

# **THE HON. THOMAS T. GLOVER MEDIATION PROGRAM**

## **A USER'S GUIDE FOR INITIATING MEDIATION IN A MAIN CASE OR ADVERSARY PROCEEDING**

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**STEP 1. GET THE BALL ROLLING.** The first and most important step is to communicate as early as possible with the other party(ies) and ask if they will agree to mediation. Activating mediation under the Program is generally easy so long as at least one party takes the initiative to get the ball rolling by asking the other side to agree to mediate.

**STEP 2. SELECT A POTENTIAL MEDIATOR(S).** Research of possible mediators can start even before you propose mediation to the other party(ies). Initial investigation may allow you to identify potential mediators when you approach the other party(ies). Alternatively, both parties can investigate and discuss potential mediators after there is an agreement in principal for mediation.

To select a mediator, review the profiles of professionals on the Program mediation panel on the [Bankruptcy Court's website](#). Best practice is to agree with the other parties on at least two candidates in case of any of your potential mediators have conflicts or scheduling problems. When you review the profiles, consider the following about each panel member:

- A. Familiarity and/or experience with the nature and type of dispute that will be the topic of mediation;
- B. Location of the mediator if location is a factor in your decision; and
- C. Any other factors relevant to you and/or your client(s).

### **STEP 3. CONTACT POTENTIAL MEDIATOR(S) AND DISCUSS:**

- A. Availability for the time period in which mediation is desired, taking into account the schedule in your proceedings (e.g., hearing or trial date);
- B. Whether the potential mediator(s) has any potential conflicts of interest;

- C. Whether mediation will be in person, via phone or video conference;
- D. Program fees ([LBR 9050](#)): review the flat fee and hourly fee structures and consider how they apply to your specific matter. If the expected length of your mediation conference will exceed the Program time limit for applicability of the flat fee, take into account the hourly rate charged by the mediator;
- E. Any agreements the mediator expects the parties to execute (e.g., mediation and confidentiality agreements); and
- F. The mediator's expectations for pre-mediation preparation including pre-mediation statements ([LBR 9045-1](#)).

**STEP 4. CONFER, DECIDE, AND ENTER INTO STIPULATION ON MEDIATOR(S).**

- A. All parties discuss the information about the potential mediators and agree upon the panelist(s) you want to serve as your mediator(s); and
- B. Prepare the [stipulation for appointment of the mediator\(s\)](#) and the order appointing mediator. File the Stipulation and the proposed order for Court approval, either through the Court's electronic filing system (CM/ECF) or, if not represented by counsel, by submitting paper copies to the Court.

**STEP 5. NOTIFY MEDIATOR OF APPOINTMENT; RECEIVE MEDIATOR'S PROCEDURES/INSTRUCTIONS; AND CONCLUSION OF MEDIATION**

- A. Upon entry of the Order appointing mediator, notify the mediator of the entry of the order for appointment.
- B. After entry of the appointment order, the mediator will coordinate the scheduling of the mediation and initial pre-mediation phone conference, prepare and transmit the agreements required for serving as mediator, and identify the information (including position statements) required of the parties.