



**USNYWD'S ADR HANDBOOK
SECTION 3: NEUTRALS
[ALL-IN-ONE DOCUMENT]**

Alternative Dispute Resolution
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ADR PLAN

US DISTRICT COURT, NEW YORK, WESTERN DISTRICT

SECTION: 3 NEUTRALS

AUTHOR: US DISTRICT COURT, NEW YORK, WESTERN DISTRICT

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ITEMS: 3.1 through 3.3



3.1 | NEUTRALS

A. Neutral Panels. The Court shall maintain panels of Neutrals to serve the various interventions and processes under the ADR Plan. Membership on any panel is a privilege, not a right. The Court shall have the authority to establish qualifications for Neutrals, monitor their performance and withdraw any Neutral from a panel. Applications are available at the Court's website and from the Clerk's offices in Buffalo and Rochester.

B. Private Neutrals. The parties may select a Neutral who is not a member of the Court's panel. Such selections are presumed acceptable unless the assigned Judge determines that the interests of justice are not served.

C. Qualifications and Training. The requirements for panel membership are specific to each intervention and process under the ADR Plan and are set forth in the corresponding sections below.

D. Oath. All persons serving as Neutrals shall take the oath or affirmation prescribed in 28 U.S.C. §453.

E. Disqualification and Unavailability of Neutrals.

1. Disqualification. A Neutral may be disqualified for bias or prejudice, pursuant to 28 U.S.C. §144. A Neutral shall disqualify himself or herself in any case in which a justice, judge or magistrate judge would be disqualified pursuant to 28 U.S.C. §455, subject to the waiver provision of 42 U.S.C. §455(e).

2. Notice of Recusal. A Neutral who discovers a circumstance requiring disqualification shall immediately notify all counsel, unrepresented parties and the Court. A new Neutral shall be selected by agreement of the parties or, in the event the parties are unable to agree, by the Court.

3. Objections to Selected Neutral. Prior to the issuance of an Order designating a Neutral, the Court will contact the selected Neutral who will review the case for possible conflicts. Following issuance of the Court's Order, a party who believes a disqualifying conflict exists should first confer with the Neutral. If the matter is not resolved by, for example, waiver or recusal, a motion and supporting affidavit shall be filed with the Court, within ten [10] days from the Court's Order, stating the facts and the reasons for the belief that a disqualifying conflict, bias or prejudice



exists. In the event a conflict or other objection does not become apparent until after the ADR process has commenced, a motion for disqualification must be made at the earliest opportunity or the objection is waived.

4. Unavailability. A selected Neutral who later becomes unable to serve within the time period set forth in the Court's Scheduling or Referral Order shall notify all counsel, unrepresented parties and the Court. A new Neutral shall be selected by agreement of the parties or, in the event the parties are unable to agree, by the Court.

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



3.2 | IMMUNITIES

All persons serving as Neutrals in the Court's ADR Plan are performing quasi-judicial functions and are entitled to all the immunities and protections that the law accords to the performance of tasks integrally related to the judicial process, including settlement and alternative dispute resolution. See, e.g., *Wagshal v. Foster*, 28 F.3d 1249 (D.C. Cir. 1994).

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3.3 | COMPENSATION OF NEUTRALS

A Neutral's fees shall be shared equally by all separately represented parties, unless otherwise agreed by the parties or ordered by the Court.

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APPENDIX



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Congratulations! You're now **booked up** on Section 3 of USNYWD's **ADR Handbook**!

