

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

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| Petitioner, v. Respondent. |
|--|

No.

ORDER

Pursuant to petitioner's/respondent's request, dated (date), this immigration petition has been referred to the Mediation Program. See Fed. R. App. P. 33 and Ninth Cir. R. 33-1. The court has scheduled a telephone assessment conference, with counsel only, on (date), at (time) Pacific Time to discuss whether this matter may be resolved with the assistance of a Circuit Mediator.

The Circuit Mediator will initiate the conference call by contacting each attorney on the attached list of participants at the telephone number listed. Please be available for the call at least five minutes before the scheduled time.

Counsel should review the attached list and inform the Mediation Assistant by email (name@ca9.uscourts.gov) at least 72 hours in advance of the scheduled call of any of the following: (1) any attorneys on the list of counsel who will not be participating in the conference; (2) the direct dial phone number of any participant if it is not listed; and (3) any other corrections to the list.

Please notify the Circuit Mediator immediately by email (name@ca9.uscourts.gov) if the petition has been dismissed or if counsel has an unavoidable scheduling conflict. Please copy all counsel on any such communications.

All discussions that take place in the context of the assessment conference are strictly confidential. (See Circuit Rule 33-1 and the Confidentiality provision in the attachment to this order.)

For more detailed information about the assessment conference, confidentiality, the Mediation Program and its procedures generally, please see the attachment to this order and the Mediation Program web page: www.ca9.uscourts.gov/mediation.

The briefing schedule previously set by the court remains in effect. The [remainder of the] briefing schedule is vacated.

LIST OF CONFERENCE PARTICIPANTS

Plaintiff

Attorney
TEL:
address

v.

Respondent

Attorney
TEL:
address

SETTLEMENT ASSESSMENT CONFERENCES
ADDRESSING IMMIGRATION PETITIONS
IN THE NINTH CIRCUIT

Overview

- The court has adopted the selective use of mediation to help process its large number of immigration cases. The cases that most readily lend themselves to mediation are those counseled cases in which the mediator can help the parties negotiate a procedural resolution, most commonly a stipulated remand to the Board of Immigration Appeals ("BIA") for further proceedings.
- The most typical means by which an immigration petition is referred to mediation is by the request by counsel or an order by a panel of judges. Opposed motions for remand are also referred to the Mediation Program. In each instance, an assessment conference is scheduled to provide counsel and the Circuit Mediator the opportunity to discuss the matter and explore alternative resolutions.
- The conference will be conducted by one of the nine Circuit Mediators to whom the matter has been randomly assigned. All of the Circuit Mediators are court employees with extensive mediation experience in immigration matters. The Circuit Mediators are authorized to file orders on most unopposed procedural matters, including vacating or resetting the dates for record preparation and briefing and staying appellate proceedings.
- Only counsel for both parties to the petition should participate in the assessment conference.
- During the conference, counsel and the Circuit Mediator will discuss the basis for the request for mediation, the motion for remand or the referral by the panel, any relevant factual or legal background of the case, any related legal proceedings, and any other considerations that may affect the possibility that the matter may be resolved through alternative means.

Confidentiality

- All participants in the assessment conference are required to abide by the Mediation Program's confidentiality rules. Settlement-related information disclosed to a Circuit Mediator will be kept confidential and will not be disclosed to the judges deciding the appeal. See Ninth Cir. R. 33-1. With limited exceptions or unless by agreement, any communication made by the Circuit Mediator or any participant during the conference may not be used in any pending or future proceeding in this court or any other forum and may not be disclosed to anyone who is not a participant. Gen. Or. 7.4.

Likely Outcomes of The Assessment Conference

- At conclusion of the assessment conference, counsel and the Circuit Mediator will decide together whether further settlement discussions would be fruitful. If the consensus is to move forward, the mediator and counsel will determine together the scope, process and timing of any further efforts at resolution. Typical settlement processes involving immigration matters include a series of telephonic settlement conferences conducted by the Circuit Mediator during which the parties agree upon, and report progress on, alternative relief, e.g., a remand of the matter, pursuit of assent by the Office of Chief Counsel, Immigration Customs and Enforcement, to joint motion to reopen to adjust petitioner's status or other relief.
- The parties may agree to defer briefing or to stay appellate proceedings for a period in order to focus on settlement efforts or to provide an opportunity for circumstances to develop that might make settlement more likely.
- At any point that the parties choose not to pursue further settlement efforts, the Circuit Mediator will work with the parties to resolve any outstanding procedural issue and enter an order indicating that the case is not in the Mediation Program.

More information is available on the Mediation Circuit link on the Ninth Circuit website: www.ca9.uscourts.gov/mediation.