

# Changes to Dallas County Mediations

BY OTHEL BURSEY, JR. AND GENE ROBERTS

Big changes have occurred in Dallas County and how it handles mediation services.

For approximately 30 years, Dallas County contracted with Dispute Mediation Service, Inc., as a provider for mediations as allowed by the Texas Civil Practice and Remedies Code.

Last year, the Dallas County Commissioners Court signed an order creating the Dallas County Dispute Resolution Center (DCDRC) which will allow for mediations to be conducted in-house, instead of using Dispute Mediation Service, Inc.

Dallas County hired Othel Bursay, Jr., as the ADR Coordinator and Brittany Stephenson as his assistant. His office is located on the 6th floor of the George L. Allen Sr. Courts Building in Suite 681C.

The DCDRC has implemented requirements for mediators and criteria for the referral of cases for mediation to make sure that: (1) the DCDRC is using qualified mediators; (2) referred cases meet the established criteria; and (3) ADR-related funds are being used to assist parties who cannot afford private mediations. Parties who participate in DRDRC mediations currently do not pay a fee for the mediation session and mediators will serve pro bono.

## Mediation Criteria

Civil cases eligible for referral meet the following criteria:

- Mediation services are available to Dallas County residents or litigants; only;
- If a party is pro se, a case is eligible for referral without limitation as to discovery

level or total amount of claims;

- Discovery Level 1 cases (total claims of \$50,000 or less) are eligible for referral;

Civil cases that are not eligible for referral are those where:

- Any party is represented by an attorney under a contingency fee agreement;
- Any party is represented by counsel retained by an insurance company or other indemnitor; and
- All parties are represented by retained counsel, unless the Court determines that the parties do not have the financial means to bear the cost of private mediation.

Family cases eligible for referral meet the following criteria:

- Mediation services are available to Dallas County residents or litigants; only;
- If a party is pro se, a case is eligible for referral without limitation as to discovery level or total amount of claims;
- Non-SAPCR cases under Discovery Level 1 (with total claims under \$50,000); and
- SAPCR cases involving conservatorship, possession, or support of minor children.

Family cases that are not eligible for referral are those where:

- All parties are represented by retained counsel, unless the Court determines that the parties do not have the financial means to bear the cost of private mediation.

County Court at Law cases that are eligible for referral:

- Services are available to only Dallas County litigants.
- Cases where any party is pro se are eligible for referral without limitation as to discovery level or total amount of claims.
- Cases under Discovery Level 1 with total claims under \$50,000 as well as JP/Small Claims appeals are eligible for referral.

- The individual Judges of each County Court at Law shall decide on a case by case basis which cases are not eligible for referral.

## Mediator Criteria

DRC mediators must apply to participate as a mediator and will be placed into one of the following categories:

**Observer:** a mediator who recently completed 40 hours of training and has less than 20 mediations or 125 hours in mediation. These mediators will observe mediations with a Credentialed Mediator;

**Co-Mediator:** a mediator with more than 20 mediations or 125 hours of mediations, but will participate with a Credentialed Mediator;

**Credentialed Mediator:** a mediator who is "credentialed" by the Texas Mediator Credentialing Association. For the initial implementation phase for the DRC, mediators who have participated in Settlement Week or in similar programs will be grandfathered in to the mediator pool; or

Family law cases will be assigned to mediators with significant family law experience or to a mediator approved by the referring court.

Judges still have the ability to refer cases to private mediators, but the new DRC system will provide an avenue for those parties who cannot afford the cost of private mediation services.

Additional information, a Mediator's Application Form and a copy of the referral criteria can be found on the ADR Section's website (<http://tinyurl.com/87emhxx>). **HN**

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