



# MEDIATION SERVICES PROCEDURES

Revised 10/2009

*Mediation Services of The Bar Association of San Francisco affords parties the opportunity to engage in mediation of a dispute with an experienced mediator, before or after a case has been filed in court.*

## 1. CASE ASSIGNMENT

- A. **If the matter is pending in the San Francisco court:** the court ADR Information Packet includes a form to Stipulate to ADR that must be filed with the court. If counsel indicates on the stipulation an interest in utilizing this program, the court will refer the case to BASF. The parties will then be contacted by staff and provided with the BASF Consent Form to complete and return with the administrative fee.
- B. **If the dispute is pending in a court outside SF County:** check with that court and follow their requirements. To file with BASF, complete the BASF Consent Form and return it with the administrative fee.
- C. **If the dispute has not been filed in a court:** the parties complete the BASF Consent Form and return it to BASF with the administrative fee.

## 2. STATUS OF A CASE ON THE CIVIL ACTIVE CALENDAR

The assignment of a case to the Mediation Services of The Bar Association of San Francisco does not alter its status on the SF Court civil active calendar. The purpose of the program is to provide the litigants an opportunity to discuss settlement at an early stage of the litigation. However it can be utilized at any time during the litigation process or before a matter is filed.

## 3. FEES AND COSTS

### A. Mediator Fees

1. Each mediator shall provide the first three hours of service per case at no charge, which includes one hour of preparation time and two hours of mediation session time.
2. The hourly fee paid beyond the three hours will vary depending on the mediator selected.
3. The mediator selected and the parties shall determine the method of payment for the mediation, possible cancellation fees, etc.
4. Payment of the mediator fee shall be made directly to the mediator. (Some mediators may ask for a deposit to cover a few hours beyond the initial two hours of mediation time; this fee is refundable for the time not used.)

### B. Administrative fee

1. There is an administrative fee of \$250 per party to participate, payable to Mediation/BASF, 301 Battery Street, Third Floor, San Francisco, CA 94111. For purposes of calculating the fee, spouses or a Company and its Principals, Officers, Directors or indemnified employees shall be considered one party, **if** they are on the same side of the dispute. If the dispute is between spouses or between principals, employees, etc. of a company, then each is considered to be a separate party. All others are also considered separate parties.

2. The fee offsets the administrative costs of providing the Mediation Services of The Bar Association of San Francisco. Therefore, the fees are not contingent on actual attendance at a session or the matter resulting in a settlement at the session.
3. A request for a waiver of the administrative fee based on financial hardship should be submitted in writing, using the Mediation Waiver Application form available from BASF offices.
4. If the matter is withdrawn, in writing to BASF, from the program after the mediator assignment process has begun but prior to mediator assignment, one half the administrative fee shall be refunded.
5. If the matter is withdrawn after mediator assignment, the fee is non-refundable.
6. Failure to pay the fee will result in the mediation file being closed and the court notified, if applicable.
7. If the matter is closed due to the other party(ies) declining to participate, the initiating party(ies) will receive a full refund of the administrative fee.

#### 4. MEDIATOR ASSIGNMENT AND SCHEDULING THE MEDIATION SESSION

- A. The process of mediator selection shall only begin after all parties have signed the BASF Consent Form and the appropriate administrative fees have been paid. Mediator selection may be done in three ways:
  1. BASF will check for conflicts and assign a mediator specializing in the appropriate area of law; and will provide a biography and fee schedule of the assigned mediator. If the mediator is unacceptable to a party, another will be assigned until one is found that is agreeable to all parties. **Or;**
  2. At the parties' request, BASF will supply the parties with three biographies to choose from. BASF will check for conflicts and availability of the selected mediator. **Or;**
  3. Parties may request a specific mediator from our website [www.sfbar.org/mediation](http://www.sfbar.org/mediation). BASF will check for conflicts and availability of the selected mediator.
- B. After assignment, the mediator shall schedule a mediation session date with the parties, and send a copy of the notice confirming date, time and location to all parties, and BASF. If a date is continued, all parties and BASF must be notified. Some mediators might request written statements prior to the mediation; each mediator will inform the parties of the requirements and desired formats for pre-mediation statements.
- C. Should a party fail to appear, the mediator shall have the option of rescheduling or terminating the mediation. The mediator shall notify BASF in writing of the failure to appear and the action taken. BASF shall then notify the court of the status, if applicable.

#### 5. REPORTING

- A. **The mediator and the parties:** A Mediation Summary Report will be given to the mediator and upon completion of the mediation session(s) the report is to be submitted to BASF. A Questionnaire will be sent to the parties and shall be returned to BASF. The Mediation Summary Report and the party Questionnaire shall not require disclosure of any confidential information regarding the mediation and will be used only for statistical and case status purposes.
- B. **The Parties' Court Requirement:** If the matter is pending in the SF Court, the parties must file a Joint Statement Regarding Mediation Form with the Court and deliver an endorsed filed copy to Department 212. The Joint Statement Regarding Mediation Form shall be provided to counsel by BASF. Do not file this with BASF, it must be filed in court.

**Mediation Services of The Bar Association of San Francisco**  
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