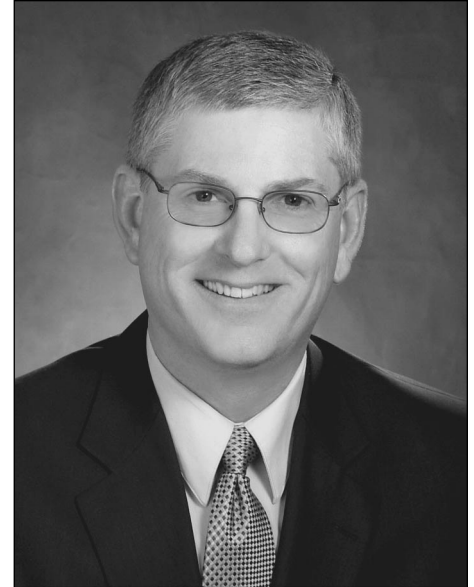


Civil Mediation Update

by **Kevin M. Oeffner**
Circuit Court Administrator



The Circuit Court’s civil mediation program, which reached its fifth anniversary in October 2006, aims to provide litigants with a forum in which they can collaboratively fashion an acceptable resolution of their disputes.

Mediators do not make determinations of the dollar value of a case or findings of fault or degree of responsibility. Michigan Court Rule 2.411(A)(2) defines “mediation” as “a process in which a neutral third party facilitates communication between parties, assists in identifying issues, and helps explore solutions to promote a mutually acceptable settlement.” The process of bringing disputants together to communicate with the assistance of a neutral facilitator is key to the significant success achieved by this program.

Relevant information regarding the progress of civil mediation is shown below.

STATUS OF OAKLAND COUNTY CIVIL MEDIATION PROGRAM

AS OF JANUARY 19, 2007

Calendar Year	2001	2002	2003	2004	2005	2006
Total Cases Submitted	184	243	430	558	601	563
Parties assigned to a mediator	N/A	234	416	549	573	532
Mediator blind-drawn	N/A	9	14	9	28	31
During Calendar Year						
Settled	86	108	209	315	347	299
Not Settled	61	70	151	173	119	139
Completed	147	178	360	468	466	438
Percent Settled	46%	45%	48%	56%	57%	53%
In Progress	37	65	70	70	135	125
Concluded in subsequent years:						
Settled	29	41	49	62	106	N/A
Not Settled	8	24	21	8	24	N/A
Total Completed	184	243	430	558	596	N/A
Total Percent Settled	63%	61%	60%	68%	75%	
In Progress*	0	0	0	0	5**	

An explanation of the numbers is in order so let’s use 2004 as the example. The number of cases ordered to mediation was 558. The parties in all but nine of these cases stipulated to a mediator; in the other nine cases, a mediator was appointed by the court from the roster of eligible mediators. A mediator becomes eligible for inclusion on the court’s roster after applying in accordance with the conditions set forth in MCR 2.411(E) and meeting the qualifications listed in MCR 2.411(F).

During calendar year 2004, 315 of the cases ordered to mediation were settled; 173 did not. Seventy cases were still in progress at the conclusion of 2004. Of those cases in progress, 62 settled in the succeeding year and eight did not settle. For the cases ordered to mediation in 2004, of which there were 558, a total of 377 settled – 315 in 2004 and 62 in the first few months of 2005. The settlement rate was 67.6%.

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Since the inception of the mediation program, an impressive number of cases have settled. A total of 2,579 cases were ordered to mediation. Subtracting 130 cases that were pending at the time this article was written leaves a total of 2,449 cases ordered to mediation and completed. Exactly 1,651 cases were settled, which includes the sum of those settled during the calendar year in which they were ordered to mediation, and the sum of those that settled in the succeeding year.

The settlement rate over the life of the program is 67.4% (1,651 cases settled divided by 2,449 cases ordered to mediation.) The table was prepared on January 19, 2007, and undoubtedly most of the 130 pending cases at the conclusion of 2006 were resolved in the first few months this year, but they are not included in the settlement rate shown.

The table shows that the settlement rate has inched up the past couple of years, which might be a reflection of recently-instituted training programs available to mediators, the enhancement of eligibility criteria for mediators, greater oversight and monitoring of the program by court

**Cases are either stayed, progressing through their mediation time frame, have extended time, or the request for extended time is pending.

personnel, and assistance of the Oakland County Bar Association (OCBA) in reviewing the program and providing input for improvement. No matter how you slice the data, these are encouraging numbers that demonstrate the value and success of civil mediation.

Here are a few other noteworthy facts related to civil mediation. There are presently 200 court-approved mediators. Once every two years each mediator must complete eight hours of advanced mediation training. Training locations can be found on the State Court Administrative Office's website at <http://courts.michigan.gov/scao/resources/other/mtplst.htm>.

Mediators must reapply every five years to remain on the court's roster. The Court's Case Management Office sends reminder notices to mediators who are nearing their

five year stint. The reapplication process is identical to that used the first time a prospective mediator applies. Applications are available in the Case Management Office, at the OCBA offices, and on the Circuit Court website at http://www.oakgov.com/circuit/division_committee/mediation.html.

Also available at the website shown immediately above are the applicable Local Administrative Orders that govern the civil and domestic mediation programs.

For more information about civil mediation, please contact Michelle Kase (Civil Mediation Clerk) at kasem@oakgov.com or Diane E. Kratz (Caseflow / ADR Supervisor) at kratzd@oakgov.com.

Until next time...



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