

# **APPENDIX A**

# THE STATE OF NEW HAMPSHIRE JUDICIAL BRANCH

7th Circuit - District Division - Dover  
25 St. Thomas St.  
Dover NH 03820

Telephone: 1-855-212-1234  
TTY/TDD Relay: (800) 735-2964  
<http://www.courts.state.nh.us>

## SMALL CLAIMS MEDIATION PROGRAM

### WHAT IS MEDIATION?

Mediation is an informal way of settling disputes without going to court.

### WHAT ARE THE BENEFITS OF MEDIATION?

1. Mediation is informal. At mediation you have a chance to present your ideas in an informal, private setting with the support and advice of your attorney, if you have one. It is a time for you to be heard and to listen to others.
2. Mediation is confidential. If you go to court your case will be heard in front of everyone in the courtroom. The courtroom is a public forum. Mediation takes place in a private conference room. The mediator will not discuss any aspect of your case with anyone; including the judge.
3. Mediation is flexible. Mediation can offer flexible alternatives to going to court. A judgment rendered by the court will typically be an award of money. In mediation, however, parties can design flexible solutions. You have a better opportunity to control the outcome of your dispute.
4. The mediator is neutral. The mediator is impartial and trained to help you and the other party talk about your needs and differences so that you can work things out together.
5. Mediation encourages self-determination. Mediation may help you to resolve this conflict without further court intervention.
6. Mediation encourages creative solutions. By discussing your options in mediation you may discover choices you did not know you had.
7. Mediation helps improve communication. Mediation may help improve communications and permit the parties to find better ways to deal with this conflict.

### HOW MUCH DOES MEDIATION COST?

Mediators are compensated through a mediation fund set up for that purpose through the Judicial Branch Mediation and Arbitration Program. In small claim matters of \$5,000 or less, the \$5.00 surcharge at the time of filing is paid into the mediation fund to compensate the small claim mediators. In cases where the claim exceeds \$5,000.00 there is a \$60.00 surcharge on the filing fee which also goes into the fund to pay the mediator fees.

### IS MEDIATION MANDATORY?

In small claim cases of less than \$5,000, mediation is voluntary. Both parties involved must agree to try mediating their dispute.

In small claim cases of \$5,000 or more mediation is mandatory. That means that mediation will be scheduled by the court and the parties are required to attend and make a good faith attempt to settle the case. Once the parties make such a good faith attempt, they have satisfied the requirement to mediate. They are not required to settle and if the case does not settle at mediation it shall be returned to the trial docket.

## **SMALL CLAIM MEDIATION PROGRAM INFORMATION**

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### **HOW DO I PREPARE FOR MEDIATION?**

Mediation deals not only with the legal issues but also deals with underlying non-legal issues that may be important to you. If you have an attorney, it is important to discuss what to reasonably expect if your case goes to trial.

It is important to come to the mediation session with an open mind, ready to consider new options that may not have been raised previously. It is also important to be willing to share information with the other parties and to work together towards reaching an understanding that would be acceptable to each of you.

### **WHO ARE THE MEDIATORS?**

The mediators are individuals who have been approved by the NH Judicial Branch based on their training and mediation experience. The courts maintain a list of available mediators.

### **WHAT HAPPENS DURING MEDIATION?**

At the start of a mediation session, the mediator will explain how mediation works and will answer your questions. The mediator will ask each of you to state your views, express your feelings, and describe what you would like to have happen in your case. The mediator will then help you explore ways to resolve the matter in a way that is acceptable to both parties.

The mediator may ask to meet with you alone (and with your lawyer if you have one) so you can talk more comfortably. If you do have an attorney, you may take a break and talk to your attorney privately at any time.

If an agreement is reached, it will be put in writing and signed by all parties. Later, the agreement will be presented to the judge who will review it and then issue a court order approving the agreement. If an agreement cannot be reached between the parties, or if one or more of the parties fails to follow through with the mediation session, the court will hear the case in a regular court hearing.

### **WHAT FORCE DOES AN AGREEMENT HAVE?**

If the case is settled, the agreement that you make is binding on all parties. It will be reviewed and signed by the judge and has the full force and effect of an order issued by the judge.

### **HOW DO I CHOOSE TO MEDIATE MY CASE?**

On the day of your pre-trial hearing, there will be mediators present to mediate your case. A judicial officer will explain your options, and if your case involves a claim of \$5,000 or more, you will be assigned a mediator at the pre-trial hearing. If your case involves a claim of less than \$5,000, you will have the option of mediating at the pre-trial hearing.

**For e-Filing only**

**THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH  
<http://www.courts.state.nh.us>**

Court Name: \_\_\_\_\_  
Case Name: \_\_\_\_\_  
Case Number: \_\_\_\_\_  
(if known)

**MEDIATION REPORT**

Name of mediator: \_\_\_\_\_

Date of mediation: \_\_\_\_\_

This mediation was:       Mandatory       Voluntary

If any settlements were made, A WRITTEN AGREEMENT, COVERING ALL THE ESSENTIAL ISSUES AND SIGNED BY THE PARTIES, IS ATTACHED.

The following results were obtained:

- The following parties failed to appear: \_\_\_\_\_
- Withdrawn; parties decided not to mediate.
- Case settled prior to mediation session.
- Case settled during the mediation session.
- Case partially settled at mediation.
- Case not settled by mediation; trial to take place as scheduled.
- Mediation on-going, continued for further mediation to this date: \_\_\_\_\_

The following issues were resolved:

\_\_\_\_\_  
\_\_\_\_\_

Other:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

Date

\_\_\_\_\_  
Law Firm

\_\_\_\_\_  
Bar ID # of attorney

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Address

\_\_\_\_\_  
E-mail

\_\_\_\_\_  
City

State

Zip code

**FILE THIS FORM WITH THE COURT IMMEDIATELY AFTER COMPLETING THE MEDIATION.**

Court Name: \_\_\_\_\_  
 Case Name: \_\_\_\_\_  
 Case Number: \_\_\_\_\_  
 (if known)

**AGREEMENT**

The parties agree as follows:

- Judgment for Plaintiff       Judgment for Defendant

\_\_\_\_\_  
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All parties to this Agreement must sign on the next page(s).

**FOR COURT USE ONLY**

Case Name: undefined

Case Number: undefined

**AGREEMENT**

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\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Law Firm

\_\_\_\_\_  
Bar ID # of attorney

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Address

\_\_\_\_\_  
E-mail

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip code

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\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Law Firm

\_\_\_\_\_  
Bar ID # of attorney

\_\_\_\_\_  
Telephone

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City

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State

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Zip code

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\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Law Firm

\_\_\_\_\_  
Bar ID # of attorney

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Telephone

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City

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State

\_\_\_\_\_  
Zip code

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\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Law Firm

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Bar ID # of attorney

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Telephone

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Address

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State

\_\_\_\_\_  
Zip code

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THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH  
<http://www.courts.state.nh.us>

Court Name: \_\_\_\_\_  
Case Name: \_\_\_\_\_  
Case Number: \_\_\_\_\_  
(if known)

**AGREEMENT**

The parties agree as follows:

Judgment for Plaintiff

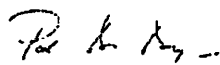
Judgment for Defendant

The parties agree to the following docket markings:

**"Neither party. No costs. No interest. No attorney's fees. No further action for the same cause."**

All parties to this Agreement must sign on the next page(s).

**FOR COURT USE ONLY**

Approved and So Ordered  
  
Judge Paul D. Desjardine

02/16/2016

Case Name: \_\_\_\_\_

Case Number: \_\_\_\_\_

**AGREEMENT**

Name \_\_\_\_\_ /s/ Signature \_\_\_\_\_ Date \_\_\_\_\_  
Law Firm \_\_\_\_\_ Bar ID # of attorney \_\_\_\_\_ Telephone \_\_\_\_\_  
Address \_\_\_\_\_ E-mail \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip code \_\_\_\_\_

Name \_\_\_\_\_ /s/ Signature \_\_\_\_\_ Date \_\_\_\_\_  
Law Firm \_\_\_\_\_ Bar ID # of attorney \_\_\_\_\_ Telephone \_\_\_\_\_  
Address \_\_\_\_\_ E-mail \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip code \_\_\_\_\_

Name \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_  
Law Firm \_\_\_\_\_ Bar ID # of attorney \_\_\_\_\_ Telephone \_\_\_\_\_  
Address \_\_\_\_\_ E-mail \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip code \_\_\_\_\_

Name \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_  
Law Firm \_\_\_\_\_ Bar ID # of attorney \_\_\_\_\_ Telephone \_\_\_\_\_  
Address \_\_\_\_\_ E-mail \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip code \_\_\_\_\_



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**IMPORTANT INFORMATION ABOUT  
SMALL CLAIMS PRE-TRIAL HEARING**

**WHAT IS A PRE-TRIAL HEARING?**

A pre-trial hearing is a court hearing at which both parties must appear. It is not the trial in the case but a court proceeding which will determine the direction of your small claims case.

**DO I HAVE TO ATTEND?**

Yes. If you are the person who filed the case and you do not appear the court may dismiss the case. If you are the person who the case has been filed against and you do not appear the court may issue a judgment against you directing you to pay the obligation.

**WHAT IF I CANNOT ATTEND THE HEARING ON THAT DATE?**

If you are unable to attend the pre-trial hearing, you **MUST** file a written request (called a "Motion to Continue") with the court to change the date. You must set forth the reason(s) why you cannot appear. You should also make contact with the other party to see if the other party will agree to change the date. If you have contacted the other party, you should make note of this in your written request/motion to continue. If, however, there is a court order which says that you should not have contact with the other party, please do not do so. Simply send your written request to the court. You should **NOT** assume that the court has changed the date until you hear from the court.

**WHAT HAPPENS AT A PRE-TRIAL HEARING?**

Several cases are scheduled for pre-trial hearings at once. The Judge or Referee will talk with everyone as a group about the process and about what is available that day. The parties will then speak with court personnel about what they would like to do. If, for example, the parties would like to try to mediate the claim, the court will provide a mediator that day. If the defendant agrees that the money is owed but cannot pay, the court will ask the defendant to complete a financial statement so that a payment plan can be established. If the parties simply cannot agree to resolve the case, they will go before the judge/referee who will talk to them about the trial process, what to bring, etc. The judge/referee may also try to focus the parties on the real issue(s) in dispute, if necessary, so that the trial may proceed more efficiently when it happens. If a trial is necessary, the parties will also leave the court that day with the trial date in hand.

**WHY SHOULD I MEDIATE?**

If the claim is for more than \$5,000.00, mediation is mandatory. If the claim is for \$5,000.00 or less, then mediation is voluntary. Mediation is an informal and confidential process which allows the parties to retain control over the resolution of their case. A neutral third party, who is trained and experienced, can assist the parties in reaching an agreement which, when approved and signed by the judge, becomes an enforceable court order. There is no added fee for mediation on the day of the pre-trial hearing. If an agreement is reached, the case is resolved and the parties do not have to come back to court again, unless someone fails to follow the agreement.

**CAN MY CASE BE RESOLVED ON THE DAY OF THE PRE-TRIAL HEARING?**

Yes. If both parties appear at court and reach an agreement, whether by mediation or otherwise, the case can be resolved **THAT DAY** so that there is no need for a further court appearance unless a party fails to follow the terms of an agreement/order.

## **IMPORTANT INFORMATION ABOUT SMALL CLAIMS PRE-TRIAL HEARING**

### **WHAT IF NO AGREEMENT IS REACHED?**

If the parties are unable to reach an amicable solution, they are entitled to a trial. The judge/referee will speak with the parties and provide information to them about what to expect at the trial. The court cannot advise parties how to present their case, but can provide general information about the proceeding itself so that parties can be more prepared. The parties will receive the date of the trial before leaving court.

### **WHAT IS THE BENEFIT OF A PRE-TRIAL HEARING?**

The pre-trial hearing gives the parties a chance to get into court more quickly and possibly resolve the case without a trial. A pre-trial gives the parties the chance to resolve their dispute AT THE COURTHOUSE either with or without the assistance of a trained mediator and leave the court that day with the case resolved one way or the other. And, if both parties simply comply with any order that is issued, they should never have to return or incur further court fees or expenses. For those who cannot reach an agreement, they should leave the court that day with a greater understanding of what will happen at the trial and will have selected a date for trial which agrees with schedules of the parties.

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**NOTICE OF PRE-TRIAL HEARING**

Case Name:  
Case Number:

The above referenced case(s) has/have been scheduled for:

**Pre-Trial Conference**

**Date: November 20, 2015 25 St. Thomas St.**  
**Time: 2:00 PM Dover NH 03820**

If you are unable to appear at this scheduled hearing, you must request a continuance from the Court in writing at least 10 days in advance of the hearing date. You must also send a copy of the request to the opposing party. Motions to continue filed fewer than 10 days in advance of hearing will only be granted if the Court finds that an emergency or exceptional circumstance exists. You must appear on the scheduled date unless you receive notification from the Court that a request to continue the hearing has been granted.

If the defendant(s) fail to appear the court may issue a default judgment for the plaintiff. If the plaintiff(s) fail to appear the court may dismiss the small claim.

Multiple cases are scheduled at this time. Please notify the court 15 days prior to the hearing date above if the hearing is expected to last longer than 30 minutes.

**NOTICE OF APPELLATE RIGHTS**

The party who receives an adverse decision in the District Division/Probate Division has the right to appeal the decision by filing an appeal with the New Hampshire Supreme Court. This is an appeal only on questions of law. In other words, the Supreme Court will not consider questions of fact already decided by the District Division/Probate Division. The appeal must be filed with the Supreme Court within 30 days of the date of the District/Probate Division's written notice of the decision.

If you will need an interpreter or other accommodations for this hearing, please contact the court immediately.

Please be advised (and/or advise clients, witnesses, and others) that it is a Class B felony to carry a firearm or other deadly weapon as defined in RSA 625.11, V in a courtroom or area used by a court.

September 18, 2015

Suzanne R. Doyle  
Clerk of Court

(125709)  
C:

# ATTACHMENT A

**THE STATE OF NEW HAMPSHIRE**  
**JUDICIAL BRANCH**  
<http://www.courts.state.nh.us>

Court Name: \_\_\_\_\_  
Case Name: \_\_\_\_\_  
Case Number: \_\_\_\_\_  
(if known)

**SETTLEMENT CONFERENCE REQUEST**

1. Attorney for the State: \_\_\_\_\_  
2. Attorney for Defendant: \_\_\_\_\_

Before requesting a settlement conference, the parties must make reasonable efforts to come to a negotiated disposition of the case. Where negotiations have been tried and failed, by agreement, a settlement conference may be requested by either party to the court. The parties must consent before a settlement conference is requested.

3. Pending charges: \_\_\_\_\_

4. Has the State made an offer?  Yes  No

5. Has Defendant made a counter offer?  Yes  No

6. Have parties exhausted avenues of discussions of these proposed dispositions?  
 Yes  No

7. Purpose/type of settlement conference (check one)  
 Restorative justice  
 Facilitation of negotiations because parties cannot reach agreement on their own  
 Evaluation of legal issues

8. If the case involves an alleged victim, will he or she appear or be available for conference?  Yes  No

9. Will other witnesses or people appear at the request of the State?  Yes  No

10. Will other people or witnesses appear at the request of the Defendant?  Yes  No

11. Parties waive applicability of Superior Court Rule 98 to statements made during the settlement conference and agree to abide by the Settlement Conference Confidentiality Policy.  
 Yes  No

Parties must file memoranda not less than five days in advance of the settlement conference. In its memorandum, each party shall include its proposed disposition of the case. If not previously done, the memoranda shall also include notice of whether the alleged victim will participate and any other witnesses that will attend for the State or the Defendant.

Settlement conference to be held on: \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney for the State

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney for the Defendant

So Ordered.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Justice

# ATTACHMENT B

## Superior Court Settlement Conference Confidentiality Policy

- 1.1 Terms:** The following words and phrases when used in this policy shall, for the purpose of this policy, have the meanings respectively ascribed to them in this policy, except where the context otherwise requires.
- 1.1.1 Evaluative Settlement Conference:** "Evaluative Settlement Conference" shall have the same meaning set forth in the Superior Court Settlement Conference Policies.
- 1.1.2 Facilitative Settlement Conference:** "Facilitative Settlement Conference" shall have the same meaning set forth in the Superior Court Settlement Conference Policies.
- 1.1.3 Party:** "Party" or "Parties" shall mean any attorney for the State, any person, such as a Victim/Witness Advocate, employed by the prosecutor's office, the Defendant, any attorney for the Defendant, and any person, such as an investigator, employed by any attorney for the Defendant.
- 1.1.4 Participant:** "Participant" shall mean any person who is present (physically, telephonically, or otherwise) during any portion of the settlement conference, regardless of whether such person is a party and regardless of whether such person speaks during the settlement conference.
- 1.1.5 Restorative Settlement Conference:** "Restorative Settlement Conference" shall have the same meaning set forth in the Superior Court Settlement Conference Policies.
- 1.1.6 Settlement Judge:** "Settlement Judge" shall mean any justice of any court or any court appointed mediator who presides over any portion of any settlement conference.
- 1.1.7 Trial Judge:** "Trial Judge" shall mean any justice who hears any proceeding in a case except for a settlement conference or proceeding regarding confidentiality of the settlement conference.
- 1.1.8 Victim:** "Victim" shall have the same meaning set forth in RSA 21-M:8-k, I(a).
- 1.2 Purpose of Confidentiality:** The purpose of a settlement conference is to encourage a full and frank discussion of the strengths and weaknesses of each party's case in order to facilitate voluntary settlement of cases. In order to facilitate this discussion, settlement conferences must be confidential, both from the public at large and from the judge who eventually presides over a trial or plea. Additionally, in order to encourage settlement of claims, parties must be able to disclose information in the settlement conference without fear that such information will later be used in a trial or sentencing. By voluntarily participating in a settlement conference, participants must agree that statements, documents, and other information disclosed in settlement conference will *generally not be admissible* in any other proceeding or subject to disclosure to any person, including the trial judge, who is not a participant in the settlement conference.
- 1.3 Confidentiality of Settlement Conference Proceedings**
- 1.3.1 Generally:** Settlement conferences are confidential. Statements made by any participant in the settlement conference shall not be disclosed by any participant to any other person, including the trial judge, nor shall they be admissible at any other proceeding involving the same parties, except as provided for in this policy. No participant shall communicate any of the substance of the settlement discussions to the trial judge or to any other person.



- 1.3.2 Communications between One Party and/or Participant and the Settlement Judge:** Unless the parties consent, the Settlement Judge shall not speak to one party or participant without the presence of all other parties. With the prior consent of both parties, the Settlement Judge may speak confidentially with one party and/or one party and another participant. Such communications shall not be disclosed to other participants without the consent of the party involved in the communication. Nothing in this section shall be construed, however, as permitting the Defendant to be questioned outside the presence of his attorney, nor shall it be construed as permitting the settlement judge to question the victim outside the presence of an attorney for the State and/or the Victim/Witness Advocate.
- 1.3.3 Communications between the State and Victims or Witnesses:** Nothing in this section shall be construed as requiring the presence of the settlement judge or the other party during communications between the State and the victim or witnesses, even if such communications occur during a settlement conference.
- 1.3.4 Communications between the Defendant's Attorney and the Defendant or Witnesses:** Nothing in this section shall be construed as requiring the presence of the settlement judge or the other party during communications between the Defendant's Attorney and the Defendant or a witness, even if such communications occur during a settlement conference.
- 1.4 Confidentiality of Settlement Conference Documents:** All documents related to the settlement conference shall be kept under seal and shall not be placed in the public court file. Settlement conference documents shall also be sealed from the trial judge. Settlement conference materials shall not be unsealed except as provided for in these policies.
- 1.4.1 Settlement Conference Memoranda:** The parties may submit settlement conference memoranda to assist the settlement judge. Except as provided for in this policy, such memoranda shall be served on the opposing party.
- 1.4.2 Confidential Settlement Conference Memoranda:** If the parties consent, the settlement conference judge may request confidential memoranda regarding the parties' negotiating positions, goals for the settlement conference, or other information that may be useful to the settlement judge but that the parties would not be likely to disclose to the other party. If the settlement judge requests confidential memoranda, the memoranda should be clearly labeled as "Confidential Settlement Conference Memorandum - Ex Parte and Under Seal." The memoranda shall be filed under seal and not disclosed to anyone other than the settlement judge.
- 1.5 Waiver by State and Defendant:** Before beginning any settlement conference, the State and the Defendant shall waive the application of Superior Court Rule 98 (and any orders or local rules related to discovery) to statements made during the settlement conference and shall agree to the confidentiality policies described here.
- 1.6 Exceptions to Confidentiality**
- 1.6.1 Results:** Participants may disclose to the trial judge or another person whether a settlement conference was held and whether a plea agreement or other settlement resulted from a settlement conference, provided, however, that the results of a settlement conference are not admissible as evidence in any criminal or civil proceeding unless permitted by Rule of Evidence 410.

- 1.6.2 As Part of a Plea Agreement:** Participants may disclose information learned during a settlement conference if such disclosure is specifically permitted as part of a plea agreement between the parties.
- 1.6.3 By Consent:** Participants may disclose information learned during a settlement conference or documents prepared for a settlement conference if both parties consent and the disclosure is approved in writing by either the settlement judge or the trial judge.
- 1.6.4 For Appeal Purposes:** The policy does not prohibit disclosure of information related to a settlement conference for the purposes of an appeal or other litigation relating to the validity of a plea resulting from a settlement conference.
- 1.6.5 For Research Purposes:** Participants may disclose the results of a settlement conference and discuss the settlement conference process for the purpose of research and/or evaluation of the process, provided that the research and the information to be disclosed have been approved by a justice of the Superior Court.
- 1.6.6 When Required by Law:** Participants may disclose information learned during a settlement conference when such disclosure is otherwise required by the United States or New Hampshire Constitutions or other applicable law.
- 1.6.7 Limitations of Confidentiality:** This Policy does not require the exclusion of any evidence otherwise admissible, nor does it prohibit disclosure of information which a party learned outside of a settlement conference, merely because it is presented in the course of a settlement conference.
- 1.7 Trial Judge:** The trial judge shall not participate in any settlement conference. With the consent of both parties and upon compliance with RSA 21-M:8-k, the settlement judge may take a Defendant's plea and pass sentence.
- 1.8 Record of Settlement Conference:** Facilitative and Restorative Settlement Conferences shall always be conducted on the record and the settlement judge shall advise all participants that the proceedings are recorded. Evaluative Settlement Conferences may be recorded if requested by the parties. The record of the settlement conference shall be kept under seal and shall not be disclosed to any person except upon order of the Court and in compliance with this policy.
- 1.9 Cases Involving Co-Defendants:** Cases involving co-defendants present a special challenge to the settlement conference model because, while a defendant may waive his own right to obtain or use certain evidence as to himself, he cannot waive those rights as to his co-defendant. In particular, the co-defendant of a settlement conference participant may be entitled to obtain statements of participants, including his co-defendant, under Superior Court Rule 98. Therefore, the Court shall not permit settlement conferences in cases involving co-defendants unless the co-defendants waive their discovery rights as provided in this section.
- 1.9.1 Waiver of Right to Discovery of Co-Defendant Settlement Conference:** A defendant has no obligation to waive his right to discovery of his co-defendant's settlement conference. He may, however, choose to waive his right to discovery of his co-defendant's settlement conference. Such a waiver is valid only if made in writing and on the record and only after the Court has advised him of his rights under the relevant rules of discovery, orders, and laws.

**1.9.2 Limitation on Waiver:** A defendant's waiver of discovery rights as to a co-defendant's settlement conference shall not be construed as a waiver of his right to obtain and present exculpatory evidence under the New Hampshire and United States Constitutions, even if that exculpatory evidence is discussed or disclosed at the co-defendant's settlement conference.

**1.10 Interaction With Other Rules**

**1.10.1 Rules of Evidence 408 and 410:** Settlement conferences are "compromise negotiations" within the meaning of Rule of Evidence 408 and "plea discussions" within the meaning of Rule of Evidence 410. Statements made by any participant during settlement conferences are inadmissible at any criminal or civil proceeding, except as provided for in those rules or in this policy.

**1.10.2 Constitutional Right to Obtain and Present All Proofs Favorable:** Nothing in this policy should be construed to limit the Defendant's right to obtain and/or use exculpatory evidence within the meaning of Brady v. Maryland, 373 U.S. 83 (1963), State v. Laurie, 139 N.H. 325 (1995), and their progeny, even if that evidence is disclosed in the context of a settlement conference.

**1.10.3 Victim's Rights:** Nothing in this policy should be construed to limit the State's ability to communicate with the victim of an offense or any of the victim's rights under RSA 21-M:8-k.

**1.11 Disputes Regarding Confidentiality of Settlement Conference Information:** When possible, disputes about whether information from a settlement conference is subject to disclosure under these rules should be heard and decided by the settlement judge. In all cases, disputes about disclosure of settlement conference information shall be heard under seal and shall not be heard by any justice who may preside over the Defendant's trial and/or sentence the Defendant.

**1.11.1 Immediate Review Following Settlement Conference:** Immediately following every settlement conference, the settlement conference judge shall inquire of the parties whether they believe any information disclosed during the conference is exculpatory and subject to disclosure under Brady v. Maryland, 373 U.S. 83 (1963), State v. Laurie, 139 N.H. 325 (1995), and their progeny. If either party believes that information disclosed during the settlement conference is subject to disclosure, the settlement judge shall review the information in question, hear argument from the parties, and determine whether the information is subject to disclosure. If the information is subject to disclosure, the settlement judge shall issue appropriate orders regarding the scope and form of the disclosure. At the request of either party, the settlement judge shall make findings of fact and rulings of law sufficient to permit appellate review of the determination of whether information is subject to disclosure.

**1.11.2 In Camera Review:** If necessary to determine whether information from a settlement conference is subject to disclosure, the justice hearing the issue may conduct an *in camera* review of the settlement conference record. In no case should settlement conference material be disclosed to a non-participant unless the Court has determined, following an *in camera* review, that the information requested is required to be disclosed by this policy or applicable law.

# ATTACHMENT C

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Court Name: \_\_\_\_\_  
Case Name: \_\_\_\_\_  
Case Number: \_\_\_\_\_  
(if known)

SETTLEMENT CONFERENCE REPORT

1. Date of Settlement Conference: \_\_\_\_\_

2. Name of Settlement Conference Judge: \_\_\_\_\_

3. Status of Case:

Case settled.

Case did not settle.

Case continued for further Settlement Conference Proceedings  
Date and time of next proceeding (if established): \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Justice

MONDAY, JANUARY 25, 2016

## Police look to cut a backlog

Complaints  
against officers  
to be mediated

By Jan Ransom

GLOBE STAFF

The Boston Police Department has launched a mediation program aimed at reducing a backlog of routine complaints against officers — an idea first suggested a decade ago.

Even though the number of complaints dropped in 2014, the time it takes to resolve the cases has frustrated both citizens and the officers who live in the shadow of possible action pending against them.

Police officials hope that the program, which will be managed by the Harvard Mediation Program at Harvard Law School, will help clear less serious complaints quickly. That will free up time for the department to focus on investigating high-priority complaints, such as those involving misconduct or excessive force.

Officials also hope the program will strengthen the relationship between the police department and the community.

“If you bring the police and the complainant together, maybe each can understand where the other was coming from,” Police Commissioner William B. Evans said. “I think it’s a win-win for both the public and the



ficer and the complainant are contacted to see whether they are interested in resolving the matter that way, said Police Superintendent Frank Mancini, commander of the Bureau of Professional Standards.

If they agree to go ahead, the confidential mediations will be on neutral ground — at the Legal Services Center of Harvard Law School in Jamaica Plain.

Officers are prohibited from attending mediation sessions in uniform or wearing any insignia or department-issued equipment.

"The goal is to ensure that citizens feel comfortable," said Rachel A. Visconti, the Harvard program's assistant director. "The idea is to level the playing field."

The parties can agree to a mutually acceptable resolution, and the case would be closed. But if they do not agree, the case will be investigated by Internal Affairs.

No mediations have happened yet, but Evans said he is reviewing six cases that could qualify for possible inclusion.

The most serious complaints will continue to be investigated by the Internal Affairs Division. Grievances involving criminal allegations will be reviewed by the city's Anti-Corruption Unit.

Complainants that involve a pending lawsuit, potential civil rights violations, or those that allege gender or racial discrimination also do not qualify for mediation.

Of the 386 complaints civilians filed against police officers in 2014, 55 percent alleged disrespectful treatment, unbecoming conduct, or unreasonable judgment, according to police department data.

"In time, [the mediation



MATTHEW J. LEE/GLOBE STAFF

### Efforts to create a mediation program for disputes between Boston police and civilians stalled for more than a decade.

program] will reduce the number of cases that need to be investigated," Mancini said. "Internal Affairs cases are very laborious. [The program] will free up a lot of time for investigators."

But will it suffice? "To the extent this helps to gain trust between officers and citizens, that's a good thing," said J. Larry Mayes, one of three members of the Civilian Oversight Ombudsman Panel, which reviews Internal Affairs investigations. "I think it's a very great start, but I think a lot more needs to be done."

Armani White, organizer with Youth Against Mass Incar-

ceration, said the program is not enough.

"It's more of a window dressing to avoid creating real community oversight with teeth, which has been proposed," White said. "There's no prevention, nothing addressing racism in the Boston Police Department or people who feel like they're being profiled."

Other police departments have long used mediation programs to address citizen complaints including New York, Los Angeles, Denver, San Francisco, Minneapolis, and Portland, Ore., Visconti said.

Visconti said she expects that in Boston, as in other cit-

ies, the first year or two will be slow as both officers and civilians warm up to the idea.

"There are reasons that both officers and citizens may be hesitant to engage because it's unlike the way they are accustomed to engaging," Visconti said. "For citizens, it causes them to take time out of their day and they may be hesitant. [For officers], when they're engaging in the course of their work, there's a very clear sense of hierarchy."

"When sitting together at mediation program, everyone is engaging as equals and for some people that can feel like a risk," she said.

Detective Brian Bladent of the Boston Police's Benevolent Society the program "a good Leaders for two other unions did not return seeking comment.

Jack McDevitt, director on Race and Justice in the program will all students and police to be understand one another.

"If there is a ratio why [the officer] was the person they stop police officer can explain McDevitt said. "We're man beangs"

*Jan Ransom can be reached at [jan.ransom@globe.com](mailto:jan.ransom@globe.com) or on Twitter at [@Jan\\_Ransom](https://twitter.com/Jan_Ransom).*

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# Modria Launches A "Fairness Engine" For Online Dispute



News Video Events CrunchBase



14  
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Earlier this morning, we got an email from a lady whose account was mistakenly charged a few times too many by an online pet food store. There is little we can do about that, but it's a clear sign that even today, resolving those kinds of

online disputes is still hard. Modria wants to change this with the help of its Fairness Engine.

The privately funded company, which was founded in 2011, says that its cloud-based service helps "all parties involved in an online dispute to the table quickly and lets them arrive at an equitable solution that helps save costs and increase brand loyalty." The team behind the service already helped companies like eBay and PayPal solve more than 400 million cases. Indeed, Modria founder and CEO Colin Rule spent eight years as the Director of Online Dispute Resolution for eBay and PayPal.

Modria helps businesses flag and diagnose customer issues and knows enough about the legal technicalities behind these problems to speed up the negotiation process. The tool uses four different modules for diagnosis, negotiation, mediation and arbitration.

What is Modria?













"Complaints and disputes are a fact of life in the networked economy, from online marketplaces to online banking. They happen hundreds of millions of times a year. What has been missing is a solution that solves these disputes. Modria's Fairness Engine solves this problem with a transparent and human process," said Rule in a canned statement today. "It's the first step toward a future in which companies and customers around the world settle their disputes amicably outside the overburdened court system."

Throughout the process, users can upload text files, PDFs and videos to make their cases, but if all else fails and the two parties can reach a mutual agreement, Modria's arbitration module will help the two parties select a decision maker to render a decision.

Modria offers a 14-day free trial. After that, the pricing depends on the claimed value and starts at \$200 for cases where the value is under \$10,000 and tops out at \$5,000 for claimed values over \$100,000. The company also offers customized enterprise plans.

**14**  
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Microsoft

# **Mediator Rosters**

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## Mediation Panel List

Name	Areas of Concentration	Fee
<a href="#">Kenneth Jay Barnes</a>	Administrative Law (APA, FOIA) Environmental Law Federal Civil Rights: 28 U.S.C. § 1983 Title VII Tort Law	\$175
<a href="#">Charles P. Bauer</a>	Commercial Law Construction Law Insurance Law Title VII Tort Law	\$400
<a href="#">Daniel J. Bourque</a>	Commercial Law Construction Law Intellectual Property	\$350
<a href="#">John T. Broderick, Jr.</a>	Tort Law Commercial Law	\$350
<a href="#">George C. Bruno</a>	Commercial Law International Disputes Federal Civil Rights	\$175
<a href="#">William L. Chapman</a>	Commercial Law Intellectual Property Media Law Tort Law	\$300
<a href="#">Gregory S. Clayton</a>	Commercial Law Environmental Law Insurance Law Tort Law	\$250
<a href="#">Randall Cooper</a>	Commercial Law Environmental Law Federal Civil Rights: 28 U.S.C. 1983 Tort Law	\$275
<a href="#">Robert C. Dewhirst</a>	Commercial Law Federal Civil Rights: 28 U.S.C. § 1983 Insurance/Professional Liability Tort Law	\$220
<a href="#">Charles G. Douglas, III</a>	Federal Civil Rights: 28 U.S.C. § 1983 Title VII Tort Law	\$300
<a href="#">Dennis T. Ducharme</a>	Tort Law Commercial Law Federal Civil Rights: 28 U.S.C. § 1983	\$350
<a href="#">Andrew D. Dunn</a>	Commercial Law Tort Law	\$250
<a href="#">Robert G. Eaton</a>	Commercial Law Insurance Law	\$165

## Mediation Panel List | District of New Hampshire | United States District Court

<u>David C. Engel</u>	Tort Law Commercial Law Environmental Law Tort Law	\$175
<u>Joni N. Esperian</u>	Tort Law	\$0
<u>Debra Weiss Ford</u>	Title VII Tort Law	\$300
<u>Richard C. Gagliuso</u>	Federal Civil Rights: 28 U.S.C. § 1983 Commercial Law Construction Media Law/First Amendment	
<u>John Burwell Garvey</u>	Tort Law Commercial Law Federal Civil Rights: 28 U.S.C. § 1983 Environmental Malpractice Employment Title VII	\$600 for 3 hrs/per party \$350/hour thereafter/shared
<u>Melinda S. Gehris</u>	Commercial Law Employment Law Environmental Law Insurance Law Tort Law	\$250
<u>Susan S. Geiger</u>	Commercial Law Environmental Law Federal Civil Rights: 28 U.S.C. § 1983 Telecommunications Law Tort Law	\$250
<u>Wilbur A. Glahn</u>	Commercial Law Diversity Federal Civil Rights: 28 U.S.C. § 1983 Tort Law	\$250
<u>Russell F. Hilliard</u>	Commercial Law Federal Civil Rights: 28 U.S.C. § 1983 Title VII Tort Law	\$300
Edward M. Kaplan	Commercial Law Diversity Employment Law Tort Law Title VII	\$250
<u>Frank E. Kenison</u>	Title VII Environmental	\$300
<u>Steven M. Laticj</u>	Commercial Law Construction Law Professional Liability Tort Law	\$250
<u>John M. Lewis</u>	Commercial Law Construction Law Intellectual Property Federal Civil Rights 28 U.S.C. § 1983 Title VII Environmental Constitutional Law Corporate Disputes Tort Law	\$250 (negotiable)
<u>Michael M. Lonergan</u>	Commercial Law Diversity Insurance Law Tort Law	\$250
<u>Daniel F. Lyman</u>	Commercial Law Environmental Law Intellectual Property Real Estate	\$175
Joseph M. McDonough	Commercial Law Federal Civil Rights: 28 U.S.C. § 1983 Title VII Tort Law	\$175
<u>David W. McGrath</u>	Commercial Law Employment Law Title VII Tort Law	\$250
<u>Kathleen A. McGuire</u>	Commercial Law Employment Law Environmental	\$300

## Mediation Panel List | District of New Hampshire | United States District Court

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<u>George R. Moore</u>	Tort Law Commercial Law	\$250
<u>Robert Morrill</u>	Tort Law Commercial Law Federal Civil Rights: 28 U.S.C. § 1983 Title VII Intellectual Property Environmental	\$300 w/4 hr min
<u>William A. Mulvey, Jr.</u>	Commercial Law Federal Civil Rights: 28 U.S.C. § 1983 Insurance Law Tort Law	\$400
William S. Orcutt	Diversity	\$175
John E. Peltonen	Environmental Law	\$250
<u>Donald J. Perrault</u>	Commercial Law Tort Law	\$200
T. David Plourde	Federal Civil Rights: 28 U.S.C. § 1983 Title VII Tort Law	Available Pro Bono with Court Permission
<u>Todd H. Prevett</u>	Commercial Law Tort Law	\$400 for 4 hrs./\$200 thereafter
<u>Connie L. Rakowsky</u>	Commercial Law Employment Law Finance Intellectual Property Insolvency Real Estate	\$250
<u>Paul C. Remus</u>	Banking Law Intellectual Property Securities Law	\$250
Jennifer Rood	Commercial Law Title VII Tort Law	\$175
<u>Daniel P. Schwarz</u>	Title VII Commercial Law Employment Law Tort Law	\$275
<u>Edward E. Shumaker</u>	Administrative Law Commercial Law Federal Civil Rights: 28 U.S.C. § 1983 Labor and Employment Law Title VII	\$300
<u>Frank P. Spinella, Jr.</u>	Commercial Law Construction Claims	\$300
<u>Robert A. Stein</u>	Commercial Law Federal Civil Rights: 28 U.S.C. § 1983 Intellectual Property Tort Law	\$300
<u>Martha Van Oot</u>	Commercial Law Federal Civil Rights: 28 U.S.C. § 1983 Title VII Tort Law	\$300
<u>Douglas G. Verge</u>	Business Litigation Commercial Law Intellectual Property	\$300
<u>Lawrence A. Vogelman</u>	Commercial Law Diversity Federal Civil Rights: 28 U.S.C. § 1983 Title VII Tort Law	\$375
<u>David Wolowitz</u>	Commercial Law Federal Civil Rights: 28 U.S.C. § 1983 Title VII	\$295

2014-2015  
 Listing of Rule 32 Neutrals for NH Superior Courts  
 (click on name for bio)

Name	Belknap	Carroll	Cheshire	Coos	Grafton	Hillsborough	Merrimack	Rockingham	Strafford	Sullivan
<u><a href="#">Erin J.M. Alarcon</a></u>						V	V	V	V	
<u><a href="#">Edward D. Alkalay</a></u>	VP	VP		VP	VP				VP	
<u><a href="#">Michael J. Atkins</a></u>			VP			VP	VP			
<u><a href="#">Charles P. Bauer</a></u>	VP	VP	VP	VP	VP	VP	VP	VP	VP	VP
<u><a href="#">Edmund J. Boutin</a></u>	VP					VP	VP	VP		
<u><a href="#">Philip R. Braley</a></u>	P	P	P	P	P	P	VP	P	P	P
<u><a href="#">Philip Brouillard</a></u>	V									
<u><a href="#">Gary M. Burt</a></u>	V		V			V	V	V	V	V
<u><a href="#">Ronald J. Caron</a></u>	VP					VP	VP	VP	VP	
<u><a href="#">Albert J. Cirone, Jr.</a></u>	P		P	P	VP		P			VP
<u><a href="#">Gregory S. Clayton</a></u>	VP	VP	VP	VP	VP	VP	VP	VP	VP	VP
<u><a href="#">Kevin G. Collimore</a></u>	VP	VP	VP			VP	VP	VP	VP	
<u><a href="#">Peter Cowan</a></u>	VP		VP		VP	VP	VP	VP		
<u><a href="#">Robert C. Dewhirst</a></u>	VP					VP	VP	VP	VP	VP
<u><a href="#">Charles B. Doleac</a></u>	VP	VP				VP	VP	VP	VP	
<u><a href="#">Michael J. Donahue</a></u>	VP					VP	VP	VP	VP	
<u><a href="#">Gregory M. Eaton</a></u>				V	V					

V = Volunteer List

P = Paid List

01/04/2016

Name	Belknap	Carroll	Cheshire	Coos	Grafton	Hillsborough	Merrimack	Rockingham	Strafford	Sullivan
<u>Robert G. Eaton</u>								V	V	
<u>Scott Ewing</u>						VP	VP	VP	VP	
<u>Michael B. Feinman</u>						VP	VP	VP		
<u>Bruce W. Felmy</u>	V					V	V	V	V	
<u>Edmond J. Ford</u>						V	V	V	V	
<u>Richard Gagliuso</u>	VP		VP			VP	VP	VP	VP	
<u>Mary K. Ganz</u>								V		
<u>Melinda S. Gehris</u>	VP	VP	VP	VP	VP	VP	VP	VP	VP	VP
<u>Peter D. Goldsmith</u>	VP	VP	VP	VP	VP	VP	VP	VP	VP	VP
<u>Glen Graper</u>	P	P						P	P	
<u>Anna Barbara Hantz</u>						VP	VP	VP	VP	
<u>Scott H. Harris</u>						V	V	V		
<u>Jennifer G. Haskell</u>		V								
<u>Robert L. Hemeon</u>	VP	VP	VP	VP	VP	VP	VP	VP	VP	VP
<u>Stephen G. Hermans</u>						V	V	V		
<u>Carol L. Hess</u>	VP	VP	VP	VP	VP	VP	VP	VP	VP	VP
<u>Kathleen A. Hickey</u>						V	V	V		

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Name	Belknap	Carroll	Cheshire	Coos	Grafton	Hillsborough	Merrimack	Rockingham	Strafford	Sullivan
<u>Anthony L. Introcaso</u>						V	V	V		
<u>John B. Kenison Jr.</u>						VP	VP	VP	VP	
<u>Timothy G. Kerrigan</u>	VP	VP	VP	VP	VP	VP	VP	VP	VP	VP
<u>Francis Lane</u>						VP	VP	VP	VP	
<u>John M. Lewis</u>						VP	VP	VP	VP	
<u>Bradley M. Lown</u>		VP				VP	VP	VP	VP	
<u>Peter J. Malia</u>	VP	VP	VP	VP	VP	VP	VP	VP	VP	VP
<u>Kathleen C. Marquis</u>	VP	VP	VP		VP	VP	VP	VP	VP	VP
<u>David W. McGrath</u>						VP	VP	VP	VP	
<u>Kathleen McGuire</u>	VP	VP	VP	VP	VP	VP	VP	VP	VP	VP
<u>Richard A. Mitchell</u>					V	V	V	V		
<u>Robert Morrill</u>	VP					VP	VP	VP	VP	
<u>Patrick A. Mulvey</u>	VP					VP	VP	VP	VP	
<u>James A. Normand</u>	VP					VP	VP	VP		
<u>Jeanne O'Callaghan</u>					V		V			V
<u>James F. Ogorchock</u>	VP	VP	VP	VP	VP	VP	VP	VP	VP	VP
<u>David S. Osman</u>	VP	VP	VP	VP	VP	VP	VP	VP	VP	VP
<u>Edward D. Philpot, Jr.</u>	VP	VP			VP	VP	VP	VP	VP	
<u>Todd H. Prevett</u>			VP			VP	VP	VP		

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Name	Belknap	Carroll	Cheshire	Coos	Grafton	Hillsborough	Merrimack	Rockingham	Strafford	Sullivan
<u>Alan B. Rindler</u>						VP	VP	VP		
<u>Arnold Rosenblatt</u>						VP	VP	VP		
<u>James A. Shuchman</u>	V	V	V	V	V		V			V
<u>David J. Shulock</u>							V			
<u>Peter M. Solomon</u>	V					V		V		
<u>James L. Soucy</u>	VP					VP	VP	VP	VP	
<u>Frank P. Spinella, Jr.</u>	VP	VP	VP		VP	VP	VP	VP	VP	VP
<u>David G. Sturm</u>			V			V		V		
<u>George H. Thompson, Jr.</u>	VP	VP	VP	VP	VP	VP	VP	VP	VP	VP
<u>Roy W. Tilsley, Jr.</u>						VP	VP	VP		
<u>Richard Y. Uchida</u>	VP					VP	VP	VP		
<u>Douglas G. Verge</u>						VP	VP	VP		
<u>Kimberly A. Weibrecht</u>	VP	VP				VP	VP	VP	VP	
<u>Danford J. Wensley</u>	V	V						V	V	
<u>Daniel E. Will</u>						VP	VP	VP		
<u>John D. Wrigley</u>			V							V

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