

TYPES OF CASES ELIGIBLE FOR MEDIATION

- ✦ Most civil cases that have been directly appealed from a trial court to the Supreme Court will be eligible for mediation. See Provisional Rule A as amended, effective August 1, 2004.

The following cases are ineligible:

- ✓ criminal cases
 - ✓ family court appeals
 - ✓ petitions for extraordinary relief, including prerogative writs
 - ✓ applications for post-conviction relief
 - ✓ petitions for habeas corpus
 - ✓ prisoner litigation
 - ✓ pro se cases
 - ✓ juvenile cases
- ✦ The Court encourages parties in any civil case to request participation in the program on a voluntary basis.

THE MEDIATION PROCESS IS CONFIDENTIAL

- ✦ Any statements made as well as any documents submitted in furtherance of mediation will be confidential. The only portion of the mediation process that is public is the fact that the mediation took place and whether the case has been settled.

MEDIATION BENEFITS ALL PARTIES

- ✦ Saves money and time
- ✦ Allows parties to control the outcome
- ✦ Ensures compliance
- ✦ Eliminates the risk of unfavorable rulings; and
- ✦ Inspires creative and realistic solutions

CONTACT INFORMATION

Appellate Mediation Program

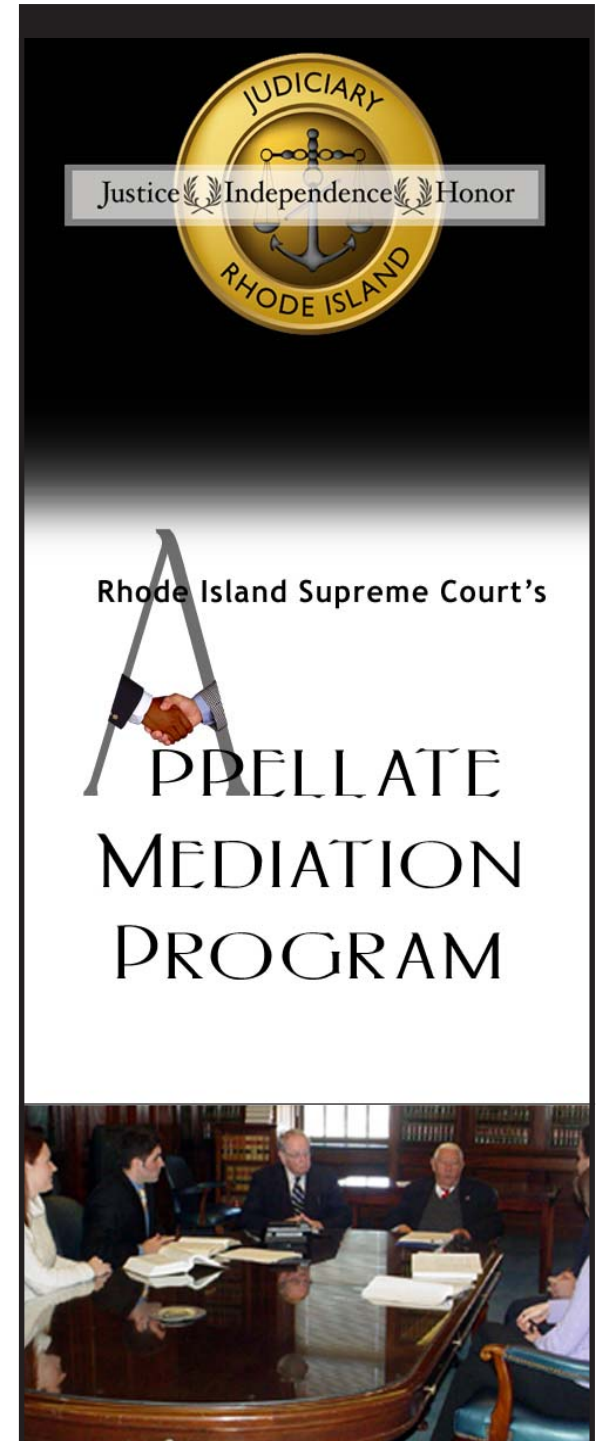
Office of Alternative Dispute Resolution
Rhode Island Supreme Court
250 Benefit Street
Providence, Rhode Island 02903 (401) 222-8661
Email: AMP@courts.ri.gov

Additional forms

Superior Court Clerk's Office
Licht Judicial Complex (401) 222-3230
Providence County
Kent County Courthouse (401) 822-6900
Kent County
McGrath Judicial Complex (401) 782-4121
Washington County
Murray Judicial Complex (401) 841-8330
Newport County

Online at www.courts.ri.gov

The Supreme Court is a court of last resort and is the final interpreter of state law. The Supreme Court has final jurisdiction over questions of law and equity, supervisory powers over other state courts, and general advisory responsibility to the Legislative and Executive branches of state government concerning the constitutionality of state laws. The Chief Justice of the Rhode Island Supreme Court, Frank J. Williams, serves as the executive head of the state judicial system.



WHAT IS THE APPELLATE MEDIATION PROGRAM?

- ✦ The Appellate Mediation Program is an initiative of the Supreme Court bench. Exploring mediation and other innovative methods of alternative dispute resolution have become hallmarks of Chief Justice Williams' tenure as he encourages litigants to resolve disputes without the expense, time, and contention of trials.

IS PARTICIPATION MANDATORY?

- ✦ Participation in appellate mediation sessions is mandatory, but settlement is voluntary.

WHAT FORMS DO I NEED?

- ✦ You will need to complete the Mediation Eligibility Form and, if applicable, the Confidential Mediation Statement in order for the Appellate Mediation Program to determine eligibility and appropriateness of your case for mediation.

WHO FILES THE FORMS?

- ✦ All parties (either through trial counsel or appellate counsel) are responsible for filing the mediation forms.

WHERE ARE THE FORMS LOCATED?

- ✦ These forms are located online and at the Clerk's Offices of the Superior Court. They are to be filed with the Supreme Court Appellate Mediation Program.

WHEN DO I FILE THE FORMS?

- ✦ Within twenty (20) days of filing a notice of appeal, all parties are required to file the Mediation Eligibility Form, and if applicable, the confidential Mediation Statement.
- ✦ After reviewing the forms, the Appellate Mediation Program will attempt to schedule mediation sessions in eligible cases within thirty (30) days. Mediation sessions all scheduled to last at least one hour with additional sessions scheduled as needed.

- ✦ Mediation sessions are allowed to be rescheduled only once for good cause. Requests for rescheduling must be made at least seven (7) days before the scheduled session.

HOW SHOULD I PREPARE FOR MEDIATION?

- ✦ Complete the mediation forms with direct and honest statements of facts and issues with the final goal of resolving the dispute.
- ✦ Candidly assess the respective strengths and weaknesses of both sides' legal positions, and your client's best and worst case scenarios.
- ✦ Understand and discuss your client's priorities, underlying interests, anticipated results and any emotional issues.
- ✦ Determine the costs and time commitment of litigation and assess the client's ability and willingness to fund continued litigation in light of all risks present.
- ✦ Be prepared to negotiate in good faith and express your views on the case's merits and your clients' interests.
- ✦ Be prepared to suggest some approaches to the problem. Imagine possible creative solutions and assist in brainstorming and problem-solving.
- ✦ Obtain advance authority from the client to make any commitments as may reasonably be anticipated as a result of mediation.

WHO WILL CONDUCT THE MEDIATION?

- ✦ Presently, seven retired justices serve as mediators at no cost to the state. As the program progresses, other qualified mediators will be approved and added.
- ✦ The mediator-justice does not render a decision, but assists the parties in coming to a mutually agreeable

solution by facilitating communication between the parties, assisting them in identifying their interests and needs, and aiding in the negotiation process. A mediator-justice who conducts a mediation that does not result in a resolution will not participate in the subsequent appeal.

WHAT HAPPENS AFTER MEDIATION?

- ✦ If mediation is successful, the parties will be asked to finalize the settlement and withdraw the appeal. If not, the case proceeds according to normal appellate procedure. The appellant shall order the transcript and the record will be sent to the Supreme Court Clerk's Office to docket the case.

WILL MEDIATION DELAY THE APPEAL?

- ✦ No. Because mediation typically occurs before transcripts are ordered, the time period for ordering a transcript in cases eligible for mediation will be extended to sixty (60) days from the filing of the notice of appeal. Otherwise the usual timeline for an appeal applies.

ARE THERE ANY SANCTIONS FOR FAILURE TO COMPLY?

- ✦ Yes. Failing to file mediation forms within twenty (20) days will delay the docketing of the record in the Supreme Court Clerk's Office and will prevent the delinquent parties from filing further pleadings.
- ✦ Sanctions may be imposed upon any party or counsel for failing to abide by Provisional Rule A, including the participation, documentation, and confidentiality requirements.

WHEN WAS THIS PROGRAM ENACTED?

- ✦ Effective October 1, 2003, the Appellate Mediation Program was implemented by Provisional Rule A of the Supreme Court Rules of Appellate Procedure. Provisional Rule A was amended effective August 1, 2004.