

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

It is the policy of the Courts of the State of New York, as set forth in the State Chief Judge's Excellence Initiative, to encourage the resolution of disputes and the early settlement of pending litigation through various settlement procedures. Court ordered mediation is new to Orange County. Court personnel and local private mediators are limited in number. For this reason, the cases initially directed to mediation shall be of limited type. It is the intent to expand the program with the increase in availability of trained court personnel and local mediators.

The following shall govern cases filed in the Supreme Court, Orange County and shall be implemented together with an individual judges Part Rules. These Rules are also to be applied in concert with the Rules of the Ninth Judicial District Alternative Dispute Resolution Program.

1. Program Description:

Cases commenced in Orange County Supreme Court shall be directed to mediation unless otherwise directed by the individual judge. Cases shall be directed for mediation at the preliminary conference. An order shall be issued identifying the mediator; specifying the issue or issues to be addressed, and outlining a limited time frame for completion of the mediation. The mediator shall advise counsel of the date, time and place of mediation. The mediator may direct the parties to appear for multiple mediation sessions as he or she deems necessary.

The assigned judge shall enter a date for status conference after the completion of mediation. The mediator shall issue a report to the judge giving the status of the mediation and may request a further round of mediation to be granted upon approval of the judge.

2. Cases Qualifying for Mediation and Time Frames:

The types of cases which will be directed to mediation are listed below. It is anticipated that this list will be modified to include other case types as the program progresses and the number of trained mediators increase.

- Subrogation: All cases.
Mediation will be complete within 60 days of preliminary conference
- Contract : Cases seeking less than \$50,000.
Mediation will be completed within 45 and 120 days of preliminary conference.
- Matrimonial: Cases involving W-2 employees with issues of maintenance; child support; and equitable distribution. Cases where custody is resolved may be included. Cases involving contested custody or domestic violence will be not be included.
Mediation will be completed within 45 and 90 days of preliminary conference
- Post judgment
Matrimonial: All cases except those involving contempt applications.
Mediation will be completed within 30 and 60 days of initial appearance.

Personal

Injury: Cases with no insurance or minimal policies (\$25,000/\$50,000)
Mediation will be completed within 60 and 90 days of initial appearance.

3. Disclosure:

Standards and Goals time lines are not tolled by mediation. For this reason, discovery shall continue while preparing for and participating in mediation. Discovery schedules shall be set at the preliminary/initial conference with due dates to be determined by the assigned judge.

Copies of documents as indicated below shall be forwarded to the mediator at least 20 days prior to the first mediation. If the case is e-filed and the mediator is a member of the court system, copies of any e-filed document need not be provided. Additional documents will be produced at the request of the mediator.

Subrogation: Summons and complaint; answer; applicable insurance policy, if any; invoices.

Contract : Summons and complaint; answer; contract or documents claimed to establish a contract; proof of insurance, if relevant; proof of calculation of damages

Matrimonial: Summons and complaint; answer; Net Worth Statement with statutory attachments; Family Court orders, if any.

Post judgment

Matrimonial: Motion and/or Order to Show Cause with Attachments; Judgement of Divorce with incorporated separation agreement or stipulation of settlement; any documents which serve as proof of the alleged violation.

Personal

Injury: Summons and complaint; answer; applicable insurance policies; medical records.

4. Roster of Mediators:

Court personnel who have appropriate training shall serve as mediators for all types of cases.

The Dispute resolution Center shall be directed to provide mediators for subrogation; matrimonial and post judgment matrimonial cases.

The Administrative Judge for the Ninth Judicial District shall establish and maintain a Roster of Mediators. Requirements to qualify for placement on the roster are set forth in 22 NYCRR 146. Part 146 requires prospective mediators to have successfully completed forty (40) hours of training in an OCA sponsored or approved training program. The training must include 24 hours of training in basic mediation skills and techniques and 16 hours of training in a specific mediation techniques pertaining to the subject area of the types of cases referred to them. (Part 146.4) Additionally, each mediator must also have recent experience mediating actual cases in the relevant subject area. (Part 146.4) Procedure for placement on the roster will be provided.

The number of mediators assigned to a particular case shall be determined at the preliminary conference.

In matrimonial and post matrimonial matters, the cost of private mediators shall be shared proportionate to income.

In subrogation, contract and personal injury matters, cost of private mediators shall be shared equally.

5. Settlement Days with Insurers

Judges, at their option, may participate in Settlement Days which will be held at least quarterly. After the filing of the note of issue, the court shall designate those cases felt to be appropriate for participation.

Settlement days shall involve plaintiff and defense counsel; plaintiff; claims adjusters and judge.

A judge who chooses not to personally participate may direct any case he or she deems appropriate post note of issue.

6. ADR Coordinator:

Each Part shall designate an individual to serve as ADR Coordinator for the part. That person shall be identified in the Part Rules and shall serve as the contact person for questions on the mediation process.