

Wyo. R. Prac. & P. 40

Rule 40 - Assignment for trial or alternative dispute resolution

- (a) Scheduling Actions for Trial. The court shall place actions upon the trial calendar:
- (1) without request of the parties; or
 - (2) upon request of a party and notice to the other parties; or
 - (3) in such other manner as the court deems expedient. Precedence shall be given to actions entitled to trial by statute.
- (b) Limited Assignment for Alternative Dispute Resolution.
- (1) Assignment. For the purpose of invoking nonbinding alternative dispute resolution methods:
- (A) Court Assignment. The court may, or at the request of any party, shall, assign the case to:
- (i) another active judge,
 - (ii) a retired judge,
 - (iii) retired justice, or
 - (iv) other qualified person on limited assignment.
- (B) By Agreement. By agreement, the parties may select the person to conduct the settlement conference or to serve as the mediator.
- (i) If the parties are unable to agree, they may advise the court of their recommendations, and
 - (ii) the court shall then appoint a person to conduct the settlement conference or to serve as the mediator.
- (2) Alternative Dispute Resolution Procedure. A settlement conference or mediation may be conducted in accordance with procedures prescribed by the person conducting the settlement conference or mediation. A mediation also may be conducted in accordance with the following recommended rules of procedure:
- (A) Written Submissions. Prior to the session, the mediator may require confidential ex parte written submissions from each party. Those submissions should include:
- (i) each party's honest assessment of the strengths and weaknesses of the case with regard to liability, damages, and other relief,
 - (ii) a history of all settlement offers and counteroffers in the case,
 - (iii) an honest statement from plaintiff's counsel of the minimum settlement authority that plaintiff's counsel has or is able to obtain, and

(iv) an honest statement from defense counsel of the maximum settlement authority that defense counsel has or is able to obtain.

(B) Authority to Settle. Prior to the session, a commitment must be obtained from the parties that their representatives at the session have full and complete authority to represent them and to settle the case. If any party's representative lacks settlement authority, the session should not proceed. The mediator may also require the presence at the session of the parties themselves.

(C) Conduct of Alternative Dispute Resolution.

(i) **Commencement.** The mediator may begin the session by stating the objective, which is to seek a workable resolution that is in the best interests of all involved and that is fair and acceptable to the parties. The parties should be informed of statutory provisions governing mediation, including provisions relating to confidentiality, privilege, and immunity.

(ii) **Opening Statements.** Each party or attorney may then make an opening statement stating the party's case in its best light, the issues involved, supporting law, prospects for success, and the party's evaluation of the case.

(iii) **Responses.** Each party or attorney may then respond to the other's presentation.

(iv) **Conferences.** From time to time, the parties and their attorneys may confer privately.

(v) **Mediator's Role.** The mediator may adjourn the session for short periods of time. After a full, open discussion, the mediator may summarize, identify the strong and weak points in each case, point out the risks of trial to each party, suggest a probable verdict or judgment range, and suggest a fair settlement of the case. This may be done in the presence of all parties or separately.

(vi) **Settlement.** If settlement results, it should promptly be reduced to a writing executed by the settling parties or recorded by other reliable means. The mediator may suggest to the parties such reasonable additions or requirements as may be appropriate or beneficial in a particular case.

(D) Fees and Costs. For those cases filed in court and assigned for settlement conference or mediation:

(i) compensation for services shall be arranged by agreement between the parties and the person conducting the settlement conference or serving as the mediator, and

(ii) that person's statement shall be paid within 30 days of receipt by the parties.

(E) Other forms of Alternative Dispute Resolution. Nothing in this rule is intended to preclude the parties from agreeing to submit their dispute to other forms of alternative dispute resolution, including arbitration and summary jury trial.

(F) Retained Jurisdiction. Assignment of a case to alternative dispute resolution shall not suspend any deadlines or cancel any hearings or trial. The court retains jurisdiction for any and all purposes while the case is assigned to any alternative dispute resolution.

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