



UNITED STATES DISTRICT COURT WESTERN DISTRICT OF TENNESSEE

INTRODUCTION AND OVERVIEW: ADR PLAN AND MEDIATION PROGRAM

The U.S. District Court for the Western District of Tennessee (“the Court”) adopted a new alternative dispute resolution plan (“the ADR Plan”) on March 1, 2014 with an effective date of September 1, 2014.

Which cases will be assigned to ADR resolution?

Pursuant to the ADR Plan, all civil cases (with limited exceptions) filed on or after September 1, 2014 will be automatically referred for ADR resolution. Further, the assigned Judge in any civil case pending as of September 1, 2014 may issue an order, sua sponte or in collaboration with counsel at a status conference or at any other time, referring a civil case for ADR resolution.

Why are civil cases being assigned to ADR resolution?

Using court-administered ADR techniques and processes to resolve legal disputes affords civil litigants the opportunity for quicker, less expensive and potentially more satisfying solutions than continuing with litigation, which is usually more protracted, more expensive and often more acrimonious. Properly conducted mediation generally goes beyond the typical settlement discussion process because it enhances communication among the parties and allows the participants to explore more creative outcomes to better meet the parties’ needs and expectations. While mediation will be the primary ADR intervention used under the Court’s ADR Plan, several other techniques can be employed; what is most important is that the parties mutually agree on the ADR process that they will use in their particular case.

When will ADR Neutrals (generally mediators) be appointed by the Court?

If the parties are able to jointly select a mutually agreed upon mediator, then mediation or whatever other ADR process the parties agree to will be conducted in accordance with the ADR Plan. The mediator jointly selected by the parties may be but need not be one currently appointed to the Court’s Mediation Panel. In other words, using a Panel Mediator is not mandatory so long as the parties are in agreement with the selection. If, however, the parties cannot agree upon the selection of a mediator within the required timeframe, the Court will appoint one and in those instances, every appointment will be made from the Court’s Mediation Panel.

Who pays for the cost of ADR intervention?

Pursuant to the ADR Plan, the parties will equally share the cost of mediation or whatever other ADR process is used. If the parties have been able to agree upon a particular mediator and process, they will share the cost unless the Court orders otherwise. In some instances, however, one or more parties will be unable to financially bear the cost of mediation. The ADR Plan sets forth procedures for addressing the needs of underfunded pro se litigants. The point here is that the cost of mediation or other ADR techniques should not be an obstacle to fully participating in this Court-administered ADR program.

**Who is qualified to
serve as a mediator?**

Attorneys and non-attorneys who have the required ADR discipline training (a minimum of 40 certified hours) and who can point to adequate relevant experience are eligible to serve as mediators. All mediators, other than Magistrate Judges, must have received this required training and must complete periodic retraining in order to continue serving as mediators. It should also be noted that non-attorneys are required to satisfactorily complete four hours of additional training in federal court civil practice and procedures.

Individuals interested in serving on the Court's Mediation Panel should submit the "Application for Appointment to Mediation Panel". A digital copy of the application can be found on the Court's website: <http://www.tnwd.uscourts.gov> or picked up in print form at the Clerk of Court's Office in Jackson or Memphis. A completed application form can be mailed, emailed or faxed back to the Clerk of Court for processing and submission to the Court.

Applicants seeking appointment to the Court's Mediation Panel will be evaluated by the Court for possible appointment. Appointments will be made on a rolling basis in order to ensure that there will be an adequate number of mediators. The Court has not yet determined the exact number of mediators that will serve on the Mediation Panel, nor has it set the duration of appointments or the process for reappointing or removing mediators for cause or on a periodic basis. These and other features of the program will be publicized once adopted by the Court.

**To what sorts of civil cases
will mediators be appointed?**

A unique feature of this ADR Plan is that through the application process potential mediators will clearly indicate to the Court the types of cases and areas of law for which they feel unqualified or simply do not want to serve as mediators. Panel mediators will not be required to serve on cases or work in areas of law for which they have requested exemption.

**How will mediators
be appointed to cases?**

The Clerk of Court's Office has developed a computer-based program that will randomly select mediators. The algorithm used in this program has been designed so as to balance the number of cases that will be assigned to each mediator. The Mediation Panel will be subdivided into an Eastern Division Panel (for Jackson cases) and a Western Division Panel (for Memphis cases) and the computer-based assignment system tracks them independently in terms of balancing out case appointments.

**How can you learn more
about this ADR Plan and Becoming a Mediator?**

We urge you to review the ADR Plan in its entirety before applying to serve as a mediator. There are many details not covered in this overview material. The entire ADR Plan can be found on the Court's website to read online or print for future reference. If you have specific questions about becoming a mediator or just want to know more about the ADR Plan feel free to contact the Court's Mediation Coordinator, Venita Griffin, at: venita_griffin@tnwd.uscourts.gov.



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