

A few reminders about small claims court:

1. Please use the room assigned to you by the small claims clerks.
2. It is a good idea to make sure at the beginning of the mediation session that the party representing a company has the authority to negotiate a settlement.
3. Do not use Memorandums of Understanding at small claims court. Only use the small claims court stipulation form.
4. If the parties agree to a lesser amount than the Plaintiff is requesting, it is a good incentive to state in the Stipulation that if the Defendant defaults on the agreement, the judgment will be based on the original amount asked for less any payments made. You must say this, or the Plaintiff will only be able to collect the lesser amount agreed to in the Stipulation, less any amount collected before the default occurred.
5. The clerks are busy! Please do not ask them to copy anything unless it is pertinent to the settlement. As mediators, you do not need copies of the complaint, the agreement, or anything else. As long as you complete the JCMS Summary Report Form, JCMS will keep track of what type of case you mediated, whether it settled, and how much time you spent mediating.
6. If you walk into a room with a party, you should fill out a summary report form. This means if they walk in, say they refuse to mediate, and walk out, you should fill out a report form. And if another mediator from JCMS is in the room with you, please list them on the report form as a co-mediator or an observer.
7. If the parties reach an agreement and sign the stipulation form, the form must be given to one of the clerks to have the magistrate review and sign. Only after the parties have received back a copy of the stipulation signed by the magistrate may they leave.
8. When discussing payments, be sure to mention the court costs: filing fees and fees for service. Generally, courts costs are awarded to the party who prevails in a court trial.
9. Contrary to the belief of many mediators, the penalty for defaulting on a stipulation is not a bench warrant (which can lead to arrest). It is a judgment against the defaulting party.
10. In order to obtain a judgment when a party defaults on a stipulation, the creditor must complete a Notice of Default on Stipulation form and send it in to the Court. There is a sample of what this form looks like in your mediation folder. If the parties reach an agreement, the creditor will be given this form with their copy of the stipulation signed by the Magistrate. They only use it if necessary (that is, if the promised payments are not made).

Remember to contact the JCMS office on the 15th to get dates for next month!