



CELEBRATE KANSAS CITY

2024 FBA Annual Meeting and Convention

Mock Mediation Workshop
ADR Section and Young Professionals Division

The Honorable Mark A. Beatty
Magistrate Judge, U.S. District Court, S.D. Illinois
Jo Colbert Stanley
Arbitrator/Mediator/Attorney, Stanley Legal Services, LLC
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Moderator: Laurel Stevenson, MAP Director, W.D.Mo.

#FBACon24

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Bridging Theory and Practice: Mediation as a Process

One Court's definition: "Mediation" (ADR-M) is a process in which a neutral third party (known as a Mediator or Neutral) assists the parties in developing and exploring their underlying interests and legal positions to determine possible options which may result in resolution of the disputes, in whole or in part.

"Historical" framework/teaching vs. implementation/action.

Not a "one and done" in most instances.

Part of the litigation process - enhance access to justice and increase judicial efficiency.

Why Mediation Matters

- Every federal court is required to offer at least one form of ADR.
 - From early pilot programs to current programs, including S.D. Illinois.
 - Options for “litigation waves”: pandemic to natural disasters and more.
- Attorney-Advocates are important to helping ensure a quality process.



Workshop Format

Pre-session communications

Introductory sessions, with and without opening statements

Separate and joint caucuses

Options for adjourning



Pre-session communications

Identifying participants

Insurance considerations, “support person”, interpreter, etc.

Mode

In-person, virtual, hybrid (not always an option to consider each one)

Statements/submissions before or after initial call with mediator?

Sharing statements?

Introductory Sessions

Why and how?

How does spirit and purpose differ for participants?

Hypothetical with introduction but without opening statement.
(10 minute practice and debrief)

Hypothetical with introduction and with opening statements.
(10 minute practice and debrief)



Separate and Joint Caucuses

Separate

Mediator and attorney(s)
Mediator and attorney and party
(ies)
Mediator and insurance adjuster
Mediator and party

Joint

Mediator and attorneys for each
party
Everyone together with mediator
Attorneys and parties together
without mediator
Parties together without attorneys
or mediator



Caucus Practices

Hypothetical with joint caucus session with everyone
(7 minute practice)

Hypothetical with individual caucus with plaintiff's side.
(7 minute practice)

Hypothetical with individual caucus with defense side.
(7 minute practice)

Debrief



Options for Adjourning

- Agreement reached: MOU, term sheet, on record?
 - Potential protective order considerations, other considerations?
 - What are essential/material terms?
 - Court's use of "sealed documents", etc.
- No agreement:
 - Follow-up-formal or informal?
 - Bring everyone back together if separate?
 - If everyone together and no agreement, other considerations?

QUESTIONS?

