

U.S. DISTRICT COURT
N.D. OF N.Y.
FILED
September 22, 2009
LAWRENCE K. BAERMAN, CLERK

UNITED STATES DISTRICT COURT
for the
NORTHERN DISTRICT OF NEW YORK

General Order #35

In the Matter of:

The Establishment of an Assisted Mediation Pilot Program
for the Northern District of New York

The Court having given consideration to the expansion of its present Alternative Dispute Resolution Programs, and after hearing from and working with the Northern District of New York Federal Court Bar Association Committee on Alternative Dispute Resolution, hereby approves the establishment of an Assisted Mediation Pilot Program.

The purpose of the Assisted Mediation Pilot Program is to further enhance the Court's present court annexed mediation program by providing civilian pro se litigants with representation by volunteer attorneys.

The Court offers mediation as an adjunct to litigation which, if successful, resolves the case to the satisfaction of all parties¹. In mediation, the parties meet with a neutral third party - *the mediator*² - who helps the parties attempt to negotiate a settlement of the case. The mediator has no authority to impose a resolution. The mediator does not represent either side; his or her role is to help the parties communicate and to assist them in understanding whether it makes more sense to proceed with the lawsuit or to accept a negotiated settlement.

It is often difficult for parties who are not represented by counsel (*pro se litigants*) to participate effectively in mediation because they have no one to advise them and to assist them through the process. Pro se litigants also frequently have problems preparing for mediation without legal counsel. As a result, the Court working with the NDNY Federal Court Bar Association has established an experimental, pilot program hereinafter referred to as the Northern District Assisted Mediation Program. In this program, volunteer attorneys assist pro se litigants, but the assistance is limited to mediation in the Court's Assisted Mediation Program.

¹See Local Rule 83.11-1 (Mediation)

²For purposes of this Program, the (mediator or neutral) may be the assigned Magistrate Judge, another Magistrate Judge, or, a member of the Courts mediation panel.

The Assisted Mediation Program is open to civilian pro se parties filing new cases, and civilian pro se parties with pending cases. The assigned judge or magistrate judge will determine if the case would benefit from mediation and would also benefit from the assignment of counsel to assist the pro se party with the process. Participation in the program is in no way guaranteed and is at the discretion of the assigned judge or magistrate judge.

If a case is referred into the program, the presiding judge or magistrate judge will issue an order assigning the case to the assisted mediation program. The order will also include the designation of a mediator, which may be the assigned Magistrate Judge, another Magistrate Judge, or a member of the Courts mediation panel along with a date for or time frame in which the mediation session should be held. Once this occurs, the volunteer attorney will contact the pro se party to help prepare them for the mediation and also will go with the pro se party to assist them at the mediation session.

The procedures for conducting the mediation session will be dictated by Local Rule 83.11-5 and 83.11-6. Following the ADR session, the Court's Alternative Dispute Clerk will contact the parties and ask them to complete a short survey. The purpose of the survey is to provide the Court with information on how the program is proceeding and the perceptions of all participants involved in the mediation process. If the collected data shows that the program is a success, the pilot Assisted Mediation Program will be codified into the Local Rules of the Northern District of New York.

The Assisted Mediation Program Pilot Program will remain in effect until such time as the Court has gathered enough information to make an informed decision on the success and value of the program.

Dated this 22nd day of September, 2009

at Syracuse, New York, New York



Norman A. Mordue
Chief United States District Court Judge