

FREQUENTLY ASKED QUESTIONS REGARDING MEDIATION

1. Who serves as the mediator for the Fifth District Court of Appeals?

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2. What is the purpose of appellate mediation?

Often the dynamics of a case change following the issuance of a final, appealable order by a trial court and parties may be more amenable to mediation. Appellate mediation allows the parties to reassess the strengths and weaknesses of their case and to explore settlement before pursuing further litigation in the court of appeals. Even if a case does not settle at mediation, it gives the parties an opportunity to clarify the legal issues and address procedural matters.

3. Does the Court have a local rule for its mediation program?

Yes; Loc.App.R. 7.5 addresses mediation in the Fifth District Court of Appeals. This rule also incorporates the Uniform Mediation Act found in R.C. Chapter 2710.

4. How is a case selected for mediation?

The mediation attorney reviews all Notices of Appeal and identifies cases that may be suitable for mediation. Mediation may also be requested on the Court's Docketing Statement or a party may request mediation by contacting the Court directly. Upon request, a request for mediation may be confidential.

5. What types of cases are eligible for mediation?

Generally, all civil cases and some original actions such as writs of mandamus. The Court will not mediate criminal cases, permanent custody cases, domestic violence cases, cases determining whether to grant, modify or terminate a protection order, cases determining the terms and conditions of a protection order, cases determining the penalty for violation of a protection order, habeas corpus original actions or any case that presents a security risk to the parties and/or the Court's staff.

6. Is the Fifth District Court of Appeals' mediation program mandatory?

No; it is not a mandatory mediation program. The parties must agree to mediate their dispute.

7. How will I know if my case is being considered for mediation?

The Court will send letters to the attorneys or unrepresented parties scheduling a pre-mediation conference call to discuss whether the parties are interested in mediating their dispute.

8. Where does the Court conduct mediations?

Mediations are conducted by Zoom, at the Court of Appeals' offices in Canton or other designated areas around the Fifth District. Other locations may be arranged on a case-by-case basis.

9. Why mediate a case at the appellate court level?

(1) Saves time and money because the mediation generally occurs before the record is transmitted and the parties draft and file their briefs. (2) Mediation allows the parties to resolve their dispute on their own terms rather than a three-Judge panel deciding for them. (3) Mediation allows the parties to resolve their dispute quicker rather than waiting on completion of the appellate process. (4) Mediation at the appellate level may be the parties first opportunity to mediate their dispute.

10. Is there a cost for mediation?

No; the mediator's services are free to the parties. However, court costs may be incurred when filing documents with the Clerk of Courts pertaining to mediation.

11. Are all interested parties required to attend the mediation?

Yes; the attorneys primarily responsible for the case, as well as their clients (including insurance adjusters) are required to attend mediation.

12. How is the appellate process paused if the Court schedules a mediation?

The Court can grant up to a 60-day stay once the parties agree to submit their case to mediation and confirm a mediation date. Prior to the grant of a stay by the Court, the parties may file a motion requesting an extension of time to file their briefs.

13. How is confidentiality addressed in mediation?

All mediation communications related to or made during the mediation process are subject to and governed by the Uniform Mediation Act (UMA).

Mediation communications are confidential and no one shall disclose any of these communications unless all parties and the mediator consent to disclosure.