Office of the District Court Executive

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District Court Executive

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SOUTHERN DISTRICT OF NEW YORK AMENDS LOCAL CIVIL RULE 83.9, INVITES PUBLIC COMMENT

The United States District Court for the Southern District of New York has adopted amendments to Local Civil Rule 83.9, the rule concerning Alternative Dispute Resolution (ADR). The amendments clarify that judicial settlement conferences are an integral component of the Court's ADR plan. The amended rule is available at www.nysd.uscourts.gov; and is also attached to this notice.

Prior to the revised rule taking effect, the public is invited to comment. Comments are to be submitted in writing on or at the close of business on May 1, 2015 to:

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District Court Executive
U.S. District Court for the Southern District of New York
500 Pearl Street, Room 820
New York, NY 10007-1312

The revisions will become effective upon approval by the Second Circuit Judicial Council.

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Local Civil Rule 83.9. Alternative Dispute Resolution (Southern District Only) [formerly Local Civil Rule 83.12]

(a) Alternative Dispute Resolution Options:

The U.S. District Court for the Southern District of New York provides litigants with opportunities to discuss settlement through judicial settlement conferences and mediation.

(b) **Definition of Mediation** In mediation, parties and counsel meet, sometimes collectively and sometimes individually, with a neutral third party (the mediator) who has been trained to facilitate confidential settlement discussions. The parties articulate their respective positions and interests and generate options for a mutually agreeable resolution to the dispute. The mediator assists the parties in reaching their own negotiated settlement by defining the issues, probing and assessing the strengths and weaknesses of each party's legal positions, and identifying areas of agreement and disagreement. The main benefits of mediation are that it can result in an expeditious and less costly resolution of the litigation, and can produce creative solutions to complex disputes often unavailable in traditional litigation.

(c) **Administration of the Mediation Program**

(1) The Mediation Supervisor, appointed by the Clerk of the Court, shall administer the Court's mediation program. The Chief Judge shall appoint one or more District Judges or Magistrate Judges to oversee the program.

(2) The Mediation Supervisor, in consultation with other Court personnel, shall ensure that information about the Court's mediation program is available on the Court's website which will be updated as needed.

(3) The mediation program shall be governed by the "Procedures of the Mediation Program for the Southern District of New York," which sets forth specific and more detailed information regarding the mediation program, and which is available on the Court's official website (www.nysd.uscourts.gov) or from the Mediation Office.

(4) In no event is the scheduling of mediation to interfere with any scheduling order of the Court.

(d) **Consideration of Alternative Dispute Resolution** In all civil cases, including those eligible for mediation pursuant to paragraph (e), each party shall consider the use of mediation or a judicial settlement conference and shall report to the assigned Judge at the initial Rule 16(b) case management conference, or subsequently, whether the party believes mediation or a judicial settlement conference may facilitate the resolution of the lawsuit. Judges are encouraged to note the availability of the mediation program and/or a judicial settlement conference before, at, or after the initial Rule 16(b) case management conference.

(e) **Mediation Program Eligibility**

(1) All civil cases other than social security, habeas corpus, and tax cases are eligible for mediation, whether assigned to Manhattan or White Plains.

(2) The Board of Judges may, by Administrative Order, direct that certain specified categories of cases shall automatically be submitted to the mediation program. The assigned District Judge or Magistrate Judge may issue a written order exempting a particular case with or without the request of the parties.

(3) For all other cases, the assigned District Judge or Magistrate Judge may determine that a case is appropriate for mediation and may order that case to mediation, with or without the consent of the parties, before, at, or after the initial Rule 16(b) case management conference. Alternatively, the parties should notify the assigned Judge at any time of their desire to mediate.

(f) **Judicial Settlement Conferences**

Judicial settlement conferences may be ordered by District Judges or Magistrate Judges with or without the request or consent of the parties.

MARCH 2015 COMMITTEE NOTE

Local Civil Rule 83.9 has been revised to make clear that judicial settlement conferences are an available form of alternative dispute resolution.

COMMITTEE NOTE

Local Civil Rule 83.9 has been revised to refer to the "Procedures of the Mediation Program for the Southern District of New York." This revision is intended to increase flexibility in the administration of the Mediation Program.