

RULE 9019-2. ALTERNATIVE DISPUTE RESOLUTION (ADR)

A. Settlement Conference. The Court may, upon its own initiative or at the request of any of the parties, order a settlement conference at a time and place to be fixed by the Court.

B. Settlement Judge Disinterested. A district judge, a bankruptcy judge (other than the judge assigned to the case), a magistrate judge, or an adjunct settlement judge designated by the Court, will normally preside at the settlement conference. The settlement judge will take no part in adjudicating the case subsequent to the settlement conference.

C. Case or Proceeding to Continue. Unless otherwise ordered by the Court, the scheduling of settlement conferences or other alternate dispute resolution procedures will not continue, delay, or otherwise interfere with scheduling dates set pursuant to other orders in the case or proceedings. Likewise, any modification of a scheduling order will not affect the date of a settlement conference set pursuant to a separate settlement conference order.

D. Fully Authorized Representatives Required. At least one attorney for each of the parties who is fully familiar with the case shall appear for each party. A person or representative with full settlement authority as defined in the Court's settlement conference order shall accompany the attorney to the settlement conference. Other parties in interest, such as insurers or indemnitors, shall attend through fully authorized representatives and are subject to the provisions of this rule. The settlement judge may, however, with special permission upon prior written application, allow the party having full settlement authority to be telephonically available. The settlement judge presiding over the settlement conference may make such other and additional requirements of the parties as shall be deemed proper in order to expedite an amicable resolution of the case.

E. Confidences Kept. It is expected that the parties, their representatives, and attorneys be completely candid with the settlement judge so that settlement discussions may be properly and productively guided. To encourage candor, the confidential nature of settlement discussions conducted under the auspices of a court-sponsored settlement conference shall be absolutely respected by all participants, and strictly enforced by the Court. The settlement judge may meet jointly or individually with any of the participants. Statements made in any settlement conference will not be shared with participants not party to the settlement conference, unless specific permission of the declarant is obtained. Any statement made in the context of the settlement conference will not constitute an admission and will not be used in any form in the litigation or trial of the case. The settlement judge will not discuss the substance of the conference with the judge to whom the case is assigned.

F. Adjunct Settlement Judges. Adjunct settlement judges shall be selected by the Court from among members of the bar in good standing and chosen based upon their expertise, experience, actual and apparent impartiality, training, temperament, and reputation for fairness. They shall be invited to serve for an initial term without compensation and commit to conduct up to twelve settlement conferences during that term. The initial term shall extend for one year, or until the number of settlement conferences designated for the term (up to a maximum of 12) are completed, whichever is longer. Once appointed and trained, an adjunct settlement judge may

volunteer to serve additional terms, or to conduct additional conferences within a term, but shall not be expected by the Court to do so. No adjunct settlement judge may be called as a witness, except in an action to enforce the settlement agreement. In that instance, the adjunct settlement judge shall not be deposed, and shall testify as the Court's witness.

G. Special Projects. In cases where the settlement effort is expected to be extensive, or in connection with discovery matters, the Court may appoint an adjunct settlement judge as a special project settlement or discovery judge, and order the parties to pay for his or her time at a reasonable hourly rate. Such payment shall be apportioned between the parties as agreed, or by the Court on an equitable basis.

H. Governmental Entities. In the event a governmental entity that is a party determines that it will be unable to provide a representative with full settlement authority at the settlement conference, the governmental entity shall promptly move for leave to proceed with a representative with limited authority. The motion shall be delivered (not filed) to the settlement judge not later than 14 days prior to the conference and shall contain:

1. The reasons that make it impracticable for a party's representative to appear with full settlement authority;
2. A detailed description of the limited authority to be exercised at the conference; and
3. Alternative proposals by which full authority may be exercised at or subsequent to the conference. The motion need not be transmitted to the opposing parties. Upon consideration of the motion, the settlement judge may allow the governmental entity to appear with limited authority or may, notwithstanding the motion, require appropriate persons to appear as may be necessary to have full settlement authority at the conference. Any adjunct settlement judge may defer such determination to the bankruptcy judge then supervising the adjunct settlement judge program.

I. Other Alternative Methods. The Court may, in its discretion, set any proceeding for summary jury trial, mini-trial, executive summary jury trial (summary jury trial where chief executive officers of corporate parties participate as part of a three judge trial panel), mediation, arbitration, or other method of alternative dispute resolution as the Court may deem proper, so long as due process is not abrogated or impaired.

J. Certificate of Circumstances. In the event a party, attorney, insurer, or indemnitor fails to comply with the settlement conference order or participate in good faith in any court-sponsored alternative dispute resolution proceeding, the settlement judge may certify such circumstances in writing to the bankruptcy judge and recommend appropriate action. All parties shall be served with copies of the certification and be afforded an opportunity to respond. The Court may then impose any remedial, compensatory, disciplinary, contempt, or sanction measures it deems appropriate under the circumstances certified.