

## Checklist to Respond to 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) Statement Opposing the Motion

Some commissioners require a written Statement Opposing the Motion. Some do not. You should contact the commissioner's judicial assistant to find out whether a Statement Opposing the Motion must be filed. Even if a commissioner does not require a written Statement Opposing the Motion, it may be to your advantage to file one.

If you do not agree with the motion and want to file a statement opposing it, you must file and serve the Statement Opposing the Motion at least 7 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.
- A hearing before the commissioner is automatic.
- Paragraph (1): State the facts relevant to the motion that are within the first-hand knowledge of the person signing the statement. This means the person must have observed the facts personally, rather than being told about the facts.
- Paragraph (2): Check the correct box to show whether you request a hearing. A hearing before the commissioner is automatic, unless the parties agree with the motion. If there is no hearing, the commissioner will decide the motion based on the papers that have been filed.
- Paragraph (3): List and attach any documents you want to use to support the facts.
- Do not include any private or protected information on this form. When filed, this form 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, attachments and certificate of service with court staff.

## **(2) Reply Statement (if applicable)**

If you file a Statement Opposing the Motion, the other party may file a Reply, but only to respond to something being raised for the first time in your opposing statement. If the opposing statement and its supporting documents merely make statements of fact and legal arguments against the points made in the motion, then the other party cannot file a Reply. The Reply must be filed and served at least 3 business days before the hearing.

### **(3) Attend the Hearing**

All motions decided by a commissioner will be decided after a hearing. Be sure to attend the hearing.

### **(4) Order on Motion to Excuse 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.
- If the motion is not granted by default, do not complete the rest of the documents unless you are told to do so. Either the judge will complete the rest of the documents or tell one of the parties to do so.
- 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 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 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 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 Order and the Certificate of Service with court staff after the time to object has ended.

### **(5) Notice of Order**

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

If you prepared the order, or if the judge 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 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 complaint/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 court staff.