

**Superior Court of Pennsylvania
Appellate Mediation Program**

Interim Operating Procedures

1.1 Appellate Mediation Program

Pursuant to No.1 Administrative Order of the Superior Court, dated October 6, 2006, all civil appeals to the Superior Court of Pennsylvania, Eastern District, are referred to the Mediation Program to facilitate settlement or otherwise to assist in the expeditious handling of appeals. The Court Mediator shall direct the Program. Mediations will be conducted by the Court Mediator. By telephone or letter directed to the Court Mediator, Parties may request mediation. In all cases, however, the Mediator will determine which cases are appropriate for mediation.

1.2 Mediation Statement

In eligible cases, and simultaneously with the filing of the initial Docketing papers required by the Prothonotary, the Appellant shall submit a separate Mediation Statement. In addition to the Mediation Statement, Appellant should include: 1) a copy of the Docketing Statement filed with the Prothonotary; and, 2) copies of any order(s) being appealed.

1.3 Initial Screening of Cases Selected for Mediation

Following review of these materials, the Mediator may designate the appeal for mediation. The Mediator shall promptly schedule a mediation session. If a case is referred for mediation, a briefing schedule shall not be deferred during the pendency of mediation unless the Court determines otherwise. A referral to mediation shall not defer or extend the time for ordering any necessary transcripts. The appellate process will proceed as if mediation had not been considered or initiated.

1.4 Proceedings after Selection for the Program

(a) Submission of Position Papers and Documents

Within fourteen (14) days of the case's selection for mediation, each counsel shall prepare and submit to the Mediator a Confidential position paper of no more than five (5) pages, stating Counsel's views on the key factors relating to settlement, as well as, key facts and legal issues. Copies of position papers submitted by the parties directly to the Mediator should not be served upon opposing counsel. Documents prepared for mediation sessions should not be filed with the Prothonotary and are not to be of record in the case.

(b) Mediation Sessions

The mediator will notify the parties of the time, date, and place of the mediation session and whether it will be conducted in person or telephonically. Unless the mediator directs otherwise, mediation sessions must be attended by the lead attorney, for each party, who is responsible for the appeal and by the person or persons with actual authority to approve

a settlement of the case. If settlement is not reached at the initial mediation session, but the mediator believes further mediation sessions or discussions would be productive, the mediator may conduct additional mediation sessions in person or telephonically.

(c) Confidentiality of Mediation Proceedings

The mediator shall not disclose to anyone statements made or information developed during the mediation process. The attorneys and other persons attending the mediation are likewise prohibited from disclosing statements made or information developed during the mediation process to anyone other than clients, principals or co-counsel, and then, only upon receiving due assurances that the recipients will honor the confidentiality of the information. Similarly, the parties are prohibited from using any information obtained as a result of the mediation process as a basis for any motion or argument to any court. All mediation communications and mediation documents are confidential and inadmissible, pursuant to 42 Pa.C.S.A. § 5949. Upon completion of the mediation proceedings, the Office of the Mediator will destroy in a secure manner all memoranda, statements, drafts, etc., submitted during the consideration of and/or conduct of mediation.

(d) Settlement

No party shall be bound by statements or actions at a mediation session unless a settlement is reached. If a settlement is reached, the agreement shall be reduced to writing and signed by all parties. A settlement agreement shall be binding upon all parties to the agreement. Counsel shall promptly file, with the Prothonotary, a Praeceptum for Discontinuance pursuant to Pa.R.A.P. 1973.