

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

IN THE MATTER OF)
)
ALTERNATIVE DISPUTE) GENERAL ORDER NO. 07-01
RESOLUTION PILOT) (Supersedes General Order 02-07)
PROGRAM)
_____)

1. SCOPE AND PURPOSE OF RULE

1.1 Scope. This General Order ("Order") governs the mandatory and elective referral of certain actions for settlement conferences with a neutral member of the Attorney Settlement Officer Panel appointed by the Court. The Order shall be effective on January 1, 2003, and applies to actions which fall within the scope of this Order, regardless of when the actions commenced.

1.2 Purpose. The Court finds that the number of criminal and civil cases in this District, together with the adoption of Congressional requirements for the priority scheduling of criminal trials and the shortage of Judges in this District, have placed significant pressures on litigants, counsel, and the Court. The purpose of this Alternative Dispute Resolution Pilot Program (hereinafter referred to as

ADR Pilot Program) is to alleviate some of these pressures and to encourage the fair, speedy, and economical resolution of controversies by referring suitable cases to an impartial Attorney Settlement Officer who is experienced in one or more designated areas of law or in the processes of alternative dispute resolution.

2. ADMINISTRATION

2.1 Appointment of the Coordinator. The ADR Pilot Program shall be coordinated by a Program 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 Attorney Settlement Officers, and regular circulation of said list to the Judges participating in the Program.

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

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

3. ATTORNEY SETTLEMENT OFFICER QUALIFICATIONS AND SELECTION

All attorneys who are appointed to the Attorney Settlement Officer Panel as outlined in General Order 04-01 are automatically appointed as settlement officers participating in the ADR Pilot Program.

4. IDENTIFICATION OF CASES FOR REFERRAL TO THE ADR PILOT PROGRAM

4.1 Mandatory Referral to the ADR Pilot Program. The ADR Pilot Program shall apply to civil cases assigned to district judges participating in the Program that meet the following criteria:

- (a) The prayer for relief is \$250,000.00 or less, or
- (b) The nature of suit is one of the following categories listed on

the civil cover sheet:

- (1) Contract - insurance (110)
- (2) Contract - marine (120)
- (3) Contract - Miller Act (130)
- (4) Personal injury - assault, libel and slander (320)
- (5) Personal injury - marine (340)
- (6) Personal injury - marine product liability (345)

- (7) Personal injury - motor vehicle (350)
- (8) Personal injury - motor vehicle product liability
(355)
- (9) Other personal injury (360)
- (10) Personal injury - medical malpractice (362)
- (11) Personal injury - product liability (365)
- (12) Bankruptcy Appeal 28 USC §158 (422)
- (13) Bankruptcy Withdrawal 28 USC §157 (423)
- (14) Americans with Disabilities Act - Other Civil
Rights (440)
- (15) Civil rights - employment (442).

Potential class action cases shall not be referred to the ADR Pilot Program on a mandatory basis. Such class actions as the assigned judge determines would benefit from participation in the ADR Pilot Program may be referred to the Program by the judge.

4.2 Discretionary Referral to the ADR Pilot Program. Cases that the assigned judge determines would benefit from participation in the ADR Pilot Program but do not meet the criteria outlined in Section 4.1 of this General Order may be referred to the Program by the judge.

5. NOTICE OF REFERRAL

5.1 Mandatory Referral. In cases of mandatory referral, a “Notice to Parties of ADR Pilot Program” in the form attached as Exhibit “A,” and an “ADR Pilot Program Questionnaire” in the form attached as “Exhibit B” will be provided to plaintiff’s counsel at the time of the filing of the complaint. The Questionnaire is to be completed jointly by the parties and filed concurrently with the report required under Federal Rules of Civil Procedure 26(f).

5.2 Cases Transferred to a Judge Participating in the Pilot ADR

Program. For cases that are transferred to a judge participating in the ADR Pilot Program, a “Notice to Parties of ADR Pilot Program - Transferred Case” in the form attached as “Exhibit C” and an “ADR Pilot Program Questionnaire” in the form attached as Exhibit “B” will be provided to plaintiff’s counsel at the time of the transfer by the courtroom deputy clerk.

The Questionnaire is to be completed jointly by the parties and filed in accordance with the Notice.

5.3 Cases Transferred From a Judge Participating in the Pilot ADR Program to a Judge Not Participating in the Pilot ADR Program.

The provisions of this General Order are applicable to those cases that are transferred to a judge who is not participating in the ADR Pilot Program but who determines

that the case would benefit from and should remain in the ADR Pilot Program. If a judge who is not participating in the ADR Pilot Program determines that the case would not benefit from and should not remain in the ADR Pilot Program, then an order vacating the referral will be prepared.

5.4 Cases Assigned to a Magistrate Judge Pursuant to 28 U.S.C. section 636(c) and the Civil Local Rules. The provisions of this General Order are applicable to those cases that are assigned to a magistrate judge pursuant to 28 U.S.C. section 636(c) and the Local Civil Rules if the magistrate judge determines that the case would benefit from participation in this Program.

5.5 Discretionary Referral. For cases that do not meet the criteria in Section 4.1 of this General Order but the assigned judge determines would benefit from participation in this Program or a different settlement approach, a “Notice to Parties of ADR Pilot Program - Discretionary Referral” in the form attached as “Exhibit D” and an “ADR Pilot Program Questionnaire” in the form attached as Exhibit “B” will be provided to plaintiff’s counsel by the courtroom deputy clerk.

The Questionnaire is to be completed jointly by the parties and filed in accordance with the Notice.

6. ORDER OF REFERRAL

6.1 Mandatory Referral. In cases of mandatory referral, after the Questionnaire is reviewed by the judge assigned to the case, an “Order/Referral to ADR Pilot Program” in the form attached hereto as “Exhibit E” shall be completed by the courtroom deputy clerk.

After reviewing the Questionnaire, the judge may determine that a particular case is not suitable for mandatory referral. In such instances, an “Order/Referral to ADR Pilot Program” will not be prepared.

6.2 Discretionary Referral. For those cases the assigned judge determines would benefit from participation in this Program or a different settlement approach, after the Questionnaire is reviewed by the judge assigned to the case, an “Order/Referral to ADR Pilot Program” in the form attached hereto as “Exhibit E” or an alternative order as directed by the judge shall be completed by the courtroom deputy clerk and served on the parties.

7. SELECTION OF AN ATTORNEY SETTLEMENT OFFICER.

7.1 Selection. The parties may stipulate to an Attorney Settlement Officer on the current Attorney Settlement Office Panel List maintained by the Coordinator in accordance with General Order 04-01. If the parties are unable to stipulate to an Attorney Settlement Officer, a “Notice of Random Selection of

Attorney Settlement Officer Under the ADR Pilot Program” in the form attached hereto as “Exhibit F” will be completed by the Coordinator, or an Attorney Settlement Officer will be appointed by the Court.

7.2 Random Assignment. If the parties are unable to stipulate to an Attorney Settlement Officer to conduct the settlement proceedings, the Clerk of Court shall randomly select an Attorney Settlement Officer from the current Panel List with expertise in the area of law as designated by counsel for all parties.

7.3 Disclosure of Conflicts of Interest. An Attorney Settlement Officer shall promptly determine all conflicts or potential conflicts in the manner prescribed by the California Rules of Professional Conduct and disclose same to all parties in writing. If the Attorney Settlement Officer’s firm has represented one or more of the parties, the Attorney Settlement Officer shall promptly disclose the circumstance to all parties in writing.

8. OTHER SETTLEMENT OPTION.

Court permission must be obtained if a case has been referred to the ADR Pilot Program and the parties subsequently agree to have the case heard by a private or non-profit dispute resolution body for a mediation-type settlement proceeding. In such instances, counsel shall notify the Coordinator of this change.

9. MULTIPLE PARTY SETTLEMENT PROCEEDING

An Attorney Settlement Officer may conduct settlement proceedings for a group of related cases if (1) all parties to all cases agree, in writing, (2) all parties agree, in writing, to compensation terms and rates of the Attorney Settlement Officer, and (3) the Attorney Settlement Officer discloses to all parties the number of cases in which the Attorney Settlement Officer has previously conducted settlement proceedings involving any of the parties to the current proceeding.

10. SCHEDULING AND LOCATION OF SETTLEMENT PROCEEDINGS

10.1 Notice to Parties of Settlement Proceedings. Upon receiving notice of the assignment as the Attorney Settlement Officer, it is the Attorney Settlement Officer's responsibility to schedule a time, date and location for the settlement proceedings to occur as soon as reasonably possible. The Court shall provide suitable space for settlement proceedings if a request is made to the Coordinator. The Attorney Settlement Officer shall either notify the Coordinator of the time, date, and place of the settlement proceedings or notify the Coordinator that a settlement proceeding could not be scheduled.

10.2 Continuances and Rescheduling. No continuance or rescheduling of the settlement proceeding shall be granted except upon agreement of the

Attorney Settlement Officer. The Coordinator shall be notified of any continuance or rescheduling of settlement proceedings.

11. CONDUCT OF SETTLEMENT PROCEEDINGS

11.1 Submission of Confidential Settlement Statement. Each party shall submit a confidential settlement statement, in accordance with the Local Civil Rule.

11.2 Appearance by Party Representative. Each party shall appear at the settlement proceeding in accordance with the Local Civil Rule. With prior approval of the Attorney Settlement Officer, a party whose defense is provided by a liability insurance company need not personally attend, but a representative of the party's insurer shall attend and must be empowered to settle the case.

11.3 Attendance of Trial Attorney. Each party shall be represented at the settlement proceeding by the attorney who is expected to try the case, unless excused for good cause by the Attorney Settlement Officer.

11.4 Settlement Conference Surveys. At the time of the settlement proceeding, the Attorney Settlement Officer shall distribute to each litigant and attorney an "ADR Pilot Program Participant Survey" in the form attached hereto as Exhibit "G," to be returned directly to the Coordinator.

11.5 Report to the Coordinator and the Court. Within five days after

the conclusion of the settlement proceeding, the Attorney Settlement Officer shall submit to the Coordinator and file with the Court an “Attorney Settlement Officer Proceedings Report,” in the form attached hereto as Exhibit “H,” informing the Coordinator and the Court about the disposition of the case. The Attorney Settlement Officer shall also submit an “ADR Pilot Program Attorney Settlement Officer Survey” to the Coordinator in the form attached hereto as Exhibit “I.”

11.6 Confidentiality of Proceedings. As provided by the Local Civil Rules, all settlement proceedings shall be confidential and no statement made therein shall be admissible in any proceeding in the case, unless the parties otherwise agree. No part of a settlement proceeding shall be reported, or otherwise recorded, without the consent of the parties, except for any memorialization of a settlement agreement.

11.7 Immunity. Attorney Settlement Officers are performing quasi-judicial functions and are entitled to the immunities and protections that the law accords to persons serving in such capacity.

12. SANCTIONS FOR FAILING TO COMPLY WITH REQUIREMENTS

12.1 Failure to Appear. If counsel, or a party required to attend in person or through a representative, fails to attend a settlement proceeding, the Attorney Settlement Officer shall report the failure to the assigned judge. The assigned

judge may impose sanctions for willful failure to attend a settlement proceeding as the Court deems appropriate.

12.2 Failure to Comply With Settlement Proceeding Requirements.

The Attorney Settlement Officer may report to the assigned judge any failure by any party to comply with this Order and may recommend that sanctions be imposed by the Court for such failure. The assigned judge may impose sanctions as appropriate under the circumstances.