

**SURPEME COURT
DUTCHESS COUNTY
ALTERNATE DISPUTE RESOLUTION PROGRAM**

This Supreme Court Alternative Dispute Resolution Program has been initiated with the goal of a faster and more cost efficient means of resolving cases. This is consistent with The Excellence Initiative of our Chief Judge, The Honorable Janet DiFiore. Litigants with or without an attorney will be given the opportunity to mediate a resolution of their cases at every stage of the litigation including before, during and after discovery. Most cases will be mediated by the Judge and/or the Court Attorney so that there is no additional cost for the individual litigants.

Cases appropriate for early intervention mediation:

Cases appropriate for early intervention mediation would be identified first at the preliminary conference. **All cases would be initially considered appropriate for early intervention/mediation.** Excluded from mediation would be cases that involve domestic violence, cases with an imbalance of power or other such cases, in the court's discretion or a party's request.

The Preliminary conference:

If agreed by the parties and counsel, or where appropriate, at the direction of the court, the Judge should explore settlement at that conference or set an early date for a settlement conference.

Courthouse Coordinators:

The courthouse coordinators would be the Principal Court Attorney to each of the 3 Supreme Court Justices and the Surrogate: David Gandin (Judge Rosa), Shannon Brady (Judge Acker), Christa Harper (Judge Greenwald) and Eric Conroy (Judge Hayes). Initially, the Court Attorney and/or the Judge would also be the mediator.

Subject matter rules:

1. Custody and Visitation

For custody and visitation cases, or any domestic relations matter, the judge or court attorney would speak first with the attorneys separately from the parties to ensure that the

referral to mediation is appropriate and that neither party feels coerced, intimidated or that there is an imbalance of power. In assessing the custody and visitation issues the judge would have to first evaluate whether an attorney for the children should be appointed and whether forensic evaluations might be necessary. Despite the goal of swift resolution, the best interests, emotional and physical safety of the children remain paramount.

2. Contract, tort, personal injury, malpractice, commercial and all other cases:

These matters shall be evaluated on a case by case basis. With rare exception, the attorneys are in the best position to decide whether some or all discovery is needed prior to mediation. At the Preliminary Conference and at any subsequent Compliance Conference the court/court attorney will evaluate whether the case is ripe for settlement discussions or referral to mediation.

Status/Compliance Conferences/ Discovery Protocols Prior to Mediation:

If the parties/counsel did not believe the case could be effectively conferenced until they conducted discovery, I would continue to offer opportunities for future settlement conferences including

1. post paper discovery: with the court or court attorney
2. post depositions: with the court or court attorney
3. after the completion of all discovery: with the court or court attorney.

Mediators:

The court, in an appropriate case shall, refer a matter to mediation. The parties may select a mediator from the Court's Roster of Mediators or a private Mediator in accordance with the time frame set forth in the 9th JD protocols for ADR.

Alternatives to Mediation:

Should mediation to fail, the court shall advise the parties and counsel of options other than a standard trial, such as a summary jury trial or binding arbitration.