

LEGAL ALERT

Highlight of the Supreme Court Regulation Number 3 Year 2022 regarding Electronic Mediation in Court



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OVERVIEW

THE KEY PROVISIONS OF SUPREME COURT REGULATION NUMBER 3 YEAR 2022

Overview

The internet has become an indispensable business resource as more companies rely on online tools. As more businesses shift towards digital environments, it may be time for mediators to do the same. Mediation is a negotiation between two or more parties facilitated by an agreed-upon third party. Capable third-party mediators can lower the emotional temperature in a negotiation, foster more effective communication, help uncover less obvious interests, offer face-saving possibilities for movement, and suggest solutions that the parties might have overlooked. To fulfill the administration of the judiciary,

the Supreme Court then issued Supreme Court Regulation No. 3 of 2022 concerning Mediation in Courts Electronically as a refinement of Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Courts. Electronic Mediation in Court, hereinafter referred to as Electronic Mediation, is a method of dispute resolution through a negotiation process to obtain an agreement between the Parties assisted by a Mediator, which is carried out with the support of information and communication technology. Electronic mediation is carried out by observing the principles of voluntary, confidential, effective, safe, and affordable access.



Agreement, Registration, Mediator in Electronic Mediation

In the event that the Parties agree that the mediation is conducted electronically, the judge examining the case submits the Electronic Mediation approval form to be signed by the Parties and/or their proxies. Based on written approval, the substitute clerk will register the case with the Electronic Mediation Administration. The Parties may choose any available Mediator in the list of Mediators in the Court. The Mediator will then verify the identity of the Parties through their respective electronic means and submit proposals to the Parties to determine the Applications that can be used in meetings and sending Electronic Documents.

Virtual Room, Resume, Electronic Mediation

Furthermore, the Electronic Mediation meeting will be held in a virtual room in the Application as agreed by the Parties. Meanwhile, the Judge Mediator must carry out the Electronic Mediation process from the mediation room in court. If the Parties agree that the mediation will be conducted electronically, the trial process will be conducted electronically via e-court. In the mediation process, the Mediator and the Parties are prohibited from taking photos and recording audio or audio-visually during the meeting. The Mediator based on the agreement of the Parties explaining the ethics of the Electronic Mediation meeting at least contains:

- the obligations of the Parties and the Mediator to participate in Electronic Mediation in a closed and not a public place;
- the obligations of the Parties to ensure the tranquility and comfort of the space to conduct mediation as referred to in letter a;
- obligations of the Parties to wear decent clothing during Electronic Mediation meetings; and
- the obligation of the Parties to seek permission from the other party and the Mediator if they

wish to leave the meeting by stating the reasons for.

Amend in The Trait of Meetings and Attendance of Experts or Other Parties

In the event that one of the parties wants certain stages in Electronic Mediation to be held face-to-face meetings directly, this will be only possible with the agreement of the other party. If in the Mediation meeting it is necessary to present experts and/or other parties deemed able to help resolve the dispute, the presence of experts and/or other parties must be based on mutual agreement of the Parties.

Submission of Mediation Results and Signing of Peace Agreement

Mediator submits a successful/unsuccessful Mediation statement to the examining panel electronically through the Court Information System. The signing of the Peace Agreement by the Parties and the Mediator can be done electronically by using an Electronic Signature. In the event that the Parties do not have a validated Electronic Signature, the signing of the peace agreement can be done manually in a face-to-face meeting between the Parties and the Mediator.

Should you have any questions regarding this matter, please contact us at info@adplaws.com or any contacts provided below. Proper legal advice should always be sought before exercising any legal action based on the information in this article.