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## MEMORANDUM

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From: Julie Anderson

Re: Johnson County Mediation Pilot Program

Date: February 15, 2023

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### **Applicability of this Memorandum**

The purpose of this memorandum is to provide a brief overview of the new Johnson County mediation program that has been implemented in the District Court of Johnson County, Kansas - Limited Actions, Division M4 for landlord-tenant eviction cases. In September 2023, under the direction of Judge John McEntee and Commissioner Becky Fast, the Johnson County commission approved and funded a three-month pilot mediation program. The Court launched a mediation certification program and brought in retired judges and mediators to resolve landlord-tenant disputes without the need for court involvement. The timeframe for the pilot program has been extended and will remain in effect through the end of 2024. The purpose of this mediation program is to reduce the number of judgments that are entered against tenants, to provide tenants an opportunity to receive a better outcome than if was to be tried by a judge, and to assist both parties in negotiating jointly an acceptable resolution to minimize conflict.

### **Pilot Mediation Overview**

The typical mediation process begins at 8:30 AM on the day of trial. Once the Judge takes the bench, he will determine which parties are present and, if both parties on a case are present, he will assign a mediator to that case, and send the parties into another room to mediate. Generally, the mediation will take place with both parties in the same room, unless one party specifically requests to remain separate. The mediator will explain how the process works and will ask the parties to sign a mediation agreement, stating that they understand the procedure and that they agree to mediate in good faith. From there, the parties will each state their position, and the mediator will attempt to find a compromise that satisfies the desires of both parties. If an agreement is reached, the parties will sign a settlement agreement. Possible scenarios include the following:

- Payment plans that enable the tenant to stay in their rental property.
- Decide on a move-out date.
- Resolve repair concerns.
- Deal with neighborhood problems and complaints.

The settlement agreement generally provides that, if a tenant fails to perform their obligations under the agreement, the landlord may immediately enter a proposed judgment with the Court.

## **The Future of Mediation in Kansas**

At this time, it appears that this program will continue to exist in one form or another for the foreseeable future. Mediation is currently “strongly suggested” by the Court. Landlords who have refused to participate have not received favorable results from the Court and experienced delays. We believe mediation is essentially mandatory at this time and will likely become statutorily mandatory in the next phase of the program. We recommend participation in the program from an economic perspective. Benefits to the Landlord in mediating include:

- Reduce expenses if the tenant can stay and make it work – Landlord will not have to incur expenses involved with preparing for a new tenant.
- Reduce the unpredictability of the Court – time value of money and sheer inefficiency of eviction courts.
- Fewer hostile feelings from the Tenant which may reduce property damage and make future interactions more amicable.
- Increase in likelihood of collection – when a judge orders a tenant to pay a certain dollar amount by a certain date, the tenant has lost the case and carries no ownership in the resolution. When a tenant is helped build the plan, he or she has an inherent incentive to comply.

### **About the Author**



The Law Offices of Anderson & Associates represents real estate investors, landlords and property managers. Our firm is dedicated to helping with issues pertaining to tenant evictions, collections, real estate transactions, fair housing defense, tenant bankruptcy, foreclosures, and housing code violations. We have a professional team of talented and knowledgeable attorneys and paralegals who aim to provide each client with the best possible representation. We understand that time and money are important factors to our clients, so we strive to resolve matters as quickly and cost-effectively as possible.

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Julie Anderson has dedicated her career to representing financial institutions, local and national banks, landlords, small businesses, and private investors in the collection of delinquent accounts. Clients and colleagues have recognized her aggressive and “no nonsense” approach, as well as her role as an advocate for their rights and prerogatives. She is an author and frequent speaker on issues relating to landlord tenant law, debt collection, foreclosures, real estate transactions and the effects of regulatory and legislative changes on real estate owners.

To schedule a consultation with one of our lawyers, call or make an inquiry at <https://mokslaw.com/request-a-consultation/>. To start an eviction action, please submit your request by clicking on the “File a Case” button at <https://mokslaw.com>.