

RULE 1001 MEDIATION

a. General Applicability

Every civil action, except protection from abuse matters, filed in the Dauphin County Court of Common Pleas is eligible for mediation. Prior to filing suit and whenever practicable thereafter, parties and their counsel are encouraged to consider and to pursue mediation options.

b. Procedure for Mediation in Non-Jury Civil Trials, Civil Jury Trials and Cases Subject to Arbitration

Parties and their attorneys in all civil cases which will result in a non-jury civil trial, civil jury trial or arbitration may mutually elect to pursue mediation at any point before a case is listed for trial or arbitration. Status conferences conducted by the Court in accordance with Dauphin County Local Rule 215.3 shall include a discussion of the likely success of mediation and the appropriate point in the life of that case for mediation session(s) to be scheduled.

c. Certifications in Non-Jury Civil Trials, Civil Jury Trials and Cases Subject to Arbitration

All pre-trial conference memoranda filed in accordance with Dauphin County Local Rule 212.2 shall include certification by the attorney submitting same that mediation has been previously pursued or, if mediation has not been pursued, that the topic of mediation was discussed by not only counsel with their clients but also by all counsel and/or pro se parties and rejected only after good faith consideration. Likewise, certificates of readiness filed with the Court Administrator listing a case for a Non-Jury Civil Trial, a Civil Jury Trial or

Arbitration shall contain a similar certification that mediation was pursued or, if not, was the subject of good faith consideration by counsel and all parties.

d. Mediation Programs

Parties and their attorneys are encouraged to use mediation to resolve disputes either through the Civil Dispute Resolution Program administered by the Dauphin County Bar Association or any other mediation program acceptable to the parties.

Comment:

Parties and their attorneys are encouraged to use mediation as a means to bring disputes to conclusion economically and expeditiously. While mediation is voluntary, the Court may feel strongly that the use of mediation will conclude pending litigation. Parties and their attorneys are urged to accept the advice of the Court when mediation is suggested as a means to resolve the case.

The Court may recommend that the parties in any civil case, except protection from abuse matters, utilize mediation or other alternative dispute resolution processes, including, but not necessarily limited to, services offered by the Civil Dispute Resolution Program as administered through the Dauphin County Bar Association whenever it appears to the judge presiding in such case that mediation or other alternative dispute resolution processes are likely to resolve the case.

An issue may arise regarding insurance policies, and particularly professional negligence policies, wherein ultimate approval of a settlement rests with the insured. The use of mediation may lead parties to evaluate their positions and achieve a mutually acceptable resolution. This rule cannot rewrite an insurance contract, but participation in mediation may educate all interests with respect to the merits of resolving a pending dispute without protracted litigation. All parties should come to the mediation process with appropriate motivations. The process should be used in good faith; for example, it should not be used as an alternative means for discovery.

It is anticipated that the Pennsylvania Supreme Court may enact rules directing certain types of cases to use alternative dispute resolution processes, including mediation, as a prerequisite step for certification prior to trial. This rule is adopted in anticipation of such and will be amended to comply with the mandates of any future rules adopted by the Pennsylvania Supreme Court.