



Comments on Proposed Pilot Mandatory Mediation Program in the Commercial Division of the
Supreme Court, New York County

The Committee on Alternative Dispute Resolution of the New York City Bar Association (ADR Committee) has considered the Proposal of the ADR Committee of the Commercial Division Advisory Council to Implement the Task Force Report's Proposal for a Pilot Mandatory Mediation Program and the Statement of the Administrative Judge Regarding Implementation of a Rule of the Commercial Division. The ADR Committee appreciates the opportunity to comment on the proposal and strongly endorses the proposed pilot mandatory mediation program.

The original proposal for this initiative by the Chief Judge's Task Force on Commercial Litigation in the 21st Century was based on findings that mediation expedites good results for parties and counsel and frees judges to do the unique parts of their job in applying and developing the law. The Committee of the Advisory Council's report shows the extensive consideration it gave to other ways of implementing a mandatory mediation program. Even if there is disagreement with some of the choices made, their choices are well-supported and the proposal is an excellent contribution to the goal of increasing successful and efficient case management and dispute resolution.

The benefits of a pilot mandatory program directing every fifth newly assigned case to mediation include the increased use of mediation and the ability to gather data about the process. To date, mediation in the Commercial Division has been underutilized. Even though the vast majority of cases in litigation settle before a final judicial determination, parties often have difficulty efficiently evaluating the strengths and weaknesses of their case. An effective mediator can help the parties resolve cases earlier in the process.

Data gathered from the 18 month pilot program will provide information addressing details concerning limited discovery needed for mediation; the amount of time needed to select a mediator and complete a mediation; satisfaction with the process, as well as other components necessary for successful implementation of a permanent mediation program.

The ADR Committee of the New York City Bar Association urges adoption of the Proposed Pilot Mandatory Mediation Program in the Commercial Division, New York County and offers our assistance in implementing the program.

Committee on Alternative Dispute Resolution
Chris Stern Hyman, Chair

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