

MEDIATION

Vancouver Robson Square Small Claims Court Pilot – Rule 7.4

This fact sheet provides information on mediation and how to prepare for your mediation session. Mediation is included in the provincial small claims court pilot project underway at Vancouver Robson Square. The pilot is a joint justice reform initiative of the Provincial Court and the provincial government.

What is mediation?

At a mediation, the parties sit down together in an informal and confidential setting and find solutions to their problems with the help of a mediator. The outcome of a mediation is decided by the parties, not by a judge or by the mediator.

Starting November 2007, all cases for more than \$5,000 and up to \$25,000 (except for financial debt claims under Rule 9.2) and all personal injury cases will be referred to mediation. The mediations are held in rooms in the courthouse and are private – unlike trials, which take place in courtrooms that are open to the public. A mediation session usually takes about two hours. There is no cost to the parties.

Who attends the mediation?

The parties involved in the case must attend the mediation. Parties who are individuals must attend in person. If a party is a corporation, society or partnership, someone who knows the facts of the case and who has authority to settle the dispute must attend. Generally, witnesses do not attend.

If you have a lawyer representing you, your lawyer may attend the mediation with you. Whether or not you choose to have your lawyer at the mediation, you should talk to them about the mediation when you are preparing for it.

Who is the mediator?

Mediators are impartial – they do not take sides. Mediators are trained to help you and the other parties resolve the dispute. They are assigned by the BC Dispute Resolution Practicum Society, which administers the court mediation program; they sometimes work in teams of two.

What happens at the mediation?

At mediation, the mediator and the parties sit around a table in the mediation room. The mediator explains the mediation process and reviews the agreement to mediate with you. All participants must sign the agreement to mediate. The mediator can answer any other questions you may have about the process.

Together you decide what issues need to be resolved. Each party has a chance to tell their story and to explain what is important to them. If you do not understand what is being said during the mediation, you may ask questions at any time. The mediator helps to guide the discussion so everyone has a chance to speak. Often, the mediator will meet separately with the parties to discuss possible solutions.

You are not required to reach a final agreement at mediation. But, if you do resolve your case, you can enter into a written agreement that is enforceable in court.

What if I need to change the date of the mediation?

If you cannot make the date set for your mediation you can request to have the date changed. You should first ask all the other parties to agree in writing to the change. If they agree, then you can file a consent order with their written consents at the Robson Square court registry.

If you are unable to reach an agreement with all the parties, you may file an application to the registrar (form 16). The application must explain the reason you want to change the date and that you asked the other parties for their consent. The application must be filed with the court registry **at least seven (7) days prior** to the trial date. If the application is granted by the registrar, a new date will be set for your mediation.

In certain circumstances a party may apply to the registrar to participate in the mediation by telephone conference call.

What if one of the parties does not attend the mediation?

If the claimant does not attend the mediation, the case may be dismissed. If the defendant does not attend the mediation, the claimant may ask for an immediate judgment against that defendant.

What should I bring to the mediation?

You should bring any documents, including statements, invoices, or photographs, that relate to your dispute.

How do I prepare for the mediation?

As you prepare for mediation, you may want to note answers to the following questions:

- What is the best result I can hope for?
- What is the worst result that could happen?
- What is really important to me in this dispute?
- What are the other person's main concerns?
- How can I answer those concerns?

What happens if we reach an agreement through mediation?

If you and the other parties resolve your dispute, the mediator will help you to put the agreement in writing. The agreement sets out what happens if one party does not abide by the agreement terms. The agreement can be enforced in court.

What if mediation does not solve the problem?

If the mediation does not result in an agreement, the next step is a trial conference with a judge. The trial conference will help you to prepare your case for trial.

Sometimes, only some issues are resolved at mediation. When this happens, the issues that are resolved are put into an agreement and the rest of the case goes on to the trial conference.

Will the trial judge be told what happened at the mediation?

The trial judge is told only what issues remain to be resolved, but not what happened or what was said at the mediation.

If I don't settle, doesn't mediation just add more time to my court case?

Even if mediation does not fully resolve your case, it is unlikely that it will be a wasted effort. If you do have a trial, it may be shorter and easier than if you had not participated in a mediation first.

Can I mediate after a trial conference?

If your dispute was not mediated before the trial conference, you may ask the judge at the trial conference to refer your case to mediation.

Who can I talk to if I have questions about mediation?

The court mediation program staff can answer specific questions you may have about the mediation process. The Robson Square court registry can answer any questions you may have regarding your mediation date or other small claims court processes.

Is this pilot project being evaluated?

Yes. Starting in the fall 2008 and into early 2009, a research firm will conduct a telephone survey of some of the parties who have gone through Small Claims Court. No identifying information will be used in the survey report.

Although participation in the survey is optional, the evaluation will be very important in determining whether the changes to the small claims process will be used or modified in other parts of the province. It will be helpful, therefore, if you can take the time to provide feedback if contacted through the survey.

FOR MORE INFORMATION, REFER TO SMALL CLAIMS RULE 7.4

available on the Court Services Branch website at: www.gov.bc.ca/ag

Type "court services" in the search bar or contact the:

Court Mediation Program

Telephone: 604 684-1300 Facsimile (fax): 604 684-1306

Website: www.courtmediation.com

Robson Square Small Claims Court Registry

Telephone: 604 660-8989 Facsimile (fax): 604 660-7095

If English is not your first language, please refer to the information available on the Court Services Branch website at www.ag.gov.bc.ca/courts/civil/smallclaims/pilot/translations/index.htm, or contact the court registry.

如果英语不是您的第一语言，请参见“法院服务分部”（Court Services Branch）网站上的资讯：www.ag.gov.bc.ca/courts/civil/smallclaims/pilot/translations/index.htm，或联系法院注册处。

ਜੇ ਅੰਗਰੇਜ਼ੀ ਤੁਹਾਡੀ ਪਹਿਲੀ ਭਾਸ਼ਾ ਨਹੀਂ, ਤਾਂ ਕ੍ਰਿਪਾ ਕਰਕੇ ਕੋਰਟ ਸਰਵਿਸਜ਼ ਬ੍ਰਾਂਚ ਦੇ ਵੈੱਬਸਾਈਟ www.ag.gov.bc.ca/courts/civil/smallclaims/pilot/translations/index.htm, ਉੱਪਰ ਦਿੱਤੀ ਜਾਣਕਾਰੀ ਦੇਖੋ ਜਾਂ ਕੋਰਟ ਰਜਿਸਟਰੀ ਨਾਲ ਸੰਪਰਕ ਕਰੋ।

Nếu Anh Ngữ không phải là ngôn ngữ chính của quý vị, xin xem chi tiết trên website của Court Services Branch (Các Dịch Vụ Tòa Án) tại www.ag.gov.bc.ca/courts/civil/smallclaims/pilot/translations/index.htm, hoặc liên lạc với phòng lục sự tòa.

