

Small Claims Mediation and Trial Information

Clatsop County Circuit Court has a pre-trial mediation program for all small claims cases.

What is Small Claims Mediation?

Mediation brings you and the other party together with a trained mediator. The mediator helps you look for opportunities to come to an agreement.

- The mediator is neutral. They won't take a side.
- The mediation process is confidential and won't be shared with the judge.
- The mediator does not have the authority to tell you or the other party what to do but will give you the chance to decide the outcome of your case together.
- If you do not come to an agreement, your case will go to trial and the judge decides the outcome of your case.

Do I have to go to mediation?

- If you are the plaintiff and fail to appear at mediation, your case will be dismissed, and a judgment may be entered against you for the other party's costs and fees.
- If you are the defendant and do not appear at mediation, a default judgment may be entered against you for the amount originally requested in the claim plus the other party's costs and fees.

Where is mediation?

Small Claims mediation is held by video using Webex. When your mediation is scheduled, the small claims clerk will email you the Webex invitation. If you need help using Webex, please contact the court at least 24 hours before your mediation.

Who is my mediator?

Your mediator is a trained volunteer. They are trained to help people talk about their differences without telling people what to do. Your mediator is neutral, and they cannot force you to decide or decide for you. The mediator cannot give you legal advice.

When is my mediation?

When mediation is scheduled, the small claims clerk will email you the mediation date and time, important documents for you to review, and in a separate email, the Webex invitation.

What if I cannot attend the scheduled mediation?

If you cannot appear at mediation, you must ask the court for a new mediation date. You must submit your written request to the Court at least seven (7) days before the scheduled mediation date. A copy of your request must be sent to all parties in the case. You must state on your letter how and when you sent a copy to the other party.

What if I need an interpreter?

If you need an interpreter, you must tell the court at least 4 business days before your mediation date.

How do I prepare for mediation?

Although you will not have to "prove" anything to the mediator, please have all information that relates to your claim ready. This will help the mediator and the other party better understand your case.

Who is at the mediation?

- All parties must appear in mediation.
- If there are multiple parties, each person listed as a plaintiff or defendant is required to appear.
- An authorized representative may appear on behalf of a business, but they must be familiar with the facts of the case and must have **full authority** to make and accept offers of settlement.
- People not named on the pleadings usually are not allowed to participate in the mediation.

What happens at mediation?

- At the time of your mediation, connect by video using the WebEx link from your email. Remember, if you fail to appear on time, mediation may be canceled, and a judgment could be entered against you.
- The mediator will explain the mediation process in more detail. You can ask the mediator questions at that time if you don't understand the process.

How long does mediation take?

Be prepared to spend enough time to cover all issues. This may take a couple of hours. The mediator and parties need time to go over the facts of the case and explore all possibilities for settlement. Time spent in mediation may keep you from having to appear in court.

What happens if we come to an agreement in mediation?

The mediation agreement will be forwarded to you for signature. You will need to submit your signed copy to the court within seven (7) days. Once both parties have signed the agreement, the judge will sign an order.

- **Enforceable Judgment:** The agreement may state that one party shall have judgment against the other. This is an Enforceable Judgment. The agreement may call for the recovery of money, specific personal property, or any penalty or forfeiture. If the party who owes the debt (the debtor) does not abide by the agreement, the party who is owed (the creditor) is responsible for enforcing the judgment.
- **Stipulated Order:** If the agreement does not state that one party shall have judgment against the other, the signed agreement is entered in the case as a Stipulated Order. If one party fails to comply with the terms of the agreement, the other party can file an Affidavit of Non-Compliance with the Court. If that happens and the judge approves, the Stipulated Order will be converted into a Judgment for the original claim, less what has already been paid. The creditor's filing fees, service costs, and a prevailing fee for a default will be added. In some cases where a dispute remains, the Court may decide to schedule a hearing.

What happens if we do not come to an agreement in mediation?

If you do not reach an agreement in mediation, your case will be set for trial with a judge on a future date. The court will mail you a hearing notice with the date, time, and courtroom for your trial. It is important to appear for any court hearing so you have an opportunity to share your position and evidence with the judge.

How do I give feedback about my mediation experience?

After your mediation is finished, we will email you a quick survey. The survey usually takes a minute or two to complete. Your feedback helps us improve the Clatsop County Mediation programs.