

BELIZE:

STATUTORY INSTRUMENT

No. 88 of 2013

RULES OF COURT made by the Chief Justice in exercise of powers conferred upon him by section 95 of the Supreme Court of Judicature Act, Chapter 91 of the Substantive Laws of Belize, Revised Edition 2000-2003, and all other powers thereunto him enabling.

(Gazetted 2nd November, 2013).

1. These Rules may be cited as the

Citation.

**SUPREME COURT (CIVIL PROCEDURE)
(AMENDMENT) RULES, 2013**

and shall be read and construed as one with the **Supreme Court (Civil Procedure) Rules, 2005** which as amended, are hereinafter referred to as the principal Rules.

SI /2005

2. The principal Rules are amended by inserting immediately after Part 72 the following as Part 73 -

Insertion of Part 73.

“ **Part 73**

Mediation

Contents of this Part

Scope of this Part	Rule 73.1
Definitions	Rule 73.2
Referral of cases to mediation	Rule 73.3
Criteria for referral of cases	Rule 73.4
Application to dispense with mediation	Rule 73.5

Selection of mediator	Rule 73.6
Pre-mediation requirements	Rule 73.7
Mediation sessions	Rule 73.8
Confidentiality	Rule 73.9
Settlement	Rule 73.10
Extension of time for mediation	Rule 73.11
Non-compliance with the referral order	Rule 73.12
Mediator's report	Rule 73.13
Agreement arising from mediation	Rule 73.14
Costs of mediation	Rule 73.15
Sanctions	Rule 73.16
Relief from sanctions	Rule 73.17
Use of mediator's report for research and evaluation..	Rule 73.18

Scope of this
Part.

73.1 This Part contains provisions -

- (a) for the purposes of regulating and prescribing the procedure and the practice to be followed in the court in certain civil claims regulated by these Rules in relation to mediation; and
- (b) to make provision for mediation services as a result of a referral by the court, selection of mediator, pre-mediation requirements, the conduct of mediation sessions and their confidentiality, settlement of claims by mediation, costs of mediation and for matters incidental or relating to all such procedure and practice.

Definitions.

73.2 In this Part -

“court-connected mediation services” means mediation services provided as a result of a referral by the court;

“Judicial Education Institute” - means the Judicial Education Institute of Belize;

“mediation” means a flexible dispute resolution procedure in which a neutral third party, the mediator, whose name appears on the Roster of Mediators for the court, facilitates negotiations between the parties to help them settle their dispute;

“Mediation Co-ordinator” means the person, who shall be an officer of the court, who is appointed by the Chief Justice to coordinate the development of court-connected mediation in Belize;

“mediation session” refers to a mediation including continuation and adjournments of the same matter held with a mediator and attended by parties and or their lawyers to a dispute to which this Part applies;

“mediator” means a person whose name appears on the Roster of Mediators; and

“Roster of Mediators” means a list of persons trained in mediation, approved by the Chief Justice and published from time to time in the *Gazette*

Referral of cases to mediation Form 45.

73.3. (1) A judge may at any stage of the proceedings make an order in Form 45 referring a claim to mediation.

Form 46.

(2) The parties may by consent notify the court by Notice for Referral to Mediation in Form 46, that they wish to have their case referred to mediation and the judge may make an order to refer the claim to mediation.

(3) A party shall not be allowed to opt out of an order for mediation made pursuant to Rule 73.3(1) except by order of a judge.

(4) The court office shall, after a claim has been referred to mediation, send a copy of the order to the Mediation Co-ordinator.

Criteria for referral of cases.

73.4 A judge may, in considering whether to refer a case to mediation, take into account all relevant circumstances including the following -

- (a) the nature of the dispute;
- (b) the relationship between the parties;
- (c) the willingness of the parties to resolve their dispute by a collaborative process;
- (d) opportunities for joint gains not available through litigation in the court; or

- (e) any other criteria considered appropriate by the judge.

Application to dispense with mediation.

73.5 (1) A party may, within 15 days of an order made pursuant to Rule 73.3(1), apply to the court (supported by an affidavit) to vacate the order and dispense with mediation if a good and substantial reason is shown.

(2) A good and substantial reason for dispensing with mediation may include -

- (a) good faith efforts to settle have been made by the parties and were not successful;
- (b) the costs of mediation would be disproportionate to the value of the claim or the benefits that might be achieved by mediation;
- (c) the case involves a matter of public policy and mediation would not be appropriate; or
- (d) for some other good and substantial reason, mediation would not be appropriate.

Selection of mediator.

73.6 (1) The Mediation Co-ordinator shall keep and manage the Roster of Mediators.

(2) All court-connected mediation shall be conducted by a mediator from the Roster of Mediators approved by the court, who is -

- (a) mutually agreed by the parties; or
- (b) assigned by a judge where the parties fail to agree.

(3) It is the joint responsibility of the parties, in the first instance, and in good faith, to seek to select a mediator mutually agreed by them.

(4) The parties may select the mediator -

- (a) at the time of filing the Notice for Referral to Mediation;
- (b) at the time the court makes an order referring the claim to mediation; or
- (c) within 14 days after the order referred to in paragraph (4)(b), by filing a Notice of Selection of Mediator in Form 47.

Form 47.

(5) If the parties fail to select a mediator, the Mediation Co-ordinator shall refer the claim to the judge for him to assign a mediator from the Roster of Mediators and the judge may issue a Notice in Form 48, to the parties.

Form 48.

Pre-mediation requirements.

73.7 (1) Where an order has been made referring a matter to mediation, the parties shall -

(a) submit a copy of the Statement of Case to the mediator at least 7 days prior to the mediation session; and

(b) sign a Confidentiality Agreement in Form 49 prior to the mediation session

Form 49.

(2) Where the parties have agreed to settle or have settled the claim prior to the scheduled mediation session, they must inform the Mediation Co-ordinator forthwith and provide the details of the terms of the agreement or settlement.

Mediation sessions.
Form 47.
Form 48.

73.8 (1) The Mediation Co-ordinator shall, upon the filing of a Notice in Form 47 or 48 and in consultation with the parties and the mediator, fix a date for the mediation session and shall serve on every party a Notice of Scheduled Mediation in Form 50 stating the place, date and time of the mediation.

Form 50.

(2) The Mediation Co-ordinator shall be responsible for the scheduling of mediation sessions.

(3) All scheduled mediation sessions shall be conducted in facilities approved by, or under the management and control of the court.

(4) The mediation session hearing shall be held within 45 days of the Mediation Referral Order unless otherwise ordered by the judge on application of any party.

(5) A party who requires any third party's approval or authorization before agreeing to a settlement, shall, before the mediation session, arrange to have ready access or authorization of the third party throughout such session.

(6) Subject to an order under Rule 73.5, all parties to the mediation are required to attend a mediation session of up to three hours but they may choose to go beyond that period if they so desire.

(7) Where a party is not a natural person, the person attending a mediation session on behalf of that party must be authorised to settle the dispute, or, be in a position to be able to obtain such authority during the mediation.

(8) After the first three hours, the mediation session may be continued if the parties and the mediator agree to do so and the parties agree to pay the mediator's scheduled additional hourly rate.

(9) If a party -

- (a) fails to attend the mediation session (whether or not their legal practitioners attend) within half an hour of the appointed time; or
- (b) attends the mediation session without having authority to settle,

Form 51. the mediator shall cancel the session and immediately lodge with the Mediation Co-ordinator a certificate in Form 51 for filing at the court office.

Confidentiality. 73.9 (1) Discussions during the mediation and documents prepared solely for the purposes of the mediation are confidential and shall not be disclosed in any other proceedings.

(2) A party or attorney-at-law representing a party shall not, at any subsequent trial or hearing of the claim, refer to any matters disclosed at the mediation by any party or attorney-at-law.

(3) The mediator may not disclose to any other person or be required to give evidence about any matters disclosed by any party at the mediation.

(4) The mediator shall not be required to provide consultation notes, evidence or an opinion, touching on the subject matter of the mediation in any proceedings.

(5) Nothing in this rule is intended to affect any duty to disclose under any other rule.

Settlement. 73.10 (1) A mediator may -

- (a) assist the parties by meeting with them together or separately to encourage and facilitate discussion between them

in an attempt to reach a mutually acceptable resolution of the dispute or any part of it; or

- (b) adopt any procedure that is just to the parties to facilitate and encourage an early settlement of one or more issues in dispute between them.

Schedule 1.

(2) Mediators shall comply with the approved Code of Ethics of Mediators set out in Schedule 1.

(3) A mediation session may be adjourned at any time with the consent of all the parties and the mediator.

(4) In the event of an adjournment, the parties must reschedule the mediation session within the time limits set out in these Rules.

Extension of time for mediation.

73.11 (1) A judge may, subject to sub-rule (2) and on an application by a party, extend the time specified in rule 73:8(4).

(2) The judge shall, in considering whether to extend the time within which the mediation is to be conducted, take into account all circumstances, including -

- (a) the number of parties and the complexity of the issues in the claim; and
- (b) whether the mediation will be more likely to succeed if it is postponed.

Non-compliance with the referral order Form 51.

73.12 The Registrar shall, when a Form 51 is filed in the court office pursuant to Rule 73.8(9)(b), refer the matter to the judge who may make an order under Part 26 (case management-the court’s powers) or under Part 63 (costs-general) of these Rules against a party who fails to comply with this Part.

Mediator’s Report. Form 52.

73.13 At the end of the mediation session, the mediator shall complete and lodge the Notice of Outcome of Mediation in Form 52 with the Mediation Co-ordinator, for filing at the court office.

Agreement arising from mediation.

73.14 (1) If there is an agreement resolving some or all of the issues in the dispute it shall be signed by the parties and the mediator and lodged with the Mediation Co-ordinator for filing at the court office within 7 days after the agreement is signed and the parties shall apply to the court for an order in terms of the agreement and the judge shall make an order in Form 53.

Form 53.

(2) Where the parties fail to apply to the court for an order in terms of the signed agreement within 7 days after the agreement is signed, the judge shall make an order under Rule 26.2.

(3) Where –

- (a) no agreement is reached by the parties that resolves the issues in dispute; or
- (b) An agreement is reached which resolves some of the issues in the dispute,

the matter shall be returned to case management.

Costs of mediation.

73.15 (1) The costs of mediation under this Part, including any payment made by a party to the Mediator Co-ordinator in respect of mediation fees, will be costs in the claim unless otherwise agreed by the parties.

Schedule 2.

(2) The fees payable to the Mediator shall be a percentage of the mediation fees as set out in Schedule 2 being the Schedule of Fees approved by the Chief Justice.

(3) Mediation fees for the mediation shall be paid by the parties to the mediation to the Mediation Co-ordinator not later than 7 days before the date scheduled for the mediation.

Sanctions.

73.16 (1) Where a party, an attorney-at-law representing a party or a mediator fails to comply with any rule, order or direction under this Part or breach the confidentiality provisions of Rule 73.9, any other party, or the Mediation Co-ordinator, may apply to the court (supported by an affidavit) setting out the nature of the alleged failure or breach and serve a notice of the application and a copy of the affidavit on every other party.

(2) In determining any such application the court may make such order and impose such sanctions as may be appropriate including the removal of the mediator from the Roster of Mediators.

Relief from sanctions.

73.17 (1) An application for relief from any sanction imposed for failure to comply with

any such rule, order or direction under this Part or breach of the confidentiality provisions of Rule 73.9, must be -

- (a) made promptly; and
- (b) supported by evidence on affidavit.

(2) The court may grant relief from sanctions if satisfied that -

- (a) the failure to comply was not intentional;
- (b) there is a good explanation for the failure; or
- (c) the party in default has generally complied with all other relevant rules, orders and directions.

Use of
Mediators'
Report for
research and
evaluation

73.18 For purposes of research and evaluation by persons authorised by the Chief Justice, a Mediator's Report may be disclosed after removal of all information which may identify the parties, and after any other editing which may be necessary to preserve confidentiality.”.

3. The Appendix to the principal Rules is amended by inserting immediately after Form 44, the following forms -

Amendment of
the Appendix

“FORM 45

[Rule 73.3(1)]

IN THE SUPREME COURT OF BELIZE, A.D. 20..

CLAIM NO: _____ of _____.

BETWEEN

A.B.

Claimant

AND

C.D.

Defendant

Made the _____ day of _____ 20...

Upon this Matter Coming on Before The Honourable Justice

And Upon Hearing
the Defendant.

Counsel for the Claimant and

Counsel for

And Upon the Claimant and/or The Defendant being present

Mediation Referral Order

IT IS ORDERED THAT:

1. The parties to these proceedings are required to attend a mediation session with a mediator within 45 days from today’s date.
2. Parties shall select a mediator from the Roster of Mediators and advise the Mediation Co-ordinator of the name of the mediator within 10 days of the receipt of this notice.
3. If parties fail to select a mediator, one will be appointed by the Court.

BY ORDER

REGISTRAR
SUPREME COURT

FORM 46

[Rule 73.3(2)]

IN THE SUPREME COURT OF BELIZE, A.D. 20..

CLAIM NO: _____ of _____.

BETWEEN

A.B.

Claimant

AND

C.D.

Defendant

Notice for Referral to Mediation

TAKE NOTICE that we the parties to these proceedings wish to have our case referred to mediation, and desire the Judge to make a referral order and have selected _____ (Name of Mediator) from the Roster of Mediators.

Dated:

Signed:

Claimant/Claimant’s Legal Practitioner
(Name, address, telephone number, email)

Defendant/Defendant’s Legal Practitioner
(Name, address, telephone number, email)

To: The Mediation Co-ordinator.
(Name, address, telephone number, email)

To: The Registrar

FORM 47

[Rule 73.6 (4)]

IN THE SUPREME COURT OF BELIZE, A.D. 20..

CLAIM NO: _____ of _____.

BETWEEN

A.B.

Claimant

AND

C.D.

Defendant

Notice of Selection of Mediator

TAKE NOTICE that we the parties to these proceedings have selected _____
 (Name of Mediator) from the Roster of Mediators.

Dated:

Signed:

Claimant/Claimant's Legal Practitioner
 (Name, address, telephone number, email)

Defendant/Defendant's Legal Practitioner
 (Name, address, telephone number, email)

To: The Mediation Co-ordinator.
 (Name, address, telephone number, email)

FORM 48

[Rule 73.6(5)]

IN THE SUPREME COURT OF BELIZE, A.D. 20

CLAIM NO: _____ of _____.

BETWEEN

A.B.

Claimant

AND

C.D.

Defendant

Upon this Matter Coming on Before The Honourable Justice

Notice of Selection of Mediator by Judge

TAKE NOTICE that a Notice of Selection of Mediator by the parties has not been filed in this claim. Accordingly, _____ (Name of Mediator) has been assigned from the Roster of Mediators to conduct the mediation session in these proceedings.

Unless the court orders otherwise, you are required to attend the mediation session. If you have a lawyer representing you in this claim, he is also required to attend.

YOU MAY BE PENALISED IF YOU FAIL TO ATTEND THE MEDIATION SESSION

Dated:

BY ORDER

REGISTRAR
SUPREME COURT

To: Claimant/Claimant’s Legal Practitioner
(Name, address, telephone number, email)

To: Defendant/Defendant’s Legal Practitioner
(Name, address, telephone number, email)

And To: The Mediation Co-ordinator.
(Name, address, telephone number, email)

FORM 49

[Rule 73.7(1)]

IN THE SUPREME COURT OF BELIZE, A.D. 20

CLAIM NO: _____ of _____.

BETWEEN

A.B.

Claimant

AND

C.D.

Defendant

Upon this Matter Coming on Before The Honourable Justice

Confidentiality Agreement

The parties will participate in a Mediation Session to be conducted in accordance with the Part 73. The parties agree that:

- 1) statements made and documents produced in a mediation session and not otherwise discoverable are not subject to disclosure through discovery or any other process are not admissible into evidence for any purpose, including impeaching credibility;
- 2) the notes, records and recollections fo the mediator conducting the session are confidential and protected from disclosure for all purposes; and
- 3) at no time shall any party summon, subpoena or call the mediator as a witness to testify as to the fact of the mediation or as to any oral or written communication made at any stage of the mediation.

Each of the parties and their lawyers has read this agreement and agree to proceed with the mediation on the terms contained herein.

Dated:

Defendant

Claimant

Legal Practitioner for the Defendant

Legal Practitioner for the Claimant

To: The Mediator
(Name, address, telephone number, email)

FORM 50

[Rule 73.8(1)]

IN THE SUPREME COURT OF BELIZE, A.D. 20

CLAIM NO: _____ of _____.

BETWEEN A.B. Claimant

AND

C.D. Defendant

Notice of Scheduled Mediation

TAKE NOTICE that the parties/Judge has selected _____ (Name of Mediator) from the Roster of Mediators to conduct a mediation session in these proceedings.

The mediation is scheduled to take place on the _____ day, of _____ (date) from _____ to _____ (time) at _____ (the place where the mediation will take place)

You are required to attend a three-hour mediation session. If you have a lawyer representing you in this proceeding, he is also required to attend.

Any party attending the mediation must be authorised to settle the dispute, or, be in a position to be able to obtain such authority during the mediation.

When you attend the mediation session, you should take with you any documents that you consider of central importance to your case. You should plan to remain throughout the scheduled time.

Dated:

Signed: The Mediation Co-ordinator.
(Name, address, telephone number, email)

To: The Mediator
(Name, address, telephone number, email)

To: Claimant/Claimant’s Legal Practitioner
(Name, address, telephone number, email)

And To: Defendant/Defendant’s Legal Practitioner
(Name, address, telephone number, email)

FORM 51

[Rule 73.8(9)]

IN THE SUPREME COURT OF BELIZE, A.D. 20

CLAIM NO: _____ of _____.

BETWEEN

A.B.

Claimant

AND

C.D.

Defendant

Certificate of Non-compliance

TAKE NOTICE that

- The claimant failed to attend the mediation session.
- The defendant failed to attend the mediation session.
- The claimant or his representative attended the mediation but had no authority to settle.
- The defendant or his representative attended the mediation but had no authority to settle.

Dated:

Signed:

The Mediator
(Name, address, telephone number, email)

To: The Mediation Co-ordinator.
(Name, address, telephone number, email)

And To: The Registrar
(Name, address, telephone number, email)

FORM 52

[Rule 73.13]

IN THE SUPREME COURT OF BELIZE, A.D. 20

CLAIM NO: _____ of _____.

BETWEEN A.B. Claimant

AND

C.D. Defendant

Notice of Outcome of Mediation

TAKE NOTICE that a mediation session was conducted in this proceeding on the _____ day of _____ (date)

- The parties settled prior to the mediation session.
- The parties settled as a result of the mediation session.
- The parties did not settle.
- The parties settled some issues as a result of the mediation session.
- The terms of the settlement on the issues settled are hereto annexed.

Dated:

Signed:

The Mediator
(Name, address, telephone number, email)

To: The Mediation Co-ordinator.
(Name, address, telephone number, email)

And To: The Registrar
(Name, address, telephone number, email)

FORM 53

[Rule 73.14(1)]

IN THE SUPREME COURT OF BELIZE, A.D. 20

CLAIM NO: _____ of _____.

BETWEEN

A.B.

Claimant

AND

C.D.

Defendant

Made the day of 20...

Upon this Matter Coming on Before The Honourable Justice

And Upon Hearing
the Defendant.

Counsel for the Claimant and

Counsel for

And Upon the Claimant and/or The Defendant being present.

And Upon this matter having been referred to mediation.

And Upon the parties having agreed the terms set out in the signed agreement
annexed hereto;Order Subsequent to Mediation Agreement

IT IS ORDERED THAT:

1. All further proceedings in this matter are stayed except for the purpose of carrying into effect the terms of the said agreement;
2. For that purpose the parties have permission to apply to the court.

BY ORDER

REGISTRAR
SUPREME COURT ”.

4. The principal Rules are amended by inserting immediately after Form 53, the following Schedules -

Self-determination.

“ **SCHEDULE 1** [Rule 73.10(2)]

CODE OF ETHICS OF MEDIATORS

Application 1. This Code of Ethics shall apply to any person on the Roster of Mediators published pursuant to Part 73 of the Supreme Court (Civil Procedure) Rules 2005 (“the Mediation Rules”) and is intended to regulate, assist and guide such Mediator in his/her conduct of any mediation and to provide a framework for such mediations.

Interpretation 2. In this Code -

“conflict of interests” means direct or indirect financial or personal interests in the outcome of the dispute or an existing or past financial, business, professional, family or social relationship between the mediator and either of the mediation parties which is likely to affect the mediator’s impartiality or reasonably create an appearance of partiality or bias;

“impartiality” means freedom from favoritism and bias either by words, actions or by appearance and includes a commitment to serve all mediation parties as opposed to a single mediation party in moving towards or reaching agreement; and

“mediator” means any mediator on the Roster of Mediators referred to in paragraph 1 hereof;

“Roster of Mediators” means a list of persons trained in mediation, approved by the Chief Justice and published from time to time in the Gazette.

GENERAL RESPONSIBILITIES

General Responsibilities of Mediators.

3. Mediators shall -

- (a) conduct themselves in a manner which will instill confidence in the mediation process, confidence in their integrity and confidence that disputes entrusted to them are handled in accordance with the highest ethical standards;
- (b) be responsible to the parties, to the profession, to the public and to themselves, and accordingly shall be honest and unbiased, act in good faith, be diligent, and not seek to advance their own interest, but rather the needs and interests of the mediation parties;
- (c) act fairly in dealing with the mediation parties and be certain that the mediation parties are informed of the process in which they are involved.

ETHICAL STANDARDS

Self-determination.

4. (1) The primary role of the mediator is to facilitate the voluntary resolution of a dispute and the mediator shall make reasonable efforts to ensure that each party understands the operation of the mediation process

(2) A mediator shall always recognize that the primary responsibility for the resolution of the dispute and the shaping of a settlement rests with the mediation parties.

(3) A mediator shall recognize that mediation is based on the principle of self-determination by the mediation parties and upon the ability of the mediation parties to reach a voluntary uncoerced agreement.

(4) A mediator shall request and encourage self-determination by the mediation parties in their decision whether, and on what terms, to resolve their dispute, and shall refrain from being directive or judgmental regarding the issues in dispute and options for settlement.

(5) A mediator shall encourage mutual respect between the mediation parties, and shall take reasonable steps, subject to the principle of self-determination, to limit abuses of the mediation process.

(6) A mediator shall make the mediation parties aware, where appropriate, of the option and importance of consulting other professionals to assist the mediation parties in the making of informed decisions.

(7) When a mediator believes a mediation party does not understand or appreciate how an agreement may adversely affect legal rights or obligations, the mediator shall advise the mediation parties to seek independent professional advice.

(8) While a mediator may point out possible outcomes of a case, the mediator shall not offer

a personal or professional opinion as to how the Court in which the case has been filed will resolve the dispute.

(9) A mediator shall not use during the mediation process any title or honorific to which he may be entitled.

(10) A mediator shall not intentionally or knowingly misrepresent any material fact or circumstance in the course of conducting mediation.

(11) If for any reason a party is unable to freely exercise self-determination, a mediator shall cancel or postpone the mediation.

Competence.

5. (1) A mediator shall mediate only when the mediator has the necessary qualifications, training and experience to enable him to satisfy the reasonable expectation of the mediation parties.

(2) A mediator shall acquire and maintain professional competence in mediation in accordance with the Mediation Rules, and shall at all times strive to improve his/her professional skills and abilities by participating in relevant continuing education programs.

(3) A mediator shall make information regarding his relevant training, education and experience available to the mediation parties at or before the commencement of the mediation session.

Impartiality.

6. (1) A mediator shall provide mediation services only for those disputes in which he can

be impartial with respect to all the mediation parties and the subject matter of the dispute.

(2) A mediator shall in words and action, maintain impartiality towards the mediation parties and the issues in dispute and where his impartiality is in question, shall decline to serve or shall withdraw from serving as a mediator.

(3) Where at any time prior to, or during the mediation process the mediator is unable to conduct the mediation process in an impartial manner, the mediator shall so inform the mediation parties and shall withdraw from providing services, even if the mediation parties express no objection to the continuation of the mediator's services.

(4) A mediator shall neither give nor accept a gift, favor, loan or other item of value in any mediation process and shall not solicit or otherwise attempt to procure future professional service during the mediation process.

Confidentiality.

7. (1) A mediator shall discuss issues of confidentiality with the mediation parties before beginning the mediation process including, the extent of confidentiality in relation to mediation sessions.

(2) Discussions during the mediation and documents prepared solely for the purposes of the mediation are confidential and shall not be disclosed in any other proceedings and the mediator, except with the written consent of the mediation parties or except where disclosure is

required by law, shall not disclose to any other person or be required to give evidence about any information disclosed by any party at the mediation.

(3) Information obtained during caucus may not be revealed by the mediator to any other mediation party without the consent of the party disclosing the information.

(4) A Mediator's Report to the Court and or an affidavit required pursuant to paragraph 8(3) of this Code, shall not be considered a breach of his obligation of confidentiality.

(5) A mediator shall maintain confidentiality in the storage and disposal of records and notes acquired during the mediation.

**Informed
consent.**

8. (1) A mediator shall structure the mediation process so that the mediation parties make decisions based on sufficient information and knowledge.

(2) The mediator has an obligation to ensure that all mediation parties understand the nature of the process, the procedures, the particular role of the mediator and the mediation parties' relationship to the mediator.

(3) Where at any time the mediator believes that any mediation party is unable to understand the mediation process or participate fully in it, whether because of mental impairment, emotional disturbance, intoxication, language barriers or other

reasons, the mediator shall limit the scope of the mediation process to a manner consistent with the mediation party's ability to participate, and/or recommend that the mediation party obtain appropriate assistance in order to continue with the mediation process or shall terminate the mediation process and refer the matter back to the court and outline the reasons for termination in an affidavit submitted to the judge with conduct of the matter.

(4) The mediator has a duty to advise the parties of the importance of understanding the legal ramifications or consequences of a proposed agreement and give them an opportunity to seek advice if they desire to do so.

Conflict of interests.

9. (1) A mediator shall as far as possible avoid conflicts of interest and shall in any event resolve all such conflicts in favour of his/her primary obligation to impartiality while serving the parties to the dispute, and disclose all actual and potential conflict of interests known to him/her and thereafter shall withdraw from the mediation, if any mediation party objects to him continuing as mediator.

(2) Where the mediator determines that the conflict is so significant as to cast doubt on the integrity of the mediation process, the mediator shall withdraw from the process even if the mediation parties express no objection to the continuation of the mediator's services.

(3) Save with the consent of the mediation parties, and for a reasonable time under the

particular circumstances, a mediator who also practices in another profession shall not establish a professional relationship in that other profession with one of the mediation parties, or any person or entity, in a substantially factually related matter.

(4) A mediator shall limit himself solely to the role of mediator, and shall refrain from giving legal or therapeutic information or advice and otherwise engaging during mediation in counseling or advocacy.

(5) The mediator's duty to disclose conflict of interests shall be a continuing obligation throughout the mediation process.

Responsibility to children in family mediation.

10. (1) In mediation matters involving families and children, the mediator has a responsibility to promote the mediation parties' consideration of the interest of children in relation to the issues being mediated.

(2) The mediator has a duty to assist the mediation parties to examine, apart from their own desires, the separate and individual needs of such children.

Fees

11. (1) A mediator shall abide strictly by the prescribed fees listed in Schedule 2 of the Supreme Court (Civil Procedure) Rules and shall not enter into any other fee arrangement with the parties or accept any other monies, payment or gifts from the parties.

(2) A mediator shall at the outset of the mediation process, fully disclose and explain to the mediation parties the basis of compensation, fees and charges.

(3) No commission, rebates or similar remuneration shall be given or received by a mediator for a mediation referral.

Advertising.

12. (1) A mediator shall not make dishonest or exaggerated claims about the mediation process, its costs and benefits, its outcome or the mediator's qualifications and abilities.

(2) All advertising shall honestly represent the services to be rendered and no claims of specific results or promises which apply to one party over another party should be made for the purpose of obtaining business.

**Mediator's
responsibility
to the court.**

13. (1) A mediator is accountable to the Supreme Court which has ultimate authority over the claim and shall be candid, accurate and fully responsive to the court.

(2) A mediator shall comply with all court rules relevant to the practice of mediation and shall refrain from activity that may in any way improperly influence his securing a referral or appointment to a case.

**Voluntary and
compulsory
removal from
the Roster of
Mediators.**

14. If at any time during the mediator's placement on the Roster of Mediators, the mediator breaches this Code of Ethics or falls short of the established standards for mediators or becomes unfit for the role of mediator –

- (a) such mediator may submit to the Chief Justice a letter requesting his removal from the Roster of Mediators and the Chief Justice shall remove his

name from the Roster of Mediators;

- (b) any mediation party, or the Mediation Co-ordinator, may apply to the court by notice of application supported by an affidavit setting out the nature of the alleged failure or breach; the application and a copy of the affidavit shall be served on the mediator and every other mediation party, the mediator and every other mediation party may respond by affidavit and the application shall be heard by the court and in determining any such application the court may make such order and impose such sanction as may be appropriate (including a recommendation to the Chief Justice for the removal of the mediator from the Roster of Mediators); or
- (c) the Chief Justice may at any time remove a mediator from the Roster of Mediators on good and sufficient grounds being shown to him/her that such mediator should be so removed after giving such mediator an opportunity to be heard and otherwise complying with the rules of natural justice.”.

SCHEDULE 2

[Rule 73.15(2)]

FEES*Mediation Fees*

1. Mediation Fees for Mediation Session
(Up to and including initial 3 hours) \$500.00

Mediator's Fee

2. For the first session of the
Mediation (the first session
comprises 3 hours) 60% of mediation Fees
3. For every other hour after the
first session of the Mediation. \$100.00

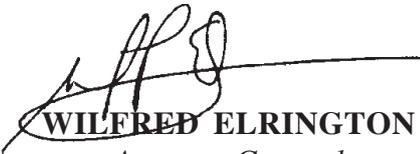
Additional Fee

4. For accessing the rooms at the
University of the West Indies
(Open Campus) for the first session
of the Mediation. \$200.00
5. For accessing the rooms at the
University of the West Indies
(Open Campus) for every hour after
the first session of the Mediation. \$150.00.”.

MADE by the Chief Justice this 17th day of October, 2013.


KENNETH A. BENJAMIN
Chief Justice

LAID before and **APPROVED** by the Attorney General (as the Minister with responsibility for Legal Affairs) this 23rd day of October, 2013 pursuant to section 95(5) of the Supreme Court of Judicature Act, Chapter 91 of the Substantive Laws of Belize, Revised Edition 2000-2003.


WILFRED ELRINGTON
Attorney General