

Small Claims Mediation Practicum: Multiple Defendants

October 21, 1998

The Small Claims Mediation Practicum cannot effectively mediate a solution to a claim unless all parties are either present or have chosen not to respond and their liability has been determined by the default judgment process.

Therefore, in cases of multiple defendants, the following practice should be followed by the registries and the practicum schedulers.

1. No mediation should be scheduled until the date for filing the Reply has passed. That means that all defendants have to be served and 14 days go by since the service of the last defendant.
2. Once the time for filing the Reply has passed and a Reply from a defendant remains outstanding, the claimant should be advised that the matter cannot be scheduled for mediation until they have taken the steps required in Rule 6, Small Claims Rules, to obtain a default judgment.
3. Once default judgment has been obtained, the claimant should demonstrate to the project that they have served the defendant with the default judgment.
4. Following these steps, the claimant can proceed to enforce the default judgment against the defendant or defendants who did not file a Reply and the project should schedule the mediation for the defendants who have filed a Reply.
5. This process should be applied to voluntary and mandatory mediations involved in the project.

Robert W. Metzger,
Chief Judge