UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In Re:	)	
	)	
Voluntary Mediation	)	Procedural Requirements
	)	
	)	

Pursuant to the General Order of the Court establishing a Voluntary Mediation Program the following procedural requirements are hereby established:

1. ASSIGNMENT TO PROGRAM AND SELECTION OF MEDIATOR

Assignment of a matter to the Mediation Program of the Court is voluntary and must be requested by all parties to the matter. Assignment is requested by the use of the prescribed local form.

Appointment of a Mediator is made from a Panel of Mediators established by the court. The selection of a particular mediator, and an alternate is based on the preference of the parties. Each member of the Mediation Panel has participated in orientation training as to the process of mediation under the court's program. A list of members appointed to the panel as well as a biographical sketch of each is available from the office of the clerk or the court's website at www.waeb.uscourts.gov.

2. COST OF MEDIATION

Mediation is available on a pro bono basis, however, at least one party must demonstrate a financial need. Generally, the standard for establishing financial need is the same as is required for obtaining authorization under 28 USC 1915 for proceeding in forma pauperis. If one party is permitted to proceed on a pro bono basis, the mediation will be on a pro bono basis.

If no party is able to demonstrate such a need, then the parties and the mediator need to agree on appropriate compensation for the mediator. If the bankruptcy estate is a party, the party representing the estate is responsible to get the necessary authority required by 11 USC 327, FRBP 2014 and LBR 2014-1. Request for compensation from the estate is governed by 11 USC 330, FRBP 2016 and LBR 2016.

3. ROLE AND AUTHORITY OF MEDIATOR

Once an order is entered assigning a matter to the mediation program and a mediator is appointed, then the appointed mediator will control moving the matter forward to resolution, and the court will exercise no control unless specifically requested by the

mediator or the mediation has been terminated by an order of the court. The parties are required to cooperate with the mediator.

4. DISCOVERY

Once an order is entered assigning the matter to the mediation program, no discovery will be permitted unless specifically authorized by the mediator or by order of the court.

5. MEDIATION CONFERENCE

One of the most effective and importance tools used in mediation is the mediation conference. The purpose of the mediation conference is to permit an informal discussion to occur guided by a mediator who can assist in helping the parties achieve a resolution to a controversy satisfactory to all parties.

The mediator has the authority to call for a mediation conference with parties and their attorneys, either jointly or separately.

6. ATTENDANCE AT MEDIATION CONFERENCE

In addition to the attorneys involved, a person will full settlement authority must also be present at any such conference. The purpose of this requirement is to have representatives present who can reach a resolution during the course of the conference without the need to consult a superior. If the estate is a party to the matter at issue, this authority may be subject to notice requirements of the Bankruptcy Code or Rules.

Should counsel appear without such a representative, and should the conference therefore need to be canceled or rescheduled, then the non-complying party may be assessed costs and expenses incurred by other parties on motion of an aggrieved party.

Prior to a mediation conference the attorneys, or parties if unrepresented, are expected to discuss settlement and resolution with their respective clients so that the parameters of settlements are well explored in advance of a mediation conference.

7. CONFIDENTIAL MEDIATION CONFERENCE STATEMENT

Adequate preparation for the mediation conference is of particular value and if requested by the mediator, the attorneys for each party shall submit to the mediator a confidential mediation conference statement which sets forth the following:

a. A brief analysis of key issues involved in the controversy;
b. A description of the strongest and weakest points in both sides of the controversy, both legal and factual;
c. Status and detail of any settlement attempts previously made;
d. Comment of any perceived impediments to resolution on either side;
e. Proposal for resolution that would be acceptable and satisfy the interests of the parties, and
f. Any other information deemed to be helping is reaching a mediated resolution of a controversy.

8. CONFIDENTIALITY OF PROCESS

All communications, written or oral, made in connection with the mediation are confidential and will not be disclosed to anyone without the specific authority of the parties involved. All documents submitted for the mediation conference will either be returned to the submitting party or destroyed by the mediator upon conclusion of the mediation. Neither the confidential mediation conference statements nor communications of any kind may be used by any party with regard to any aspect of subsequent litigation or trial concerning the issues involved in the mediation.

DATED this 19th day of April 2000

Patricia C. Williams
Chief Bankruptcy Judge

John A. Rossmeissl
Bankruptcy Judge

John M. Klobucher
Bankruptcy Judge