

RULE 9.720 | MEDIATION PROCEDURES

(a) Appearance. If a party to mediation is a public entity required to conduct its business pursuant to chapter 286, Florida Statutes, that party is deemed to appear at a mediation conference by the presence of a representative with full authority to negotiate on behalf of the entity and to recommend settlement to the appropriate decision-making body of the entity. Otherwise, a party is deemed to appear at a mediation conference by the presence of the following persons:

- (1) the party or its representative having full authority to settle without further consultation;
- (2) the party's trial or appellate counsel of record, if any. If a party has more than 1 counsel, the appearance of only 1 counsel is required; and
- (3) a representative of the insurance carrier for any insured party who is not such carrier's outside counsel and who has full authority to settle without further consultation. As used in this subdivision, the term "presence" means physical presence at the mediation conference or participation using communication technology if authorized under rule 9.700(b).

(b) Sanctions. If a party fails to appear at a duly noticed mediation conference without good cause, the court, upon motion of a party or upon its own motion, may impose sanctions, including, but not limited to, any or all of the following, against the party failing to appear:

- (1) an award of mediator and attorneys' fees and other costs or monetary sanctions;
- (2) the striking of briefs;
- (3) elimination of oral argument; or
- (4) dismissal or summary affirmance.

(c) Scheduling and Adjournments. Consistent with the time frames established in rule 9.700(c) and after consulting with the parties, the mediator shall set the initial conference date. The mediator may adjourn the mediation conference at any time and may set times for reconvening the adjourned conference. The mediator shall notify the parties in writing



of the date, time, and place of any mediation conference, except no further notification is required for parties present at an adjourned mediation conference.

(d) Control of Procedures. The mediator shall at all times be in control of the procedures to be followed in the mediation.

(e) Communication with Parties. The mediator may meet and consult privately with any party or parties or their counsel. Counsel shall be permitted to communicate privately with their clients.

(f) Party Representative Having Full Authority to Settle. Except as provided in subdivision (a) as to public entities, a "party or its representative having full authority to settle" shall mean the final decision maker with respect to all issues presented by the case who has the legal capacity to execute a binding settlement agreement on behalf of the party. Nothing herein shall be deemed to require any party or party representative who appears at a mediation conference in compliance with this rule to enter into a settlement agreement.

(g) Certificate of Authority. Unless otherwise stipulated by the parties, each party, 10 days prior to appearing at a mediation conference, must file with the court and serve upon all parties a written notice identifying the person or persons who will appear at the mediation conference as a party representative or as an insurance carrier representative, and confirming that those persons have the authority required by this rule.

Committee Notes

2014 Amendment. The amendment adding subdivisions (f) and (g) is intended to make this rule consistent with the November 2011 amendments to Florida Rule of Civil Procedure 1.720.

