

Checklist for Motion to Excuse Mandatory Divorce Mediation (Decided by a Commissioner – Districts 1, 2, 3 and 4)

- You must complete a form before you file it. These instructions will help you complete the forms.
- Court staff cannot complete a form for you.
- Attach a copy of any document referred to in the form.
- Keep a copy of all documents for your records.
- Attend all court hearings.
- Some forms may not apply in your case.
- Contact the Self Help Center if you need more help:
<http://www.utcourts.gov/selfhelp/contact/>.

Motions decided by a commissioner are governed by [Utah Rule of Civil Procedure 101](#). Use this checklist only if your case is being heard in [Judicial District 1, 2, 3 or 4](#). If you are in [Judicial District 5, 6, 7 or 8](#), use the Checklist for judges instead.

Motions decided by a judge and motions decided by a commissioner follow different procedures. The documents are not different, but the time for filing them and the procedures for a hearing are.

- If a motion will be decided by a **judge**, a hearing is not scheduled until after all of the documents have been filed. Also, a Request to Submit must be filed before the judge can consider the motion.
- If a motion will be decided by a **commissioner**, a hearing is scheduled when the motion is filed, and the documents have to be filed and served before the hearing. A Request to Submit is not filed for motions considered by a commissioner.

If you are not sure whether your motion will be decided by a judge or a commissioner, call the court to find out.

(1) Motion and Statement to Excuse Mandatory Divorce Mediation

- Print your name and contact information at the top of the first page. Check whether you are the Petitioner or Respondent or the attorney for the Petitioner or Respondent.
- Print the judicial district number, the county name and the court address on the blank lines. Complete the heading exactly as it appears in the divorce petition.

- Paragraph (2): Describe what you have done to try to get the mediation requirement excused by the divorce mediation program coordinator or a court qualified divorce mediator and why they denied your request.
- Paragraph (3): Describe why mediation has not been scheduled.
- Paragraph (4): Explain why mediation should be excused.
- Do not include any private or protected information on this form. [Rule 4-202.09\(9\)](#) requires that you omit from a public record any information that is not itself public information. For a list of records, data and information classified as public, private, and protected, see [Rule 4-202.02](#).
- Attach any required documents and forms.
- Date and sign the form.
- Complete the Certificate of Service.
- Serve the form and any attachments on the other party by one of the methods described in the certificate of service. [URCP 5](#) governs service.
- File the original form, attachments and certificate of service with court staff.

(2) Notice of Hearing

Call the commissioner's judicial assistant and schedule a hearing. Complete, file and serve a Notice of Hearing. You must serve the other party with the motion, all attachments to the motion, and the Notice of Hearing at least 14 calendar days before the hearing.

- Print your name and contact information at the top of the first page. Check whether you are the Petitioner or Respondent or the attorney for the Petitioner or Respondent.
- Print the judicial district number, the county name and the court address on the blank lines. Complete the heading exactly as it appears in the divorce petition.
- Date and sign the form.
- Complete the Certificate of Service.
- Serve the form and any attachments on the other party by one of the methods described in the certificate of service. [URCP 5](#) governs service. You must serve the other party with the motion, all attachments to the motion, and the Notice of Hearing at least 14 days before the hearing.
- File the original form with the judicial services representative.

(3) Statement Opposing the Motion

A Statement Opposing the Motion is a document filed by the other party. If the other party does not agree to the motion, they must file a Statement Opposing the Motion within 14 days after the motion is served on the other party.

If the other party files a Statement Opposing the Motion, you may file a Reply to that statement. If the other party does not file a Statement Opposing the Motion, you may file a Request to Submit for Decision.

(4) Reply Statement (if applicable)

If the other party files a Statement Opposing the Motion, you may file a Reply, but only to respond to something being raised for the first time in the opposing statement. If the opposing statement and its supporting documents merely make statements of fact and legal arguments against the points you made in your motion, then you cannot file a reply.

If you file a Reply, you must file and serve it within 7 days after the Opposing Statement is served on you.

- Print your name and contact information at the top of the first page. Check whether you are the Petitioner or Respondent or the attorney for the Petitioner or Respondent.
- Check District Court. Print the judicial district number, the county name and the court address on the blank lines. Complete the heading exactly as it appears in the divorce petition. Write “Excuse Mandatory Divorce Mediation” on the blank line, after “Motion to.”
- Paragraphs (1)(A) and (2)(A): Identify whether the statement is from the Opposing Statement or Opposing Memorandum. Print the number of the paragraph from the document that you disagree with. Quote the statement exactly.
- Paragraphs (1)(B) and (2)(B): Explain why you disagree.
- Do not include any private or protected information. When filed, this document is a public record. [Rule 4-202.09\(9\)](#) requires that you omit from a public record any information that is not itself public information. For a list of records, data and information classified as public, private, and protected, see [Rule 4-202.02](#).
- Attach any required documents and forms.
- Date and sign the form.
- Complete the Certificate of Service.
- Serve the form and any attachments on the other party by one of the methods described in the certificate of service. [URCP 5](#) governs service.

- File the original form and certificate of service with court staff.

(5) Statement Opposing the Motion

A Statement Opposing the Motion is a document filed by the other party. Some commissioners require a written Statement Opposing the Motion. Some do not. You should contact the commissioner's judicial assistant for to find out whether a Statement Opposing the Motion must be filed.

If the other party files a Statement Opposing the Motion, they must do so at least 7 days before the hearing.

If the other party files a Statement Opposing the Motion, you may file a Reply to that statement at least 3 business days before the hearing. The reply is limited to responding to new matters raised in the opposing statement.

(6) Attend the Hearing

All motions decided by a commissioner will be decided after a hearing, unless the parties agree to the motion. Be sure to attend the hearing.

(7) Order on Motion to Excuse Mandatory Divorce Mediation

- Print your name and contact information at the top of the first page. Check whether you are the Petitioner or Respondent or the attorney for the Petitioner or Respondent.
- Print the judicial district number, the county name and the court address on the blank lines. Complete the heading exactly as it appears in the petition. Print the name of the motion on the blank line.
- Attach any required documents or forms.

If there is a hearing, the commissioner will decide the issues and will tell one of the parties to prepare the Findings of Fact, Conclusions of Law and Order. Listen carefully to the commissioner's decision. The documents must agree with that decision, and you may have to prepare them.

- If you are told to prepare the Findings of Fact, Conclusions of Law and Order, complete all of them except the commissioner's signature. What you write in the documents must agree with what the commissioner decided.
- Date and sign the proposed Findings of Fact, Conclusions of Law and Order under the phrase: "approved as to form."
- Within 21 days after being told to prepare the documents, serve them on the other party by one of the methods described in the certificate of service. [URCP 5](#) governs service.
- The other party has 7 days in which to object.

- File the original Findings of Fact, Conclusions of Law and Order and the Certificate of Service with the judicial services representative after the time to object has ended.

(8) Notice of Order

If you prepared the order, or if the commissioner says you have to serve the signed order:

- Print your name and contact information at the top of the Notice of Order. Check whether you are the Petitioner or Respondent or the attorney for the Petitioner or Respondent.
- Check the correct box to show whether the court is the District Court. Print the judicial district number, the county name and the court address on the blank lines. Complete the heading exactly as it appears in the petition.
- Attach any required documents and forms.
- Date and sign the form.
- Complete the Certificate of Service.
- Serve the form and any attachments on the other party by one of the methods described in the certificate of service. [URCP 5](#) governs service.
- File the original form and attachments with the judicial services representative.