

Summary of 2015 Amendments to the Local Rules

■Effective December 7, 2015

Amendment to:

LR 16.2 Alternative Dispute Resolution

Revised to simplify and clarify ADR procedures.

LR 16.2

ALTERNATIVE DISPUTE RESOLUTION

(a) Preliminary

Through the passage of the “Alternative Dispute Resolution Act of 1998,” 28 U.S.C. §§ 651, et seq., Congress has encouraged federal courts to review and strengthen their alternative dispute resolution (ADR) programs. Such programs may provide greater satisfaction to the parties, provide innovative methods of resolving disputes and increase efficiency in achieving settlements of civil cases. Moreover, the adoption of Congressional requirements for the priority scheduling of criminal trials have placed substantially greater pressure on litigants, counsel and the Court.

The parties in civil actions shall consider ADR (*see* FED. R. CIV. P 16(c)(2)(I)) and be prepared to discuss it at the time of the first scheduling conference with the presiding judge.

(b) Settlement Negotiations

The Court encourages the attorneys for all parties to the action, except nominal parties, to meet at least once and engage in a good faith attempt to negotiate a settlement of the action.

(c) Court Annexed Program of Mediation

In selected cases, the presiding Judge may refer matters for mediation to a magistrate judge, a district judge, or a bankruptcy judge designated by the presiding judge in his or her sole discretion. Matters referred shall be governed by the directives in the assigned judge’s scheduling order or standing order regarding mediation. “Mediation” is a process whereby an impartial third party (the mediator) facilitates communication between negotiating parties attempting to reach an agreed settlement of their dispute. When appropriate the mediator may also offer an evaluation of the case and/or recommend a settlement. Whether a

settlement results from mediation is within the sole control of the parties.

(d) Participation and Preparation by Counsel

The attorney who is primarily responsible for each party's case shall personally attend the mediation conference and any adjourned sessions of that conference. The attorney for each party shall come prepared to discuss the following matters in detail and in good faith:

- (1) All liability issues;
- (2) All damages issues; and
- (3) The position of his/her client relative to settlement.

(e) In Person Attendance

Attendance by a party and its representative with full settlement authority at the mediation is mandatory, unless the mediator permits otherwise.

(f) Failure to Attend

Willful failure to attend the mediation conference, unless excused by the mediator, shall be reported to the presiding judge by the mediator and may result in the imposition of sanctions.

(g) Third Party Neutrals As Mediators

The judges of the district shall establish and maintain a register of qualified attorneys who have volunteered to serve, without compensation, as mediators in civil cases. Under appropriate circumstances, it may be necessary for the parties to provide payment at usual and customary rates as determined by the Court, for the services of an attorney designated under this rule.

The presiding judge shall select, in his or her sole discretion, those attorneys deemed appropriate to serve as a neutral under this local rule. All attorneys serving as neutrals under this local rule are deemed to be performing quasi-judicial functions and are entitled to the immunities and protections that the law accords to persons serving in such capacity.

(h) Parties Retain Option to Pursue Settlement

Nothing in this rule shall prohibit parties from pursuing settlement by any other means not contrary to statute or court rule.

■ **Effective March 23, 2015**

Amendment to:

LR 17.1 Claims of Minors and Incompetents and Disposition of Funds

LR 17.1(e) was revised to increase the threshold amount for requiring that a general guardian be appointed from \$20,000 to \$50,000. The revised subsection is shown below:

(e) Control of Remaining Funds

(1) \$50,000 or Less. If the money or the value of other property remaining is \$50,000 or less and there is no general guardian of the ward, the Court shall require that (A) the money be deposited in a bank or trust company or be invested in an account in an insured financial institution for the benefit of the ward subject to withdrawal only upon the order of the Court as part of the original proceeding, or (B) a general guardian be appointed and the money or other property be paid or delivered to such guardian.

(2) Over \$50,000. If the money or the value of other property remaining exceeds \$50,000, and there is no general guardian of the ward, the Court in the order or judgment shall require that a general guardian be appointed by a court of competent jurisdiction.