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What is E-Mediation, and Why Might I Want To Recommend It to My Client?

Article submitted by: Richard N. Lettieri

If you have a client that fails to mediate their dispute and litigation appears imminent, you may want to recommend e-mediation to address their ESI issues in litigation. Having an experienced mediator with extensive e-discovery experience involved "early on" in the proceedings has proven to be a cost-effective, intelligent way of address e-discovery in federal court.

Under Rule 26(f) of the revised Federal Rules of Civil Procedure regarding electronically stored information (ESI), adopted in December, 2007, counsel are required to "meet & confer" regarding ESI early in the litigation process. Under the local rules here in U.S. Court, Western District of Pennsylvania, counsel are also required to enter a report of this meeting outlining whether ESI has been addressed, which ESI issues have been resolved, and which still remain.

Failure to address these issues correctly can result in ethical violations, substantive errors, and costly court sanctions. Counsel unfamiliar with ESI, sometimes seek assistance in fulfilling these Rule 26(f) responsibilities with the help of an E-Discovery Mediator

(e-Mediator), to facilitate e-discovery disputes. There are at least 4 benefits from this approach:

1. The mediator is under the control of the parties and is not reporting to the judge as he or she would be if an E-Discovery Special Master is assigned.
2. Because all mediation discussions are confidential, the IT people at the session can speak openly because they are not "on the record".
3. The discussion and any written offers to compromise remain confidential.
4. If both sides can agree to mediate in good faith, this approach can be less costly and a quicker alternative that a court-appointed E-Discovery Special Master.

Both the courts and counsel have found that knowledgeable and experienced e-discovery counsel can help resolve ESI disputes "early on", helping to avoid costs and unnecessary delays.

To learn more, contact **Richard N. Lettieri**, E-Discovery Counsel at
412-364-7255, or visit www.lettierilaw.com

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www.mediationwp.org

Upcoming Events

Roundtable Discussion Program

40 Hours of Mediation Training – *NOW WHAT???*

Beyond Basic Mediator Skills

October 18

Nightmare on Mediation Street:

Share Horror Stories with Seasoned Mediators

December 20

Mediators as Mentors: *Learn from the Pros*

Time: 5:45 p.m.

Location: Babst, Calland, Clements & Zomnir, P.C.
Two Gateway Center, Sixth Floor Boardroom
Pittsburgh, PA 15222

Cost: Free - Members of MCWP
\$20 - Non-Members

Registration: Beth Ansell bethansell@yahoo.com
Sally Cimini scimini@bccz.com



Save
these
Dates!

MCWP Board Meeting

Date: Monday, October 18, 2010

Time: 5:30 p.m.

Where: Babst, Calland, Clements & Zomnir, P.C.
Two Gateway Center, 8th Floor
Pittsburgh, PA 15222

All MCWP members are invited to attend.

Family Mediation Committee Meeting

Thursday, October 7th, at 6:00pm, the newly formed '*Family Mediation Committee*' will meet at the Children's Institute, Shady Ave., between Wilkins Ave. and Northumberland Ave. All are invited to attend. For additional information please contact Susan Tanzer, *Mediation Works* at 412.708.9907.

MCWP Volunteer Opportunities

Conflict Resolution Day Event

Although we are pretty much staffed for the ADR Fair for Conflict Resolution Day on Oct. 21, 2010, we could still accommodate a few more people. If you are interested in volunteering to work a shift during the hours of 9:30 AM – 2:30 PM, please contact Mary Kate Coleman at mkcoleman@rhwrlaw.com

Financial Planning Committee

Opportunities are available to serve on the financial planning committee, be active in starting the MCWP TV show or other projects that you would like to undertake that supports the MCWP mission. Please contact MCWP President, Bernie Behrend at bbehrend@aol.com or 412-241-7888 if you are interested in expanding your role with the Council.

About the Mediation Council of Western Pennsylvania

The Mediation Council of Western Pennsylvania is a nonprofit organization serving the public and the mediation community. It is the only organization in Western Pennsylvania dedicated to promoting mediation and providing mediation information and mediator referrals to the public. For more information visit our website www.mediationwp.org or call 412.371.8040.