

# VIRGINIA-EASTERN

## LOCAL CIVIL RULE 83.6

### SETTLEMENT AND ALTERNATIVE DISPUTE RESOLUTION

(A) The Court encourages the parties to meet and consult with each other to achieve settlement. Pursuant to 28 U.S.C. §§ 651, 652, and 653, as amended by the Alternative Dispute Resolution Act of 1998, the use of mediation as an alternative dispute resolution process in all civil actions, including adversary proceedings in bankruptcy, is authorized. Before the initial pretrial conference or in the scheduling order, litigants in all civil cases shall be advised of the availability of mediation and may request it. The continued utilization of settlement conferences as a form of mediation is also authorized.

(B) The parties by consent may select and compensate any mutually acceptable non-judicial mediator or neutral. No mediator or neutral may be compensated by contingent fee. After mediation ends, the parties and the mediator or neutral shall file under seal a report stating (1) the name and address of the mediator or neutral; (2) his or her compensation and who paid it; and (3) the result of the mediation.

(C) All district judges, magistrate judges, and bankruptcy judges are authorized (a) to act as mediators or neutrals; and (b) to appoint as mediators or neutrals any appropriately trained nonjudicial person, in which event the appointing order shall establish the compensation to be paid for the services of such non-judicial person and shall schedule a time for completion of mediation. Any participant or potential participant in ADR who is able to establish an inability to pay a pro rata share of the neutral's proposed compensation, may petition the Court for the appointment of a judicial neutral.

(D) The appointment of a mediator or neutral shall not operate to postpone or stay the scheduling of any case or controversy nor shall such appointment be grounds for the continuance of a previously scheduled trial date or the extension of any deadlines previously scheduled by the Court.

(E) The substance of communication in the mediation process shall not be disclosed to any person other than participants in the mediation process; provided, however, that nothing herein shall modify the application of Federal Rule of Evidence 408 nor shall use in the mediation process of an otherwise admissible document, object, or statement preclude its use at trial.

(F) The chief judge of the district court shall appoint an ADR Administrator for the district. Duties of the Administrator shall include the following: implementing, administering, overseeing and evaluating the Court's ADR programs; providing rules for the qualification of mediators and neutrals; and consulting with the chief judge of the district court, members of the bar, and the United States Attorney relative to exempting specific cases or categories of cases from ADR.

(G) Disqualification of neutrals: Neutrals shall be disqualified from participation in any case in which the individual, his or her law firm, group, or organization may be personally affected by

the outcome of the mediation or their impartiality may be called into question. Accordingly, the provisions of 28 U.S.C. § 455 apply to neutrals by application of this Local Rule. Neutrals shall also refrain from activity that may call into question their impartiality, for example, acceptance of gifts or favors of any kind from a party.

(H) By order, a district judge, or a magistrate judge to whom a case has been referred on consent or for settlement conference, may provide that counsel and/or a party representative with full settlement authority shall attend a settlement conference at any time the judge considers appropriate.