

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

SYLVESTER BUTLER, et al.,

Plaintiffs,

vs.

Case No. 3:04-cv-917-J-32MMH

JAMES V. CROSBY, JR., et al.,

Defendants.

**AMENDED ORDER REFERRING CASE TO MEDIATION
AND APPOINTING MEDIATOR**

The parties are hereby referred to mediation in accordance with the rules governing mediation set forth in Chapter Nine of the Rules of the United States District Court for the Middle District of Florida. It is hereby

ORDERED:

1. **Referral to Mediation:** This case is hereby **referred** to mediation in an attempt to achieve an equitable settlement of the issues. The Court hereby appoints **Terrance E. Schmidt, Esquire** as Mediator in this action. By agreement of the parties, the mediation conference will occur no later than **December 31, 2005**. Plaintiff's counsel shall file a notice advising the Court of the date selected by the parties and the Mediator for the mediation conference.

2. **General Rules Governing the Mediation Conference:** Although the mediation process is defined in greater detail in Chapter Nine of the Local Rules of this Court, the following additional guidelines are hereby imposed:

(a) **Case Summaries:** Not later than **five (5) working days** prior to the scheduled mediation conference, each party shall mail (or transmit by facsimile) directly to the Mediator, with copy to opposing counsel, a brief written summary of the facts and issues of the case. **Such summaries shall be treated as confidential communications and shall not be incorporated into the public records of the case.**

(b) **Identification of Corporate and/or Claims Representatives:** As part of the written case summaries, counsel for corporate parties and claims professionals shall state the name and general job description of the employee or agent of the corporation who will attend and participate on behalf of the corporate party. **Such representative must have full authority to settle the case.**

(c) **Authority of the Mediator:** The Mediator shall have authority to consult and conduct conferences and private conversations and caucuses with counsel, individual parties, corporate representatives and claims professionals so as to suggest alternatives, analyze issues, question perceptions, use logic, stimulate negotiations and keep order.

(d) **Authority to Declare Impasse :** While an average mediation conference takes between three to five hours, participants shall be prepared to spend as much time as necessary in a good faith effort to settle the case or until an impasse is declared by the Mediator.

(e) **Mediator's Report:** Within **five (5) days** following the mediation conference, the Mediator shall file with the Clerk of Court a "Mediation Report."

3. **Compensation of the Mediator:** The Mediator shall be compensated at a reasonable hourly rate agreed to by the parties and the Mediator, which shall be borne equally by all parties unless otherwise agreed to by counsel, and shall be payable **immediately** upon the conclusion of mediation.

4. **Parties' Obligations:** The parties are urged to take full advantage of this opportunity to amicably resolve the issues herein. However, the mediation process **shall not** serve as a basis for any motion to continue the trial of the case. Should mediation prove

unsuccessful, the case shall remain on its present course for pretrial conference and trial. Plaintiff's counsel has an ongoing obligation to keep the mediator informed as to the appearance of any new parties.

DONE AND ORDERED at Jacksonville, Florida, this 11th day of August, 2005.


TIMOTHY J. CORRIGAN
United States District Judge

Copies to:

Counsel of Record

Terrance E. Schmidt, Esquire (mediator)
1301 Riverplace Boulevard - Suite 1818
Jacksonville, FL 32207

attachments:
(mediation report form, docket sheet)