



What is the Med-NJ Mediation Program?

Mediation Non-Jury (“Med-NJ”) is a **free, in-house, facilitative**, Supreme Court Mediation Program in New York County that is commenced by Judicial Reference Order. Med-NJ is designed and implemented by Senior Mediator and Senior Settlement Coordinator Michele Kern-Rappy, Esq. (“MKR”), who has 34 years of mediation experience. Med-NJ is completely **confidential**.

Med-NJ is proud to use the **award-winning** and widely recognized ***RAISETM* Method**, a facilitative process that implements active listening to find common ground for settlement. The ***RAISETM*** Method is further described on Page 4 of this document.

Med-NJ Is a **dual track** program, where parties participate in mediation and litigation **simultaneously**. Parties may receive an order for mediation at any time during the litigation process. We provide a direct roadmap to **settlement** to help resolve your conflict in a matter of **months**, rather than years.

Counsel are expected to review the following instructions with their clients. Mediation is about self-determination and giving their clients an opportunity to be heard



Rules for the Med-NJ Office

1. The initial session with our program will be an **Attorney-Only Conference** to discuss the details of the case from the counselors' perspectives. During this status conference, the parties will schedule a date for mediation and discuss the presence of clients.
2. Counsel must submit a **Pre-Mediation Statement** at least three business days prior to the attorney-only conference. Ahead of any follow-up sessions, attorneys must re-submit their pre-mediation statement as well as an additional written status update from counsel.
3. All requests for an **adjournment** must be in writing and agreed upon by all parties. If the adjournment is consented to by all parties, we will provide 1-2 more dates. The new dates will only be held for 3 business days.
4. When parties request a **remand**, they are required to meet with MKR for a brief session.
5. Attorneys **must promptly inform** MKR if they believe that the matter is not appropriate for mediation or that mediation is premature. This includes alerting MKR of automatic stay actions as soon as possible.
6. Med-NJ **correspondence hours** are between 9:00 AM and 5:00 PM. All correspondence **must** copy mednjinterns@gmail.com.
7. Med-NJ is entirely **confidential** with no communication with chambers besides administrative matters.
8. Except for very rare circumstances, we do not accept **pro se cases**. Med-NJ reserves the right to remand a case at any point that it deems inappropriate for mediation at the sole discretion of MKR.



Pre-Mediation 6-Bullet Point Statement

Dear Counselors,

We look forward to working with you in order to negotiate a settlement. **Unless otherwise directed by MKR, each party must prepare a 6-bullet point mediation statement at least 3 business days before the first scheduled session.** Pre-mediation statements must be limited to 3 pages and sent via email to mednjinterns@gmail.com.

Pre-mediation statements must include the following:

1. **Research** the essential facts and law, and focus on your client's interests and goals as opposed to positions.
2. Your client's **economic and non-economic interests**, such as managing financial risk, maintaining relationships, and having a sense of closure and fairness.
3. What will your adversary say are your case **weaknesses**?
4. Why are you at an **impasse**?
5. Status of settlement negotiations and reasonable **settlement range**. Numerical terms must be included.
6. **Names of persons**, in addition to counsel, with full **authority to resolve** the matter who will attend the mediation.

Upon written agreement by all parties only, or pursuant to the signed Order of Reference, these mediation statements shall be subject to the **confidentiality** of the mediation process and treated as documents prepared "for settlement purposes only." Once remanded or adjourned, Med-NJ requires a new signed Order of Reference to resume the mediation process.

Preparing for Med-NJ Mediation:

- Attorneys should simplify their case and come **prepared** with any evidentiary materials that may aid in reaching settlement.
- Attorneys should be **advocates** for their clients, not adversarial towards opposing counsel.
- Parties must be **courteous and respectful** to each other and to the process.
- Prior to the mediation, attorneys should ensure they have the **authority to settle** and make sure all key parties are present.



R.A.I.S.E. – To A Higher Road™

A Paradigm Shift from Litigation to Mediation

Research, Recognize, and Rapport

- After attorneys submit pre-mediation statements, a Med-NJ team will be assigned to your case and conduct **Research** based on your submissions and court documents.
- As part of our process, we will schedule an **Attorney-Only Conference** to better **Recognize** clients' interests and goals, and decide whether the case will proceed to mediation.
- This conference will help our mediator and attorneys build **Rapport** by encouraging open communication and assessing possibilities for settlement.

Actively Listen, Acknowledge, and Adapt

- **Active Listening** creates a paradigm shift from confrontational to cooperative.
- By leaving the adversarial mindset, the parties **Acknowledge** what has been said by others and **Adapt** to a new, more collaborative way of communication.

Investigate and Insight

- During the mediation, the Med-NJ team will **Investigate** to gain **Insight** into the clients' interests through a **private meeting** with MKR.
- During this caucus, clients have the opportunity to speak freely and ask questions. The parties are encouraged to keep an open mind, as we continue to build trust and work toward **settlement**.

Strategies and Solutions

- Having identified the barriers to settlement, Med-NJ will develop **Strategies** for next steps and reach **Solutions** to benefit all parties.

Evolve, End in Agreement, and Evaluate

- As the case **Evolves** and we work to **End in Agreement**, Med-NJ will continue to **Evaluate** whether mediation will be fruitful.



Virtual Mediation Instructions

Due to COVID-19, MKR's mediations have transitioned to **Microsoft Teams**. Parties can access Microsoft Teams on their computers by clicking the invitation link after downloading and installing the application. If parties cannot access Microsoft Teams for some reason, MKR asks that one of the attorneys provide a dial-in number *prior* to the mediation date. **Please send all correspondence to the email address mednjinterns@gmail.com and cc: mkernrap@nycourt.gov and refrain from sending emails outside of business hours and on the weekends.**

In order to facilitate mediations and maintain confidentiality, MKR asks that parties:

- Announce themselves when they enter on a call.
- Have their web camera turned on so that all parties can see you. Parties can turn on their camera by clicking the camera icon button at the bottom of the screen.
- Mute their microphones when they are not speaking to ensure the best audio quality. Parties can mute their microphones by clicking the microphone icon button at the bottom of their screen.
- Silence their cell phones in order to avoid disrupting the mediations if you're dialed in.

It is important to note that **recording of sessions is strictly prohibited**. Since we are not physically present with each other in MKR's office, it is important that each party cooperates, is respectful, and adheres to the rules in order to maintain efficiency and confidentiality. If parties would like more resources, please visit:

<https://portal.nycourts.gov/knowledgebase/article/KA-01047> .

Thank you.