

## Circuit Mediation Program - Frequently Asked Questions About the Initial Conference

### 1. What usually happens at the initial conference?

The primary purpose of the initial conference is evaluation of whether the case is a good candidate for further settlement discussions. There may be some discussion of the legal issues and the underlying facts, but the conference is not a dress rehearsal for oral argument. The attorneys should expect to be asked about their client's general attitude toward settlement of the case, but normally will not be asked to have specific settlement authority for the initial conference.

### 2. Is the client or client representative allowed to participate?

Yes, although their participation is not necessary for the initial conference. If you want a client representative (or another attorney) added to the conference call, let us know in advance of the conference.

### 3. How long does the initial conference last?

Generally between 15 and 45 minutes, but very rarely longer than one hour.

### 4. What should be in the issue statement?

The issue statement is meant to briefly inform the circuit mediator of what issues will be raised on appeal. It should not contain extended argument, but should be more specific than "The district court erred in granting summary judgment." When the district court did not write an opinion, or wrote one that does not address the underlying facts, it is helpful if the issue statement also provides information about the factual background of the case.

### 5. I don't think the case is likely to settle. Should I opt out of the program?

That depends. If your conclusion is based on what you know about your client's interests and intentions, then you probably should opt out. If your client would be willing to talk about settlement but believes that the other side will be unreasonable, our advice is generally not to opt out – sometimes, having a neutral third party ask questions of your opposing counsel yields surprising results.

### 6. What if I'm not available at the stated date and time for the conference?

You can call us to reschedule. It is much easier if you call opposing counsel first and supply us with a few alternative times and dates when both sides are available.