

AMENDED RULES OF THE MODEST FEE MEDIATION PANEL

Effective July 1, 2013

1. This program is intended to promote the use of mediation in civil cases where one or more litigants cannot afford market rate mediation, to create an opportunity for mediators to provide a public service, and to allow new mediators to train and practice dispute resolution skills.

2. The Marin County Bar Association will maintain a list of qualified mediators who are willing to handle four-hour mediations on a *pro bono* basis. If mediations run more than four hours, mediators would have maximum per-hour charges for continued mediation services, the amount to be set by the mediator. The mediator may not charge for services, including mediation beyond the first four hours, except on terms agreed upon in advance by the mediator and the participants.

3. The list will be posted on the MCBA's web site. At the court's discretion, the list may be available in civil courtrooms. Participating mediators may include in their listing biographical information, in a form determined by the MCBA.

4. Each participating litigant will pay \$150 to the MCBA to defray the costs of managing the program. Where one or more parties' interests are aligned (e.g., spouses in a real estate dispute) only one fee will be required from the aligned parties. The MCBA may establish policies and procedures for waiver of this payment in appropriate circumstances.

5. Participation in the program is available where at least one party is self-represented, or where one or more attorneys are handling the case on a charitable or *pro bono* basis. Government or in-house attorneys do not qualify as *pro bono* under this rule.

6. There is no limit on the "amount in issue."

7. To be on the list, mediators must certify that they meet one or more of the following qualifications: (1) completed mediation training (40 hours or more), (2) been in practice as a lawyer or mediator for at least ten years, or (3) conducted at least five mediations (including as a volunteer settlement conference panelist, or as a co-mediator under this program).

8. Co-mediators may be assigned to a case. In that circumstance, only one of the two assigned mediators must meet the education/experience requirement of the preceding paragraph.

9. There is no requirement that an assigned mediator be a member of the MCBA or of MCBA's Alternate Dispute Resolution (ADR) section. No special treatment or advantages will be provided to MCBA or ADR section members.

10. There is no cost for mediators to be listed as a panelist.

11. Mediation participants will sign standardized forms, including a confidentiality agreement, which will be available from the MCBA for this purpose. The forms will include certification that one or more parties meet the self-represented or *pro bono* requirements of paragraph 5, above.

12. Panelists may identify one or more practice areas for mediation, without need to establish experience or qualifications in these areas. If the parties cannot agree on a mediator, then a mediator will be assigned randomly or in rotating order to avoid overloading certain panelists, or creating an appearance of favoritism. The MCBA will attempt to match panelists' identified practice areas with the subject matter of the litigation.

13. Scheduling and other logistical arrangements will be made by the assigned mediator, not by the MCBA.

14. Assigned mediators shall be bound by Evidence Code confidentiality rules, Rules of Court for court-connected mediations, and all other rules applicable to market rate mediation.

15. Complaints or concerns shall be forwarded by the MCBA to the MCBA Administration of Justice Committee for appropriate action, including but not limited to removal of a mediator from the program.

16. Panel mediators may decline an assignment for any reason.

17. The program is voluntary. The court can encourage but cannot compel participation in this mediation program.