



Magistrates' Court
of Victoria

Practice Direction

No. 6 of 2007

MEDIATION PILOT PROGRAMME

Background

The Magistrates' Court of Victoria is concerned to limit as far as practicable the cost and delay involved in the resolution of civil disputes. The Court wishes to encourage the parties to engage at the earliest opportunity in mediation of their dispute. To this end the free services (including mediation services) of the Dispute Settlement Centre of Victoria can be utilised by the parties.

Directions

1. From 1 October 2007, the Court will commence a mediation pilot programme at the Magistrates' Court at Broadmeadows (the Pilot Programme) for all defended civil disputes where the amount sought in the complaint is less than \$10,000 or where the dispute is under the Associations Incorporation Act 1981 (irrespective of the amount or matter in dispute). These proceedings will be referred to mediation pursuant to section 108 of the Magistrates' Court Act 1989.
2. The Pilot Programme will only involve those proceedings where a notice of defence is filed at the Magistrates' Court at Broadmeadows on or after 1 October 2007.
3. In addition to serving upon a defendant the complaint and two notices of defence, a plaintiff in a proceeding will serve upon the defendant a document entitled "Information About Court-Annexed Mediation", which is set out in the appendix to this Practice Direction.
4. Where a defendant seeks to defend the complaint and files and serves a notice of defence in order to do so, that person must return to the Magistrates' Court at Broadmeadows at the same time as the notice of defence is filed a completed Section A, which is contained in the "Information About Court-Annexed Mediation".
5. This Practice Direction operates from **1 October 2007**.

IAN L GRAY
Chief Magistrate
21 September 2007

Appendix to Practice Direction 6 of 2007

Information About Court-Annexed Mediation

This document is for people served with a claim for money or compensation or other relief in the Magistrates' Court. It is to be attached to the claim and to the Notices of Defence and served with them.

What is this Notice About?

Changes are being made at the Magistrates' Court of Victoria at Broadmeadows, to better meet the needs of people involved in civil disputes. From 1 October 2007, all defended civil proceedings:

- where the amount sought in the complaint is less than \$10,000 or
- a dispute under the Associations Incorporation Act

will be referred to mediation pursuant to section 108 of the Magistrates' Court Act 1989.

If you choose to defend your case, this will apply to you.

What is Mediation and How Does It Work?

Mediation is an informal problem-solving process. You and the others involved in the dispute (called "the parties") meet together and with the guidance of skilled impartial mediators discuss the issues in dispute. The parties are helped to identify options, consider solutions and work toward a mutually acceptable agreement. The dispute is only settled if all of the parties agree to the settlement.

Why Use Mediation?

Mediation offers a speedier and less expensive method of resolving disputes. Experience has shown that mediation is a very successful way of resolving disputes. Even in those cases where the parties believed that their positions were so far apart that mediation was pointless, experience has shown that resolutions are achieved and people are satisfied afterwards.

Who Will Conduct the Mediation?

The mediator for your proceeding will be provided by the Dispute Settlement Centre of Victoria (DSCV). The DSCV is part of the Department of Justice, Victoria. It provides a confidential dispute resolution service throughout Victoria and has been operating since 1987 resolving thousands of disputes using mediators and its Disputes Advisory Service.

At Broadmeadows, it is expected that DSCV mediators will be legally qualified as well as being trained and gazetted by the Victorian Government as a mediator. Unlike a court hearing, the mediator has no decision-making power.

Will the Mediation be Private?

The mediation will take place at the Court in private and what is said is confidential. Evidence of anything said or done during a mediation cannot be given in a later hearing unless all the parties agree in writing.

Do I Pay for the Mediator and the Venue?

No. The Mediator and the venue are provided at no cost to the parties.

Why You Should Make a Good Faith Effort to Mediate?

The Court requires that all parties make a genuine effort to resolve the issues in dispute, before going to a hearing before a magistrate or judicial registrars.

Each party is expected to be present at the mediation, co-operate with the mediator and be ready to settle. That means coming to the mediation prepared to make a good faith effort to mediate all disputes issues. It is important that all the people who are involved in making decisions about the dispute attend.

What Happens if one of the Parties does not attend in the Mediation?

If the dispute is not settled at the mediation, then you will be given a date for a hearing at a time arranged by the Court and convenient to the parties.

What Happens if the Dispute is not settled at Mediation?

If the dispute is not settled at the mediation, then you will be given a date for hearing at a time arranged by the Court and convenient to the parties.

Where and When will the Mediation Occur?

The mediation will take place at the Magistrates' Court at Broadmeadows, corner Pearcedale and Dimboola Roads, Broadmeadows on a weekday and between the hours of 9.00 am and 5.00 pm.

Generally, mediation will be held within 4 weeks of you filing and serving a notice of defence. It should take no more than three hours.

What do I need to do?

If you intend to defend the complaint:

Step 1 – Complete the Notice of Defence, and Section A of this Form. Make sure the Court Number is filled in.

Step 2 – File the one copy of the Notice of Defence, together with Section A with the Court.

Step 3 – Serve the other copy of the Notice of Defence on the other party (or their legal practitioner).

(If you do not intend to defend the complaint, refer to the Claim Form).

What Will Happen Next?

You will be contacted by the Dispute Settlement Centre of Victoria to set a date for mediation. The Centre will ensure that all parties are prepared for mediation. In some instances, it may be possible to resolve the matter prior to mediation.

SECTION A

Court Number Ref:

Your details

Title, Given Name & Family Name

Address:
.....

Male / Female

Contact Telephone Numbers *Home*
..... *Work*
..... *Mobile*
..... *e-mail*
..... *Fax Number*

Do you need an Interpreter? Interpreters are arranged by the DSCV at no cost
Yes / No

If Yes, what language and / or dialect ?

Are you Represented by a Legal Practitioner?
Yes / No

Name of Person

Name of Organisation

Telephone Number

Magistrates' Court of Victoria, Broadmeadows Tel: 9221 8900
Dispute Settlement Centre Victoria Tel: 1800 658 528