

## **LBR 9019-2**

### **ALTERNATIVE DISPUTE RESOLUTION (ADR)**

- (a) An adversary proceeding or a contested matter may be referred for voluntary ADR at any stage of the bankruptcy litigation deemed appropriate by the parties and the judge to whom the adversary proceeding or a contested matter has been assigned.
- (b) Before an adversary proceeding or a contested matter is referred to voluntary ADR, the parties must agree upon, subject to the approval of the judge:
- (1) The form of the ADR process (e.g., mediation, arbitration, summary trial, minitrial, etc.);
  - (2) The scope of the ADR process (e.g., settlement of all or specified issues, resolution of discovery schedules or disputes, narrowing of issues, etc.);
  - (3) The ADR provider; and
  - (4) The effect of the ADR process (e.g., binding or non-binding).
- (c) When an agreement between the parties and the judge for a voluntary ADR referral has been reached, the parties shall file jointly for the judge's endorsement a "Stipulation for Reference to ADR." The Stipulation, subject to the judge's approval, shall specify:
- (1) The form of the ADR procedure and the name of the ADR provider agreed upon;
  - (2) The judicial proceedings, if any, to be stayed pending ADR;
  - (3) The procedures, if any, to be completed prior to ADR (e.g., appraisal, expert opinions, etc.);
  - (4) The effect of the ADR process;
  - (5) The date or dates for the filing of progress reports by the ADR provider with the trial judge or for completion of the ADR process; and
  - (6) The special conditions, if any, imposed by the judge upon any aspect of the ADR process.
- (d) All ADR sessions shall be deemed confidential and protected by the provisions of Fed. R. Evid. 408 and Fed. R. Civ. P. 68. No statement made or document produced as part of an ADR proceeding, not otherwise discoverable or obtainable, shall be admissible as evidence or subject to discovery.
- (e) At the conclusion of the voluntary ADR session(s), the ADR provider's report to the judge shall merely indicate "matter settled or not settled," unless the parties agree to a more detailed report (e.g., stipulation of facts, narrowing of issues and discovery procedures, etc.). If a matter settles, the parties shall agree upon the appropriate moving papers to be filed for the judge's endorsement. If a matter does not settle but the parties agree to a narrowing of discovery or legal issues, then the ADR provider's report shall set forth those matters for endorsement or amendment by the judge.