

Second Amended Notice re Procedures in All Cases Referred to ENE or Mediation
and re Pre-Mediation Procedures in Cases Subject to General Order 56

On June 4, 2020, Chief Judge Phyllis Hamilton approved the following amended procedures applicable to cases referred to ENE or Mediation through the Court's ADR Program:

The requirement of in-person attendance set forth in ADR L.R. 5-10 and 6-10 is suspended, and no in-person ENE or mediation sessions shall take place until further notice, even if gathering in person at the appointed time would be permitted by state or local laws. All ENE and mediation sessions shall take place by videoconference within the time set by the Court or within the presumptive time set by operation of ADR L.R. 3-7.

Parties must meet and confer with one another and consult with the assigned neutral regarding the appropriate timing for their ENE or mediation session. If the parties agree to proceed by video conference before the ADR completion deadline, no filing is required. If the parties wish to extend the ADR completion deadline for any reason, they must file either a stipulation and proposed order or an administrative motion with the assigned judge specifying the reason for seeking an extension and the proposed date for the ENE or mediation session. Requests to extend the ADR completion deadline indefinitely are disfavored.

If technological barriers preclude a party from participating by videoconference, the assigned neutral may authorize telephonic participation for that party or may request approval from the ADR Director to conduct the entire session telephonically. If participating by videoconference would impose an extraordinary or otherwise unjustifiable hardship for a reason unrelated to technological barriers, a request for relief must be presented to the ADR Magistrate Judge at least 14 days in advance of the scheduled session, in accordance with ADR L.R. 5-10(d) and 6-10(d).

On June 4, 2020, Chief Judge Phyllis Hamilton approved the following procedures applicable to ADA Access cases subject to General Order 56:

In any case subject to General Order 56 involving a physical site, the deadlines for conducting a joint site inspection and settlement meeting are deemed tolled from March 25, 2020 until June 4, 2020. For a physical site that is closed on or after June 4, 2020, these deadlines are deemed tolled until the site is again open to the public.

The ADR Program will refer a case for mediation if the required Form GO 56-Notice of Need for Mediation and Certification of Counsel (amended June 4, 2020) certifies (a) that all required participants attended the joint site inspection and the settlement meeting required by General Order 56 either
(i) by videoconference, or

(ii) in person, so long as all participants agreed and gathering in person was permitted by applicable state and local laws; and
(b) that the parties have completed the initial disclosures required by Fed. R. Civ. P. 26(a)(1) and have complied with General Order 56, paragraph 4.

Neither the joint site inspection nor the settlement meeting may be conducted by telephone or email. The parties may by agreement elect to replace the joint site inspection with another process that enables them to obtain and exchange the information needed to prepare effectively to evaluate the case for resolution at the settlement meeting. If the parties elect to replace the joint site inspection with another process, they must attach to the Notice of Need for Mediation and Certification of Counsel a joint letter describing the terms of the parties' agreement and confirming that all requirements of the agreement have been satisfied.

Any request for relief from these procedures must comply with General Order 56, paragraph 3, and, for the convenience of the assigned judge, must attach to the stipulation or administrative motion a copy of this Second Amended Notice.