



STATE OF NEW YORK
UNIFIED COURT SYSTEM
FIRST JUDICIAL DISTRICT
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LAWRENCE K. MARKS
Chief Administrative Judge

DEBORAH A. KAPLAN
Administrative Judge for Civil Matters
First Judicial District

GEORGE J. SILVER
Deputy Chief Administrative Judge
New York City Courts

ADMINISTRATIVE ORDER

By the authority vested in me as Administrative Judge of this court, I hereby order as follows:

(1) By Administrative Order dated April 19, 2017, then-Administrative Judge Peter H. Moulton established a pilot project (“the Pilot Project”) for the automatic referral of certain commercial cases to mandatory mediation in the Alternative Dispute Resolution Program of the Commercial Division in accordance with the Rules and Procedures thereof (accessible at www.nycourts.gov/courts/comdiv/ADR_overview.shtml). A Supplemental Administrative Order was issued dated September 27, 2017. The Pilot Project shall continue. The matters that shall hereafter proceed to mandatory mediation in the Pilot Project are any and all cases (excluding those in which there is a self-represented party) that have been electronically filed, that are hereafter assigned to any Justice of the court who has not been appointed to serve in the Commercial Division, and in which the filer of the Request for Judicial Intervention (“RJI”) (i) has designated the nature of the case thereon as a “Contract,” “Business Entity,” “Insurance,” “UCC,” or “Other Commercial” matter, and (ii) has requested a preliminary conference.

(2) The staff of the court shall identify all such cases at the time of the filing of the RJI. In each such case, the staff shall promptly transmit to the parties by means of the New York State Courts Electronic Filing System (“NYSCEF”) a notice informing the parties that the case shall undergo mandatory mediation in accordance with this Administrative Order, a copy of which shall be appended to the notice.

(3) Counsel and parties in all cases so designated shall proceed to mediation as provided in this Order and the ADR Rules and Procedures and shall adhere to those Rules and Procedures in all respects applicable, including the deadlines set out therein. Failure to comply with this Order or the Rules and Procedures may subject the offending party or attorney to sanctions.

(4) The court has established a centralized Preliminary Conference Part for all commercial cases covered by this Order and a single Justice of the court or a staff attorney shall be assigned to that Part. In cases in the Pilot Project, the preliminary conference shall


be scheduled in that Part for the earliest date available. Counsel shall discuss with one another in advance of the conference the possible provision and exchange of discovery that is tailored to the mediation directed by this Order and that will assist in making the mediation as efficient and productive as possible. The provision and exchange of such discovery shall be discussed at the conference. The Justice or staff attorney presiding at the conference may issue a preliminary conference order that contains a schedule for the expeditious exchange of discovery tailored to the mediation and shall also set a compliance conference date before the assigned Justice that shall ideally take place after the conclusion of the mediation (unless the mediation has resolved the case). Counsel may also enter into a stipulation at the preliminary conference governing all discovery on the merits not encompassed by the tailored discovery referred to above.

(5) Counsel shall, within four business days after the preliminary conference, consult one another and submit a completed Initiation Form to the ADR Coordinator as provided in the ADR Rules and Procedures. Counsel shall expeditiously provide the discovery tailored to the mediation as provided in the preliminary conference order and shall proceed to mediation in accordance with this Order and the ADR Rules and Procedures and as directed by the mediator.

(6) All court proceedings in these cases other than the preliminary conference shall be conducted by the Justice to whom the case was assigned upon the filing of the RJI.

(7) A case otherwise subject to mandatory mediation in the Pilot Project may be exempted from such mediation upon a satisfactory showing that an applying party would be subjected to unreasonable hardship or burden by participation in the mediation. A party seeking an exemption shall apply therefor at the preliminary conference. Failure to seek an exemption in this manner shall constitute a waiver of any objection to the mediation.

Dated: New York, New York
January 22, 2019



Hon. Deborah A. Kaplan
Administrative Judge