

HONORABLE THOMAS T. GLOVER MEDIATION PROGRAM

Instructions for Parties

(Effective December 1, 2019)

IMPORTANT, PLEASE NOTE: This information sheet should be used in complying with the requirement of Local Bankruptcy Rule 9040-1 to discuss alternative dispute resolution with clients.

The United States Bankruptcy Court for the Western District of Washington (the “Bankruptcy Court”) has established an alternative dispute resolution program known as The Honorable Thomas T. Glover Mediation Program (the “Program”).

This description of the Program is being provided to you by the Bankruptcy Court because you are, or may be, a debtor or creditor in a bankruptcy case and/or a party to an adversary proceeding before the Bankruptcy Court, or counsel to a party involved with a bankruptcy case or an adversary proceeding, and may find this Program useful to you. If you are a party to an adversary proceeding, you are required by Local Bankruptcy Rule 9040-3 to discuss available dispute resolution options and consider whether your case might benefit from dispute resolution options, and submit a certification to the court within a specified period of time.

The Program offers a means to resolve disputes quickly, at less cost and often without the stress and pressure of litigation. The Program offers a means to utilize the services of a trained mediator (the “Mediator”) to assist the parties in the resolution of their dispute. The parties choose the method of resolution that best suits their needs.

Matters That May Be Referred to the Program

The Program is available to parties, whether or not represented by counsel, in all controversies arising in adversary proceedings, contested matters or other disputes in a bankruptcy case with a few exceptions.

Cost

There is a cost of \$500 per side payable directly to the Mediator in exchange for six (6) hours of mediation related services, which will generally be incurred in both preparation and conducting the mediation, provided, however, that the Mediator will spend a minimum of four (4) hours in actual mediation with the parties. Any portion of the fee, for one or more of the parties, may be waived at the discretion of the Mediator for a matter where one or more of the parties are unable to afford the fee, such as a pro bono matter. Once the Mediator has performed six (6) hours of Program related services, the parties and the Mediator may agree that the mediation should continue and that compensation to the Mediator will be paid at a rate not to exceed \$300 per hour, to be split evenly among the parties, unless, however, (i) the Mediator agrees to permit a

party or parties to continue to participate in the mediation without charge, and (ii) the other party or parties sharing the Mediator's additional fees are not charged for the non-paying participant's share. It is suggested that the Mediator and the parties confer in advance as to the amount of time the Mediator will need for preparation and whether enough time will be allotted to the mediation proceeding.

Procedure for Referring a Matter to the Program

The rules governing the Program are found in Local Bankruptcy Rules 9040-1 through 9050-1. The rules are available in the Clerk's Office or at the Court's website, www.wawb.uscourts.gov. These instructions and the forms related to the Program are also available on the Court's website.

A matter may be referred to the Program by the Court with or without the agreement of the parties at any time. Typically, the Court might refer a matter to the Program at a case management or status conference or hearing. Alternatively, the parties may, at any time, submit a stipulated order requesting that the matter be referred to the Program. The stipulated order should recite that all parties to the dispute agree to the referral.

The following steps should be taken whenever a matter is referred to the Program:

1. The parties to the dispute are to confer and select a Mediator and an Alternate Mediator from the monthly lists of available panel members. These lists are posted in the Clerk's office and on the Court's website. The lists may also be obtained from the Courtroom Deputies. You may call the Program Staff Administrator, Gina Zadra Walton, at (206) 370-5207 to check the availability of one or more of the Mediators. Your selection of a Mediator and an Alternate should be made only from the current published list. A complete list of all panel members, including short biographies, is provided for reference in the Clerk's office at the intake counter. In addition, Mediator biographies and all Program information is posted on the Court's web site at www.wawb.uscourts.gov.
2. The parties should agree on who is to complete the Stipulation Appointing Mediator and Assignment to The Honorable Thomas T. Glover Mediation Program and then submit the Order Appointing Mediator for approval. If you are not an electronic filer, then provide two copies of the order to the court for signature, together with a stamped return envelope addressed to the submitting party.
3. The Program is designed to be a streamlined procedure. Upon receipt of the signed order, the submitting party must immediately serve a copy of the order on the Mediator, the Alternate (if applicable), and all parties to the dispute.
4. Once the Mediator receives a copy of the order, he or she will contact the parties to schedule a conference. The Mediator, in conjunction with the parties, will determine a time, place and format for the conference. Possible formats are as follows:

Facilitation – Facilitation is a collaborative process in which the Mediator functions as a neutral providing information about the process. The Mediator does not make substantive

contributions regarding the merits of the dispute or possible settlements. A facilitator helps the parties define the issues in order to increase the likelihood that the parties will reach a consensus.

Mediation – Mediation is a flexible non-binding, confidential process in which a neutral facilitates negotiations among the parties to help them reach settlement. The mediator's goals include: improving communication across party lines, helping parties articulate their interests and understand those of their opponent, probing the strengths and weaknesses of each party's legal positions, helping identify areas of agreement and generating options for a mutually agreeable resolution to the dispute. The mediator generally does not give an overall evaluation of the case. A hallmark of mediation is its capacity to expand traditional settlement discussion and broaden resolution options often by going beyond the legal issues in the controversy.

Early Neutral Evaluation – In Early Neutral Evaluation the parties and their counsel, in a confidential session, present summaries of their cases and receive a non-binding assessment by an experienced neutral professional with subject-matter expertise. The evaluator also helps identify areas of agreement, provides case-planning guidance and, if requested by the parties, settlement assistance.

All of the above are non-binding, voluntary, and confidential. Other processes and procedures, with the exception of arbitration, may be used by agreement and at the discretion of the parties and the Mediator.

If you have any questions about the Program, please contact the Program Staff Administrator, Gina Zadra Walton, by phone at (206) 370-5207 or by email to gina_zadra_walton@wawb.uscourts.gov.