

**MEDIATION AND ASSESSMENT PROGRAM (MAP)  
GUIDELINES FOR PARTICIPANTS  
U.S. DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI**

Mediation is the primary form of alternative dispute resolution (ADR) utilized by the Court under the Court's Mediation and Assessment Program (MAP) General Order. These Guidelines are thus primarily applicable to mediation participants (parties, representatives, attorneys, etc.). These Guidelines are not a substitute for the MAP General Order nor any other orders that may be issued by any judge assigned to a case, and the parties and all attorneys participating in a case shall comply with applicable orders.

If a different form of ADR is requested by the parties, the parties should consult the MAP General Order regarding the procedure for requesting another form of ADR.

1. **Timing Requirement.** When a case is assigned to MAP and to the Outside Mediator category, the parties receive notice that within 14 days after the Rule 26 meeting they are required to file a Designation of Mediator certificate identifying their selected outside mediator.

The scheduled date, time and location of the mediation shall occur within 75 days after the Rule 26 meeting unless a different deadline has been set by the MAP Director or the Court. The MAP General Order contains provisions for requesting an extension of the deadline. Such extensions should be requested through the MAP Director, and not by a motion filed with the Court.

2. **In-Person Attendance Requirements.** Absent a specific exemption provided by the Court or MAP Director, lead trial attorneys, the parties, party alternate(s) **and** the insurance representative(s) must be present **in-person** for mediation. Being "available" by phone or holding a telephonic mediation is not permitted absent a specific written exemption from the Court or MAP Director.

Where there is an exemption to the in-person attendance requirement, all required participants under the MAP General Order **shall** participate in a video mediation by the use of both audio and video, unless there is an unavoidable technological impediment or written approval is secured in advance from the MAP Director.

**Parties may be required to redo the mediation if they have not complied with the attendance requirements.**

In some cases, more than one mediation session may be needed. If the initial session has occurred in compliance with the timing requirement and with the required participation, subsequent mediation sessions may occur in the manner the Mediator determines most appropriate, including in-person, and/or through a series of telephone conferences, video conferences or other communications, all of which shall be conducted in accordance with the spirit of the MAP General Order and treated as confidential.

3. Confidentiality. All participants in mediation must agree to confidentiality which is applicable to all mediation sessions, including those that are conducted virtually. Confidentiality applies after mediation is concluded unless otherwise discoverable or in accordance with specific written provisions expressly agreed by the parties and the Mediator. Mediation sessions must not be videotaped nor recorded. Any breach of confidentiality should be immediately reported to the MAP Director.
4. Fees Charged by Outside Mediator. Outside Mediators are permitted to charge a reasonable fee not to exceed the posted hourly rate on the Court's List of Mediators (or if not on the list and otherwise approved, shall only charge a reasonable fee). However, if agreed in writing and in advance between the Outside Mediator and the parties, the Outside Mediator may be compensated at a different hourly rate or by an alternative arrangement.
5. Responsibility for Outside Mediator's Fees. The parties are permitted to reach a written agreement as to who is responsible for what share of the Outside Mediator's fees.

In the absence of a written agreement otherwise, each side of a two-party case will pay one-half of the cost of the Outside Mediator, and in multi-party cases, the parties will proportionally share in and pay the fees of the Outside Mediator, absent a different allocation determined by the MAP Director or the Court.

The MAP is not responsible for processing the Outside Mediator's bill or for seeing that it is paid.

IFP. If a party has been allowed to file *in forma pauperis* and that status has not been revoked by the Court at the time of the mediation, that party will not be required to pay the Outside Mediator. The session with the Outside Mediator in an *in forma pauperis* matter shall not exceed two hours unless otherwise agreed to by the Outside Mediator and all participating parties.

6. Location of Mediation. Mediation sessions are to be conducted in the city of the divisional office in which the case is pending, unless otherwise agreed to in advance by the parties or approved in advance in writing by the MAP Director.
7. Case Information. Outside Mediators may request from the parties a short mediation statement and/or conduct pre and post mediation calls with the parties. Any such communications will be confidential unless otherwise discoverable or otherwise expressly agreed by the parties and the Outside Mediator.
8. Expectations. Mediations and other ADR option sessions shall be conducted in a professional and civil manner. Personal attacks or offensive language or gestures by any participant shall be promptly reported to the MAP Director. Term Sheet. In all cases in which a Mediator has conducted mediation and the parties have reached a resolution, in whole or in part, the parties are encouraged to execute a written term sheet reflecting the major terms of the resolution reached before the mediation session is adjourned.

9. Post-Mediation Status Report. When feasible, send an email to MAP ([map@mow.uscourts.gov](mailto:map@mow.uscourts.gov)) at the conclusion of mediation as to whether the case resolved. Within ten (10) calendar days after a mediation is conducted, either the Outside Mediator or one or more of the parties shall email ([map@mow.uscourts.gov](mailto:map@mow.uscourts.gov)) or fax (816-512-5089) a mediation status report to the MAP Director (*not to be filed with the Court*) containing the following:
- a) the case name and number, the mediator's name, the date of the mediation, how long the mediation lasted, whether all the required participants appeared in-person (or if an exemption to in-person attendance, whether the participants participated as required, typically by both audio and video);
  - b) whether the case was resolved, and, if not, whether an additional session might be helpful in resolving the matter; and
  - c) if not resolved and if an additional session may be helpful in resolving the matter, specify the items/events that need to occur first and the anticipated completion date for those items/events and projected timeframe for an additional session.

The Outside Mediator or counsel or pro se parties are not required to copy other counsel or pro se parties on the post-mediation status report but may do so.

If you have questions or concerns regarding the MAP, please email ([map@mow.uscourts.gov](mailto:map@mow.uscourts.gov)) or call the MAP Director (816-512-5080).

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MAP Director  
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