

United States Court of Appeals
For the Seventh Circuit
Chicago, IL 60604

October 7, 2016

ASHTON WHITAKER, by his mother and next friend, Melissa Whitaker,
Plaintiff-Appellee,
No. 16-3522 v.
KENOSHA UNIFIED SCHOOL DISTRICT
NO. 1 BOARD OF EDUCATION, et al.,
Defendants-Appellants.

] Appeal from the United
] States District Court for
] the Eastern District of
] Wisconsin.
]
] No. 2:16-cv-00943-PP
]
] Pamela Pepper,
] Judge.

NOTICE OF RULE 33 MEDIATION

Pursuant to Rule 33 of the Federal Rules of Appellate Procedure and Circuit Rule 33, a **telephonic** mediation has been scheduled in this appeal.

Date: Monday, October 31, 2016

Time: 9:30 a.m. (Central Time)

Rule 33 mediations vary in length and often exceed two hours. Participants should schedule no other activities for the remainder of the morning.

Circuit Mediator: Rocco J. Spagna
rocco_spagna@ca7.uscourts.gov
312-582-7385

Contact Instructions and Requirements:

The Circuit Mediation Office will initiate the call to counsel.

Two business days before the scheduled mediation date, counsel must provide **by email** to the designated Circuit Mediator the names and telephone numbers of counsel who will participate in the mediation.

Representation by Lead Counsel: Each party must be represented in the mediation by the lawyer or lawyers on whose judgment the party will primarily rely in making settlement decisions.

Client Participation: Clients are not required to participate in this initial mediation session, but they are welcome to do so. In the event your client does not participate, he or she is required to be available by telephone for the duration of the mediation session. (In the case of a corporation, association or public body, “client” means an officer or employee having the fullest possible settlement discretion.)

Insurance Carrier Participation: If a party is, or contends that it is, insured for any of the claims at issue, an authorized representative of the insurer must also be available by telephone for the duration of the mediation session.

Rescheduling Not Permitted Without Good Cause: The mediation is expected to take place at the scheduled date and time. It will not be rescheduled unless an indispensable participant has an immovable preexisting commitment of such importance that his or her attendance is impossible. You must notify the Mediation Office of such a conflict immediately. The mediation will not be rescheduled on short notice.

Preparation for Mediation: At the mediation, be prepared to discuss the case in depth – your client’s goals and interests, the pivotal legal issues, the evidence of record, and the damages or other relief being sought. In advance of the mediation, you are expected to provide your client with a copy of this notice, familiarize yourself and your client with mediation procedures, help your client realistically assess his or her interests and the prospects of the case on appeal, obtain as much settlement authority as feasible, and approach the mediation process with an open mind.

Confidentiality: To encourage full and frank discussion, all communications during this mediation, and all further communications, oral and written, during the course of Rule 33 proceedings, are strictly confidential. The content of Rule 33 communications may not be disclosed to anyone other than the litigants and their counsel. Nothing said by the participants, including the mediator, will be placed in the record or disclosed by this office to the Court.

Briefing Schedule: Please note that the briefing schedule has *not* been extended for purposes of the Rule 33 conference in this appeal. During the pendency of these Rule 33 proceedings, the parties must comply in a timely manner with *all* court filing requirements, including the filing of briefs. Until further notice, counsel are directed to send the Settlement Conference Office copies of the papers they file with this Court.

Other Court Filing Requirements: The scheduling of a Rule 33 mediation does not relieve the parties of their obligation to comply in a timely manner with all other court filing requirements.

Questions and Communications regarding Mediation Notice: Counsel may direct questions concerning this notice to Stephanie Jackson, Legal Assistant, at (312) 582-7384.