

## CHAPTER 8 - FORMS & BIBLIOGRAPHY

**BERKSHIRE PROBATE COURT CONCILIATION PROGRAM**

\_\_\_\_\_  
Plaintiff(s)

Docket No. \_\_\_\_\_

v.

**DRAFT**

\_\_\_\_\_  
Defendant(s)

**PARTICIPATION AGREEMENT**

The above-referenced parties have agreed to participate in a conciliation session being conducted by the Berkshire County Bar Association at the Berkshire Probate and Family Court. There is no charge to the parties for participating. Conciliation is a voluntary process in which a neutral conciliator attempts to help the parties settle a case by clarifying the issues and assessing the strengths and weaknesses of each side. If a settlement cannot be reached, the conciliator will try to help the parties narrow the issues that are in dispute, and ascertain the steps which remain to prepare the case for trial.

At the conclusion of the conciliation, the conciliator will complete and submit to the Court a Conciliator's Report.

The parties agree that any discussions undertaken during the conciliation process, and any documents created for the sole purpose of facilitating the conciliation, with the exception of the Conciliator's Report, shall be strictly confidential and may not be disclosed by either party in any legal proceeding or otherwise, except as ordered by a court of competent jurisdiction.

The parties further agree that they will not subpoena, nor cause a subpoena to issue to the Berkshire County Bar Association Conciliation Program, any of its officers, agents, employees or personnel, or any conciliator, seeking the production of testimony, documents, conciliator's notes, or any other information relating to the conciliation of this matter, except as ordered by a court of competent jurisdiction.

By signing below, the parties acknowledge that they understand and agree to the terms set forth above, and that any agreement reached will be entered into voluntarily by them.

Plaintiff(s)

Sign \_\_\_\_\_  
Print Name \_\_\_\_\_

Defendant(s)

Sign \_\_\_\_\_  
Print Name \_\_\_\_\_

Attorney for Plaintiff(s)

Sign \_\_\_\_\_  
Print Name \_\_\_\_\_

Attorney for Defendant(s)

Sign \_\_\_\_\_  
Print Name \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

LOWELL DISTRICT COURT  
DOCKET NO. \_\_\_\_\_

\_\_\_\_\_  
Plaintiff(s)

v.

\_\_\_\_\_  
Defendant(s)

**CONCILIATOR'S REPORT**

1. Conciliation was conducted on \_\_\_\_\_.

The parties have requested additional time to complete the conciliation process and the case is now scheduled for further conciliation on \_\_\_\_\_.

2. **SETTLEMENT:** The case has been settled. A Stipulation of Dismissal/Agreement for Judgment is to be filed by \_\_\_\_\_.

3. **NO SETTLEMENT:**

A. The case is ready for trial: By Jury \_\_\_\_\_ Jury-Waived \_\_\_\_\_  
Number of witnesses: For Plaintiff \_\_\_\_\_ For Defendant \_\_\_\_\_  
Estimated length of trial: \_\_\_\_\_

B. The case is not ready for trial for the following reason(s):

4. The parties agree to the facts set forth in the attached, signed Stipulation.

5. The following material issues remain to be resolved at trial:

Date: \_\_\_\_\_

Conciliator: \_\_\_\_\_

Party Name: _____ Case Name: _____ Docket #: _____ Date of Conciliation: _____ Conciliator Name: _____ Settled: yes no      Pro Se: yes no Party: Plaintiff      Defendant	The purpose of this form is to help monitor the quality of our conciliation services. Please return the completed form to the Judge's Lobby and place in the Conciliation Administrator Box.
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**LOWELL DISTRICT COURT CONCILIATION  
PARTY EVALUATION FORM**

**Conciliator:**

Explained conciliation process and his/her role?	yes	somewhat	no
Helped identify trial preparation issues?	yes	somewhat	no
Listened to your concerns?	yes	somewhat	no
Understood the issues?	yes	somewhat	no
Took sides?	yes	somewhat	no
Was too forceful?	yes	somewhat	no
Met privately with each party?	yes		no
Overall performance?	Excellent	Good	Fair      Poor

**Conciliation Process:**  
 Please describe your experience with this Conciliation:  
 a. very good      b. good      c. fair      d. poor

**If Conciliation was helpful, please describe the reasons why (circle all that apply):**

a. settled the case	b. helped parties understand other side's view of dispute
c. moved case closer to resolution	d. helped to uncover flexibility
e. clarified issues for trial	f. evaluated strengths and weaknesses

Other: \_\_\_\_\_

**If Conciliation was not helpful, please describe the reasons why (circle all that apply):**

a. parties too far apart	b. increased animosity between parties
c. made problems worse	d. other party/attorney not committed to conciliation process
e. conciliator didn't have the experience necessary to resolve the dispute	

Other: \_\_\_\_\_

**Additional Feedback:**  
 Have you participated in conciliation before?    Yes      No  
 If yes, how does this conciliation compare? \_\_\_\_\_

Should conciliation be made available for all civil cases in the Lowell District Court?    Yes      No

**Additional Comments:**  
 \_\_\_\_\_  
 \_\_\_\_\_

Attorney Name: _____	Please return to the Conciliation Administrator box in the Judge's Lobby
Party: Plaintiff's Atty      Defendant's Atty	

**LOWELL DISTRICT COURT CONCILIATION  
ATTORNEY EVALUATION FORM**

**Conciliator:**

Helped identify trial preparation issues?	yes	somewhat	no
Evaluated strengths and weaknesses?	yes	somewhat	no
Listened to you and your party's concerns?	yes	somewhat	no
Understood the issues?	yes	somewhat	no
Took sides?	yes	somewhat	no
Was too forceful?	yes	somewhat	no
Met privately with each party?	yes		no
Overall performance?	Excellent	Good	Fair      Poor

**Conciliation Process:**

Please describe your experience with this Conciliation:

- a. very good      b. good      c. fair      d. poor

If Conciliation was helpful, please describe the reasons why (circle all that apply):

- |                                    |   |
|------------------------------------|---|
| a. settled the case                | b. helped parties understand other side's view of dispute |
| c. moved case closer to resolution | d. helped to uncover flexibility                          |
| e. clarified issues for trial      | f. evaluated strengths and weaknesses                     |

Other: \_\_\_\_\_

If Conciliation was **not** helpful, please describe the reasons why (circle all that apply):

- |  |   |
|--|---|
| a. parties too far apart   | b. increased animosity between parties                        |
| c. made problems worse   | d. other party/attorney not committed to conciliation process |
| e. conciliator didn't have the experience necessary to resolve the dispute |   |

Other: \_\_\_\_\_

**Additional Feedback:**

Have you participated in conciliation before?    Yes      No

If yes, how does this conciliation compare? \_\_\_\_\_

Should conciliation be made available for all civil cases in the Lowell District Court?    Yes      No

Additional Comments:

\_\_\_\_\_

**MIDDLESEX MEDIATION AND CONCILIATION PROGRAM**

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**LOWELL DISTRICT COURT CONCILIATION  
REPORT TO CONCILIATION ADMINISTRATOR**

Plaintiff(s): _____	Defendant(s): _____
Attorney: _____	Attorney: _____
Address: _____	Address: _____
Phone: _____	Phone: _____

Date of Conciliation: _____	Docket Number: _____
Conciliator: _____	Referral Source: _____
Case Type: Contract Tort Consumer Prot. Equit. Remedy	When Referred (case event): Final Pre-Trial Other _____
Small Claims Appeal Summary Process Dog Appeal Other _____	Trial Scheduled: _____

Outcome: Settled Not Settled Partially Settled Pending
Second Conciliation Session Scheduled for: _____
Referral to Mediation: _____
Referral to Private ADR: _____
Notes: _____ _____ _____ _____ _____ _____

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# Bibliography of Dispute Resolution

Prepared by Boston Law Collaborative, LLC

[www.BostonLawCollaborative.com](http://www.BostonLawCollaborative.com)

## *Books, Journals and Other Materials*

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