parties (meaning, the ward, the petitioner, the guardian, the conservator) and any counsel of record may receive a call from the Multi-Door Dispute Resolution Division for information, such as the status of the case, any negotiations to date, potential obstacles to resolution, and the identity and contact information for persons whose participation may benefit the mediation, such as the ward's spouse, adult siblings, children, grandchildren, concerned friends, caregivers, advocates, geriatric care managers, certified public accountants, and financial managers. These persons may receive an invitation to participate in mediation because they may have insights or information helpful to the discussion.

Confidential Pre-Mediation Questionnaire:

At least two weeks before the scheduled date of mediation, the parties must complete and file a *Confidential Pre-Mediation Questionnaire* with the Multi-Door Dispute Resolution Division, 410 E Street, NW, 2nd Floor, Washington, DC 20001. A questionnaire form is attached to this brochure as Attachment B. Other persons invited to participate in mediation may (but are not required to) file the questionnaire.

Attendance:

The parties are required to attend mediation. A party may be excused from attending mediation by Court order only based upon the filing of a motion at least two weeks before the scheduled mediation. Attorneys may not be excused from mediation except when more than one attorney from the same firm represents a single party or entity.

Other persons invited to participate in mediation may (but are not required to) attend mediation. Persons invited to participate in the mediation process are requested to contact Ms. Claudette Taylor, Program Manager, or Ms. Sally Moreland, Case Manager, of the Multi-Door Dispute Resolution Division at 202-879-1549, so that they will know who and who will not attend mediation. This is particularly important because mediation will not start until all participants are present.

Mediation participants may attend mediation by telephone by Court order only based upon the filing of a motion at least two weeks before the mediation date.

Rescheduling:

Requests to continue a mediation session must be submitted by motion no later than five business days before the mediation session. The Court may reschedule the session for good cause shown.

Motions:

In order to obtain a Court order to excuse a party's attendance at mediation, for a person to participate by telephone, or to reschedule the mediation to another date, the person seeking the Court order must file a motion with the Court. Motions must be signed, served on all parties, and include a proposed order for the judge to sign. A form motion and order is attached as Attachment C. Motions have a \$20 filing fee, which may be paid by cash, credit card, or check/money order payable to "Register of Wills." Motions may be filed in person or mailed to the Probate Clerk's Office, 515 5th Street, NW, Room 314, Washington, DC 20001.

Time & Place for Mediation:

Mediation sessions are scheduled on Thursdays at either 9 a.m. or 1:30 p.m. Mediations are held in the Multi-Door Dispute Resolution Division, 410 E Street, N.W., 2nd Floor. Each case is allotted two hours to mediate. The time can vary depending on the progress of the mediation.

Follow-up sessions are offered and may be held at an alternate location, by arrangement between the mediator and the parties.

Agreement:

If any of the issues referred to mediation are resolved, the mediator will help the parties draft an agreement. The agreement may address the division of property or responsibilities, the powers or selection of the guardian, or payment arrangements. A copy of the agreement and the *Probate Mediation Report* will be given to the parties, and the original filed with the Probate Division by the mediator's office.

If any of the issues referred to mediation are not resolved, the *Probate Mediation Report* will identify the issues that remain. Those issues, as well as the agreement of the parties, may be addressed at the status hearing set by the Court. The parties must attend their next scheduled hearing date (status hearing), unless the Court issues an order vacating the hearing.

**FOR MORE INFORMATION ON THE ELDER MEDIATION PROGRAM,
PLEASE CONTACT:**

Multi-Door Dispute Resolution Division

Claudette Taylor, Program Manager

202-879-0678

Claudette.Taylor@dcsc.gov

Sally Moreland, Civil Case Manager

202-879-0665

Sally.Moreland@dcsc.gov

Victor Quiros, Branch Chief

202-879-2945

Victor.Quiros@dcsc.gov

ATTACHMENT A

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
PROBATE DIVISION

INT
IDD

In re:

An Adult

PETITION FOR REFERRAL TO MEDIATION

1. _____
(Name of petitioner)

(Relationship of petitioner to this proceeding or the subject or ward)
2. Petitioner asks the Court to order that mediation occur to address the following issues or problems:
 - a. _____

 - b. _____

 - c. _____

3. Petitioner is entitled to this relief because _____

4. The following persons may be helpful in resolving this issue. (Include names, addresses, and telephone numbers.) _____

Signature of Attorney

Signature

Typed Name of Attorney

Typed Name

Address (Actual address/not Post Office Box)

Address (Actual address/not Post Office Box)

Telephone number

Telephone number

Unified Bar number

E-mail address (optional)

VERIFICATION

I, _____, being first duly sworn, on oath, depose and say that I have read the foregoing pleading by me subscribed and that the facts therein stated are true to the best of my knowledge, information, and belief.

Signature of petitioner

Subscribed and sworn to before me this ____ day of _____, 20_____.

Notary Public/Clerk

CERTIFICATE OF SERVICE

I hereby certify that on the _____ day of _____, 20_____, a copy of the foregoing Petition for Referral to Mediation was served by first class mail, postage prepaid, upon the parties to the above captioned case, persons granted permission to participate, and persons who requested notice. (List each person by name and complete address. Use the "tab" key to move from box to box. Attach an additional sheet of paper if necessary. An example is given.)

Jane Doe Department of Human Services 2342 City Street, N.W. Washington, D.C. 20000

Signature

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
PROBATE DIVISION

INT
IDD

In re:

An Adult

ORDER APPOINTING COUNSEL

Upon consideration of the Petition for Referral to Mediation filed herein on the _____ day of _____, 20_____, it is by the Court this ____ day of _____, 20_____,

ORDERED that _____ is appointed counsel for _____, the subject of the above proceeding. The counsel shall have access to any current medical, psychological, or sociological evaluation records of the subject. Counsel shall perform the duties set forth in D.C. Code, sec. 21-2033(b) and Superior Court, Probate Division Rule 305 and represent the subject at the hearing to be held on _____, 20_____, at _____ o'clock a.m./p.m. in Courtroom _____ of the Superior Court of the District of Columbia, 515 5th Street, NW, Washington, DC, before Judge _____.

ORDERED that counsel shall forthwith file a Notice of Appearance pursuant to Superior Court, Probate Division Rules 321(d) and 305(a)(2), and it is further

ORDERED that if mediation is ordered at the hearing, the appointment of counsel shall continue until further order of the Court.

JUDGE

cc:

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
PROBATE DIVISION

INT
IDD

In re:

An Adult

NOTICE OF HEARING ON SUBSEQUENT PETITION

(Pursuant to D.C. Code, sec. 21-2031 and
Superior Court, Probate Division Rules 311 and 322)

You are advised that a hearing has been scheduled in the Probate Division of the Superior Court of the District of Columbia, 515 5th Street, NW, Washington, DC 20001 on _____, 20____ at _____ o'clock a.m./p.m. in courtroom ____ to consider whether to grant the relief requested in the following petition:

Petition for Referral to Mediation

A person entitled to file a response who wishes to do so must file the response within ten (10) days of the date of this notice (or 13 days if this notice has been mailed). A copy of the response must be sent to the person(s) whose name(s) appears below under "copies to." At the hearing the Court will hear from all parties and persons entitled to participate and may take testimony on the issues presented.

Parties are entitled to the following rights: (1) to respond in writing to the petition, (2) to appear through counsel, (3) to participate at the hearing, (4) to conduct discovery with the Court's permission, and (5) to receive copies of pleadings filed by other parties.

Any person who is not a party and wishes to participate must file a Petition for Permission to Participate and proposed order for the Court's consideration in accordance with Superior Court, Probate Division Rule 303(b).

Date: _____

NOTE: Pursuant to Superior Court, Probate Division Rule 311(c)(3), this notice must be mailed no fewer than 17 days or personally delivered no fewer than 14 days before the date set for the hearing.

Copies to: Parties to the above-captioned case and persons granted permission to participate pursuant to Superior Court, Probate Division Rule 303 and persons who requested notice pursuant to Superior Court, Probate Division Rule 304.

Proof of service in accordance with Superior Court, Probate Division Rule 311(c)(6) must be filed.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
PROBATE DIVISION

INT
IDD

In re:

Ward

ORDER

Upon consideration of the hearing on the Petition for Referral to Mediation held on _____, 20____, it appearing to the Court that this case may benefit from mediation, it is by the Court this ____ day of _____, 20____,

ORDERED that all counsel and parties are hereby referred to mediation and shall appear for a mediation conference to be held at the Multi-Door Dispute Resolution Division, 410 E Street, NW, Second Floor, Washington, DC 20001 on _____, 20____, at ____ a.m./p.m., on the following issues:

- a. _____
_____;
- b. _____
_____;
- c. _____
_____;

and it is further

ORDERED that all counsel and parties shall file a *Confidential Pre-Mediation Questionnaire* with the Multi-Door Dispute Resolution Division at least 14 days before the scheduled mediation date, and it is further

ORDERED that all counsel and parties shall appear for a status hearing to be held on _____, 20____, at _____ a.m./p.m. in courtroom A-____, in Building A, 515 5th Street, NW, Washington, DC unless otherwise notified by the Court, and it is further

ORDERED that _____

JUDGE

cc:

See attached list.

ATTACHMENT B

**Superior Court of the District of Columbia
Multi-Door Dispute Resolution Division**

**Confidential Pre-Mediation Questionnaire
(Probate Mediation Program)**

Mediation Date: _____ Case Number: _____

Case Caption and/or Name of the Older Person:

Check Case Type: ___ Intervention ___ IDD

Submitted by:

Attorney or Pro Se Party (If Pro Se, please identify your relationship to the older person)

Firm

Address

Telephone Number and E-mail Address

If you are an attorney, the filing of one settlement statement will suffice for all of the parties that you represent in this matter. Please list below the names of **all** parties you represent.

Probate Confidential Questionnaire

Page 2.

1. Describe in detail the key issues and/or conflict of the case (attach a separate sheet if needed):

2. What would you like accomplished in mediation:

3. How can the mediation process be beneficial? :

4. Have you tried to resolve this matter in another forum? If so, please explain in detail (attach a separate sheet if needed):

5. Are there any physical limitations or medical issues that will prevent you from participating or attending the mediation? :

6. Is there any party expected to attend that may cause distress or lose their temper? If so, what is their name?

7. Please provide any additional information you feel will be helpful to the mediator.

Signature

Date

Please submit your Confidential Questionnaire to the Multi-Door Division located at 410 E Street, NW, 2nd Floor, Washington, DC 20001 or email it to CivilCSS@DCSC.gov

ATTACHMENT C

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
PROBATE DIVISION

Estate of _____

Deceased/Minor/Ward

_____ ADM _____
_____ INT _____
_____ IDD _____
_____ GDN _____
_____ TRP _____
_____ CON _____
_____ SEB _____

PRO SE MOTION FOR

The undersigned interested person hereby asks the Court to grant the following motion:

1. Name of interested person: _____
2. Nature of the interested person's legal interest (for example, heir, legatee, conservator, guardian, creditor): _____
3. Reason for motion: _____

4. Relief requested. (What do you want the Court to do?): _____

WHEREFORE movant asks that this motion be granted.

Signature

Typed Name

Address (Actual address/not Post Office Box)

Telephone number

The \$20.00 filing fee is enclosed made payable to "Register of Wills."

CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of _____, 20____, a copy of the foregoing was served by first class mail, postage prepaid, to the following interested persons (list names and addresses of all interested persons):

Signature

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
PROBATE DIVISION

Estate of

 Deceased/Minor/Ward

_____ ADM _____
_____ INT _____
_____ IDD _____
_____ GDN _____
_____ TRP _____
_____ CON _____

ORDER

Upon consideration of the pro se motion for _____
filed herein by _____, and any response thereto, it is
hereby, by the Court, this _____ day of _____, 20____,

ORDERED

1. That the motion be Granted Denied
2. That _____

JUDGE

CC: