Mediation Program Report

Report for January 1, 2023 to December 31, 2024

(December 23, 2025)

Hon. Royce C. Lamberth, Liaison Judge
Angela D. Caesar, Clerk of Court

Mediation Program Staff:
Robert Fisher, Chief Circuit Mediator
Dina Gold, Circuit Mediator
Heather Croft, Circuit Mediator
Josie Kravec, Mediation Program Coordinator

MEDIATION PROGRAM
U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA
AND U.S. BANKRUPTCY COURT FOR THE DISTRICT OF COLUMBIA
2023 & 2024 BI-ANNUAL REPORT

The Mediation Office provides alternative dispute resolution services to parties in civil cases pending before the District Court, Bankruptcy Court, and Court of Appeals. Robert Fisher is the Chief Circuit Mediator. Mediation referrals from the District Court and Bankruptcy Court are primarily administered by Circuit Mediator Heather Croft. Circuit Mediator Dina Gold has primary administrative responsibility for the Court of Appeals Mediation Program. Josie (Pucel) Kravec, Program Coordinator, provides support to the three Circuit Mediators and the panel of volunteer mediators. Judge Lamberth is the Liaison Judge for District and Bankruptcy Courts, and Judge Moss serves as the mediation Compliance Judge under LCvR 84.10.

The Mediation Program's goals include: (1) enhancing efficiency and economy for the Courts, litigants, and counsel by resolving cases without further litigation; (2) enabling parties to reach mutually satisfactory resolutions that can include elements not available in formal judicial proceedings; (3) clarifying or narrowing issues to be addressed by the Court; and (4) providing a forum for parties to understand their situation and consider options other than litigation for resolving the disputes. Please see Appendix A for a brief description of how cases are conducted in the Mediation Program as well as general information about the panel of volunteer mediators.

I. STATISTICS

The following statistics provide a snapshot of selected aspects of the Program during 2023 and 2024.[1] There are many ways to evaluate and measure success in mediation. In addition to settlement rates, other measures of success include the frequency with which District Court judges refer cases to the Program; the number and types of cases seeking or accepting referral to the Program; interest in serving on our panel of mediators; and participant satisfaction with the mediation process, mediators, and results.

A. DISTRICT COURT

i. Number of cases referred and settlement rate

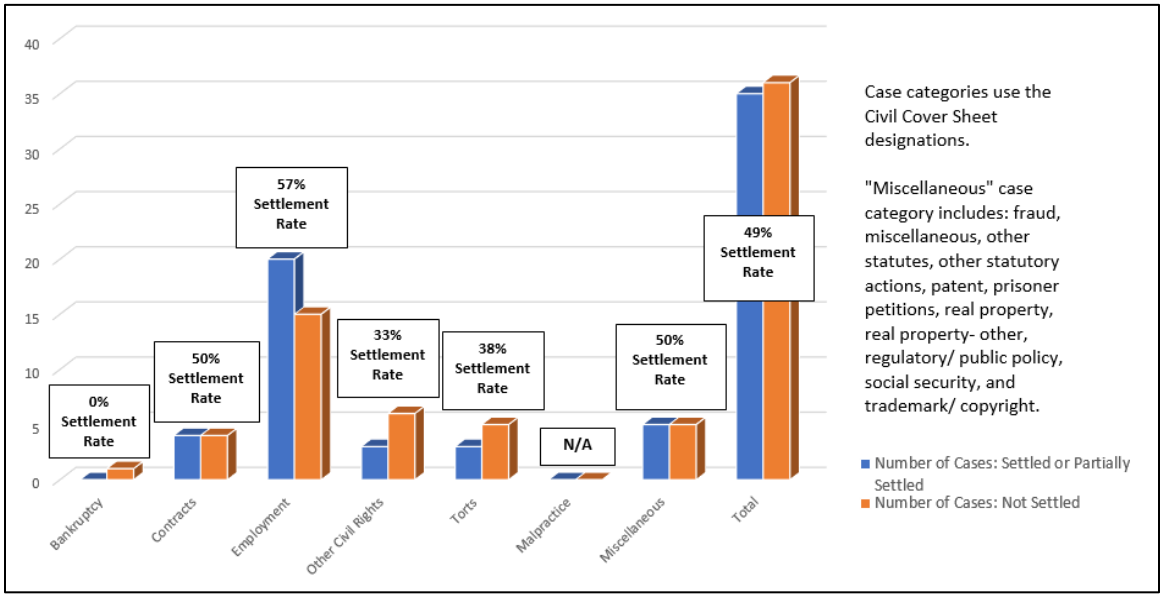
	2022	2023	2024	2023-24 Change
Civil cases referred for mediation[2]	82	75	63	-12%
Total completed cases / settled cases[3]	78 / 53	71 / 35	73 / 50	2% / 15%

[1] Statistics vary monthly and year-to-year. A single case may be reflected in more than one year's case totals because of how our database counts each separately distinct mediation process.
[2] Only cases referred by the sitting judge are included in the District Court Program.
[3] Includes two partially settled cases.

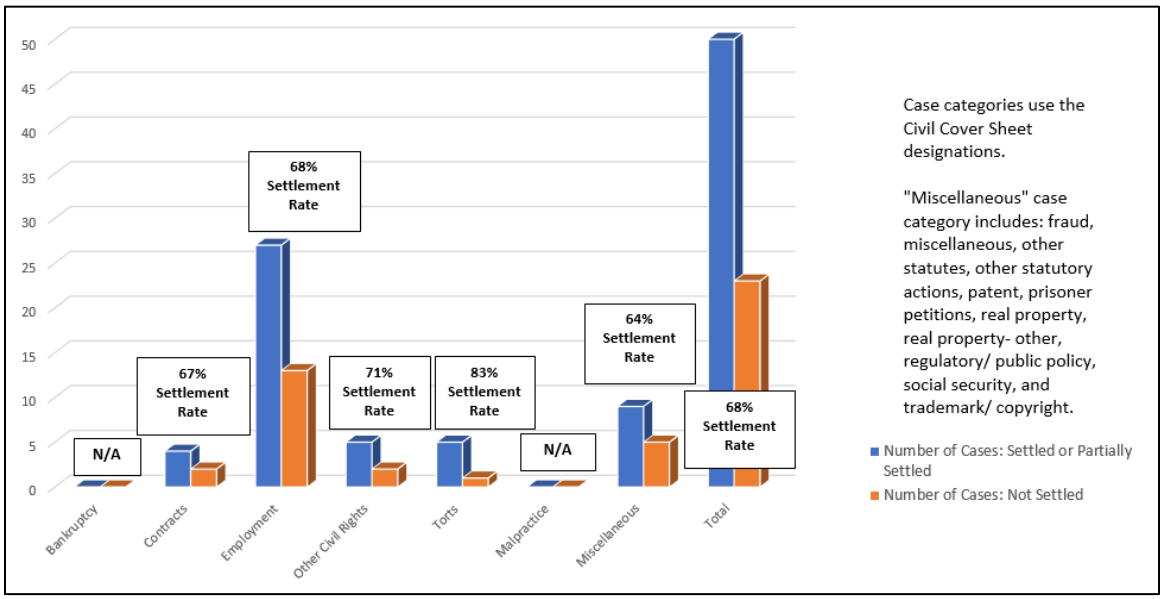
	2022	2023	2024	2023-24 Change
Open cases at year-end[4]	48	49	35	-14%
Settlement rate	68%	49%	68%	19%

ii. Settlement rate by case type

2023



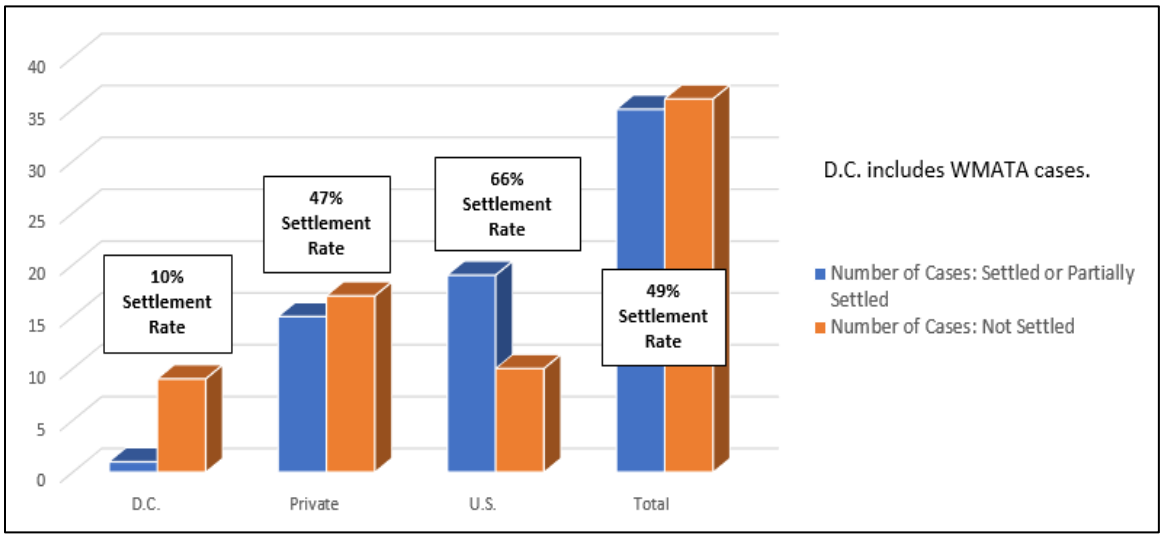
2024



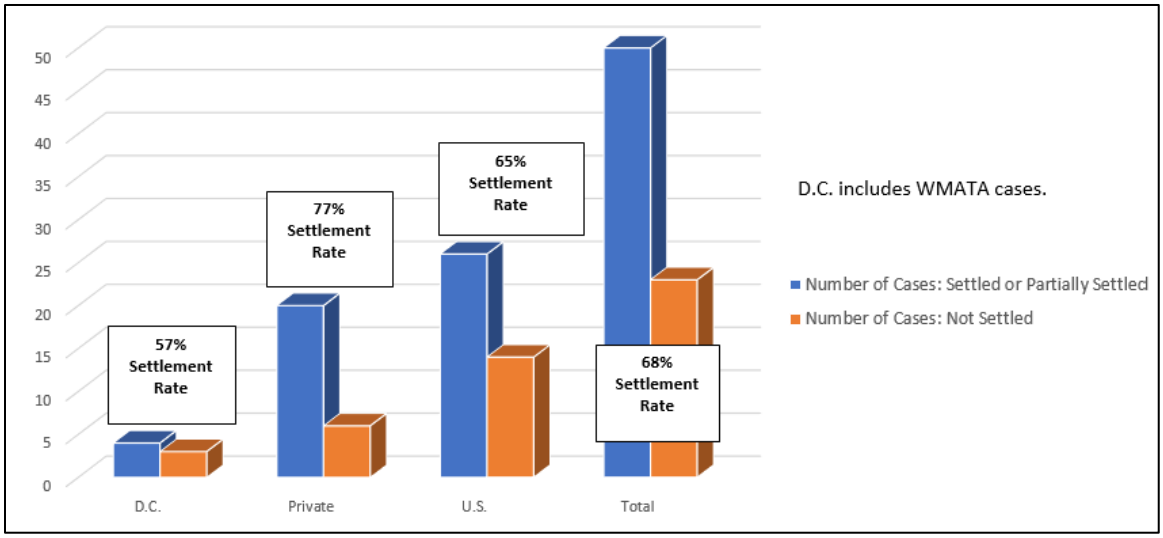
[4] Includes cases initiated in prior years.

iii. Settlement rate by party type

2023



2024



iv. Examples of Settled Cases – see Appendix B.

B. BANKRUPTCY COURT

The Bankruptcy Court did not refer any adversary proceedings in 2023 or 2024.

C. NEUTRAL EVALUATION

We concluded one District Court neutral evaluation in 2023. The evaluator was a partner in a prominent D.C. law firm with specialized subject-matter expertise. The case did not settle during mediation due to an expected Supreme Court review of a

key issue. Counsel and the parties reported that they found the evaluation insightful. One neutral evaluation was initiated in a regulatory case in 2024.

D. PANEL MEDIATORS

Mediations are conducted by a mediator or co-mediators selected from a panel of approximately 65 active volunteers who are experienced lawyers trained in mediation or experienced lawyer-mediators. The volunteer mediators provide their services to the courts and parties pro bono. The three Circuit Mediators also mediate and co-mediate. Co-mediation is used to integrate new mediators into the Program, to benefit the parties in complex cases, and for quality assurance. The panel mediators have a vast array of experience and subject matter expertise, as illustrated below.

- Antitrust
- Attorney's Fees
- Aviation
- Bankruptcy
- Civil Rights
- Class Actions
- Complex Cases
- Constitutional
- Construction
- Consumer Credit
- Contract
- Corporate
- Defamation
- Education
- Employment
- Environmental
- ERISA
- False Claims Act
- FOIA / Privacy Act
- Fraud
- Insurance
- Intellectual Property
- Labor
- Law Firms
- Legal Malpractice
- Medical Malpractice
- Nonprofits
- Partnerships
- Real Property
- Regulatory & Policy
- RICO
- Securities
- Tax
- Torts
- Tribal
- Trusts & Estates

Mediator breakdown for completed cases in 2023 and 2024.

In 2023 the panel mediators conducted 68.6% of the mediations, the Circuit Mediators conducted 21.4% of the mediations, and 10% were co-mediated by a panel mediator and a Circuit Mediator.

In 2024, the panel mediators conducted 61.6% of the mediations, the Circuit Mediators conducted 20.5% of the mediations, and 17.8% were co-mediated by a panel mediator and a Circuit Mediator.

II. MEDIATION PROGRAM ACTIVITIES

A. MEDIATOR TRAINING AND CONTINUING EDUCATION

We conducted a two-day training for new mediators in March 2023 and integrated them into the Program throughout 2023 and 2024. New panel members also co-mediated one or more cases with either an experienced panel member or a Circuit Mediator.

The Program also provided panel mediators optional training through regular confidential monthly sessions that are robust and educational. Discussion topics included: building rapport with parties and counsel; delivering "bad news"; applying the science of persuasion to mediation; and bracketing and other techniques to bridge a gap. The sessions also explored mediation techniques and challenges.

B. PRO BONO RECRUITMENT

Unrepresented litigants may not participate in mediation through the Program. At the request of the District Court or Bankruptcy Court judge, the Program works with the Court's Pro Se Unit to identify pro bono counsel for the limited purpose of mediation. The Program placed pro bono counsel in six mediations in both 2023 and 2024. Additionally, in 2024, one unrepresented litigant identified pro bono counsel herself and was thus eligible to participate in mediation.

C. COMMUNITY ENGAGEMENT

Engaging with Program constituents and mediation colleagues both within and external to the courts provides opportunities to share the benefits of mediation, enhance the excellent reputation of the Program, and learn from others to keep up with developments in the dispute resolution field. Appendix C lists relevant 2023 and 2024 community engagement activities.

III. CONCLUSION

We continue to strive to meet the Program's goals by enhancing efficiency and economy for the Courts and litigants while also providing a forum for parties to consider options other than further litigation. We are grateful to the volunteer attorneys who contribute significant time and effort to the Program and Courts.

Robert Fisher, Chief Circuit Mediator
Dina Gold, Circuit Mediator
Heather Croft, Circuit Mediator
Josie Kravec, Mediation Program Coordinator

For more information about the Mediation Office and Programs:
Tel. (202) 216-7350 | mediation@cadc.uscourts.gov
Court Mediation Program | District of Columbia | United States District Court

APPENDIX A
OVERVIEW OF THE MEDIATION PROGRAM PROCESSES

Civil cases are referred to the Mediation Program by the District Court or Bankruptcy Court judge usually following a joint motion for mediation by the parties. District Court judges may also refer cases to mediation by encouraging litigants to engage in mediation voluntarily and entering a consent order referring the case to the Mediation Program. Similarly, the Bankruptcy Court may assign cases to the Mediation Program by joint request of the parties at any time sufficiently in advance of a scheduled trial as to not delay the trial or by the Court at either the initial or final pretrial conference. In response to an order to show cause, judges from both Courts also may require litigants to participate in mediation after giving them an opportunity to explain why mediation would not be appropriate in their case.

The Program approaches mediation as a process, not a meeting or an event. Mediation starts with the first contact and ends when either mediation is terminated and the litigation proceeds in court or the dispute is resolved and the case dismissed. In practice, this means the process may involve multiple, shorter sessions and separate meetings with each party and their counsel before joint sessions. If an agreement in principle is reached, the mediator remains involved while the settlement agreement document is finalized and until the case is dismissed.

All types of civil cases in which parties are represented by counsel are eligible for mediation and could be mediated by the Mediation Program. Examples include attorney's fees, bankruptcy adversary proceedings, business, civil rights, class actions, contracts, construction, defamation, education, employment, environmental and natural resources, disability, FOIA, fraud, intellectual property, international arbitral awards, labor, malpractice, personal injury, real property, regulatory and public policy, and tribal.

Cases can be referred at any point during the litigation process from the initial status conference up to the trial date. However, a referral to mediation does not automatically stop other proceedings in the case. The presiding judge decides whether to halt or postpone other proceedings while the case is in mediation. Mediation can also be an appropriate forum to address limited discovery to enable parties to make informed settlement decisions, whether it be mediating a discovery dispute or facilitating the confidential exchange of documents and information.

Self-represented litigants may participate in mediation only if represented by counsel for the limited purpose of mediation.[5] The Program may work with the unrepresented party to obtain counsel for mediation, including by identifying potential pro bono counsel and coordinating with the Pro Se Unit of the Clerk's Office. While pro bono representation usually is limited to the mediation, the representation may continue with the litigation if mediation is unsuccessful and both the pro se party and counsel agree.

[5] We encourage parties who are lawyers to have counsel for mediation, although they sometimes are permitted to represent themselves in mediation depending on the case type and other factors.

CONDUCTING MEDIATIONS

The mediation process may take a few days to several months and, on occasion, a year or more. The time investment required for mediation and productive settlement negotiations depends on the number of parties, complexity of the case, level of controversy, litigation posture, and other case-specific factors. When a case does not settle, the parties are encouraged to consider returning to the Program at a later stage of the litigation with the option of using the same or a different mediator. The Program periodically also mediates a case on remand after an earlier attempt in the Court of Appeals.

The Program allows for flexibility in choosing where to hold a mediation. The mediators work with counsel and the parties to determine whether the case is best suited for an in-person, remote, or hybrid mediation session. While most mediations have been conducted remotely since the COVID-19 pandemic, the number of in-person mediation sessions has been increasing over the last two years.

NEUTRAL EVALUATION

A neutral case evaluation can assist parties to overcome impediments to narrowing the gaps in their respective settlement positions. When the parties choose this process, we appoint an agreed-upon subject matter expert who will review the parties' filings and other information, address specific issues, and develop a neutral assessment of the parties' relative strengths and weaknesses on the merits and sometimes potential liability or damages. A mediator is appointed at the same time to assist the parties with settlement negotiations following delivery of the neutral evaluation. The evaluation is conveyed orally and to the parties at the same time. After the evaluation is conveyed, the parties may choose to have the evaluator remain involved as a co-mediator. The Program also has provided neutral evaluators for cases a Magistrate Judge is mediating.

MEDIATOR PANEL

In addition to training and continuing education, the Program provides individual support and coaching to panel mediators. The Circuit Mediators are available for confidential discussions about the mediation process as well as to help identify methods to assist parties in resolving their dispute or address impediments to settlement.

Once a mediation concludes, the Program surveys counsel about the mediation process and the mediator. We share positive feedback with our mediators as well as constructive criticism. If the survey feedback identifies any concerns with the mediation process or the mediator, the Program generally consults with counsel and then discuss the comments with the mediator. We also may require the mediator to co-mediate with a Circuit Mediator or an experienced panel mediator before undertaking another solo assignment.

The Program occasionally adds a small number of mediators to the volunteer panel to backfill retirements and departures of existing panel members and cover currently underrepresented areas of subject matter expertise.

APPENDIX B
EXAMPLES OF SETTLED CASES

2023

- Civil rights: 23-cv-0365-TJK
- Contract: 16-cv-0789-DLF and 22-cv-2619-DLF
- Employment: 21-cv-0411-CKK
- Fraud: 22-cv-2868-RC
- Personal injury: 18-cv-2433-CKK
- Personal injury (auto): 20-cv-2461-JEB
- Trademark-copyright: 19-cv-1797-TJK

2024

- Attorney's fees: 23-cv-0681-RDM
- Civil rights: 15-cv-0737-RCL
- Class action / Employment: 99-cv-2979-EGS
- Contract: 21-cv-1393-APM
- FOIA: 23-cv-1115-ACR
- Fraud: 20-cv-0134-TNM
- Labor: 23-cv-1479-ACR
- Personal injury: 23-cv-3627-APM
- Real property: 22-cv-3493-RDM
- Trademark-copyright: 20-cv-2223-BAH

APPENDIX C
MEDIATION PROGRAM COMMUNITY ENGAGEMENT ACTIVITIES

2024

- Presentation to the Civil Division of the U.S. Attorney's Office about the D.C. Circuit Mediation Program;
- Together with the U.S. Department of Commerce Commercial Law Development Program (CLDP), hosted a delegation of judges from Pakistan interested in expanding mediation in their court system; and
- For the CLDP Regional Western Balkans Judicial Capacity Building Workshop, delivered a presentation, "Overview of Court-Annexed Mediation in the U.S. D.C. Circuit" to judges from six Western Balkan states.

2023

- Presented at the Federal Judicial Center Workshop for Federal Court Mediators. Topics included: "Rescuing Settlements Before They Fall Apart"; "Effective Use of Litigation Analytics in Mediation"; and "Best Mediation Techniques for Opening Offers";
- Presented at a D.C.-area voluntary bar leadership meeting about volunteering with the Program as a mediator or pro bono mediation counsel; and
- Co-delivered a webinar on litigation analytics to the ABA Section of Dispute Resolution.