

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

IN THE MATTER OF)
)
PILOT PRISONER)
MEDIATION PROGRAM)
)
_____)

GENERAL ORDER NO. 99-2

1. SCOPE AND PURPOSE OF RULE

1.1 Scope. This General Order ("Order") governs the elective referral of certain prisoner civil rights and Bivens cases by a district or magistrate judge to a neutral member of a mediation panel appointed by the Court for prisoner mediation proceedings. The Order shall be effective on January 1, 1999, and applies to actions which fall within the scope of the Order.

1.2 Purpose. The Court finds that in this district, the substantial increase in the filings of civil rights cases by prisoners and the shortage of district and magistrate judges have placed significant pressures on litigants, counsel, and the Court.

2. ADMINISTRATION

2.1 Appointment of the Coordinator. The Pilot Prisoner Mediation Panel shall be coordinated by a Panel Coordinator (the "Coordinator") at the direction of the Clerk of Court.

2.2 Duties of the Coordinator. The duties of the Coordinator shall be established by the Court, and shall include the following:

- (a) Maintenance of the current list of panelists available to act as mediators,

and regular circulation of said list to the district and magistrate judges of the Court.

(b) Periodic reporting to the Court on the status and effectiveness of the Pilot Prisoner Mediation Panel, and maintenance of records including disposition and success rates for this purpose.

(c) Performance of any additional duties as the Court may direct which are necessary for the efficient administration of the Pilot Prisoner Mediation Program.

2.3 Duties of the Bar.

The Court shall appoint a committee of federal court practitioners for the purpose of:

(a) Assisting the Court with the recruitment of suitable mediation candidates;

(b) Reviewing candidate applications for the Pilot Prisoner Mediation Panel and providing advice to the Court in connection with the selection and appointment of panel members; and

(c) Performing such additional duties as the Court may direct which are necessary for the efficient administration of the Pilot Prisoner Mediation Program.

3. MEDIATOR QUALIFICATIONS AND SELECTION

3.1 Qualifications. In order to serve as a mediator under this program, a person must be a member in good standing of the Bar of the United States District Court, Central District of California, with at least 10 years legal practice experience.

3.2 Application of Candidates. An application for selection as a Mediator must be made in the form attached hereto as Exhibit "A", and shall be submitted to the Coordinator.

3.3 Appointment of Attorney Settlement Officers. Mediators shall be appointed by the Court.

3.4 Term of Appointment. Appointment to the Pilot Prisoner Mediation Panel shall be until the mediator completes one case per year, unless extended by the mediator. The Court may, in its sole discretion, remove any person from the Pilot Prisoner Mediation Panel who is unable to commit sufficient time to or otherwise meet the requirements of the Pilot Prisoner Mediation Program.

3.5 Compensation. Acceptance of a mediator position is voluntary, and no compensation will be paid to attorneys acting as Mediators. Telephone and copying costs and expenses up to \$75.00 per case and actual travel at \$.32 per mile will be reimbursed by the Court upon submission of an expense report and supporting documentation forwarded and approved by the Coordinator.

4. REFERRAL OF CASES TO THE PILOT PRISONER MEDIATION PROGRAM

4.1 Review of Case by Judge. Prior to any case being referred to a mediator, the case will be thoroughly reviewed by the assigned district or magistrate judge in accordance with applicable law. Only those cases the district or magistrate judge finds to be colorable, non-frivolous and appropriate for this Pilot Prisoner Mediation Program will be referred to a mediator.

4.2 Selection of Mediator. The district or magistrate judge assigned to the case shall select three names from the Pilot Prisoner Mediation Panel as potential mediators by completing a "Judge Selection of Attorneys for Prisoner Mediation Proceeding", in the form attached hereto as Exhibit "B". This form is forwarded to the Coordinator who will contact the first name on the

list and determine that person's availability by completing "Notice of Selection of Attorney for Prisoner Mediation Proceeding", in the form attached hereto as Exhibit "C". A copy of the Notice will be forwarded to the district or magistrate judge. Should that person be unavailable, the Coordinator will continue down the list until a mediator accepts his or her selection. If none of the panel members on the list is available, the Coordinator will notify the district or magistrate judge and the judge will begin the selection process again.

4.3 Effect of Referral. Unless otherwise ordered, a referral to the Pilot Prisoner Mediation Program shall not interfere with any party's right to discovery, alter scheduled pre-trial or trial dates, or otherwise affect the operation of the Federal Rules of Civil Procedure or any other rule of this Court.

5. ASSIGNMENT OF CASE TO MEDIATOR

Upon obtaining the consent of a panel member to mediate the case, the Coordinator will complete a "Notice of Assignment of Attorney for Prisoner Mediation Proceeding", in the form attached hereto as Exhibit "D". The Coordinator shall file the Notice of Assignment with the Court and shall forward a copy to the district or magistrate judge and all interested parties.

6. SCHEDULING AND LOCATION OF MEDIATION

6.1 Notice to Parties of Mediation. Upon receiving the Notice of Assignment, the mediator shall schedule a time and date for the mediation proceedings with all interested parties and/or their representatives. The mediation proceeding shall occur as soon as reasonably possible. The mediator shall notify the Coordinator of the time and date of the mediation proceedings.

6.2 Continuances and Rescheduling. No continuance or rescheduling of the mediation proceeding shall be granted except upon agreement of the mediator. The Coordinator shall be notified of any continuance or rescheduling of mediation proceedings.

7. CONFIDENTIALITY OF PROCEEDINGS

All mediation proceedings shall be confidential and no statement made therein shall be admissible in any other proceeding in the case, unless the parties otherwise agree. No part of the mediation proceeding shall be reported, or otherwise recorded, without the consent of the parties, except for any memorialization of a settlement agreement.

8. CONDUCT OF MEDIATION PROCEEDINGS

Within five days after the conclusion of the mediation proceeding, the Mediator shall file with the Court a "Proceeding Report for Prisoner Mediation", in the form attached hereto as Exhibit "E", and also mail copies to the district or magistrate judge, all interested parties, and the Coordinator.