

# BUTTE COUNTY RULES OF COURT

## LOCAL RULE 5

(Effective Date: 7-1-95)

### RULE 5 NON-BINDING JUDICIALLY MANDATED MEDIATION

#### 5.1 - AUTHORITY

The Court has elected to participate in the pilot project established by CCP §1775 et.seq. and CRC 1630 - 1639.  
(A.D. 1-1-99)

#### 5.2 - ACTIONS SUBJECT TO MEDIATION

(a) The Court may order to mediation any case in which the amount in controversy does not exceed \$50,000 for each plaintiff independent of the merits of liability, defenses or comparative negligence. [CCP §1775.3; CRC 1631(a)(1)]

(b) Any other action, regardless of the amount in controversy, in which all parties stipulate to such mediation. The stipulation must be filed not later than ninety (90) days before trial, unless the Court permits a later filing. [CRC 1631(a)(2)]

(c) A case will not be excluded from mediation because it involves a prayer for equitable relief. [CCP §1775.3] (E.D. 7-1-95)

#### 5.3 - DETERMINING AMOUNT IN CONTROVERSY

The amount in controversy may be determined at the Case Management Conference. [LR §3.8(d) et.seq.]  
(A.D. 07-01-2002)

#### 5.4 - DETERMINING IF ACTION IS SUBJECT TO MEDIATION

(a) Amenability to mediation shall be determined on a case-by-case basis rather than categorically. [CRC 1631(b)] However, the Court may establish criteria for evaluation of cases most appropriate for referral to mediation.

(b) Amenability to mediation will be determined at the Case Management Conference. However, no appearance is required for this purpose. [CRC 1631(a)(1)]

(c) Amenability to mediation will be determined on the basis of the pleadings, the Case Management Statement [**JC – CM110**], and the views expressed by the parties on this issue. [CRC 1631(a)(1)]  
(A.D. 7-1-2002)

#### 5.5 - OTHER RESTRICTIONS ON AMENABILITY

(a) Actions previously ordered to judicial arbitration shall not be ordered into mediation.

(b) Actions ordered into mediation shall not, at a future date, be ordered into judicial arbitration. However, parties may stipulate at the end of a mediation which fails to fully resolve all issues, that the mediator may render an advisory ruling in an attempt to assist settlement. (E.D.7-1-95)

## **5.6 - TIME RESTRICTIONS FOR MEDIATION**

Other than the time restrictions in LR §§ 5.2(b) and 5.12, there are no other time restrictions

(E.D. 7-1-95)

## **5.7 - MEDIATION'S AFFECT ON FAST TRACK AND INVOLUNTARY DISMISSAL TIME LINES**

- (a)** Submission of an action to mediation shall not affect time periods specified in the Trial Court Delay Reduction Act. However, upon written stipulation of the parties filed with the Court, there shall be an exception of up to ninety (90) days to the delay reduction time standards to permit mediation of an action. [CRC 1637(a),(b)]
- (b)** The 210 day limitation of GC §68616(g) does not apply to mediation.
- (c)** Submission of an action to mediation shall not affect deadlines for service of summons or extend the time to bring the action to trial. [CCP §1775.7(a)]
- (d)** See CCP §1775.7(b) for an exception to the five (5) year dismissal period. (E.D. 7-1-95)

## **5.8 - SELECTION OF MEDIATOR**

- (a)** A panel of mediators will be maintained by the Court in consultation with the local area bar associations and ADR providers. Mediators shall have a minimum of twenty-five (25) hours of prescribed classroom mediation instruction, meeting the requirements of CRC 1632, or a minimum of twenty-five (25) hours of actual mediation experience. [CRC 1632] Lay persons who meet CRC1632 requirements may serve as mediators. However, mediators assigned by the Court to personal injury or other specialized matters, may be required to have specialized training and/or experience in that field. The list of available mediators will be maintained by the Clerk.
- (b)** At any time after the filing of the complaint and before the Case Management Conference, if all parties stipulate, in writing, that the case can be assigned to mediation, the case shall be assigned to mediation. Where parties stipulate to mediation in advance of the Case Management Conference, a mediator may be selected from the Court's list either by personal appearance at the Clerk's office, or by phone. In the alternative, the parties may use a mediator of their own selection not on the Court's list.
- (c)** After the case is ordered to mediation, the parties have fifteen (15) calendar days in which to stipulate, in writing, to a mediator. If the Clerk does not receive the written stipulation within fifteen (15) calendar days, the Court will promptly assign a mediator to the action from the Court's panel of mediators. A mediator shall be appointed no later than thirty (30) days after the case is ordered to mediation. [CRC 1633; CCP §1775.6]

(A.D. 1-1-2003)

## **5.9 - MEDIATOR'S FEE**

For Court Ordered Mediation, the mediator is entitled to \$150.00 per case for the first three hours of mediation, as compensation for the mediator's services. Any additional compensation above \$150.00 requires an agreement between the parties as to compensation. A Mediator's Fee Statement [LR Form: RUL-5-MM.030], provided by the Clerk's office, shall be submitted to the Clerk upon filing the "Statement of Agreement or Nonagreement" [LR Form: RUL-5-MM.010] with the Court. Failure to timely file the Fee Statement constitutes a waiver of compensation. [CCP §1775.8]

(A.D. 7-1-2002)

## **5.10 - RESERVED** (A.D. 1-1-2000)

## **5.11 - APPEARANCES REQUIRED AT MEDIATION**

The parties shall personally appear at the first mediation session, and at any subsequent session unless excused by the mediator. When the party is other than a natural person, it shall appear by a representative with authority to resolve the dispute or, in the case of a governmental entity that requires an agreement to be approved by an elected official or legislative body, by a representative with authority to recommend such agreement. Each party is entitled to have counsel present at all mediation sessions that concern it, and such counsel and an insurance representative of a covered party also shall be present or available at such sessions, unless excused by the mediator

(E.D. 7-1-95)

## **5.12 - COMPLETION OF MEDIATION**

Mediation shall be completed within one hundred twenty (120) days of a reference to a mediator, but that period may be extended by mutual agreement of the parties and the mediator

(A.D. 1-1-97)

## **5.13 - FILING OF STATEMENT BY MEDIATOR**

Within ten (10) days of the conclusion of mediation, the mediator shall file a Statement of Agreement or Nonagreement [JC Form ADR-100], advising the Court whether the mediation ended in full agreement or nonagreement as to the entire case or as to particular parties in the case. [CRC 1635]

(A.D. 7-1-01)

## **5.14 - FAILURE TO SETTLE IN MEDIATION**

**(a)** If the Court finds that any party has not participated, in good faith, in Mediation or has otherwise failed to comply with this rule, sanctions may be imposed.

(A.D. 7-1-02)

## **5.15 - RESERVED** (A.D. 1-1-2000)

## **5.16 - STATISTICAL INFORMATION**

If the case is resolved in whole or in part through mediation, the parties are required to provide the information called for on the ADR Information Form [JC Form: ADR 101] to the Clerk's office. [**CRC** §1638(b)]

(A.D. 7-1-01)

<b>Mediator's Name, Address &amp; Telephone No.:</b>  Social Security or Federal I.D. No.:	<b>Court Use Only</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF BUTTE</b> *** <input type="checkbox"/> 655 Oleander Ave. – Chico, California 95926 – (530) 532-7009	
<b>Plaintiff(s):</b>  <b>Defendant(s):</b>	
<b>Mediator's Fee Statement</b> [LR § 5.9]	CASE NUMBER:

Pursuant to LR §5.9, I hereby submit my Request for Payment of Mediator's Fees in the above-entitled matter. I declare that I was the duly appointed Mediator and that I fully performed all official responsibilities herein.

Mediation took place on [date(s)]: \_\_\_\_\_  
 and took a total of : \_\_\_\_\_ hours.

Statement of Agreement or Nonagreement has been submitted to the \*\*\* Clerk's Office for filing.

I hereby certify under penalty of perjury, under the law of the State of California, that the foregoing is true and correct.

Date: \_\_\_\_\_, 20\_\_\_\_  
 \_\_\_\_\_  
 Mediator's Signature

I hereby affirm that the above-named Arbitrator has completed all official duties required and has filed the Statement of Agreement or Nonagreement; and that the requested Mediator's Fee is in accordance with LR § 5.9. The requested Mediator's Fee in the amount of \$ \_\_\_\_\_ is hereby approved.

Date: \_\_\_\_\_, 20\_\_\_\_  
 \_\_\_\_\_  
 Judge of the Superior Court