

**LEHI CITY JUSTICE COURT
UTAH COUNTY, STATE OF UTAH**

**IN RE:
MEDIATION REQUIREMENT IN ALL
SMALL CLAIMS CASES**

**STANDING ORDER REQUIRING
MEDIATION IN ALL SMALL CLAIMS
CASES FILED IN THE LEHI CITY
JUSTICE COURT 2018-1**

Judge Morgan Cummings

The Lehi City Justice Court requires all small claims litigants to submit to mediation in an attempt to resolve their small claims cases before the Court will schedule a trial.

Purpose:

There are several reasons for the Court's Standing Order Requiring Mediation in All Small Claims Cases, as well as several benefits enjoyed by small claims litigants as a result thereof. For example:

- In mediation, the power to decide what happens to a case stays in the litigants' hands. The litigants get to decide whether to resolve their dispute, and on what terms, rather than risking adverse rulings from a judge.
- The law applicable to any given case may not always line up with the outcome each litigant is expecting. In small claims cases, the judge can generally render only win/lose outcomes, and may only award a fixed monetary amount. However, in mediation, the litigants can implement creative solutions that can be tailored to address specific and unique situations. The litigants can also establish payment terms that both litigants are able to live with.
- Mediation greatly reduces several scheduling dilemmas for the Court. For example, many small claims trials result in dismissals or default judgments when one or both litigants fail to appear at the trial. This makes scheduling small claims hearings and trials particularly difficult, because it is impossible to know which cases will actually move forward with a trial. By utilizing mediation prior to setting a trial date, the litigants who receive a trial date can know that their trial will actually take place on a specific date and at a specific time, rather than preparing for trial only to have the case continued because of a busy court calendar. Stated another way, if litigants are unable to resolve their dispute, they will be given a specific date and time for trial – just for their case. Litigants will not have to wait while the Court hears other cases and trials scheduled for the same time, and will not have the uncertainty of being rescheduled one or more times.

Procedure:

When a small claims case is filed in the Lehi City Justice Court, the Court will provide a date and time for the parties to appear for a mediated pretrial conference. The small claims trial WILL NOT be held on this date. Please note: it is the Plaintiff's responsibility to properly serve the Defendant with a copy of the Affidavit, Summons, this Standing Order, and to file a Military Service Affidavit. If the Plaintiff fails to appear for the mediated pretrial conference, the case will be dismissed without prejudice (i.e., the case can be filed again by the Plaintiff). If the Defendant does not appear for the mediated pretrial conference, the Court may enter a default judgment against the Defendant. However, if both parties appear, they may participate in the Court's mediation program at that time, at no cost to the parties. If the parties would prefer to utilize a mediator of their choice outside of court, they may do so. However, all costs of any such mediation must be covered completely by the parties.

During the mediated pretrial conference, both parties will have an opportunity to meet with a volunteer mediator, who serves as a neutral facilitator, and who will help discuss the dispute between the parties. The volunteer mediator will also help the parties explore potential, mutually-agreeable solutions. Please note: the volunteer mediator does not act as a judge, nor will the volunteer mediator provide any legal advice. The volunteer mediator's role is solely to facilitate communication between the parties, help explore and evaluate possible solutions, and possibly come to a mutually-agreeable resolution.

All litigants should participate in mediation in good faith, meaning that they will genuinely attempt to resolve their differences prior to asking the Court for a trial date. Mediation is confidential. Consequently, pursuant to Rule 408 of the Utah Rules of Evidence, the parties' settlement negotiations taking place during mediation cannot be used against either party in court. If the parties settle their dispute, the Court will meet with the parties in court to discuss the resolution, and the case will be over at that time. If the parties are unable to reach a settlement, the Court will meet with the parties to schedule a trial date. The parties will be given an exact date and specific time for the trial, and no other cases will be scheduled for that same time.

Please note: while the Court requires the parties to engage in mediation prior to setting a trial date, participation in the Court's no-cost mediation program set forth in this Standing Order is voluntary. If a litigant is dissatisfied or uncomfortable with the mediation process, the litigant may discontinue the process, and speak with the Court about other alternatives (e.g., obtaining a different mediator, setting the case for a trial, etc.).


Mediators:

Utah Valley University and the J. Reuben Clark Law School at Brigham Young University both maintain well-respected mediation programs. Volunteers from these programs will be available at the Lehi City Justice Court for each mediated pretrial conference to provide mediation services at no cost to the parties. These volunteers are not employed by, or associated with, Lehi City, the Lehi City Justice Court, or the Administrative Office of the Courts. They are completely neutral to both parties involved in any small claims case. This is a mutually beneficial arrangement, whereby small claims litigants are able to utilize mediation services at no cost, while the volunteer mediators can maintain the number of mediation hours required by their respective programs. Litigants are expected to treat the volunteer mediators with respect.

Waivers and Exceptions:

The mediation requirement contemplated by this Standing Order may be waived or excused only by the Court. Parties who have already participated in mediation about the dispute filed in the Court may jointly file a stipulation indicating that the parties have already engaged in good-faith mediation, and must include the name of the mediator, as well as the date of any such mediation. Any litigant requesting a waiver or an exception for any other reason must file a written request with the Court at least one week prior to the mediated pretrial conference, and must show good cause why the mediation requirement should be waived or excused. The Court will then address such a request at the time of the mediated pretrial conference.

BY THE COURT:



June 5, 2018