

## ***PRESS RELEASE***

By the United States Bankruptcy Court for the  
Eastern District of New York

### ***“The United States Bankruptcy Court for the Eastern District of New York Announces the Creation of a Mediation Program”***

The Honorable Conrad B. Duberstein, Chief Judge of the United States Bankruptcy Court for the Eastern District of New York, announced that the Judges of the Bankruptcy Court for the Eastern District of New York have unanimously approved the establishment of a mediation program to assist in the resolution of disputes within bankruptcy proceedings. The Local Rules governing this program will become effective on April 1, 2002, by which time they will be published and made available to the public. In the intervening period, persons may apply to be certified to serve as a mediator in the program.

Chief Judge Duberstein stressed the importance of having an established mediation program available to the public. “During this turbulent economic period, it is particularly important for both debtors and creditors to have a forum within which disputes might be resolved in an economical and streamlined manner. All too often, parties find themselves embroiled in litigation disputes that are thereafter appealed to other courts. That process is expensive and time-consuming. Mediation enables the parties to work swiftly toward a mutually acceptable arrangement, all of which is consistent with the goals of the Bankruptcy Code.”

Chief Judge Duberstein applauded the efforts of Bankruptcy Judge Melanie L. Cyganowski who worked with an advisory committee comprised of the leaders of the bar associations in the Eastern District. Former Bankruptcy Judge Robert J. Hall chaired the ADR advisory committee and Thomas Slome, Esq., of Rosen & Slome LLP, led the task force that focused on mediation. Chief Judge

Duberstein commended them and all the members of the ADR advisory committee for their service and the many hours of research that led to the formulation of the mediation program.

Other members of the ADR advisory committee were Harriette M. Steinberg, Esq., Salvatore LaMonica, Esq., Holly D.F. Meister, Esq., Anthony Michael Sabino, Esq., Robin Abramowitz, Esq., Leslie Ann Berkoff, Esq., David Doyaga, Esq., Paul Goldstein, Esq., Paul Hollender, Esq., Bruce D. Mael, Esq., Bonnie L. Pollack, Esq., Richard Stern, Esq., and Howard Wunderlich, Esq.

Chief Judge Duberstein also noted that Judge Cyganowski will chair a Sub-Committee of Bankruptcy Judges that will deal with mediation-related issues. Bankruptcy Judge Carla E. Craig will also serve on the Sub-Committee.

### ***The Appointment of the Mediators***

Persons must first apply to be certified as a mediator within the EDNY Bankruptcy Court program. Applications may be obtained at the Clerk's Office at the United States Bankruptcy Court, 75 Clinton Street, Brooklyn, NY 11201, or at the United States Bankruptcy Court, Long Island Federal Courthouse, 290 Federal Plaza, Central Islip, NY 11722. Applications to serve as a mediator will be accepted on an ongoing basis. Appointments will be made by the Bankruptcy Judges throughout the year.

The term of a mediator is three years, subject to renewal. Prospective applicants may be lawyers or professionals in their respective fields. There are different applications, depending upon whether the applicant is a lawyer or a non-legal professional.

Minimum qualifications are set forth in the Local Rule, including: (i) being a member in good standing of the New York State Bar for at least five years; (ii) being admitted to practice before one of the District Courts in the Second Circuit; (iii) having completed at least 12 hours of mediation training; (iv) not having been suspended, disbarred or convicted of a felony; (v) being willing to undertake a minimum of three pro bono mediations during a three-year period; and (vi) not having been affiliated with or employed by the Court during the 36-month period preceding the date of such person's appointment to the Mediation Register. Applicants may seek a waiver of any of these prerequisites by showing equivalent experience.

The Clerk of the Bankruptcy Court will maintain a Mediation Register which will be publicly available. It will contain a brief biography as well as information about the mediator's fees, which will be supplied by the mediator. The applications of the mediators will also be available to the public.

### ***The Mediation Process***

The program is designed so that a controversy may be assigned to mediation either by (a) the Court *sua sponte*, (b) a motion by a party in interest, including the United States Trustee, or (c) upon a stipulation presented by the parties. In the usual course, the mere fact that a matter is assigned to mediation will not stop the litigation process unless the Court decides to place the case in suspense.

Upon being assigned to mediation, the parties will be required to choose a mediator and one alternate from the Mediation Register. If they cannot decide, the Court may select one. The parties will then meet with the mediator and decide upon the terms of the mediation, the fees to be paid to the mediator, any deadlines that might be imposed by the mediator or the parties, the names of the representatives who will be involved, and so on. The first mediation conference must take place within 50 days of the initial order assigning the matter to mediation.

There is no deadline *per se* within which the parties are required to complete their mediation efforts which will be left to the discretion of the Court and the parties. If the mediation is successful, then the parties will submit a written agreement to the mediator which can then be served and filed with the Court. If necessary, an appropriate motion would then be made.

### ***Compensation of the Mediator***

There are no fixed fees for a mediator. Rather, the issue of fees is left to the discretion and agreement of the parties. Since the fee structure of a proposed mediator is publicly available and included with the application of the mediator on file with the Clerk's office, the parties will be able to anticipate the fees in advance of their selection of a mediator.

*For Further Information: Visit the court's web site at <http://www.nyeb.uscourts.gov>*

*Dated: March 15, 2002*