



U.S. DISTRICT COURT DISTRICT OF NEW JERSEY

OFFICE OF THE CLERK

*Martin Luther King Building and U.S. Courthouse
50 Walnut Street, Room 4015
Newark, New Jersey 07101*

CAMDEN OFFICE
Mitchell H. Cohen Building and
U.S. Courthouse
One John F. Gerry Plaza
Fourth & Cooper Streets, Room 1050
Camden, New Jersey 08101

TRENTON OFFICE
Clarkson S. Fisher Building and
U.S. Courthouse
402 East State Street, Room 2020
Trenton, New Jersey 08608

NOTICE TO THE BAR

October 25, 2024

PROPOSED AMENDMENTS TO LOCAL CIVIL RULE 301.1

Notice is hereby given to the Bar and all interested parties that the United States District Court for the District of New Jersey proposes to amend Local Civil Rule 301.1. The proposed amendments are posted for public comment as required by 28 U.S.C. §2071(b) at <http://www.njd.uscourts.gov>. New text underlined. Strikethroughs indicate deleted text.

LOCAL CIVIL RULE 301.1 MEDIATION

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(a) Designation of Mediators

(1) The Chief Judge shall designate as many mediators as determined to be necessary under this Rule. Mediators shall be designated for terms of service up to three years, subject to extension at the discretion of the Chief Judge, and such terms shall be staggered to provide orderly rotation of a portion of the membership of the panel of mediators.

(2) An individual may be designated to serve as a mediator if he or she:

- (A) has been for at least five years a member of the bar of the highest court of a State or the District of Columbia;
- (B) is admitted to practice before this Court;
- (C) is determined by the Chief Judge to be competent to perform the duties of a mediator; and
- (D) ~~has participated in a training program (or the equivalent thereof) to the satisfaction of the Chief Judge.~~ fulfills application criteria set by the Court.

(3) Each mediator shall, for the purpose of performing his or her duties, be deemed a quasijudicial officer of the Court.

(b) Designation of Compliance Judge

The Board of Judges shall designate a Judge to serve as the compliance judge for mediation. This compliance judge shall be responsible to the Board of Judges for administration of the mediation program established by this Rule and shall entertain any procedural or substantive issues arising out of mediation.

(c) Compensation of Mediators

Each mediator designated to serve by the Chief Judge under L.Civ.R. 301.1 (a) shall be compensated ~~\$300~~ \$400 an hour for service in each civil action referred to mediation, which compensation shall be borne equally by the parties. ~~Where all parties select as a mediator a person not designated as a panel mediator under L. Civ. R. 301.1(a), the parties and the mediator may, by written agreement, fix the amount and terms of the mediator's compensation.~~

(d) Civil Actions Eligible for Mediation

Each Judge may, without the consent of the parties, refer any civil action to ~~mediation~~ the Court's mediation program. The parties in any civil action may, with consent of a Judge, agree to mediation and, if such consent is given, select a mediator. Notwithstanding the above, no civil action described in L.Civ.R. 72.1(a)(3)(C), may be referred to mediation unless otherwise ordered by a Judge.

(e) Mediation Procedure

(1) Counsel and the parties in each civil action referred to mediation shall participate therein and shall cooperate with the mediator, who shall be designated by the referring or compliance judge.

(2) Whenever a civil action is referred to mediation the parties shall, as soon as is practicable, contact the assigned mediator to discuss the scheduling of mediation and the submission of a mediation position statement. ~~immediately prepare and send to the designated mediator a position paper not exceeding 10 pages in length. The parties may append to their position papers essential documents only. Pleadings shall not be appended or otherwise submitted unless specifically requested by the mediator.~~

(3) Counsel and the parties (including individuals with settlement authority for specific individuals) shall attend all mediation sessions unless otherwise directed by the mediator.

(4) If the parties and the mediator agree, the mediation session may include a neutral evaluation by the mediator of the parties' positions on any designated claims, counterclaims, defenses or other material issues; and the parties and mediator may arrange a schedule within the mediation timetable for briefing and discussing such matters.

(5) The mediator may meet with counsel and the parties jointly or *ex parte*. All information presented to the mediator shall be deemed confidential unless requested otherwise and shall not be disclosed by anyone, including the mediator, without consent, except as necessary to advise the Court of an apparent failure to participate. The mediator shall not be subject to subpoena by any party. No

statements made or documents prepared for mediation shall be disclosed in any subsequent proceeding or construed as an admission.

~~(6) A stay of proceedings (including motion practice and discovery) pending mediation shall be at the discretion of the referring Judge. All proceedings (including motion practice and discovery) shall be stayed for a period of 90 days from the date a civil action is referred to mediation. Any application for an extension of the stay shall be made jointly by the parties and the mediator and shall be considered by the referring Judge.~~

(f) Guidelines for Mediation

The Court, the Clerk, the parties, attorneys and mediators are hereby referred to the Guidelines for Mediation (Appendix Q to these Rules) for their information and guidance in civil actions referred to mediation pursuant to this Rule. Said Guidelines for Mediation shall have the same force and effect as the provisions of this Rule.

(g) Ethical Standards for Mediators

(1) Impartiality

A mediator shall be impartial and advise all parties of any circumstances bearing on possible bias, prejudice, or impartiality. Impartiality means freedom from favoritism or bias in word, action, and appearance. Impartiality implies a commitment to aid all parties, as opposed to an individual party, in moving toward an agreement.

(A) A mediator shall maintain impartiality while raising questions for the parties to consider as to the reality, fairness, equity, and feasibility of proposed options for settlement.

(B) A mediator shall withdraw from mediation if the mediator believes the mediator can no longer be impartial.

(C) A mediator shall not accept or give a gift, request, favor, loan or any other item of value to or from a party, attorney, or any other person involved in and arising from any mediation process.

(2) Conflicts of Interest and Relationships; Required Disclosures; Prohibitions

(A) A mediator must disclose to the parties and to the compliance judge any current, past, or possible future representation or consulting relationship with, or pecuniary interest in, any party or attorney involved in the mediation.

(B) A mediator must disclose to the parties any close personal relationship or other circumstance, in addition to those specifically mentioned in L.Civ.R. 301.1(g)(2)(A), which might reasonably raise a question as to the mediator's impartiality.

(C) The burden of disclosure rests on the mediator. All such disclosures shall be made as soon as practical after the mediator becomes aware of the interest or the relationship. After appropriate disclosure, the mediator may serve if all parties so desire. If the mediator believes or perceives that there is a clear conflict of interest, the mediator shall withdraw irrespective of the expressed desires of the parties.

(D) In no circumstance may a mediator represent any party in any matter during the mediation.

(E) A mediator shall not use the mediation process to solicit, encourage, or otherwise incur future professional services with any party.

(h) Grievance Procedure

Any grievance concerning the conduct of a mediator, attorney, or other participant in a mediation shall be made in writing to the compliance judge within 30 days from the event giving rise to the

grievance. The compliance judge may investigate the grievance and take such action in response thereto as may be appropriate, upon due notice to all affected persons or entities.

Amended: May 27, 1998; April 19, 2000; March 14, 2001; July 5, 2001; January 31, 2008.

May 27, 1998; April 19, 2000; March 14, 2001; July 5, 2001; January 31, 2008; [New date to be added if adopted after public comment period].

Comments must be received by the Clerk of the Court by November 25, 2024, and should be addressed to:

Melissa E. Rhoads, Clerk of Court
United States District Court
Martin Luther King, Jr., Bldg. & U.S. Courthouse
50 Walnut Street
Newark, NJ 07101

or by e-mail to: localrules@njd.uscourts.gov

For the Court

Renée Marie Bumb
Chief U.S. District Judge