

**Dakota County Moderated Settlement Conference (MSC)**  
**PROGRAM DESCRIPTION**

The Minnesota Supreme Court, by its Order dated April 23, 2004, authorized the First Judicial District and all other Districts to implement case management programs designed to expedite resolution of litigation and peacefully resolve disputes. The Dakota County District Court has implemented a Moderated Settlement Conference program consistent with the Minnesota Supreme Court's Order.

The Moderated Settlement Conference Program (MSC) is a confidential, voluntary evaluative process designed to facilitate dispute resolution in the later stages of family court matters. The program offers the evaluative impressions of experienced attorney-moderators (called MSC Neutrals) to parties engaged in custody, parenting time, and financial disputes. The MSC is held at the Dakota County Justice Center and is typically completed after the first pretrial in the case. Based on all of the information in the Court file and as provided by counsel or the parties, the MSC Neutral provides an opinion and feedback to the parties and their attorneys and assists in the settlement process. Any agreements reached during this settlement conference will be placed on the record that day.

1. Cases eligible for this process are those that do not settle at the Prehearing Conference. If the parties consent, or if they have not engaged in any other form of alternative dispute resolution, as required by Minnesota Law, the Court will issue an order scheduling the date and time of the MSC. The order will provide the contact information for the MSC Neutral. Attorneys/self-represented parties will be able to select their own MSC Neutral or one will be randomly assigned by Court if requested.
2. The MSC Neutral will have access to the court file, including custody evaluations and any other reports. In addition, attorneys may provide other ex parte information to the MSC Neutral with the restrictions outlined in the attached Order. The opinion of the MSC Neutral is provided to counsel and the parties.
3. There is a cost for participating in the Moderated Settlement Conference. Each party pays a fee to the MSC Neutral. The amount of the fee is determined pursuant to Paragraph 6 of the Moderated Settlement Conference Order. Parties should come prepared to pay for no less than three hours of MSC time. *No checks or credit cards will be accepted by the MSC Neutral unless approved by the MSC Neutral in advance of the session.*
4. Attorneys and parties meet with the MSC Neutral as specified in the Court's Order. **Each attorney or self-represented party is asked to present the important issues in the case and to provide documentation as and for each of their claims.** The MSC Neutral will provide feedback and an opinion as to a likely outcome of the case. Based on that feedback, the parties can work with the moderator to reach agreement on some or all issues.

5. The MSC neutral may request, and attorneys and parties have the option to agree to additional sessions to complete this process. Settlement options for full and partial agreements are discussed. If the case does not settle, the neutral identifies critical issues that may need additional study and also identifies areas of agreement.
6. If a full or partial settlement is reached, the parties will place the substance of those agreements on the record before their assigned judge on the day of the settlement conference. These agreements are final and binding.
7. In addition to reporting full and partial settlements, the MSC neutrals and the attorneys of the parties may meet with the judge as indicated in the attached Order.
8. If the case does not settle completely, the case may be set for an additional pretrial hearing or a trial.

#### Miscellaneous

General questions, concerns and suggestions relating to Dakota County's MSC Program should be emailed to [1stDakotaENE@courts.state.mn.us](mailto:1stDakotaENE@courts.state.mn.us).

## **DAKOTA COUNTY MSC FEE POLICY**

### **Parties with an attorney:**

Each party's rate is individually determined. The party will be charged one-half the hourly rate charged by that party's counsel. Counsel shall provide the MSC Neutral with the accurate hourly rate within five days of the entry of the order. In the event that the party is represented by more than one attorney at a firm, the attorneys shall provide the MSC Neutral with all of the attorney rates charged to the client, and the client shall be charged one-half of the average hourly rate.

### **Parties with no attorney (self-represented):**

Each party's rate is individually determined. The party will be charged based on a sliding fee scale as follows:

<b>Gross Annual Individual Income</b>	<b>MSC Fee</b>
IFP granted by Court	\$50.00 flat fee
\$0 to \$25,000	\$25.00 per hour
\$25,001 to \$50,000	\$50.00 per hour
\$50,001 to \$100,000	\$100.00 per hour
\$100,001 to \$150,000	\$200.00 per hour
\$150,001 or more	\$250.00 per hour

## **DAKOTA COUNTY MSC PROVIDER MINIMUM QUALIFICATIONS**

- I. All neutrals must meet and continue to meet the following criteria:
  - A. Be a Rule 114 Qualified Mediator and Evaluator listed on the State Rule 114 ADR Program Roster and comply with all ADR Ethics Board rules; and
  - B. Be in good standing with the ADR Board, ethics boards, and the issuing authority for all professional licenses held; and
  - C. Be an attorney or CPA in practice for at least fifteen (15) years with an emphasis in the area of family law.
  - D. Have completed AAML MSC training.

STATE OF MINNESOTA  
COUNTY OF DAKOTA

DISTRICT COURT  
FIRST JUDICIAL DISTRICT

In re the Marriage of:

\_\_\_\_\_,

Petitioner,

**ORDER FOR A MODERATED  
SETTLEMENT CONFERENCE**

\_\_\_\_\_,

Respondent.

Court File No.: \_\_\_\_\_

The above-entitled matter came on for hearing before the Honorable \_\_\_\_\_, Judge of District Court, on \_\_\_\_\_.  
Appearances were as follows:

Petitioner  \_\_\_\_\_, Attorney for Petitioner

Respondent  \_\_\_\_\_, Attorney for Respondent

Pursuant to the attached Moderated Settlement Conference (MSC) program description, the Court, having obtained the consent of all parties, does hereby make the following:

**ORDER**

1. Moderator's Appointment.

\_\_\_\_\_, (name), \_\_\_\_\_, (address),

\_\_\_\_\_ (telephone number), \_\_\_\_\_ (email address) is hereby appointed as MSC Neutral to preside at a moderated settlement conference. This conference will occur at a continued pretrial hearing before this Court at the Dakota County Judicial Center, 1560 Highway 55 Hastings, MN 55033 on \_\_\_\_\_, 20\_\_ at \_\_\_\_\_ .m. The parties and counsel, if any, should anticipate remaining at the Courthouse until the MSC is concluded.

2. Immunity. MSC neutrals shall have immunity pursuant to Minn. Stat. Sec. 604A.32.

3. Information. Upon receipt of this order, and at least seven days prior to the date of the moderated settlement conference, **each party shall send to the moderator such letters of explanation, the Prehearing Statement, updated income information, exhibits, Child Support Calculator or FinPlan Calculations as each believes may be of assistance in the settlement discussions.** Pursuant to Rule 114.10(b), said communications may be sent to the moderator without copies to the other party. No copies shall be sent to the Court or filed with the Court Administrator, except that the Prehearing Statement shall be served and filed as required by the General Rules of

Practice for the District Courts. Information not required to be filed with the Court but provided to the moderator shall not be disclosed by the moderator without the verbal consent of the providing party. The moderator may dispose of all notes, records, documents and confidential or substantive correspondence sent to him or her at the conclusion of the MSC. The moderator is authorized to review the Court files relating to the assigned case. To the extent that custody or parenting time is at issue, the moderator is authorized to review reports and evaluations as may have been submitted to the Court by the Dakota County Court Services Department, Guardians at Litem, or any custody evaluators.

4. Confidentiality/Communication with Neutral. Upon receipt of this Order, the neutral shall promptly schedule a telephone conference with counsel and/or the parties to address matters at issue, information to be exchanged and the status of discovery. Pursuant to Minn. Gen. R. Prac. 114.08, no communications involving the moderator are admissible at any hearing including the final trial in this matter and the moderator shall not be called as a witness. By not opting out of this process, the parties and their attorneys consent that the moderator may communicate with the Court during the moderated settlement conference, notwithstanding provisions of Minn. Gen. R. Prac. 114.10 to the contrary, provided that attorneys, if any, are present. The moderator shall not disclose to the court any communications made by the parties and their attorneys unless specifically authorized to do so by the parties and their attorneys, if any. Said authorization maybe made orally by the parties and their attorneys. The neutral is authorized, pursuant to Minn. Gen. R. Prac. 114.10(b), to have ex-parte communication with the parties and vice-versa.

Digital, audio, or other recordings (hereinafter "recording") during this process are strictly prohibited. The parties and all others attending this process shall not make any recording of any part of this alternative dispute resolution process and shall not provide any recording to the court, guardian ad litem, custody evaluator, therapist, or anyone else involved with this case.

5. Conflict of Interest. Should counsel or the moderator perceive a conflict of interest by this appointment, notice shall be promptly provided to the attorneys for the parties or a party if self-represented. Counsel, the parties if self-represented, or the moderator shall request the Court for appointment of a different moderator.

6. Fees.

a. The parties' fees for MSC is as follows:

- Petitioner shall pay \_\_\_\_\_ per hour for the MSC and Respondent shall pay \_\_\_\_\_ per hour for the MSC.

**OR**

- Each party's fee rate is individually determined by the MSC Neutral in accordance with the following Fee Policy:

If a party is represented by counsel, that party will be charged one-half the hourly rate charged by that party's counsel. Counsel shall provide the MSC Neutral with their accurate hourly rate within five days of the filing of the MSC Order. In the event that the party is represented by more than one attorney at a firm, the attorneys shall provide the MSC Neutral with all of the attorney rates charged to the client, and the client shall be charged one-half of the average hourly rate.

If a party is not represented by counsel, the party's fee is based on their individual gross income pursuant to the following sliding fee scale:

- i. IFP granted by Court - \$50.00 flat fee
- ii. 0-\$25,000 annual income - \$25.00 per hour
- iii. \$25,001-\$50,000 annual income - \$50.00 per hour
- iv. \$50,001-\$100,000 annual income - \$100.00 per hour
- v. \$100,001- \$150,000 annual income - \$200 per hour
- vi. \$150,000 or more annual income - \$250.00 per hour

- b. Parties should be prepared to pay for no less than three (3) hours of MSC time.
- c. No checks or credit cards will be accepted by the MSC Neutral unless approved by the MSC Neutral in advance of the session.
- d. The neutral shall not charge for the travel time to and from the conference, but may charge for preparation time.

7. **Cancellation. CANCELLATION OR FAILURE TO APPEAR AND PAY AS ORDERED WILL RESULT IN SANCTIONS IMPOSED BY THE COURT UPON THE NON-COMPLYING PARTY PURSUANT TO MINNESOTA RULE OF PRACTICE 305. SANCTIONS MAY INCLUDE THOSE LISTED UNDER RULE 16 OF THE MINNESOTA RULES OF CIVIL PROCEDURE AND WILL, AT A MINIMUM, INCLUDE COMPENSATION TO THE NEUTRAL FOR THEIR TIME AND MAY RESULT IN A FULL OR PARTIAL DISMISSAL OF THE NON-COMPLYING PARTY'S PLEADINGS. THE COURT MAY ALSO IMPOSE ADDITIONAL PENALTIES SUCH AS AN ASSESSMENT OF BAD FAITH ATTORNEY FEES TO OTHER PARTY. THE PARTIES AND THEIR ATTORNEYS HAVE AN AFFIRMATIVE DUTY TO NOTIFY THE MODERATOR AT THE EARLIEST POSSIBLE TIME THAT THE MODERATOR'S SERVICES WILL NOT BE REQUIRED. FAILURE TO KEEP THE MODERATOR SO ADVISED MAY RESULT IN THE IMPOSITION OF PAYMENT OF THE MODERATOR'S FEES INCURRED IN CONNECTION WITH THE CASE TO AND THROUGH THE DATE OF THE SCHEDULED CONFERENCE.**

8. **Other Orders.** All other orders not modified herein shall remain in full force and effect.

**IT IS SO ORDERED.**

BY THE COURT:

Dated: \_\_\_\_\_

\_\_\_\_\_

Revised 11-2-2018

Judge of District Court

Admission of Service

- Petitioner (I admit service \_\_\_\_\_)
- Copy for Petitioner's attorney
- Respondent (I admit service \_\_\_\_\_)
- Copy for Respondent's attorney
- Copy for County Attorney's file
- Copy for the Office of the Dakota County Guardian ad Litem
- Other: \_\_\_\_\_
- Other: \_\_\_\_\_



**Names and Contact Information**

Petitioner Name: \_\_\_\_\_

Respondent Name: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

Email \_\_\_\_\_

Attorney Name: \_\_\_\_\_

Attorney Name: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

Email \_\_\_\_\_

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  - B. Be in good standing with the ADR Board, ethics boards, and the issuing authority for all professional licenses held; and**
  - C. Be an attorney in practice for at least fifteen (15) years with an emphasis in the area of family law.**