

5.1 | DESCRIPTION OF MEDIATION AND ITS PROCESS

Mediation, as defined in proposed Local Rule 16.2-1 and as further detailed herein, is a flexible, non-binding, confidential process in which a qualified Neutral, the Mediator, facilitates resolution of the issues between the parties and assists with settlement discussions. Through various methods and techniques, the Mediator seeks

to improve communication between the participants (parties, counsel, experts or whoever is included in the mediation);

helps participants articulate their interests;

helps participants understand the interests of the other participants, including their "opponent;"

probes the strengths and weaknesses of each party's legal positions; and

helps generate and define options for a mutually agreeable resolution.

The Mediator may engage in "reality checking," but will not give an overall evaluation of the case unless requested by all the parties. The Mediator has no fact-finding or decision-making authority. The central tenet of mediation is that the parties find their own solutions, with the assistance of the Mediator. A hallmark of mediation is its capacity to go beyond traditional settlement discussions and explore creative outcomes responsive to the participants' needs and interests.

*(US District Court, New York, Western District // Buffalo, NY 14202
Judy Hernandez, Staff Attorney)*

