

NEW YORK COUNTY (SURROGATE MELLA) PRESUMPTIVE ADR PROGRAM REFERRAL GUIDE

REFERRAL

- **Court Initiated:** The Judge may refer a matter to ADR by completing an Order of Reference if the matter is eligible for presumptive ADR.
- **Party/Attorney Initiated:** Parties/Attorneys may volunteer to be referred to mediation by completing an ADR Initiation Form. Upon submission of the ADR Initiation Form, the Court shall consider the request and, if deemed appropriate, issue an Order of Reference. (See, Mediation Rules and Rosters of Mediators below).
- Matters are referred to ADR as early as possible but may be referred at any point during the proceeding(s).

EXCLUSIONS

- Matters involving allegations of domestic violence, child abuse or neglect, or severe power imbalance between the parties and/or where a temporary or final Order of Protection is in effect are not appropriate for presumptive referral to the program.
- Parties/Attorneys may opt out of Presumptive ADR for good cause and must state the reason(s) why. (See, Mediation-Opt-Out-form-Order).

MEDIATOR SELECTION

- **Court Initiated:** The Order of Reference will reflect the ADR alternative chosen by the parties or by the court in consultation with the parties. In case it does not, the Parties/Attorneys shall advise Court staff or the ADR Coordinator of their chosen ADR alternative (e.g. mediation with [Community Dispute Resolution Centers](#) (CDRC)/ Roster Neutral/ Non-Roster Neutral) within 5 business days of receipt of the Order of Reference.
- If the Parties/Attorneys are unable to agree upon a Neutral, the Court shall: a) pick a Neutral from a list provided by the parties; or b) assign a Mediator from the Court's Roster of Mediators.
- If the Parties/Attorneys select a Non-Roster Neutral, they shall inform the court staff of the name and contact information of the Neutral selected and the date of the first mediation session, or other ADR method, within 5 business days of executing the agreement to retain the Neutral.

ROSTERS OF MEDIATORS

- If the matter is referred to a Roster Neutral, the Parties/Attorneys may select a Mediator from the approved list of NEW YORK SURROGATE MEDIATORS.
- The Roster Neutral is not compensated for preparation time or the first 120 minutes of mediation. The members of this Roster have agreed to provide mediation services for the court at the mediator's customary rate after the first 120 minutes of mediation have been expended.

REPORT

- Mediators should submit a Report of Mediator Form to ADR Coordinator within five business days after the conclusion of the mediation session(s) indicating whether the mediation sessions were held and whether the referred matter was fully/partially resolved, or whether there was no resolution. Mediators should also make sure mediation participants complete the Post-Mediation Survey.

CONFIDENTIALITY

- NOTE: ADR processes, except for settlement conferences with court staff, are confidential. Documents and communications exchanged during those processes shall not be disclosed to the Court unless there are threats of imminent or serious harm, or there are allegations of child abuse or neglect.

For further information or additional assistance please contact: Lauren A. Jones, Esq., ADR Coordinator, New York City Surrogate's Courts; ljones@nycourts.gov; (646) 386-5267 or visit the [NYS ADR Webpage](#).