

Filing a Small Claims Case or Counterclaim

Small Claims or Counterclaim Filing Fee: \$50

The filing fee is non-refundable and due at the time of filing. You may pay by cash, checks made payable to District Court or credit card (there is a processing fee when paying with a card). A motion to waive the filing fee can be obtained at the District Court Administrative office.

Filing Requirements:

Make sure you fill out all forms within the packet completely and accurately. Type or write legibly. Bring three copies of any attachments (Note: copies made by the Court may require a .50 cent per page fee).

Service:

The plaintiff is required to serve a copy of the Summons and Complaint to the defendant at least 20 days before the pretrial hearing. Any counterclaim must be filed and served prior to the pretrial hearing dates. Please file any proof of service prior to your pretrial hearing date. For detailed information regarding service see the enclosed Small Claims Brochure under "Notifying the Defendant". For service by Clark County Sheriff's Office visit <https://clark.wa.gov/sheriff/civil-unit>.

Mandatory Pretrial Hearing Information

Attendance at the pretrial hearing is mandatory. The judge will give opening remarks about the mediation process and why it is beneficial to participate. The judge will call through the calendar and in cases where both parties are present, the case will be set for mediation. Do not bring witnesses or your evidence to the pretrial hearing. A trial date will be scheduled if both sides attend the pretrial hearing and mediation but are unsuccessful in reaching a resolution.

Failure to Appear for Mandatory Pretrial Hearing:

If plaintiff fails to appear for the pretrial hearing, defendant may request that the Small Claim be dismissed and that a default judgment be entered on any counterclaims. If defendant fails to appear for the pretrial hearing, plaintiff may request that a default judgment be entered against the defendant. Prior to a default judgment being entered, you must provide proof of proper service of the claim or counterclaim and proof of compliance with the Servicemembers Civil Relief Act.

Requests for Continuances:

All requests for continuance of this hearing must be done in writing on a form provided by the court and submitted for judicial review.



Mandatory Mediation Information

Attendance at mediation is mandatory before a trial is allowed in Small Claims Court. Trained mediators from Community Mediation Services will meet with the parties to facilitate a settlement. Most small claims are resolved through a mutually agreed upon resolution of the dispute.

What happens if a settlement is reached at mediation?

Community Mediation Services will file a settlement agreement with the court. Once the agreement has been paid in full or the terms completed the Plaintiff will need to file a Satisfaction of Judgment with the Court before the case can be closed.

What happens if there is no settlement at mediation?

If a settlement cannot be reached and both parties appeared for mediation, Community Mediation Services will notify the Court to schedule a Small Claims Non-Jury Trial. Both parties will be mailed a hearing notice. This is the time to prepare for your trial. Any exhibits such as receipts, canceled checks, photos, or other documents to support your claim must be filed with the Court and served on the other party at least 10 days prior to your hearing. Exhibits may be filed electronically, in person or by mail except for any CD/DVD media (i.e. video and sound files) which must be filed in person or by mail.

Failure to Appear for Mandatory Mediation:

If plaintiff fails to appear for mediation, defendant may request that the Small Claim be dismissed and that a default judgment be entered on any counterclaims. If defendant fails to appear for mediation, plaintiff may request that a default judgment be entered against the defendant. Prior to a default judgment being entered, you must provide proof of proper service of the claim or counterclaim and proof of compliance with the Servicemembers Civil Relief Act. Both parties will be notified by mail if a dismissal or default judgment is ordered.

What if I missed my scheduled mandatory pretrial or mediation date?

You may contact the court to request a Vacate packet. The packet must be filed with the court within 30 days of entry of any judgment or dismissal orders. Your request will be reviewed by a Judicial officer. You will be notified by mail whether the case will require further action.

For more information about Community Mediation Services visit

<http://mediationclarkcounty.org>

For more information about Small Claims procedures, forms and exhibits visit

<http://clark.wa.gov/district-court>



Disclaimer

This brochure is intended to be a general statement of small claims procedure and not legal advice. For more detailed information, please consult applicable provisions of the Revised Code of Washington (RCW) Chapters 3.66, 4.16, 4.28, 12.40, and the Civil Rules for Courts of Limited Jurisdiction, Rule 5 (CRLJ 5). RCWs and court rules can be found at libraries and the following websites: www.leg.wa.gov (for RCWs) and www.courts.wa.gov (for court rules and sample forms). Court contact information can also be found at www.courts.wa.gov.

Who May Bring a Small Claims Action?

Any individual, business, partnership or corporation (with a few exceptions) may bring a small claims action only to recover money; a “natural person,” meaning a human being, may file a claim up to \$10,000; the limit is \$5,000 in all other cases. In general, the claim must be filed in the district court of the county in which the defendant(s) reside. Exceptions and specific rules can be found at RCW 3.66.040. The State of Washington may not be sued in a small claims action. Attorneys and paralegals are excluded from appearing or participating with the plaintiff or defendant in a small claims action unless the judge grants permission.

How Do You Get Started?

First, you need to prepare a Notice of Small Claim form that is provided by the district court clerk. The Notice requires: (1) your name and address; (2) a sworn statement briefly describing the claim, including the amount and when it occurred; and (3) the name and address of the defendant, if known. You must sign the Notice in the presence of the clerk, unless otherwise instructed by the court. The clerk will enter a hearing date, trial date or response date on the Notice form. The clerk may assist you with forms and general information about the process but is not allowed to give legal advice.

Note: The law imposes certain time limits, which range from one to ten years, on filing actions. See

chapter 4.16 RCW to determine which time limit applies to your type of case.

How Much Does It Cost?

You must pay the court clerk a filing fee at the time the claim is filed. The filing fee will be either \$35 or \$50 depending on whether the county in which you file supports a dispute resolution center. In addition to the filing fee, you may also have to pay to serve or mail the Notice to the defendant (see below). If you win your case, you may be able to have the defendant pay the costs of filing and service.

Notifying the Defendant

Once the Notice of Small Claim is filed with the clerk, it must be “served” or presented to the defendant by someone other than the person who filed the claim, either by personal service or through the mail. The Notice can be served in any of the ways listed in RCW 4.28.080, including giving a copy of the Notice to the defendant or leaving it at the defendant’s usual residence with a person who is responsible enough to give it to the defendant.

The Notice can be served only by (1) a person over the age of 18 who is competent to be a witness and is not a party to the action, or (2) the sheriff or a deputy of the county in which the court is located. Instead of personal service, the Notice can be sent to the defendant by registered or certified mail. If the Notice is mailed, a return receipt with the signature of the party being served must be filed with the court. The defendant must be served the Notice at least ten calendar days before the scheduled hearing.

Note: The defendant may file a counterclaim by paying a fee, filing the claim with the court, and serving the plaintiff with notice of the counterclaim.

What If We Settle Before the Hearing?

In most cases, neither party is one hundred percent right or wrong. Because it is important to use judicial resources wisely, you are encouraged to try to settle your case before it goes to hearing. If you settle the dispute before the hearing, you must inform the court so the hearing can be canceled and your case dismissed. If the other party agrees to pay at a

later date, you may ask the court for a continuance. If the other party pays before the postponed date, ask the court to cancel the hearing. If you do not receive your money by the time of the continued hearing, proceed with the case in court. *If you drop the suit, the filing fee and service costs are not returned.*

Preparing for the Trial

Whether you are the plaintiff or the defendant, you can help yourself by being well prepared. To prepare for the trial, collect all papers, photographs, receipts, estimates, canceled checks or other documents that concern the case. It may be helpful to write down ahead of time the facts of the case in the order that they occurred. This will help you to organize your thoughts and make a clear presentation of your story to the judge.

It is also a good idea to sit through a small claims court session before the date of your hearing. This will give you first-hand information about the way small claim cases are heard.

What Happens at the Hearing?

When you arrive at the court, report to the courtroom in which your case has been assigned. Do not be late. When your case is called, come forward to the counsel table and the judge will swear in all the parties and witnesses.

Some courts suggest or require that you mediate your claims in an attempt to settle. If you do enter into a mediation agreement, it may be a good idea to request a “Judgment” from the court. Sample Judgment forms for small claims court are available on the State Courts website (www.courts.wa.gov).

Don’t be nervous—remember that a hearing in small claims court is informal. The judge will ask the plaintiff to give his or her side first, and then will ask the defendant for his or her explanation. Be brief and stick to the facts. The judge may interrupt you with questions, which you should answer honestly and to the best of your knowledge.

Be polite, not just to the judge, but also to your opponent. Do not interrupt. Whatever happens, keep your temper. Good manners and even tempers help the fair, efficient conduct of the hearing and make a good impression.

After both sides have been heard by the judge, he or she will normally announce the decision right then and will enter a judgment with his or her decision.

What If a Party Doesn't Appear at the Hearing?

If the defendant fails to appear for trial, the plaintiff will be granted judgment for the amount of the claim proven in court, plus costs—provided the plaintiff can show proof of service. If the plaintiff fails to appear, the claim is dismissed; however, generally the court will permit the plaintiff to start over, if good cause for the nonappearance is shown.

What Happens After the Judge Makes a Decision?

After the judge hears both sides, the court will issue a judgment or dismiss the case. If the plaintiff wins, the judge will order the defendant to pay a certain amount for the claim, as well as the costs the plaintiff spent to bring the case and any interest on the amount owed. Once the judgment is issued, the clerk will enter it into the civil docket of the court and will provide a certified copy of the judgment to the prevailing party for no additional cost.

Even if you have a judgment, it does not necessarily mean that you will be paid. The Small Claims Court does not collect the judgment for you. If the debtor does not pay right away, the court may order a payment plan. If the losing party fails to pay, the judge may increase the amount of the judgment to cover the cost of enforcing the judgment. If the judgment remains unpaid, you may seek to enforce the judgment through the collections process, which could include garnishing the defendant's wages or bank accounts; or seeking to obtain personal property of the debtor. Remember, the court clerks cannot give you legal advice so you may need the assistance of an attorney or collection agency, whose fees may be paid by the debtor.

What Happens If You Lose?

Either party may appeal a judgment when the judge has decided against them. However, no appeal is permitted if the amount originally claimed was less than \$250. Also, if a party who brought a claim or

counterclaim wants to appeal a judgment, the amount originally claimed must have exceeded \$1,000. If a party loses a default judgment, an appeal may be taken under the district court rules for setting aside default judgments.

A party who appeals a judgment is required to follow the procedures set out in chapter 12.36 RCW. Within 30 days of the entry of judgment, you must:

1. File a written Notice of Appeal with the district court.
2. Serve a copy of that Notice on the other parties.
3. Pay the district court a \$20 transcript fee.
4. Deposit at the district court the \$230 superior court filing fee either in cash, money order or cashier's check payable to the Clerk of the Superior Court, and pay a \$40 appeal preparation processing fee to the district court.
5. Post a cash or surety bond in a sum equal to twice the amount of the judgment and costs or twice the amount in controversy, whichever is greater, at the district court.

When the appeal and bond are transferred to superior court, the appellant (person appealing the decision) may request that the superior court suspend enforcement of the judgment in the district court until after the appeal is heard. Within 14 days of filing the Notice of Appeal, the district court clerk will transmit the court record to the superior court clerk. All further proceedings will be in the superior court.

Prepared by:
Administrative Office of the Courts
PO Box 41170
Olympia, WA 98504-1170
(360) 753-3365

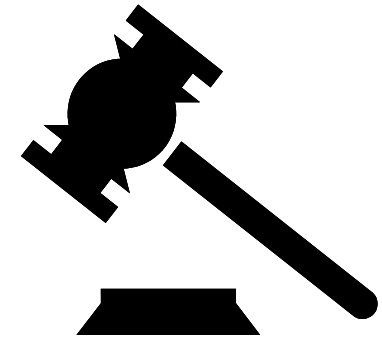
Updated
July 2019

An Introduction To

SMALL CLAIMS COURT

**In the District Court of the State of
Washington**

For the County of Clark



DISTRICT COURT OF WASHINGTON FOR THE COUNTY OF CLARK		
PLAINTIFF'S NAME		SMALL CLAIM # _____
ADDRESS		
CITY	STATE ZIP	
HOME PHONE NO	WORK PHONE NO.	
EMAIL ADDRESS		

NOTICE OF SMALL CLAIM

VS.

DEFENDANT'S NAME		DEFENDANT'S NAME	
ADDRESS		ADDRESS	
CITY	STATE ZIP	CITY	STATE ZIP
PHONE NO.		PHONE NO.	
EMAIL ADDRESS			

YOU ARE HEREBY NOTIFIED that the above named Plaintiff has filed a claim against you amounting to \$_____ ; the reasons for which are stated below.

Small Claim # _____

YOU ARE HEREBY FURTHER NOTIFIED to be and appear at Clark County District Court
1200 Franklin Street in Vancouver, Washington on _____ [Date],
at _____ a.m./p.m. for **PRE-TRIAL**

☐ **In Person Hearing located at**

Clark County District Court
1200 Franklin Street
Vancouver, WA 98660

☐ **Virtual or Telephonic Hearing**

Check into your Virtual Hearing at
<https://www.clark.wa.gov/district-court>
To join your Zoom hearing, please click on the
Meeting link by your name.

YOU ARE FURTHER NOTIFIED that if you fail to personally appear as directed, a Judgment may be entered against you for the amount claimed, plus Plaintiff's costs of filing and service of the claim upon you. Plaintiff must also appear if a Judgment is to be entered. If Plaintiff fails to appear, the claim may be dismissed. If Defendant fails to appear, a default judgment may be entered. If this claim is settled prior to the hearing date, the parties must notify the Court immediately, in writing.

Clerk

STATEMENT OF CLAIM

I, _____, the undersigned plaintiff, declare that the defendant named above owes me the sum of \$ _____, which became due and owing on _____ [Date].

The amount owed is for:

Faulty Workmanship Merchandise Auto Damages-Date of Accident _____

Wages Loan Return of Deposit Rent Property Damage

Other _____

Explain reason for claim _____

(continued on page 3)

Small Claim # _____

(continued from page 2)

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at _____, [City] _____ [State] on
_____, _____ [Date].

Signature

Print or Type Name

INSTRUCTIONS

To the Defendant:

You should receive this notice at least 20 days before your pretrial hearing.

If this claim is settled prior to your hearing, the Plaintiff should advise the court in writing to dismiss the case.

If you have a claim against the Plaintiff, you may file a counterclaim for up to \$10,000.00 (\$5,000 for a business and \$10,000 for a natural person). The filing fee is \$50.00. The counterclaim must be filed prior to your pretrial hearing and served to the plaintiff.

Inquiries about the case:

If you have questions about your case, be sure to have the case number available. Please call (564) 397-2424.

ADDITIONAL INFORMATION

Your hearing may be held virtually.

Location of District Court:

District Court Offices are located on the ground floor of the Clark County Courthouse and are open Monday through Friday, 8:00 a.m. to 4:30 p.m. (except holidays).

**Clark County Courthouse
PO BOX 9806
1200 Franklin
Vancouver, WA 98666-8806**

Guidelines for Filing of Exhibits in Small Claims Actions

- Evidence may be mailed or hand-delivered to the court and must be accompanied by the form 'stipulation for return of exhibits'. This form is available on the Clark County District Court website. Evidence which is emailed will not be accepted. All exhibits must be appropriately marked with the case number and name. Exhibits should be filed as a single packet. Exhibits may include photographs, contracts, lease agreements, receipts, estimates, cancelled checks or other documents that concern the case. Exhibits may also include copies or screenshots of text messages, emails, and other social media. If necessary, multiple photos and/or screenshots may be assembled on a single page.
- All exhibits must be legible, clear and of good quality.
- Parties should not submit inappropriate materials unless it is necessary to prove an allegation or defend against it. Please make appropriate redactions and remember anything submitted will become a part of public record unless otherwise sealed by the court.
- Video and Audio recordings must be provided on a CD or DVD format and filed in person or by mail. It is the responsibility of the party introducing the evidence to provide the proper equipment for viewing such evidence. During the virtual Zoom hearing, the presenting party must submit the media via screen sharing. If you have difficulties submitting video/audio evidence, contact the Court as soon as possible. Do not wait until the day of the hearing to raise the issue.
- All exhibits must be filed with the Court at least ten (10) days prior to the trial. You must provide copies of any evidence you will be presenting at trial to the opposing party at least ten (10) days prior to your trial date. If you fail to do this, your trial may be continued, or the judge may decide not to consider your evidence.
- Exhibits admitted into evidence will be retained for thirty (30) days after entry of the final judgment. If no appeal is pending, exhibits will be destroyed if not retrieved by the party introducing the evidence within fifteen (15) days after this 30-day period.

**DISTRICT COURT OF WASHINGTON
FOR THE COUNTY OF CLARK**

Petitioner,

vs.

Respondent.

Case No.

**Declaration re: Service Members
Civil Relief Act (Active Duty Military)
(Optional Use)
(AFSCR)**

(The **federal** Servicemembers Civil Relief Act covers:

- Army, Navy, Air Force, Marine Corps, and Coast Guard members on active duty;
- National Guard or Reserve members under a call to active service for more than 30 days in a row; and
- commissioned corps of the Public Health Service and NOAA.

The **state** Service Members' Civil Relief Act covers those service members listed above who are either stationed in or residents of Washington state and their dependents, except for the commissioned corps of the Public Health Service and NOAA.)

I (name) _____, **Declare** that:

- ☐ (Name): _____ is **not** a service member or a dependent covered by the state or federal Service Members' Civil Relief Acts.
- ☐ (Name): _____ is a service member covered by the state or federal Service Members' Civil Relief Acts. (Check all that apply):

Branch of Service	Washington State Connection	Duty Status
<input type="checkbox"/> U.S. Armed Forces (Army, Navy, Air Force, Marine Corps, Coast Guard)	<input type="checkbox"/> Stationed in or resident of Washington	<input type="checkbox"/> In military service (meaning active duty or a call to active service for more than 30 days in a row)
<input type="checkbox"/> National Guard or Reserves		<input type="checkbox"/> Is within 90 days after termination of or release from military service (50 USC 522(a)(1))
<input type="checkbox"/> commissioned corps of Public Health Service or National Oceanic and Atmospheric Administration	<input type="checkbox"/> None	<input type="checkbox"/> Is within 180 days after termination of or release from military service (RCW 38.42.060(1)(a))
		<input type="checkbox"/> Not on active duty or a call to active service for more than 30 days in a row

- ☐ (Name): _____ is a **dependent** of (name): _____, who is a service member covered by the **state** Service Members' Civil Relief Act and who is under a call to active service for more than 30 days in a row. (*Dependent means a spouse, child under 18, or other person who got at least 50% of his/her financial support from a covered service member.*)

I know this because (*check all that apply*):

- ☐ The attached report from the Defense Manpower Data Center (DMDC) shows his/her status. (*To get the report, visit <https://scra.dmdc.osd.mil/scra/>. You will need his/her birth date or social security number to search this website.*)
- ☐ I sent him/her a *Notice re Military Dependent* (form All Cases 01.0230) to inform him/her of dependents' rights. S/he did not respond within 20 days claiming to be a protected military dependent. Therefore, the other party should not be considered a protected military dependent.

The *Notice* was (*check one*): ☐ personally served on (*date*): _____

☐ mailed by first class mail on (*date*): _____

- ☐ I have personal knowledge of his/her military or dependent status (*explain*):

- ☐ Other (*explain*): _____

- ☐ S/he is a service member or a dependent **covered** by the state and/or federal Service Members' Civil Relief Act, and *in this case*:

☐ has his/her own lawyer.

☐ has a lawyer appointed by the court.

The court:

☐ has suspended or delayed this case.

☐ has **not** suspended or delayed this case.

- ☐ I **don't know** whether (name): _____ is a service member or a dependent covered by the state and/or federal Service Members' Civil Relief Act. I did the following things to try to find out:

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at (city) _____, (state) _____ on (date) _____.

Signature of Petitioner or Lawyer/WSBA No.

Print Name

Small Claims

CONTACT INFORMATION SHEET

	Date:	Case Number:	
Party 1	Last Name:		First: Middle:
	Cell Phone:		Home Phone:
	Email:		
	<input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other:		
Party 2	Last Name:		First: Middle:
	Cell Phone:		Home Phone:
	Email:		
	<input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other:		
Party 3	Last Name:		First: Middle:
	Cell Phone:		Home Phone:
	Email:		
	<input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other:		
Party 4	Last Name:		First: Middle:
	Cell Phone:		Home Phone:
	Email:		
	<input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other:		
Party 5	Last Name:		First: Middle:
	Cell Phone:		Home Phone:
	Email:		
	<input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other:		



Why try mediation to settle your Small Claims case?

Did you know, for no additional fee, you have the opportunity to mediate your case? Mediation is a confidential process in which neutral mediators meet with the parties in a non-court setting to try to help them hear each other's views and concerns, and come up with options that might work for both of them to resolve the case. Mediators may help guide you through the process, but do not take sides, give advice, or make decisions. Mediation will be scheduled at your pre-trial date. If a settlement is reached, CMS will notify the court that the case has been settled. If no settlement is reached, the case will be set for trial and the court will notify all parties of the trial date.

Advantages of Mediation

Advantages for both parties:

- Avoid having your matter heard in public or having a public record of the dispute.
- More time to discuss your case. In court, the judge will limit discussion to issues that bear directly on the case. In mediation, you may discuss a wider range of issues and concerns.
- Avoid the stress and uncertainty of a trial.
- Mediation helps parties be more prepared if the case continues to court

Advantages for the Plaintiff/Counterclaimant:

- You may not receive the full amount requested in court.
- Mediation can save money and time. The prevailing party can collect the whole amount agreed upon without having to incur additional filing fees or split proceeds with an attorney or collection agency.

Advantages for the Defendant/Counter Defendant:

- Avoid having a judgment rendered against you. A mediation settlement is not a judgment.
- Avoid having a judgment appear on your credit report which may affect your ability to get a loan, housing, employment, and even auto/home insurance rates.
- Mediation can save money and time. The debtor pays only the agreed settlement amount, avoiding garnishment and other expensive collection costs that come with a judgment.

See back side for important information.



Welcome to Mediation: Your Opportunity to Resolve your Small Claims Case

You may feel more satisfied with an agreement you helped create in mediation than with a Court ruling over which you have no control. Below are some differences between using mediation and having a trial to resolve your legal issues:

	<u>TRIAL</u>	<u>MEDIATION</u>
Who decides the case:	Judge decides outcome after the parties present evidence and explain their case.	The parties control the outcome by negotiating with each other and with the assistance of an impartial mediator towards an agreement. A Judge does not participate in the mediation.
Your focus/role:	Giving the Judge enough evidence and convincing the Judge to rule in your favor.	Creating a solution both parties can live with by listening and being honest, open, curious, and creative.
Moderator's focus:	<u>Judge</u> : Rules by applying the law to the facts. The Judge is impartial, but typically rules in favor of one party over the other.	<u>Mediator</u> : A neutral facilitator who helps each party work towards settlement in a way that addresses what is most important to each party.
Money exchange:	Judge's ruling may include a judgment that one party ("payer") owes the other ("collector"). The effort and cost to collect the judgment may reduce the amount the collector actually ends up with. And "payer" may have to pay additional fees for collection cost.	Both parties agree on the amount owed, and the payer gets a say in working out a payment plan. This makes it more likely that the collector will receive the money owed.
Impact on credit score/rating:	When a judgment is entered against a party, the judgment is reflected on a credit report which can make it harder to get a loan, and may impact other things like an increase in insurance rates and loan rates.	If the parties agree on a payment plan, and the payer follows through, there will be no judgment reported on the payer's credit report.
Privacy:	None. You will stand before a Judge in open court and present your evidence; there is no confidentiality.	Mediation is confidential and nothing you say towards resolving the dispute may be used against you later if you do not resolve the issue and must go to court.

Mediation Process

- Mediator(s) will take about 10 minutes to explain the process.
- You will have about two hours to share perspectives, hear information that you might not have known, clear up any misunderstandings, and see if you can come to some mutually satisfactory agreements.
- If you **do come to an agreement**, the agreement will be written down and signed by the parties.
- If you **don't come to an agreement**, you will be given a trial date or can return to mediation for another try if time allows.