

RULES RELATED TO CONFIDENTIALITY OF ADR PROCESSES

EARLY NEUTRAL EVALUATION (ENE)

The entire ENE process is confidential. The parties and the Evaluator shall not disclose information regarding the process, including settlement terms, to the court or to third persons unless all parties otherwise agree. Parties, counsel, and Evaluators may, however, respond to confidential inquiries or surveys by persons authorized by the court to evaluate the ENE program. Information provided in such inquiries or surveys shall remain confidential and shall not be identified with particular cases.

The ENE process shall be treated as a compromise negotiation for purposes of the Federal Rules of Evidence and state rules of evidence. The Evaluator is disqualified as a witness, consultant, attorney, or expert in any pending or future action relating to the dispute, including actions between persons not parties to the ENE process. L.R. §16.5(h).

MEDIATION

The entire mediation process is confidential. The parties and the Mediator may not disclose information regarding the process, including settlement terms, to the court or to third persons unless all parties otherwise agree. Parties, counsel and Mediators may, however, respond to confidential inquiries or surveys by persons authorized by the court to evaluate the mediation program. Information provided in such inquiries or surveys shall remain confidential and shall not be identified with particular cases.

The mediation process shall be treated as a compromise negotiation for purposes of the Federal Rules of Evidence and state rules of evidence. The Mediator is disqualified as a witness, consultant, attorney, or expert in any pending or future action relating to the dispute, including actions between persons not parties to the mediation process. L.R. §16.6(h).

ARBITRATION

L.R. 16.7(h):

(d) **Sealing of Arbitration Awards**. The content of any arbitration award made under this chapter shall not be made known to any judicial officer unless:

(a) The assigned judicial officer is asked to decide whether to assess costs under Local Rule 16.7(j);

(b) The court has entered final judgment or the action has been otherwise terminated; or

(c) The judicial officer needs the information for the purpose of preparing the report required by §903(b) of the Judicial Improvements and Access to Justice Act.

SUMMARY JURY TRIAL

L.R. 16.8(c):

(o) **Limitation on Admission of Evidence.** The assigned judicial officer shall not admit at a subsequent trial any evidence that there has been a summary jury trial, the nature or amount of any verdict, or any other matter concerning the conduct of the summary jury trial or negotiations related to it, unless:

(1) The evidence would otherwise be admissible under the Federal Rules of Evidence; or

(2) The parties have otherwise stipulated.

SUMMARY BENCH TRIAL

L.R. 16.9(c):

(c) **Procedural Considerations.** Where appropriate, the same procedural considerations applicable to summary jury trials may be adapted to summary bench trials to reflect the nature of the proceedings.