

**STATE OF RHODE ISLAND**

**PROVIDENCE, SC**

**WORKERS' COMPENSATION COURT**

**No. 2021-04**

**ADMINISTRATIVE ORDER**

**WORKERS' COMPENSATION COURT  
HOLIDAY MEDIATION PROGRAM**

The Court is instituting a Holiday Mediation Program to afford parties a meaningful opportunity to resolve disputes, not actively pending before the Court, in an efficient manner. The following are procedures to be followed and forms to be utilized in connection with participation in the Program.

**I. Eligibility**

Any workers' compensation matter which is not presently pending before the Court may be submitted to the Holiday Mediation Program.

**II. Mediators**

Mediators will be retired or currently sitting Workers' Compensation Court Judges, or an attorney, designated by the Chief Judge of the Workers' Compensation Court. Mediators must disclose all actual or potential conflicts of interest. A Mediator shall not serve if he or she knows of a conflict, unless the conflict is insignificant and the parties all agree; otherwise, the Mediator shall withdraw, and a new Mediator will be appointed.

**III. Confidentiality**

Any statements made, as well as any documents submitted during the mediation process, shall be confidential. The only portion of the mediation process that will be public is the Order referring the matter to mediation, routine scheduling and processing notices, the fact that the mediation took place, and the statement completed by the Mediator as to the outcome of the mediation.

#### **IV. Location of Mediation Sessions**

Mediation sessions shall take place at the Workers' Compensation Court located in the J. Joseph Garrahy Judicial Complex, One Dorrance Plaza, Providence, RI 02903. Parties to the mediation session shall report to the Clerk's Office on the third floor for information as to where the mediation session will be held. By request and consent of the mediator, mediations may be conducted remotely.

#### **V. Procedure**

##### **a. Agreement and Order to Mediate**

Upon agreement of the parties a Petition for Submission to the Special Mediation Program shall be filed with the Court. The filing period for the submission of cases into this program will be October 4, 2021- November 19, 2021. No petitions will be accepted if not e-filed within said period. Once filed, the matter will be scheduled before Chief Judge Robert M. Ferrieri, or his designee, on the Tuesday of each week from October 12, 2021 - November 23, 2021. At said hearing, an Order shall enter assigning the matter to a Mediator. The parties shall, within 48 hours, email the clerk of the assigned Mediator to obtain a date and time for said mediation. All mediation documents shall be submitted on or before December 8, 2021.

##### **b. Scheduling of Mediation Session**

All mediations will initially be conducted from December 13, 2021- December 17, 2021. During this period, the Pretrial Calendar will be held at 9:00am but all other calendars shall be lessened in order for mediations to be conducted. Trial Judges may, however, elect to hear cases of priority during this period.

If a mediation cannot be concluded during the period of December 13, 2021 - December 17, 2021, the Mediator may, at his or her discretion, elect to continue the mediation to another date.

**c. Submission of Confidential Mediation Statement**

On or before the date set in the Order, each party shall submit to the Mediation Coordinator, in paper form, the Confidential Mediation Statement and a summary of the case, not to exceed five (5) pages, as well as any other relevant information that would assist the Mediator in resolving the matter(s). These documents will not be made part of the Court record nor will they be shared with the opposing parties. The Confidential Mediation Statement, the summary of the case, and any attached documents shall be made available to the Mediator prior to the mediation session.

**d. Mediation Sessions**

Mediators are not bound by any particular procedure to facilitate a settlement. The Mediator may meet with each party separately if he or she deems it appropriate. Any disclosures to the Mediator in a separate session shall be confidential unless the party gives permission to the Mediator to disclose the information to the other party. No transcripts or recordings of any kind shall be made of any mediation session.

All parties, their counsel, and persons with the full authority to settle the case must personally attend the Mediation, or be available by phone or email, unless excused by the Mediator for good cause.

The Mediator may schedule additional mediation sessions, with the consent of the parties, if he or she determines such additional sessions would assist in the settlement of the matter(s).

**e. Statement of Mediator**

At the close of the mediation process, the Mediator shall complete the Statement of the Mediator form and deliver it to the Mediation Coordinator. All confidential documents submitted to the Mediation Coordinator and/or the Mediator shall be destroyed at the conclusion of the mediation process.

## **VI. Sanctions**

A party or counsel for a party who fails to participate in a mediation session after notice, or fails to provide the required documents or other information required for a meaningful mediation session, or fails to keep confidential any mediation statements or documents, or fails to participate in the mediation session in good faith, or otherwise fails to follow the provisions of this Administrative Order, may be subject to sanctions to be imposed, after hearing, by the Court. A request for sanctions may be brought either on motion by a party, or by the Mediator, or by the Court. Sanctions may include monetary fines, costs, counsel fees, or orders denying or granting relief as the circumstances and justice may require.

## **VII. Forms**

The following forms are attached hereto and made a part of said Administrative Order:

- a. Petition for Submission to the Holiday Mediation Program
- b. Order of Holiday Mediation Program

**Entered as an Order of this Court, this 17<sup>th</sup> day of September 2021.**

**ENTER:**

**PER ORDER:**

                    /s/                      
**Robert M. Ferrieri**  
**Chief Judge**

                    /s/                      
**Nicholas DiFilippo**  
**Court Administrator**