

**STATE OF RHODE ISLAND**

**PROVIDENCE, SC.**

**WORKERS' COMPENSATION COURT**

**No. 2022 05**

**ADMINISTRATIVE ORDER**

**WORKERS' COMPENSATION COURT MEDIATION PROGRAM**

Effective September 19, 2016, this Court created a Mediation Program to afford a meaningful opportunity to the parties in eligible cases pending before this Court to achieve a resolution of their disputes in a timely and efficient manner. The Court seeks to amend some of the procedures to be followed in accordance with the following:

**I. Eligibility**

- a. Any workers' compensation matter or consolidated matters pending before the Court shall be eligible for mediation. A matter may be submitted to mediation only by agreement of the parties with the approval of the trial judge to whom the matter is assigned.
- b. Any workers' compensation matter in which an active petition is not presently pending before the Court may also be submitted to mediation, subject to the following conditions:
  1. That there is no companion case actively pending before the Court; and
  2. A stipulation is submitted, with the petition for mediation, signed by a representative of the employee and the employer consenting to mediation.
- c. Pursuant to 28-35-12(b)(3), an aggrieved attorney may petition the Court for mediation regarding a legal fee dispute.

**II. Mediators**

Mediators will be retired or currently sitting Workers' Compensation Court judges designated by the Chief Judge of the Workers' Compensation Court or an attorney appointed by the Chief Judge. Mediators must disclose all actual or potential conflicts of interest. A mediator shall not serve if he or she knows of a conflict, unless the conflict is insignificant and the parties all agree;

otherwise, the mediator shall withdraw if the conflict is significant and a new mediator will be appointed.

### **III. Confidentiality**

Any statements made as well as any documents submitted during the mediation process shall be confidential. The only portion of the mediation process that will be public is the order referring the matter to mediation, routine scheduling and processing notices, the fact that the mediation took place, and the statement completed by the mediator as to the outcome of the mediation.

### **IV. Location of Mediation Sessions**

All mediation sessions shall take place at the Workers' Compensation Court located in the J. Joseph Garrahy Judicial Complex, One Dorrance Plaza, Providence, RI 02903. Parties to the mediation session shall report to the Clerk's Office on the third floor for information as to where the mediation session will be held. Mediations may be conducted remotely by telephone or zoom or web-ex, but only by agreement of all the parties and the assigned mediator.

### **V. Procedure**

#### **a. Agreement and Order to Mediate**

Upon agreement of the parties and approval of the trial judge, the trial judge shall complete and enter the Order referring the matter(s) to mediation and selecting the mediator. In the Order, the trial judge shall also set the date on which the Confidential Mediation Statement and any additional documents shall be submitted to the Mediation Coordinator and continue the matter(s) on his or her trial calendar to a date certain for further proceedings. Simultaneous with the entry of the Order, the parties shall execute the Confidentiality Requirement/Negotiation Authorization form and submit it to the clerk. The Order and the Confidentiality Requirement/Negotiation Authorization form shall be entered into the record and the clerk shall provide those documents to the Mediation Coordinator.

b. With regard to all petitions filed pursuant to I(b) and (c), these matters will be scheduled before the Chief Judge, or his designee, and an order shall be entered appointing a mediator.

**c. Scheduling of Mediation Session**

The Mediation Coordinator will assign the matter(s) to a date certain on the calendar of the designated mediator and send notice to the parties and/or their attorneys of the date and time of the mediation session. The mediation session shall be held within thirty (30) days of the entry of the Order unless extended by the Court for good cause. Any request for postponement of a mediation session must be communicated to the Mediation Coordinator at least forty-eight (48) hours prior to the date of the scheduled session. Only one (1) postponement will be permitted. If the mediation session does not go forward on the next scheduled date, the matter shall be returned to the trial judge for further proceedings.

**d. Submission of Confidential Mediation Statement**

On or before the date set in the Order, each party shall submit to the Mediation Coordinator, in paper form, the Confidential Mediation Statement and a summary of the case, not to exceed five (5) pages, as well as any other relevant information that would assist the mediator in resolving the matter(s). These documents will not be made part of the court record nor will they be shared with the opposing parties. The Confidential Mediation Statement, the summary of the case, and any attached documents shall be made available to the mediator prior to the mediation session.

**e. Mediation Sessions**

Mediators are not bound by any particular procedures to facilitate a settlement. The mediator may meet with each party separately if he or she deems it appropriate. Any disclosures to the mediator in a separate session shall be confidential unless the party gives permission to the mediator to disclose the information to the other party. No transcripts or recordings of any kind shall be made of any mediation session. All parties, their counsel, and persons with the full authority to settle the case must personally attend the Mediation, or be available by phone or email, unless excused by the

mediator for good cause. The mediator may schedule additional mediation sessions, with the consent of the parties, if he or she determines such additional sessions would assist in the settlement of the matter(s).

**f. Statement of Mediator**

1. At the close of the mediation process, the mediator shall complete the Statement of the Mediator form and deliver it to the Mediation Coordinator.
2. This document will be made part of the Court record and will terminate the mediation process.
3. The matter(s) will then be heard by the trial judge as previously scheduled for further proceedings.
4. All confidential documents submitted to the Mediation Coordinator and/or the Mediator shall be destroyed at the conclusion of the mediation process.

**g. Termination of Mediation**

At any time after a matter has been referred for mediation, the trial judge may order the termination of the mediation process and conduct such further proceedings as he or she deems appropriate.

**VI. Sanctions**

A party or counsel for a party who fails to participate in a mediation session after notice, or fails to provide the required documents or other information required for a meaningful mediation session, or fails to keep confidential any mediation statements or documents, or fails to participate in the mediation session in good faith, or otherwise fails to follow the provisions of this Administrative Order, may be subject to sanctions to be imposed after hearing by the Court. A request for sanctions may be brought either on motion by a party, or by the mediator, or by the Court. Sanctions may include monetary fines, costs, counsel fees, or orders denying or granting relief as the circumstances and justice may require.

**VII. Forms**

The following forms are attached hereto and made a part of said Administrative Order:

- a. Order
- b. Stipulation for Mediation Proceedings
- c. Petition for Submission to the Mediation Program
- d. Confidentiality Requirement/Negotiation Authorization
- e. Statement of Mediator
- f. Confidential Mediation Statement

Entered as an Order of this Court this 11<sup>th</sup> day of October, 2022.

**ENTER:**

**PER ORDER:**

/s/Ferrieri, CJ

/s/Nicholas DiFilippo, Court Administrator

STATE OF RHODE ISLAND

PROVIDENCE, SC.

WORKERS' COMPENSATION COURT

\_\_\_\_\_ )  
 )  
 VS. ) W.C.C. No. \_\_\_\_\_  
 )  
 \_\_\_\_\_ )

ORDER

The above matter is submitted to the Mediation Program.

1. The mediator assigned to this matter is \_\_\_\_\_.
2. The mediation documents shall be submitted to the mediation coordinator on or before \_\_\_\_\_.
3. Notice of the time and date of the mediation shall be provided to the parties by the assigned mediator within seven (7) days of this Order.

Entered as an Order of this Court this \_\_\_\_\_ day of \_\_\_\_\_

ENTER:

PER ORDER:

\_\_\_\_\_  
CHIEF JUDGE

\_\_\_\_\_  
ADMINISTRATOR

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**  
**PROVIDENCE, SC.                      WORKERS' COMPENSATION COURT**

\_\_\_\_\_ vs.                      } W.C.C. No. \_\_\_\_\_  
\_\_\_\_\_

**Stipulation for Mediation Proceedings**

The parties have agreed that the mediation ordered by Judge \_\_\_\_\_ and assigned to Judge \_\_\_\_\_ (ret.), shall be reassigned to \_\_\_\_\_.

**This Stipulation serves as notice to all parties of this proceeding.**

\_\_\_\_\_  
Mediator Date

\_\_\_\_\_  
Employee Counsel/Bar Number Date

\_\_\_\_\_  
Employer Counsel/Bar Number Date



**State of Rhode Island**

**Providence, Sc.**

**Workers' Compensation Court**

W.C.C. No. \_\_\_\_\_

\_\_\_\_\_  
Name of Employee

\_\_\_\_\_  
Date of Birth (mm/dd/yyyy)

\_\_\_\_\_  
Address of Employee

\_\_\_\_\_  
Date of Injury

\_\_\_\_\_  
Name of Employer

\_\_\_\_\_  
Address of Employer

**Petition for Submission to the Mediation Program**

The parties hereby petition the Court to submit the above matter into the Mediation Program.

\_\_\_\_\_  
Signature of Employee's Attorney

\_\_\_\_\_  
Signature of Employer's Attorney

\_\_\_\_\_  
Address of Employee's Attorney

\_\_\_\_\_  
Address of Employer's Attorney

\_\_\_\_\_  
Phone Number of Employee's Attorney

\_\_\_\_\_  
Phone Number of Employer's Attorney

\_\_\_\_\_  
Bar Number of Employee's Attorney

\_\_\_\_\_  
Bar Number of Employer's Attorney



**STATE OF RHODE ISLAND**

**PROVIDENCE, SC.**

**WORKERS' COMPENSATION COURT**

}

W.C.C. No. \_\_\_\_\_

**CONFIDENTIALITY REQUIREMENT / NEGOTIATION AUTHORIZATION**

I hereby agree that any and all documents submitted and statements made in furtherance of mediation, including, but not limited to, the content of the mediation statement and any attachments thereto, and any relevant memoranda or supporting documentation relied upon during the course of the mediation session by counsel, any party or the mediator shall remain confidential. My client(s) further agree(s) not to subpoena or otherwise subject the mediator, staff members, or records of the Workers' Compensation Court Mediation Program to any court proceedings, lawsuits or other legal actions related to the mediation process or its outcome.

My client(s) agree to participate in mediation, and I am authorized to participate and negotiate on behalf of my client(s) with full authority to make and/or accept offers. If I am not so authorized at the time of mediation, I will make arrangements to have my client(s) or authorized representative(s) available in person or by telephone at the time of the mediation session.

I understand, and my client(s) have been informed, that even if this case proceeds to mediation, it is subject to all applicable time limitations and requirements as set forth by the trial judge presiding over this case. If an agreement is reached, the appropriate documentation will be promptly filed with the Court. I understand and my client(s) have been informed that failure to abide by the above requirements may result in sanctions.

\_\_\_\_\_  
COUNSEL FOR EMPLOYEE (PRINT NAME)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
COUNSEL FOR EMPLOYER (PRINT NAME)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

**STATE OF RHODE ISLAND**

**PROVIDENCE, SC.**

**WORKERS' COMPENSATION COURT**

\_\_\_\_\_  
vs.  
\_\_\_\_\_

}

W.C.C. No. \_\_\_\_\_

**Statement of the Mediator**

In regard to the above matter, the undersigned was assigned as Mediator, by an Order

issued by Judge \_\_\_\_\_ on \_\_\_\_\_

The Mediation was:

- scheduled but not heard
- was held on the following date(s):

The Mediation ended:

- in full agreement as follows:

- in non-agreement

\_\_\_\_\_  
Mediator

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney for Employee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney for Employer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Employee

\_\_\_\_\_  
Date

**RHODE ISLAND WORKERS' COMPENSATION COURT  
CONFIDENTIAL MEDIATION STATEMENT**

**SUBMIT TO MEDIATION COORDINATOR ONLY – DO NOT SEND COPIES TO COUNSEL**

<b>CASE NAME:</b>		<b>W.C.C. CASE NUMBER:</b>
<b>NAME OF COUNSEL FILING THIS STATEMENT</b>		<b>COUNSEL FOR (NAME OF PARTY)</b>
<b>COMPENSATION RATE</b>	<b>LATEST DEMAND</b>	<b>LATEST OFFER</b>
<b>WEEKS REMAINING TO THE GATE (IF APPLICABLE)</b>	<b>WILL AN MSA BE NEEDED</b>	<b>IF SO, HAS THE MSA BEEN COMPLETED</b>
<b>PLEASE DESCRIBE WHY PAST EFFORTS TO RESOLVE THIS DISPUTE HAVE BEEN UNSUCCESSFUL.</b>		
<b>PLEASE LIST IMPORTANT FACTORS AFFECTING YOUR CLIENT'S CHANCES FOR SUCCESS AT TRIAL.</b>		
<b>PLEASE PROVIDE A LIST OF POTENTIAL OR ACCEPTABLE OUTCOMES TO THE MEDIATION SESSION.</b>		
<b>ARE THERE ANY OTHER RELATED ISSUES OR RELEVANT INFORMATION THAT WOULD ASSIST THE MEDIATOR IN HELPING TO RESOLVE THIS CASE?</b>		

Attach no more than a five page statement outlining your client's position in this case. Specifically set forth the medical opinions that your client is relying on as well as a summary of the lay witness testimony to be heard or that was heard at trial.