

SETTLEMENT WEEK INSTRUCTIONS
and
FREQUENTLY ASKED QUESTIONS

WHAT IS SETTLEMENT WEEK?

Twice each year, one week is set aside for parties in lawsuits filed in McLennan County to make a concentrated effort to settle their cases with the aid of a neutral mediator. With the encouragement of the McLennan County judiciary, litigants may submit their cases for half-day mediations which are conducted by qualified, volunteer mediators.

WHO ORGANIZES SETTLEMENT WEEK?

Settlement Week is organized and administrated by the McLennan County Dispute Resolution Center (DRC).

WHO DECIDES WHETHER A CASE MAY BE MEDIATED IN SETTLEMENT WEEK?

A case may be submitted for Settlement Week mediation provided all parties agree or if a judge orders the case to mediation. If the parties do not agree to submit the case, then it cannot be submitted until a court order is obtained. If all parties voluntarily agree to submit the case for Settlement week mediation, the case is then submitted by one of the parties to the McLennan County DRC to be assigned a volunteer mediator, a date and a time for the mediation to take place.

WHAT IS THE PROCEDURE FOR SUBMITTING A CASE?

Once all parties have agreed to submit a case for Settlement week mediation, one of the parties must complete a Settlement Week Submission Form and send the form **with payment of the scheduling fee of \$50.00 per party, per case**, to the McLennan County Dispute Resolution Center, P. O. Box 1488, Waco, TX 76703-1488. As soon as the Submission Form **and scheduling fees** are received, the DRC will assign a mediator, set a date and a time for the mediation and then provides notification to all parties.

WHAT IS THE COST OF SUBMITTING A CASE FOR SETTLEMENT WEEK MEDIATION?

There is a non-refundable scheduling fee of \$50.00 per party per case submitted. The scheduling fees for all parties must accompany the Settlement Week Case Submission Form.

HOW LONG DOES A SETTLEMENT WEEK MEDIATION SESSION LAST?

Settlement week mediations are scheduled for half-day mediation sessions from 8:30 a.m. to 12:00 noon or from 1:30 p.m. to 5:00 p.m.

WHO SERVES AS SETTLEMENT WEEK MEDIATORS?

Settlement Week mediators are trained and qualified professionals from a variety of backgrounds including lawyers, business professionals, educators, counselors and technical fields. All Settlement Week mediators volunteer their time. All serve in the capacity of independent, neutral third parties. The mediator will not impose his/her personal judgments on the issues or dictate to the parties how the case should be resolved. Nor with the mediator give legal advice to the parties.

DOES A LAWSUIT HAVE TO BE PENDING?

No. However, a legitimate controversy must exist which needs to be resolved in a manner which will affect the parties in a tangible way. There must be more than simply a difference of opinion. Something tangible must be at stake. The matter must involve a dispute which could result in a lawsuit being filed.

WHY MEDIATE?

Mediation is an effective way of resolving disputes before additional time and money are spent. The parties are involved in the process. The parties have control over the outcome and do not have to settle their claims if they do not want to. Mediation is less expensive, less time consuming, and less traumatic than a jury trial. Mediation is completely confidential. If the parties fail to reach an agreement, they still have the option of pursuing every available legal remedy.

WHAT WILL TAKE PLACE DURING THE MEDIATION SESSION?

The mediation process is flexible and geared to accommodating the parties and assisting them in pursuing creative, mutually agreeable and workable resolutions to the dispute that exists. The mediator and the parties can agree to any ground rules which will aid them in exploring the issues and resolving the dispute. Typically, after introductions and a brief opening statement by the mediator, each side will be given uninterrupted time to explain their respective positions and to communicate any issues which they would like to deal with during the mediation session. The mediator may then ask some questions of either or both parties. The mediator may employ a technique called "caucusing" in which each party is consulted privately about the issues of the cases. The mediator then acts as a "go-between" communicating between the parties as the parties give permission to do so.

DO PARTIES NEED TO BE REPRESENTED BY A LAWYER TO PARTICIPATE IN SETTLEMENT WEEK MEDIATIONS?

Technically, a party need not be represented by a lawyer. However, as with all legal matters, it is best to have legal representation and to have available legal counsel on the risks and advantages of settling or not settling a claim. Remember the mediator is a neutral third party and will not provide legal counsel or advice to any party.

WHAT SHOULD BE DONE TO PREPARE FOR MEDIATION?

Parties and their counsel are encouraged to come well prepared for the mediation session. It will be helpful and the session will go more smoothly if the parties are prepared to articulate their respective positions and communicate those issues which they want to address during the mediation. The most important thing is to enter into the mediation process with an open and positive mind and a commitment to negotiate in good faith. **IT IS IMPERATIVE THAT ALL PARTIES WITH AUTHORITY TO SETTLE BE PRESENT AT THE MEDIATION SESSION.**

WHAT HAPPENS IF THE CASE SETTLES?

It is suggested that the parties sign a written settlement agreement which details the specific terms of the settlement agreement reached by the parties. Then, by agreement, one of the parties can submit the agreement to the court along with a Motion for Dismissal and Order of Dismissal.

WHAT HAPPENS IF THE CASE DOES NOT SETTLE?

If a lawsuit was pending it will remain pending on the court's docket and the parties still have the option of pursuing every available legal remedy.

HAVE PAST SETTLEMENT WEEKS BEEN SUCCESSFUL?

Yes, very much so. While settlement rates vary depending on the individual parties involved, the complexities of the case, the parties involved and their commitment to reaching an agreement, a very high percentage of cases submitted for mediation during previous Settlement Weeks in McLennan County have been settled in whole or in part.

SHOULD YOU HAVE ADDITIONAL QUESTIONS WHICH HAVE NOT BEEN ADDRESSED HERE, PLEASE FEEL FREE TO CALL MICHAEL J. KOPP, EXECUTIVE DIRECTOR OF THE McLENNAN COUNTY DISPUTE RESOLUTION CENTER AT 752-0955