

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT
717 MADISON PLACE, N.W.
WASHINGTON, D.C. 20439

Jan Horbaly
Clerk of Court

202- 275-8000
202-275-9678 (F)

September 4, 2012

Dear Reader:

The United States Court of Appeals for the Federal Circuit's Appellate Mediation Program Guidelines are amended as:

5. CONFIDENTIALITY

Confidentiality is ensured throughout the mediation process except as noted in these guidelines. The circuit mediation officers do not communicate with the judges about the substance of mediation proceedings. During the program, however, the mediation committee from time to time has discussions with the circuit mediation officers with a view to revising the program while it is ongoing, as appropriate and necessary. Communications concerning statistical information and information needed to assess the program are not prohibited. All mediators must protect the confidentiality of the substance of all proceedings and are prohibited from complying with subpoenas or other requests for information about mediated cases except in response to a final court order requiring such disclosure. All communication with the court about mediation matters is between the mediator and the circuit mediation officers.

The substance of mediation is confidential and may not be disclosed by any participants, except in the course of litigation concerning enforceability of any agreements reached through mediation. The fact that a case is in mediation is not confidential. Any motions for extensions of time that are filed because the parties are engaged in mediation are part of the public file in the Clerk's Office. Section 7 sets forth the procedures for seeking extensions of time.

8. THE CONCLUSION OF MEDIATION

The purpose of the mediation program is to help the parties achieve settlement. If settlement is reached, then the agreement must be in writing and binding on all parties. The appellant or the parties jointly must file a motion or stipulation of voluntary dismissal or other appropriate motion. If the case is not settled, then it remains on the docket and proceeds as if mediation had not been initiated.

If as a result of the mediation a settlement is reached which includes a term concerning vacatur of a district court ruling, the following rule applies:

Note: The following notice must be included in the text (not as a footnote) in any motion in the District Court for an indicative ruling:

As a result of a mediation conducted pursuant to the Mediation Program of the US Court of Appeals for the Federal Circuit, a settlement of this case was reached which includes a term concerning vacatur of one or more rulings of the District Court. Pursuant to Rule 12.1 of the Federal Rules of Appellate Procedure, this motion seeks an indicative ruling that the District Court will so vacate if the case is remanded by the Federal Circuit for such purpose. Neither the US Court of Appeals for the Federal Circuit nor its Mediation Program takes a position of whether the motion for vacatur should be granted.

In addition to the requirement that the above notice be included in any motion in the District Court for an indicative ruling, any remand order by the Federal Circuit will include the following statement:

In remanding this case to the District Court to consider the motion for vacatur, the Federal Circuit takes no position as to whether the District Court should grant the motion for vacatur.

Suggestions regarding the court's Rules of Practice should be submitted to:

Clerk of Court
United States Court of Appeals for the Federal Circuit
717 Madison Place, N.W.
Washington, D.C. 20439

or

rules@cafc.uscourts.gov

Sincerely yours,
Jan Horbaly