

Mediation and Assessment Program (MAP)
Frequently Asked Questions and Other Helpful Information

The MAP General Order is an Order of the Court en banc. Absent an express order from the judge assigned to a particular case, assignment to the Program does not modify any other orders or deadlines imposed by the Court. Failure to comply with the General Order, including communications with the MAP Office consistent with the General Order, may result in a referral to any Western District Judge for non-compliance.

1) How do I contact the MAP office?

- E-Mail: map@mow.uscourts.gov (Please include the case number and case name in the subject line of any e-mail to MAP).
- Telephone: (816) 512-5080; Fax: (816) 512-5089
- Mediation and Assessment Program
Charles Evans Whittaker Courthouse
400 E. 9th St., Rm. 3238
Kansas City, MO 64106

2) What communications occur with the MAP Office?

Please carefully review the Notice of Inclusion and, when applicable, an Amended Notice of Inclusion, and the MAP General Order regarding the types of communications that occur with the MAP Office, the majority of which occur by e-mail from the MAP Director and/or the Director's staff. Timely and professional communications are expected by all MAP participants, including attorneys, self-represented/*pro se* litigants, parties, and non-party representatives.

3) What is the deadline to mediate or have an initial ADR Option Session?

The parties have up to 75 calendar days after the Rule 26 meeting to mediate (ADR-M) the case. A different type of ADR session (known as ADR Option Session or ADR-O) allowed under the MAP General Order is to be conducted within 75 days after the Rule 26 Conference. ***Requests for extensions to mediate or conduct the initial ADR-O are to be submitted to the MAP Director for consideration and shall not be filed with the Court.*** (See MAP General Order Section II.M.)

4) What electronic or other written communications with MAP are to be filed with the Court?

Electronic or written communications with the MAP Director or MAP Staff ***shall not*** be filed with the Court directly or as exhibits to any document unless ordered by the assigned judge or in an exigent circumstance. If there are questions regarding the filing of any such communications, please contact the MAP office.

5) What is the deadline to file the Designation of Neutral and how should it be filed?

For cases assigned to the Outside Neutral Category I, the parties have up to fourteen (14) calendar days after the Rule 26 meeting to file the Designation as an ADR event in ECF. (See MAP General Order Section III.D.) Please use the PDF fillable Designation when possible. For Category II cases, see MAP Section III.E.

An amended designation must be timely filed if the original date had to be changed and is still within the time permitted by the MAP General Order. If an extraordinary circumstance requires that the date be changed for the session to occur beyond the time specified by the General Order, please promptly contact the MAP Director for instructions.

When instructed, an amended designation for Later-Stage ADR must be filed by the deadline specified.

6) What do I include in the Designation of Neutral (and when applicable, an Amended Designation of Neutral)? (See MAP General Order Sections III.D. and E. and PDF fillable Designation; please use the PDF fillable Designation when possible)

- 1) the name of the neutral agreed upon by the parties;
- 2) the date;
- 3) the time;
- 4) the location of the ADR session; and
- 5) the mode of the ADR session.

7) Who is on the Court's List of Neutrals?

The Category I List is on the Court's website:

<https://www.mow.uscourts.gov/sites/mow/files/MAP-CategoryI-LON.pdf>

The Category II List is maintained internally by the MAP Director. Individuals on the Category II List were selected by a Selection Committee and have staggered terms.

8) May I use a neutral who is not listed on the Court's List of Neutrals?

Yes, if the case received a Category I Neutral assignment and approved in advance in writing by the MAP Director (See MAP General Order Section III.D.1.a.). Your request should include information about the proposed neutral's training, qualifications, and experience as a neutral, or a link to their firm biography if it contains this information. Copy opposing party/counsel (or if applicable, any pro se party) on your request. Email is preferred: map@mow.uscourts.gov.

9) Who is required to attend the ADR-M or other ADR-O and do they have to appear in person?

In-person attendance is required of the parties, party alternate (when applicable), insurer (when applicable), and lead trial counsel for ADR-M or ADR-O absent an exemption or determination in accordance with the provisions of the MAP General Order. (See MAP General Order Section II.F.).

10) When a case is assigned to the MAP Director for ADR-M or ADR-O, what do I include in the statement to be provided in advance of ADR-M or ADR-O?

The statement may be up to five pages in a single-spaced letter format and ***should be provided five (5) calendar days prior to ADR-M or ADR-O***. A longer statement and

additional materials may be submitted if appropriate for the case and provided sufficiently in advance to the MAP Director. Email preferred: map@mow.uscourts.gov.

The statement should include the following information (if available and applicable) in the order below:

- 1) the specific name of each person attending and their title and entity and contact information (e-mail and telephone when available);
- 2) a brief overview of the case;
- 3) a brief summary of pertinent claims and/or allegations and any defenses;
- 4) a brief summary of key or primary issues in dispute;
- 5) a brief summary of the weaknesses of the case;
- 6) the names of key or primary witnesses and/or decisionmakers and a description of their role(s);
- 7) insurance coverage information (type of policy, limits, SIR, etc.);
- 8) available damages and any caps; and
- 9) the amount of and terms of prior settlement negotiations and when those occurred (if multiple, include the most recent negotiations).

The MAP Director may request additional information and may also request that the parties exchange statements, in whole or in part, as part of confidential MAP Communications. As an initial session with the MAP Director occurs after the Rule 26 conference, parties should ensure that they have properly made their Rule 26 disclosures and supplemental disclosures, if any.

11) When is the post-ADR status report due and what should it include? (See MAP General Order Section II.K. and E. and PDF fillable Report)

The parties have up to ten (10) calendar days following their ADR-M or ADR-O with an outside neutral to send their status report(s) **to MAP**. It is preferable that the PDF fillable Report available on the website be completed and attached to an e-mail to MAP at map@mow.uscourts.gov. *Please include the case number and case name in the subject line of the e-mail. Please do not file the report with the Court.*

If the PDF fillable Report cannot be completed, please provide the following information in an e-mail or fax to MAP:

- how long the session lasted;
- whether all required participants attended and names;
- the mode of the ADR session;
- the outcome of the session; and
- if the case did not resolve, whether additional settlement discussions would be productive and at what point in time/after what specific events.

12) Am I required to share the mediation or ADR statement for ADR-M or ADR-O or the post-ADR status report with the other party or parties?

No, you are not required to share this information. Although you may if preferred, but it should not be filed with the Court. Items may be submitted solely to the Neutral without copying the opposing party or parties. *The Neutral has the discretion to request that any statements and supporting materials, in whole or in part, be exchanged as confidential MAP communications.*

13) How do I request an extension of a MAP deadline(s)?

A request for an extension *should not be filed with the Court* but instead should be submitted via written request to the MAP office within five (5) business days of receiving notice of an event or deadline. Include a detailed reason and the opposing party's position. Other extension requests may be submitted if there are exigent circumstances. Email preferred: map@mow.uscourts.gov. (See MAP General Order Section II.M.)

14) How do I request to opt out of the Program?

Although cases will not normally be allowed to opt out of MAP even if a motion to remand or motion to dismiss is pending, you may send a written request to the MAP office (for review by the MAP Director) within ten (10) calendar days of receiving the initial Notice of Inclusion that the case is assigned to MAP. Include a detailed reason(s) in your request and the opposing party's position, if available. Later opt out requests may be considered if there are exigent circumstances. Email preferred: map@mow.uscourts.gov. (See MAP General Order Section II.N.)

15) Do I electronically file with the Court a request for extension of a MAP deadline, a mediation statement or ADR-O, a request to opt out, or the post-ADR status report?

No. Only submit the request in writing to the MAP Office. Email preferred: map@mow.uscourts.gov. If the MAP Director denies a request for extension or opt out, while discouraged, the parties may then file a written motion. (See MAP General Order Sections II.M. and N.)

16) What happens if my case is resolved before the ADR-M or ADR-O?

If you are already scheduled for mediation or other ADR session with an outside neutral, MAP Director, or MAP Judge or have a teleconference set with any such individual or a teleconference with the MAP Director or a MAP Judge, please contact the MAP Office as soon as you have resolved the case. E-mail preferred: map@mow.uscourts.gov.

17) Who is responsible for payment for services of an Outside Neutral, and what services are included?

The services of the Outside Neutral (Category I or Category II) may include a formal ADR-M or ADR-O session; reasonable and necessary preparation time; and follow-up to the session(s). Preparation time may include reviewing pleadings and/or discovery, and/or engaging in e-mails or other appropriate communications with one or more of the parties and/or counsel. (See MAP General Order Section III.J.1)

The rates for the Category I List of Neutrals are stated on the List. Most of the Category II Neutrals are on the Category I List and their rate is as noted on the Category I List, unless

otherwise agreed. A Category II Neutral not on the Category I List will charge the parties the rate provided in their application, unless otherwise agreed.

Absent a different agreement reached by the MAP Director or a different agreement between the Outside Neutral and the parties, the parties shall equally share in the costs of the Outside Neutral, including preparation time, even if the case settles, is transferred, or is dismissed prior to the formal ADR-M or ADR-O session(s). (See MAP General Order Section III.J.3.) Required costs may include a neutral's cancellation fee.

Questions regarding the scope of charges and/or services, including any cancellation fees of the Outside Neutral should be directed to the Outside Neutral. The MAP Director "is not responsible for the collection or payment of any allowable charges or expenses." (See MAP General Order Section III.J.2.). However, the failure to pay fees pursuant to the MAP General Order may result in a referral for non-compliance. (Sections VI and VII).