

In re the Marriage of:

_____,
Petitioner,

**MODERATED SETTLEMENT
CONFERENCE ORDER**

_____,
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 Moderate Settlement Conference (MSC) program description, the Court, having obtained the consent of all parties, does hereby make the following:

ORDER

1. _____, (name), _____, (fax #)
_____(telephone number), _____ (email address)
is hereby appointed as MSC Neutral to preside at a moderated settlement conference. **This conference will occur in the Mediation Suite – 2nd Floor at the Washington County Courthouse, Stillwater, MN.** Fees for this process will be due at the time of the conference and shall be assessed in accordance with the Washington County FENE Fee Policy. MSC Neutrals will not charge for travel time to and from the Courthouse.
2. MSC neutrals shall have immunity pursuant to MN ST §604A.32.
3. 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/ies. 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 her/him at the conclusion of the MSC.

4. The moderator is authorized to review the Court files relating to the assigned case. To the extent that custody or parenting time are at issue, the moderator is authorized to review the reports and evaluations as might have been submitted to the Court by the Washington County Court Services Department, any Guardians at Litem, or any custody evaluators.
5. Confidentiality/Communication with Neutral – Pursuant to Minn. Gen. R. Prac. 114.08, all communications involving the moderator shall not be admissible at the final trial in this matter and the moderator shall not be called as a witness at the final trial of this matter. 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, the attorneys for both parties shall be present at all times when the moderator is communicating with the court and, provided further, that 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, said authorization to be made orally by the parties and their attorneys. This is a non-adjudicative proceeding. The neutral is authorized, pursuant to Minn. Gen. R. Prac. 114.10(b) to communicate ex-parte with the parties and vice versa.
6. Should counsel or the moderator perceive a conflict of interest by this appointment, notice shall be promptly provided among the attorneys for the parties, the moderator, and this Court for reappointment of a different moderator.
7. Fees: Fees will be determined by the MSC Neutral in accordance with the Washington County Financial Early Neutral Evaluation fee schedule.
8. Public Assistance. This _____is/_____is not a public assistance case.
9. CANCELLATION OR FAILURE TO APPEAR AND PAY AS ORDERED MAY RESULT IN SANCTIONS IMPOSED BY THE COURT UPON THE NON-COMPLYING PARTY AND/OR THE PARTY'S ATTORNEY 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.
10. All other orders not modified herein shall remain in full force and effect.

So Ordered.

BY THE COURT:

Dated: _____

 Judge of District Court

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 _____

WASHINGTON COUNTY FAMILY COURT MODERATED SETTLEMENT CONFERENCE PROGRAM DESCRIPTION

The Minnesota Supreme Court, by its Order dated April 23, 2004, authorized the Tenth Judicial District and all other Districts to implement case management programs designed to expedite resolution of litigation and peacefully resolve disputes. The Washington 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 Government Center and is typically completed after or at the first pretrial in the case. Based on all of the information in the Court file, 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. The Washington County Bench will decide which cases are appropriate for this process and may communicate this decision via written notice or a telephone conference with counsel. If the attorneys and counsel consent, or if they have not engaged in any other form of alternative dispute resolution as required by Minnesota Law, a court order will notify the parties of the time and date of the Moderated Settlement Conference, which will be held at the Washington County Government Center. The order will provide the contact information for attorneys and parties and for the MSC Neutral. Attorneys will be able to select their own MSC Neutral or one will be randomly assigned.
2. The opinion of the MSC Neutral is provided to parties and their attorneys based on all of the information in the Court file. 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.
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 by taking one-half of the hourly rate he or she is paying his or her attorney. In the event one or both parties is pro se, then it is calculated according to their income and assets. If a person has no or little income or assets, receives cash public assistance, the court may determine that the fee to be paid is \$50.00 for the session.
4. Attorneys and parties meet with the MSC Neutral within the time frame of the Court's Order. Each attorney or pro se 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.
7. 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.
8. 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 Order, above.
9. If the case does not settle completely, the case may be set for an additional pretrial hearing or a trial.

WASHINGTON COUNTY MSC FEE POLICY

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

Gross Individual Income:

IFP granted by Court:	\$50.00 flat fee;
0-25,000 per year:	\$25 per hour;
\$25,000-\$50,000 per year:	\$50 per hour;
\$50,000-\$100,000 per year:	\$75 per hour; and
\$100,000 and up:	\$150 per hour.