

Pro Bono Appellate Mediator Panel Plan

The United States Court of Appeals for the Second Circuit hereby adopts this Plan to govern the appointment of mediators to the Pro Bono Appellate Mediator Panel to enhance the operation and effectiveness of the Court's Civil Appeals Mediation Program under Local Rule 33.1.

Statement of Policy

To increase the capacity of the Civil Appeals Mediation Program (CAMP) to mediate cases, the Court has established a Pro Bono Appellate Mediator Panel as set forth in this Plan to assist the Court's full-time circuit mediators. All counseled, civil appeals are eligible for mediation under Local Rule 33.1, with limited exceptions. CAMP screens all eligible cases to further assess whether mediation may be suitable and thereafter the Court orders selected cases into mediation. CAMP engages in mediations involving a broad range of legal disputes. The Court recognizes that because the Plan does not provide for compensation or reimbursement, mediators serving on the Appellate Mediator Panel are rendering a public and social service of the greatest importance. The program depends upon the cooperation and volunteer efforts of the private bar of mediators, and on the Court's commitment to providing an opportunity for service to participating mediators.

Pro Bono Appellate Mediator Panel

A. Maintaining the Appellate Mediator Panel List

The Director of the Office of Legal Affairs and the Chief Circuit Mediator, under the direction and supervision of the Chief Judge or the Chief Judge's designee, shall maintain the list of mediators on the Appellate Mediator Panel. The list of mediators shall include the name of each mediator and the current business address, email address and telephone number. Mediators accepted for service on the Appellate Mediator Panel must notify the Chief Circuit Mediator, in writing, of any changes in business address, business telephone number, email address, or employment.

B. Appellate Mediator Panel Appointments

Appointments to the Appellate Mediator Panel shall be made by the Court upon appropriate recommendation from the Legal Affairs Committee of this Court.

C. Applications

1. Submission Requirements

All applicants must be attorneys admitted to, and in good standing with, the Bar of the Second Circuit or of the Bar of a State in the Second Circuit. Applicants must submit to the Director of the Office of Legal Affairs and Chief Circuit Mediator an application and resume. Applicants must have at least 10 years of legal experience,

and substantial mediation experience. The Court will set and post on its website an annual application period for appointment to the Appellate Mediator Panel. Because the panel's size is limited, the Court cannot appoint every qualified applicant, but will rotate membership to ensure that new applicants are given an opportunity to serve.

2. Term of Appointment

Appellate Mediator Panel mediators shall serve for a term not to exceed three years, but may be removed by the Court prior to the expiration of a term (See Section D, Removal). Appointments to the Panel shall be made so that the terms of approximately one-third of the Panel mediators expire at the conclusion of each Term of Court. Upon expiration of the term of an Appellate Mediator Panel member, the mediator must reapply for membership if he or she wishes to continue as a mediator, however, cannot serve more than two consecutive three-year terms. Mediators will be selected on the basis of demonstrated qualification, skill and dedication. During the term of appointment, each mediator shall be provided a free PACER account to access pleadings and other relevant information.

D. Removal

1. A mediator on the Appellate Mediator Panel, as a representative of the Court, serves at the discretion of the Court and may be removed at any time, for no cause and without notice. A member of the Appellate Mediator Panel may be removed by the Court for declining multiple assignments during the membership term.
2. A mediator on the Appellate Mediator Panel will be suspended automatically if the mediator is disbarred or suspended by any state or federal bar or arrested for, charged with, or convicted of a crime. The mediator has an affirmative obligation to notify the Clerk of the Court, the Director of Legal Affairs and the Chief Circuit Mediator in writing, within 24 hours, of any such suspension, disbarment, arrest, filing of criminal charges or conviction.

E. Non-Panel Member Appointments

The Court may, from time to time, determine that the ad hoc appointment of a mediator who is not a permanent member of Appellate Mediator Panel is appropriate in the interest of justice, judicial economy, or some other compelling circumstances warranting such appointment.

F. Appellate Mediator Panel Appointment Procedure

Once the Chief Circuit Mediator determines that a case is suitable for mediation and that the case should be referred to the Appellate Mediator Panel, a mediator from the Panel will be selected for review of the case. Once the mediator accepts appointment in the case, an order will be entered to mediate with the named mediator. The mediator must confer with counsel for the parties to set the date, time and location of the initial mediation conference, which should be held within 28 days after the issuance of the order.

G. Duties of Appellate Mediator Panel Members

Upon acceptance of an assignment, the mediator shall conduct the mediation in accordance with Local Rule 33.1 and the Pro Bono Mediator Panel Policies and Procedures.

H. No Rights Created

This Plan does not create any rights as against any individual or institution; it is intended only as a non-exclusive description of the procedures this Court will follow.

I. Amendments

Amendments to the Plan may be made from time to time by the Court.

*Adopted June 12, 2018 at the Second Circuit Judicial Conference
(Saratoga Springs, NY)*