

ADKT 567

From: Paul Lychuk <paul.arbitrator@earthlink.net>
Sent: Friday, October 2, 2020 4:16 PM
To: Supreme Court Clerk
Subject: Comments on eviction mediation rules

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ELIZABETH B. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

Dear Ms. Brown,

In reference to the proposed rules, Rule 5, stated to be a procedural rule and presumably therefore not a jurisdictional requirement, requires the respective party requesting mediation to provide the request by "affidavit." The affidavit "must" include certain information.

The rule does not provide what happens when a party does not provide all of the required information or does not do so by affidavit. Does the court then inform the party of the missing information or wrong format and allow the party time to fulfill the requirements of the rule before assigning it to the Administrator? Or does the court forward all affidavit and other requests for mediation to the Administrator to be addressed there? Or does the Administrator assign all cases received for mediation, leaving it to the mediator to then address the incomplete affidavit or request?

Does the scheduling of the mediation then become conditioned upon a completed affidavit? If the affidavit is never properly completed is mediation precluded? For example, what of a procedural or jurisdictional challenge by a landlord of an incomplete mediation request submitted by a tenant who then requests the case proceed to the scheduled summary eviction proceeding without mediation?

Another comment is how are the requests to be tracked and coordinated to avoid duplicate case assignments to different mediators when both parties request mediation at different times?

Sincerely,

Paul Lychuk, Esq.