

ILLINOIS – CENTRAL

January 20, 2010

RULE 16.4 ALTERNATIVE DISPUTE RESOLUTION

(A) General.

The court adopts these Rules pursuant to the Alternative Dispute Resolution Act of 1998 to make available to litigants a program of court-annexed dispute resolution processes designed to provide quick, inexpensive and satisfying alternatives to engaging in continuing litigation.

The court establishes mediation, summary jury trials and summary bench trials as the forms of alternative dispute resolution (“ADR”) available to the litigants in this court. These are available in all civil actions, including adversary proceedings and contested matters in Bankruptcy being heard by the District Court, except those cases listed in CDIL-LR 16.2(A).

(B) Definitions.

“Assigned judge” is the judge to whom the case is assigned for trial. The assigned judge will not preside over any form of ADR.

“Mediation” is a non-binding settlement process involving a neutral mediator who assists the parties to overcome obstacles to effective negotiation. In cases assigned to a district judge, the neutral mediator will normally be the magistrate judge to whom the case is referred.

“Summary jury trial” is a non-binding pretrial procedure in which the parties try their cases by narration to a jury with a judge presiding. The verdict or verdicts will serve as an aid in the settlement process.

“Summary bench trial” is a non-binding pretrial procedure consisting of a summarized presentation of a case to a judge whose decision and analysis will serve as an aid to the settlement process.

(C) The ADR Administrator.

The “ADR Administrator” is a person appointed by the court with full authority and responsibility to direct the program created by these Rules. The ADR Administrator will:

- (1) Oversee the operation of the ADR program in this court;
- (2) Assign cases to various judges throughout the district for ADR processes;
- (3) Prepare application for funding of the ADR program and administer any funds assigned; and

(4) Prepare such reports as may be required by the court or the Administrative Office of the U.S. courts concerning the operation of the program or the use of any funds allocated.

(D) Referral to ADR.

Parties are encouraged to use the ADR process created by these Rules. At the initial Rule 16 conference, the presiding judge will inform the parties of the availability of ADR processes and will encourage the parties to participate in ADR at an appropriate time. All litigants in civil cases, except those in cases listed in CDIL-LR 16.2(A), are to consider the use of alternative dispute resolution processes at an appropriate stage of the litigation.

(E) Mediation.

(1) Eligible Cases. Any civil case, including adversary proceedings in bankruptcy, may be referred to mediation.

(2) Reference to Mediation. A case may be referred to mediation at any time but only on agreement of the parties.

(3) Private Mediation. Nothing in these Rules will prevent the parties from agreeing or contracting to utilize private mediation. The parties will notify the ADR Administrator upon initiating private mediation and within 14 days after conclusion of private mediation.

(4) Neutrality of Mediator. If at any time the court-assigned mediator becomes aware of or a party raises an issue with respect to the mediator's neutrality, the mediator will either recuse himself or ask the ADR Administrator to determine the validity of the objection. In the event of recusal or well-founded objection, the ADR Administrator will designate another judge to act as mediator.

(5) Written submissions to the mediator. Within 7 days prior to the first mediation meeting, parties must submit to the mediator a memorandum setting forth their respective legal and factual positions. Such memoranda will be confidential and will not be disclosed to anyone.

(6) Attendance. The attorney who is primarily responsible for each party's case must personally attend all mediation conferences and must be prepared and authorized to discuss all relevant issues, including settlement. The parties must be present unless excused by the mediator. When a party's interest is represented by an insurance company, an authorized representative of the insurance company with full settlement authority must attend. Willful failure of a party to attend the mediation conference will be reported by the mediator to the ADR Administrator for transmittal to the assigned judge, who may impose appropriate sanctions.

(7) Confidentiality. The entire mediation process is confidential. Neither the

parties nor the mediator may disclose information regarding the process, including terms of settlement, to the court or to third persons unless all parties otherwise agree. Parties, counsel and mediators may, however, respond to confidential inquiries or surveys by persons authorized by the court to evaluate the mediation program. Information provided in such inquiries will remain confidential and will not be identified with particular cases. The mediation process will be treated as a compromise negotiation for purposes of the Federal Rules of Evidence and corresponding state Rules of evidence. The mediator is disqualified as a witness, consultant, attorney, or expert in any pending or future action relating to the dispute, including action between persons not parties to the mediation process.

(F) Summary Jury Trial.

Any civil case triable by jury may be assigned for summary jury trial when all parties consent to such a proceeding. Such a proceeding will be conducted by a judge other than the assigned judge. Summary jury trial is a flexible ADR process. The procedures to be followed should be set in advance by the judge who is to preside in light of the circumstances in the case.