2007-2009 Rules Cycle

Report of the New Jersey Supreme Court Committee on Complementary Dispute Resolution

January 15, 2009

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I. PROPOSED RULE AMENDMENTS RECOMMENDED

A. Proposed Amendment to Rule 1:5-6 --- Filing

Rule 1:5-6(c) lists the documents which must accompany the initial pleading or the pleading will not be filed. As part of the Rule amendments that went into effect September 1, 2006, the Supreme Court adopted a new paragraph in Rule 5:4-2 ("Complaint") that requires the first pleading of each party in a divorce action to include an affidavit or certification "that the litigant has been informed of the availability of complementary dispute resolution ('CDR') alternatives to conventional litigation, including but not limited to mediation or arbitration, and that the litigant has received descriptive literature regarding such CDR alternatives (hereinafter referred to as CDR Affidavit or Certification)." The Family Programs Subcommittee recommended that the CDR Affidavit/Certification be listed in Rule 1:5-6 and that such Rule should be amended to require rejection of the initial pleading if it does not include the required Affidavit/Certification. The Committee endorsed this recommendation.

The proposed amendments to *R.* 1:5-6 follow:

1:5-6. Filing

(a) …no change.

(b) …no change.

(c) Nonconforming Papers. The clerk shall file all papers presented for filing and may notify the person filing if such papers do not conform to these rules, except that

(1) the paper shall be returned stamped "Received but not Filed (date)" if it is presented for filing unaccompanied by any of the following:

(A) the required filing fee; or

(B) a completed Case Information Statement as required by R. 4:5-1 in the form set forth in Appendix XII to these rules; or

(C) in Family Part actions, the affidavit of insurance coverage required by R. 5:4-2(f), the Parents Education Program registration fee required by N.J.S.A. 2A:34-12.2, the Confidential Litigant Information Sheet as required by R. 5:4-2(g) in the form prescribed in Appendix XXIV, or the Affidavit or Certification of Notification of Complementary Dispute Resolution Alternatives as required by. R. 5:4-2; or

(D) the signature of an attorney permitted to practice law in this State pursuant to R. 1:21-1 or the signature of a party appearing pro se, provided, however, that a pro se appearance is provided for by these rules; or

(E) a certification of title search as required by R. 4:64-1(a).

If a paper is returned under this rule, it shall be accompanied by a notice advising that if the paper is retransmitted together with the required signature, document or fee, as appropriate, within ten days after the date of the clerk's notice, filing will be deemed to have been made on the stamped receipt date.

(2) if an answer is presented by a defendant against whom default has been entered other than in a mortgage or tax foreclosure action, the clerk shall return the same stamped "Received but not Filed (date)" with notice that the defendant may move to vacate the default.

(3) a demand for trial de novo may be rejected and returned if not filed within the time prescribed in R. 4:21A-6 or if it is submitted for filing by a party in default or whose answer has been suppressed.

(4) a paper shall be returned stamped "Received but not Filed (date)" if it does not conform to the requirements of R. 1:4-9 with notice that if the document is retransmitted on conforming paper within 10 days after the date of the clerk's notice, filing will be deemed to have been made on the stamped receipt date.

(d) …no change.

(e) …no change.

B. Proposed Amendment to Rule 1:40-4 ---Mediation – General Rules

The Committee reviewed several complaints from mediators concerning failure of parties to timely pay the mediator's fees. Mediators in the Civil Mediation Program serve free for two hours in every case. The hours shall be equally split between preparation and administrative time, including holding an organizational telephone conference, and an actual mediation session. If it takes a mediator in excess of an hour to complete the administrative time, the telephone conference and preparation and the parties opt not to continue the mediation session beyond the one remaining free hour, the mediator will not get paid for any excess preparation and administrative time.

The Committee reviewed data collected by the AOC'S Civil Practice Division from 4,651 post mediation exit questionnaires submitted by mediators. The information reveals that the mediators reporting spent an average of 2.38 hours of preparation time. Thus, the mediators reporting actually gave 3.38 free hours of time per case.

The Committee has also reviewed complaints that mediators spend additional uncompensated time trying to collect on fees earned after the parties agree to continue on a paying basis.

At its December 12, 2007 meeting, the Conference of Civil Presiding Judges agreed that civil judges should be reminded to consider imposing consequences other than simply ordering payment in the amount of the unpaid mediator's bill. The Committee recommends that specific language be added to R. 1:40-4(b) to make clear that failure to pay the mediator may result in an Order by the court to pay the fees and costs of the mediator, including any additional costs and fees incurred due to the non-payment.

The proposed amendments to *R.* 1:40-4 follow:

1:40-4 Mediation – General Rules

(a) …no change.

(b) Compensation and Payment of Mediators. Parties in Superior Court, except in the Special Civil Part, assigned to mediation pursuant to this rule shall equally share the fees and expenses of the mediator on an ongoing basis, subject to court review and allocation to create equity. Any fee or expense of the mediator shall be waived in cases, as to those parties exempt, pursuant to Rule 1:13-2(a). A party may opt out of the mediation process after the mediator has expended two hours of service, which shall be allocated equally between preparation and the first mediation session, and which shall be at no cost to the parties. Fees shall be as determined by the mediator and the parties. Failure to pay the mediator may result in an order by the court to pay the fees and costs of the mediator including any additional costs and fees incurred due to the non-payment and imposing appropriate sanctions.

(c) …no change.

(d) …no change.

(e) …no change.

(f) …no change.

(g) …no change.

(h) …no change.

C. Proposed Amendment to Rule 1:40-6 --- Mediation of Civil, Probate, and General Equity Matters

Experience in the Civil Mediation Program has shown that mediators need discretion to either require the parties to exchange pre-mediation statements under R. 1:40-6(e) or to require that the statements not be exchanged but rather submitted confidentially by each side to the mediator. At times in especially contentious cases, the mediator may wish to avoid further polarizing the parties by requiring that each party submit the statements.

The proposed amendments to *R.* 1:40-6 follow:

1:40-6 Mediation of Civil, Probate, and General Equity Matters

The CDR program of each vicinage shall include mediation of civil, probate, and general equity matters, pursuant to rules and guidelines approved by the Supreme Court.

(a) …no change.

(b) …no change.

(c) …no change.

(d) …no change.

(e) Mediation Statement. The mediator shall fix a date following the telephonic conference for the exchange by the parties and service upon the mediator of a brief statement of facts and proposals for settlement not exceeding ten pages. At the discretion of the mediator, the statement of facts from each party may be prepared for the confidential review by the mediator only. All documents prepared for mediation shall be confidential and subject to Rule 1:40-4(c) and (d).

(f) …no change.

(g) …no change.

D. Proposed Amendment to R. 1:40-12(b)(2) -- Mediators and Arbitrators in Court-Annexed Programs

When the mandatory mediation training requirements of R. 1:40-12(b)(2) became effective in July 1992, the Committee included a provision to "grandfather" those who had been conducting facilitative mediation prior to the effective date of the rule. This provision is now moot and its continued existence has created a great deal of confusion. As a result, several untrained individuals who were doing other types of settlement techniques but not facilitative mediation as defined in R. 1:40-2 before July 1992, have attempted to obtain waivers of the training citing this provision. This provision creates needless work and has no sustaining purpose and needs to be deleted from the rules.

The proposed amendments to *R.* 1:40-12 follow:

1:40-12 Mediators and Arbitrators in Court-Annexed Programs

(a) Mediator Qualifications

(1) …no change.

(2) …no change.

(3) …no change.

(4) …no change.

(b) Mediator Training Requirements

(1) General Provisions. [Unless waived pursuant to subparagraph (2), a] All persons serving as mediators shall have completed the basic dispute resolution training course as prescribed by these rules and approved by the Administrative Office of the Courts. Volunteer mediators in the Special Civil Part and Municipal Court mediators shall have completed 18 classroom hours of basic mediation skills complying with the requirements of subparagraph [(4)](3) of this rule. Mediators on the civil, general equity, and probate roster of the Superior Court shall have completed 18 classroom hours of basic mediation skills complying with the requirements of subparagraph [(4)](3) of this rule and at least five hours being mentored by an experienced mediator on the roster in accordance with guidelines promulgated by the Administrative Office of the Courts in at least two cases in the Superior Court. Individuals may obtain a waiver of the mentoring requirement from the Administrative Office of the Courts on the successful demonstration that they have previously served as a mediator in at least five cases under *R.* 1:40-4 or comparable mediation program or have satisfactorily completed at least 10 hours in an approved advanced mediation course. Family Part mediators shall have completed a 40-hour training program complying with the requirements of subparagraph [(5)](4) of this rule;

and judicial law clerks shall have successfully completed 12 classroom hours of basic mediation skills complying with the requirements of subparagraph [(6)](5) of this rule.

[(2) Consideration of Prior Training. The Administrative Office of the Courts or the Assignment Judge, as appropriate, may waive these basic training requirements for mediators already serving prior to the effective date of this rule upon a determination that the mediator is qualified to continue to serve by reason of background, training, relevant educational and professional experience, and any other relevant factor.]

[(3)] (2) Continuing Training. Commencing in the year following the completion of the basic training course or the waiver thereof, all mediators shall annually attend four hours of continuing education and shall file with the Administrative Office of the Courts or the Assignment Judge, as appropriate, an annual certification of compliance. To meet the requirement, this continuing education should cover at least one of the following: (A) reinforcing and enhancing mediation and negotiation concepts and skills, (B) ethical issues associated with mediation practice, or (C) other professional matters related to mediation. Mediators who have been approved to serve as mentors under subsection (b)(1) of this Rule may apply the time spent mentoring to satisfy this requirement.

[(4)] (3) Mediation Course Content -- Basic Skills. The 18-hour classroom course in basic mediation skills shall, by lectures, demonstrations, exercises and role plays, teach the skills necessary for mediation practice, including but not limited to conflict management, communication and negotiation skills, the mediation process, and addressing problems encountered in mediation.

[(5)] (4) Mediation Course Content -- Family Part Actions. The 40-hour classroom course for family action mediators shall include basic mediation skills as well as at least 22 hours

of specialized family mediation training, which should cover family and child development, family law, divorce procedures, family finances, and community resources. In special circumstances and at the request of the Assignment Judge, the Administrative Office of the Courts may temporarily approve for a one-year period an applicant who has not yet completed the specialized family mediation training, provided the applicant has at least three years of experience as a mediator or a combination of mediation experience and service in the Family Part, has co-mediated in a CDR program with an experienced family mediator, and certifies to the intention to complete the specialized training within one year following the temporary approval.

[(6)] (5) Training Requirements for Judicial Law Clerks. Judicial law clerks serving as mediators shall first have completed either a 12-hour training course prescribed by the Administrative Office of the Courts, an approved course conducted by another institution or agency, or other comparable training. Proof of completion of any training other than the prescribed 12-hour course shall be submitted to the Administrative Office of the Courts for a determination of suitability. The Administrative Office of the Courts shall work with other institutions and agencies to encourage their provision of judicial law clerk mediation training and shall either approve or evaluate that training.

[(7)] (6) Co-mediation; mentoring; training evaluation. In order to reinforce mediator training, the vicinage CDR coordinator shall, insofar as practical and for a reasonable period following initial training, assign any new mediator who is either an employee or a volunteer to co-mediate with an experienced mediator and shall assign an experienced mediator to mentor a new mediator. Using evaluation forms prescribed by the Administrative Office of the Courts, the vicinage CDR coordinator shall also evaluate the training needs of each new

mediator during the first year of the mediator's qualifications and shall periodically assess the training needs of all mediators.

(c) …no change.

(d) …no change.

E. Proposed Amendments to *R.* 1:40-4, *R.* 1:40-5; *R.* 1:40-12 and *R.* 5:5-6

The Committee unanimously voted to incorporate Directive #1-07, Statewide Program for Mediation of Economic Aspects of Family Actions – Program Guidelines; Form Referral Order; Mediation Case Information Statement (dated February 6, 2007), into the Rules.
The economic mediation program provides a vehicle for applying complementary dispute resolution techniques to help resolve economic aspects of dissolution (divorce) actions. Additionally, non-dissolution cases also may be referred at the discretion of the Family Presiding Judge. All such cases referred to economic mediation must first be referred to the Matrimonial Early Settlement Panel (MESP) program. To expedite settlement, parties may voluntarily request mediation during any phase of their case. No case shall be referred to mediation if there is a temporary or final restraining order in effect pursuant to the Prevention of Domestic Violence Act (N.J.S.A. 2C:25-17 et seq.). Unless good cause is shown why a particular matter should not be referred to the Economic Mediation Program, litigants will be ordered to attend this program or another post-MESP Complementary Dispute Resolution event.

The Committee unanimously endorsed the recommendation to revise the credentials for economic mediators. Directive #1-07 indicated that non-attorney applicants who are "otherwise qualified" must have an advanced degree in "psychology, psychiatry, social work or an allied mental health field, business, finance, or accounting, or a CPA." Once the Directive is incorporated into R. 1:40-12, the recommendation is to replace "allied mental health field" with "other advanced degree deemed appropriate by the credentials committee." This shall give the credentialing committee more flexibility when reviewing candidates they deem as otherwise qualified to serve as economic mediators.

The proposed amendments that incorporate Directive #1-07 into the Rules are contained in *R*. 1:40-4, *R*.1:40-5; *R*. 1:40-12 and *R*. 5:5-6 and are as follows:

1:40-4. Mediation--General Rules

(a) …no change.

(b) …no change.

(c) …no change.

(d) …no change.

(e) …no change.

(f) Mediator Disclosure of Conflict of Interest.

(1) Before accepting a mediation, a person who is requested to serve as a mediator shall:

(A) make an inquiry that is reasonable under the circumstances to determine whether there are any known facts that a reasonable person would consider likely to affect the impartiality of the mediator, including a financial or personal interest in the outcome of the mediation or an existing or past relationship with a mediation party or foreseeable participant in the mediation; and

(B) disclose any such known fact to the mediation parties as soon as is practicable before accepting a mediation.

(2) If a mediator learns any fact described in subparagraph (f)(1)(A) after accepting a mediation, the mediator shall disclose it as soon as is practicable.

(3) In a mediation of the economic aspects of a family matter, after entry of the Order of Referral, if the court is advised by the mediator, counsel, or one of the parties that a conflict of interest exists, the court will reassign the case to a different mediator. In such situations, the parties will be provided the opportunity to select a replacement mediator from the roster or the court may appoint one to the case. An Amended Order of Referral will be prepared and provided

All data should be entered in FACTS.

(g) …no change.

(h) …no change.

(i) …no change.

1:40-5. Mediation in Family Part Matters

(a) …no change.

(b) Mediation of Economic Aspects of Divorce.

(i) Referral to MESP. The CDR program of each vicinage shall include a post-Matrimonial Early Settlement Panel (MESP) program for the mediation of the economic aspects of divorce or for the conduct of a post-MESP alternate Complementary Dispute Resolution (CDR) event consistent with R. 5:5-6 and R. 1:40-5 [Appendix XIX of these Rules]. However, no matter shall be referred to mediation if a temporary or final restraining order is in effect in the matter pur-suant to the Prevention of Domestic Violence Act (*N.J.S.A.* 2C:25-17 et seq.).

(ii) Designation of Mediator of Economic Aspects of Family Law Matters. A credentials committee comprised of representatives from the Supreme Court Committee on Complementary Dispute Resolution will be responsible for reviewing and approving all mediator applications. Ap-plicants must complete an application form posted on the Judiciary's Internet website (www.judiciary.state.nj.us or www.njcourtsonline.com). Mediators who meet the training re-quirements set forth in this Rule, and any other approved criteria developed by the Family Court Programs Subcommittee on the Committee on Complementary Dispute Resolution will be added to the Roster of Approved Mediators. The roster will be maintained by the Administrative Office of the Courts and is accessible on the Judiciary's Internet web site.

(iii) Exchange of Information. In mediation of economic aspects of Family actions, par-ties are required to provide accurate and complete information to the mediator and to each other, including but not limited to tax returns, Case Information Statements, and appraisal reports. The court may, in the Mediation Referral Order, stay discovery and set specific times for completion of mediation.

(iv) Timing of Referral. Parties are referred to economic mediation or other alternate CDR event following the unsuccessful attempt to resolve their issues through MESP. At the conclu-sion of the MESP process, parties are directed to confer with appropriate court staff to expedite the referral to economic mediation. The following procedures should be followed:

1. Parties may conference with the judge or the judge's designee.
2. Court staff will explain the program to the parties and/or their attorneys.
3. Parties will be provided with the roster of approved mediators for selection.
4. Once a mediator has been selected, contact is immediately attempted by phone to secure acceptance by the mediator and the date of initial appointment. If court staff cannot con-tact the mediator for confirmation, the order of referral will reflect that the mediator and the date of initial appointment are tentative until confirmation is secured. Staff will at-tempt to confirm within 24 hours and send an amended order to the parties and/or their attorneys.
5. If a mediator notifies the court that he or she cannot take on any additional cases, court staff will convey that to the parties at the time of selection so that an alternate mediator can be selected.
6. The Economic Mediation Referral Order shall be prepared reflecting the name of the mediator, listing the financial documents to be shared between the parties and with the mediator, indicating the allocation of compensation by each party if mediation extends past the initial two hours, stating the court's expectation that the parties will mediate in good faith, defining the mediation time frame, and the identifying the next court event and corresponding date of that next court event.

7. The referral order is to be signed by the judge and provided to the parties before they leave the court house. Tentative orders are replaced by amended orders with confirmed appointments and faxed to the parties and/or their attorneys the next day, if necessary.
8. If the parties are unable to agree upon and select a mediator, the judge will appoint one. Staff should follow the above procedures as applicable.
9. Referral to economic mediation is recorded in the Family Automated Case Tracking System (FACTS).

(v) Adjournments. Adjournments specific to the mediation process are handled between the mediator, the parties, and/or attorneys, so long as the adjournment does not cause the case to exceed the return date to the court. If an adjournment would cause the case to exceed the return date to the court, a written request to the court is required. The request should be forwarded for consid-eration to the judge who has responsibility for the case or the judge's designee.

1:40-12. Mediators and Arbitrators in Court-Annexed Programs

(a) Mediator Qualifications

(1) …no change.

(2) …no change.

(3) …no change.

(4) …no change.

(5) …no change.

(6) Family Part Economic Mediators. Mediators of economic issues in family disputes must meet one of the following sets of experiential requirements and must also complete the required training set forth in Section (b) of this Rule:

(i) Experience

(1) Attorneys

a. Juris Doctor (or equivalent law degree)

b. Admission to the bar for at least seven years

c. Licensed to practice law in the state of New Jersey

d. Practice substantially devoted to matrimonial law

(2) Non-Attorneys

a. Advanced degree in psychology, psychiatry, social work, business, finance, or accounting, or a CPA

or other advanced degree deemed appropriate by the credentials committee,

At least seven years experience in the field of expertise; and

b. Licensed in New Jersey if required in the field of expertise.

(3) Any retired Superior Court judge with experience in handling dissolution matters.

(b) Mediator Training Requirements.

(1) no change . . .

(2) no change . . .

(3) no change . . .

(4) no change . . ..

(5) Mediation Course Content-Family Part Actions. The 40-hour classroom course for family action mediators shall include basic mediation skills as well as at least 22 hours of specialized family mediation training, which should cover family and child development, family law, divorce procedures, family finances, and community resources. In special circumstances and at the request of the Assignment Judge, the Administrative Office of the Courts may temporarily approve for a one-year period an applicant who has not yet completed the specialized family mediation training, provided the applicant has at least three years of experience as a mediator or a combination of mediation experience and service in the Family Part, has co-mediated in a CDR program with an experienced family mediator, and certifies to the intention to complete the specialized training within one year following the temporary approval. Economic Mediators in family disputes (1) shall have completed 40 hours of training in family mediation in accordance with this rule or (2) shall have completed a minimum of 25 hours of mediation training with a commitment to complete the remaining 15 hours of specialized training within one year following the addition to the roster of mediators in complying with the requirements of subparagraph (5) of this Rule.

(6) no change…

(7) no change…

5:5-6 Participation in Mandatory Post-MESP Mediation or in a Mandatory Post-MESP Complementary Dispute Resolution Event

Each vicinage shall establish a program for the post-Matrimonial Early Settlement Program ("MESP") mediation of the economic aspects of divorce consistent with the procedures set forth in [Appendix XIX] these Rules. In any matter in which a settlement is not achieved at the time of the MESP, an order for mediation or other post-MESP Complementary Dispute Resolution ("CDR") event shall be entered. The order shall provide that the litigants may select a mediator from the statewide-approved list of mediators or select an individual to conduct a post-MESP CDR event. Litigants shall be permitted to select another individual who will conduct a post-MESP mediation event, provided such selection is made within seven days.

Unless good cause is shown why a particular matter should not be referred to this post-MESP program, litigants shall be required to participate in the program for no more than two hours, consisting of one hour of preparation time by the mediator or other individual conducting the alternate CDR event and one hour of time for the mediation or other CDR event. The litigants will not be charged a fee for the mandatory first two hours of mediation. Participation after the first two hours shall be voluntary.

If litigants consent to continue the mediation process, the Order of Referral to Economic Mediation will determine the distribution of costs for each party for the additional hours. If the litigants choose to participate in an alternate post-MESP CDR event, the fee shall be set by the individual conducting the session. The litigants shall share the cost equally unless otherwise determined by the court. The litigants are required to participate in at least one session of such alternate post MESP CDR event.

Official Court Comment:

The New Jersey Supreme Court Committee on Complementary Dispute Resolution developed the Economic Mediation Pilot Program, which began on a pilot basis in 1999. The pilot eventually was in place in seven counties: Atlantic, Bergen, Burlington, Morris, Ocean, Somerset, and Union. After assessing the positive outcomes of the pilot, the Supreme Court in June 2006 approved the program for statewide implementation. The Court thereafter approved these Program Guidelines, to be effective immediately, in January 2007.

F. Proposed Amendment to Appendix XIX – Mediation of Economic Aspects of Family Actions - Family Mediation Case Information Statement

In mediation of economic aspects of Family actions, parties are required to provide accurate and complete information to the mediator and to each other, including but not limited to tax returns, Case Information Statements, and appraisal reports

Mediators must promptly complete and submit to the court a Completion of Mediation form. A copy of the Completion of Mediation form must accompany the referral form given to the mediator during initial contact, with instructions on how to fill out the Completion of Mediation form.

The proposed amendments to Appendix XIX follow:

Appendix XIX

MEDIATION OF ECONOMIC ASPECTS OF FAMILY ACTIONS – FAMILY MEDIATION CASE INFORMATION STATEMENT

Mediators must promptly complete and submit to the court a Completion of Mediation form. A copy of the Completion of Mediation form must accompany the referral form given to the mediator during initial contact, with instructions on how to fill out the Completion of Mediation form.

State of New Jersey **MEDIATION CASE INFORMATION FORM** **For Mediation of Economic Aspects of Family Law Cases**	For Office Use Only Date Received: Date Entered:

Directions: This form is to be completed by the mediator when mediation is concluded or the case is returned to court.

CASE DOCKET NUMBER	CASE NAME	NAME OF MEDIATOR

OUTCOME

- ☐ mediation held / full agreement on all issues
- ☐ mediation held / some issues still pending
- ☐ mediation held / no agreement
- ☐ no mediation held / parties settled case before mediation session
- ☐ no mediation held / party failed to attend

DATE CASE ASSIGNED TO MEDIATOR	DATE OF INITIAL MEDIATION SESSION	DATE OF FINAL MEDIATION SESSION
NUMBER OF MEDIATION SESSIONS	**NUMBER OF HOURS FOR PREPARATION**	**NUMBER OF MEDIATION HOURS**
DID THE ATTORNEYS/PARTIES SUBMIT PROPER CASE SUMMARIES? ☐ yes ☐ no	**WERE THE ATTORNEYS/PARTIES PREPARED FOR THE MEDIATION SESSIONS?** ☐ yes ☐ no	**DID THE PARTIES PARTICIPATE IN THE MEDIATION SESSIONS?** ☐ yes ☐ no

PLEASE RETURN TO: FAMILY DIVISION **OR FAX TO:**

G. Proposed Amendment to Appendix XXVI – Guidelines for the Compensation of Mediators Serving in the Civil Mediation Program

The Committee recommends several revisions to the Guidelines for Compensation of Mediators Serving in the Civil Mediation Program (Appendix XXVI).

The Civil Subcommittee was asked by the Family Subcommittee to redraft the guidelines so that they apply also in the Family Economic Mediation Program, where applicable.

The Conference of Civil Presiding Judges has asked, and the Committee agrees that Guideline #2 be amended to specifically require that the mediator announce when the free mediation time will be over to avoid confusion over the actual start time of the free hour.

There has been considerable confusion over how the mediator's fee is divided when there are commonly situated multiple parties having an identity of interest. In this regard, Guideline #9 is not clear. This may cause undue disagreement by the parties and create unnecessary friction after a successful mediation. Mediators should use their best judgment as to the allocation of fees so that those having an identity of interest are allocated a single share of the bill. If there is any disagreement, it is up to an individual to make application to the court for reallocation of the fees pursuant to R. 1:40-4(b) to create equity. However, to alleviate some of the ambiguity, additional clarifying language should be added.

The Committee reviewed complaints about counsel taking a cavalier attitude concerning their clients' responsibility to pay mediators as compared to payment of others, such as experts. Such situations highlight the need for specific language in Guideline #12 to make clear that although payment of the bill is the responsibility of the client, counsel should proactively facilitate prompt payment to the mediator.

At its December 12, 2007 meeting the Conference of Civil Presiding Judges discussed frequent problems in the operation of the procedure developed by the Conference and memorialized in Guideline #15. Specifically, the guideline provides that when a mediator's bill is not timely paid (the Order of Referral directs the parties to make "prompt payment" upon receipt of a bill), the mediator should fax a note to the Civil CDR Point Person detailing the non-payment. Once received, the court has the option to make an effort to resolve the matter informally or sua sponte schedule an Order to Show Cause (OTSC). The problem that frequently occurs is that there is no deadline on how long the court (through staff) may allow for informal settlement of the case before an OTSC is scheduled. It appears that, in several counties, the delinquent party drags out the process for months, sometimes misrepresenting that payment is in the mail when it is not. This informal process can result in the mediator expending additional time and resources simply trying to get paid. Finally, when the OTSC is scheduled, the mediator will get the payment the day before. When payment is received, the OTSC is cancelled. Or, if payment is not received and the OTSC hearing is held, the court simply orders payment of the unpaid bill or enters judgment in the amount of the unpaid bill. There are no provisions made for interest, sanctions, additional fees for collection efforts, etc. even though the court has the authority under Guideline #15 to impose consequences for a failure to mediate in accordance with the Order. Mediators, who have already lost two or more hours of uncompensated time on the case, deserve the court's assistance in deterring people from unnecessarily wasting their time.

When staff receive a fax from a mediator reporting such a problem, an Order to Show Cause should be immediately scheduled. In implementing this, the Committee supports a uniform approach with the mediator participating telephonically, but with the offending

individuals appearing in person. This approach was subsequently approved by the Conference of Civil Presiding Judges.

The proposed amendments to the Guidelines for the Compensation of Mediators serving in the Civil Program follow:

APPENDIX XXVI

GUIDELINES FOR THE COMPENSATION OF MEDIATORS SERVING IN THE CIVIL AND FAMILY ECONOMIC MEDIATION PROGRAMS

These guidelines apply to the compensation that may be charged by all mediators serving in the Statewide Mediation Program for Civil, General Equity, and Probate cases and also in the Family Economic Mediation Program where applicable:

1. …no change.

2. Time Spent Before Initial Mediation Session: At the beginning of the initial mediation session, the mediator shall disclose to the parties the amount of time the mediator has spent in handling the case thus far and must announce [also] when the [two] free mediation time [hours] will be [expended] over. If the amount of time spent by the mediator will exceed two hours and if the mediator intends to charge the parties for that additional time should they agree to continue with mediation on a paying basis, then the mediator must advise the parties of this fact prior to commencing the initial mediation session.

3. …no change.

4. Alternate Mediators: In the Civil Mediation Program if the parties select an alternate mediator from the approved roster, other than the mediator appointed by the court, that mediator may charge a negotiated rate fee and need not provide the first two hours of service free.

5. …no change.

6. …no change.

7. …no change.

8. …no change.

9. Allocation of Mediation Fees and Expenses: The parties who participate in mediation beyond the "free hours" component shall share the costs and fees of the mediator: 1) equally, 2) as determined by the mediator, or 3) as otherwise agreed, subject to an application to the court for an equitable reallocation of the fees. The mediator shall waive the share of the fee allocable to an indigent party as defined in *R.* 1:13-2(a)

10. …no change.

11. …no change.

12. Submission of Mediator's Bills: In the absence of other payment arrangements, mediators should bill the parties following each mediation session for which payment is due. Generally, a mediation session should not begin unless the parties are current in their payments for previous sessions. No retainer fee or advance may be requested by the mediator at any time. Counsel have a responsibility to facilitate prompt payment of mediator fees.

13. …no change.

14. …no change.

15. Collection of Unpaid Mediator's Bill/Failure to Mediate in Accordance with Order: If the court receives a written report (sent to the CDR Point Person in the county of venue or assigned judge in the Family Part) that a mediator has not been timely paid or that the mediator and/or a party has incurred unnecessary costs or expenses due to the failure of a party and/or counsel to participate in the mediation process in accordance with the Order of Referral to Mediation, the court [either will make an effort to resolve the matter and/or] will issue a sua sponte [issue an] Order to Show Cause why the mediator's bill

II. PROPOSED RULE AMENDMENTS CONSIDERED AND REJECTED

A. Rejected Amendments to Rule 1:40-12(a) – Mediator Qualifications

The Committee discussed the possible benefits of setting minimum standards for mediator expertise in certain Civil case types, such as employment, environmental, and complex construction. Currently, pursuant to a process developed by the Committee, if an individual meets the minimum educational requirements and satisfies the training and mentoring requirements, he or she is appointed to the roster. On the application form, he or she is asked to select substantive areas of law in which he or she has expertise. This is a subjective determination and there is no requirement to submit substantiation of that purported expertise.

The Conference of Civil Presiding Judges had endorsed the concept of setting minimum standards, although they did not discuss issues regarding how to determine expertise or what types of cases would necessitate such expertise.

This discussion brought the Committee back to the ongoing debate as to whether an individual who has honed effective mediation skills can resolve any type of dispute regardless of his or her substantive expertise. Prior discussions on this debate have indicated that the Committee is generally of the view that possessing effective mediation skills was the primary driver for being a successful mediator, and that expertise in a certain area is a secondary component.

As the discussion continued, the Committee agreed that in some types of cases (as in Lemon Law cases) substantiation should be required for the mediators. Currently, in order to mediate Lemon Law cases, an individual must complete a 4-hour course in substantive Lemon Law and related areas or certify that he or she has handled at least 15 lemon Law cases in the

past five years. Nevertheless, Rule 1:40-6(b) renders further amendment to Rule 1:40-12(a) unnecessary. Rule 1:40-6(b) states that "The parties may, however, within 14 days after entry of the mediation referral order, stipulate in writing to the designation of a different mediator." Consequently, pursuant to Rule1:40-6(b), if the experience and expertise of the assigned mediator does not meet the parties' expectations, they may agree to substitute a different mediator.

The Committee decided unanimously to leave the Rule as it currently stands.

III. OTHER RECOMMENDATIONS

A. Municipal Court Presumptive Mediation Pilot Program

In 2005, the Supreme Court approved an eighteen month presumptive mediation pilot program for municipal courts. The program was developed by the Municipal Court Programs Subcommittee and initiated in 2006. It was conducted in seven municipalities: Fairlawn Borough (Bergen County); Fort Lee Borough (Bergen County); Galloway Township (Atlantic County); Hoboken City (Hudson County); Lawrence Township (Mercer County); North Wildwood City (Cape May County); and, West Deptford (Gloucester County). The program was completed in 2007. Data was collected and evaluated to assess the attitude of parties involved in the mediation process, the mediators, municipal court judges and municipal court staff. The evaluation suggested that parties involved in mediation felt positive about the process. Similarly, mediators and court staff indicated that the process was effective.

That said, the report on the pilot project describes some concerns with the implementation of the pilot program (See Appendix I – Pilot Study: Presumptive Mediation Report). Sample sizes were small, due to a lack of full participation by some of the municipalities. There were also some issues with the compilation of the data by the studies coordinator. In reviewing the report, the Committee recommended that the pilot program be expanded and extended to additional courts throughout the state for further study. In order to improve the rate of participation, the Committee suggested that the outcome of the pilot be brought before the Conference of Municipal Presiding Judges and that each Judge be asked to recommend two or three municipalities in their vicinage to participate. The Presiding Judges will be able to select municipalities based on their knowledge of the individual courts, and we can therefore anticipate a higher rate of participation.

IV. LEGISLATION

The Committee has made no recommendations regarding legislation.

V. MATTERS HELD FOR CONSIDERATION

A. Evaluation of the Last Cycle's Rule Changes (Family)

The Committee has decided it would be prudent to examine the effectiveness of the recently amended Rules concerning mediation in the Family Division. The Committee has and will continue to review statistics in this effort. Additionally, the Committee will be seeking input from the Bench, Bar and mediation community.

B. Mediation Where a Final Restraining Order Exists

The Family Programs Subcommittee has been discussing the issue of mediation, in any form, where a final restraining order ("FRO") (not a temporary restraining order) exists. Some members of the Committee believe that individuals in relationships wherein domestic violence exists would benefit from mediation. The Conference of Family Presiding Judges designated Judge Dilts and Judge Millard to attend a Committee meeting to inform the Committee. The Judges attended the May, 2008 Committee meeting and provided the history and rationale behind New Jersey's prohibition against mediation where an FRO exists. The prohibition's rationale notwithstanding, Judge Dilts offered several comments for consideration if the Committee chooses to continue to explore mediation where an FRO exists. The Committee has decided to continue to explore the issue while acknowledging its complexity.

C. Survey Instruments:

Members of the Committee have expressed concerns regarding the lack of standardized surveys to gather and report back on both outcomes (the forms submitted by staff for statistical purposes) and evaluations (the forms submitted by the mediation participants) for the various CDR programs.

During the Rules cycle 2009-2011, the Administration and Family Subcommittees, in partnership with the Advisory Committee, will work to review the mediation statistical reporting and evaluation forms. The ideal outcome will enable us to not only report on vicinage and statewide statistics and evaluations, but also allow us to look across the various programs to compare program effectiveness (including mediator training) and possibly allow for a cost/benefit analysis of some of the programs.

D. Mediator Evaluations:

A concern has been raised that there is no process in place to evaluate mediators. While we now have a complaint process in place, it is used only minimally, and the assumption is that most people do not wish to take the time to go through the formal process, or they do not wish to take their concerns to that level of formal complaint. The Civil Division does get evaluations that indicate that there are problems, but often the complaints are anonymous and do not identify the mediator. In the event that a mediator is named, AOC court staff do reach out to the mediator, but there is no process in place to determine if the problem was remedied. The committee is doing exploratory research on an observation program that was recently put in place in Washington D.C. This program utilizes selected staff and volunteers to sit in and observe every mediator. There are obviously issues that need to be worked out, and the Committee will work toward a recommended pilot.

E. Mediator Litigation Reporting:

In response to the filing of a criminal complaint against a mediator on the statewide Mediation Roster, the Advisory Committee is considering whether it is necessary to require mediators to report any litigation they may become personally involved in while they are recognized as court appointed mediators. The issue is whether criminal charges or civil litigation relate to the mediator's suitability to serve as a mediator. The Advisory Committee expects to review and consider information collected from the National Center for State Courts describing the various requirements for mediators to report their personal litigation status and make a recommendation to the Supreme Court Committee on CDR during the 2009-2011 Rules cycle.

F. Case Settlement Procedures in Special Civil Part Summary Dispossess and Small Claims Matters:

Several members of the Committee have raised concerns regarding CDR practices in the Special Civil Part, especially in the summary dispossess and small claims divisions. Both of the latter involve a very high volume of cases and a disproportionate number of lower-income and unrepresented defendants. The Committee Chair noted that these proceedings represent the "face of our courts" to much of the community. It is critically important that the CDR procedures used to resolve many of them yield fair, equitable and just results.

Although often denominated "mediation," CDR in tenancy and small claims matters generally takes the form of case settlement negotiations, facilitated by law clerks and other third-parties. Assigned or recruited by each vicinage, these "case settlers" are provided with limited training by the AOC. They are charged with resolving as many cases as possible before trial. Some Committee members noted that time and volume pressures can result in settlements requiring displacement or excessive payments despite the existence of compelling, even jurisdictional, defenses which are ignored or unknown to the participants. Committee members also reported instances where defendants related feeling coerced by the process into accepting unreasonable or impossible settlement terms.

In response to the above, the Committee has decided to undertake a comprehensive review and evaluation of the case settlement procedures employed in Special Civil Part summary dispossess and small claims matters. Relevant data and information will be compiled and analyzed, and appropriate revisions to existing procedures will be proposed if and where necessary. The goal is to insure that this form of CDR results in settlements that are fairly negotiated, equitable and just.

VI. MISCELLANEOUS MATTERS

A. Statewide Expansion of the Presumptive Mediation Program (Civil)

Effective July 1, 2008, the Presumptive Mediation Pilot Program became a statewide program with implementation of the program in Atlantic and Cape May counties.

B. Impact of Two Free Hours of Mediator Service

Effective September 1, 2006, the Court amended R. 1:40-4 to reduce the number of hours of free mediator service per case from three to two. The Court also directed the Committee to track the impact. The subcommittee has been unable to determine whether there has been any cause and effect impact, positive or negative, due to the reduction in the free mediation time from three hours to two. The subcommittee recommends that the mediation training include tips, forms and similar techniques developed by practicing mediators that reduce preparation time and administration of multi-party cases.

C. Signing of Mediation Agreements

It was brought to the attention of the Committee that in some cases, mediators are asked to sign the agreements that they have mediated. However, some mediators, based on their training and their understanding of their roles as mediators, feel that it is improper for them to sign the agreement. There is concern that a signature on the agreement implies that the mediator endorses the agreement, and a signature also opens the door for the mediator to be brought into subsequent enforcement actions. The issue was discussed in detail by the Committee, and the Committee determined that the mediator should not sign the agreement.

D. Advisory Committee on Mediator Standards – Complaints Against Mediators

In January 2000, the Supreme Court approved a set of Standards of Conduct for Mediators in Court-Connected Programs ("Standards"). The Standards apply to all mediators, whether they are court staff, volunteers, or paid by the parties, when they are acting in state court-connected programs mediating matters in the Municipal Courts or in the Superior Court.

In adopting the Standards, the Court approved the creation of the Advisory Committee on Mediator Standards ("Advisory Committee"), appointed by the Chief Justice. In addition to assisting mediators by providing advice on interpretation of the Standards, the Advisory Committee was charged with monitoring complaints about mediators from attorneys or parties in mediation.

The Advisory Committee recommended a formal review process for complaints against mediators that was presented to and approved by the Supreme Court Committee on Complementary Dispute Resolution ("Supreme Court Committee on CDR") during the 2005-2007 Rules cycle. On August 7, 2007, with the approval of the Supreme Court, the Review Process for Complaints Against Mediators became effective. Since August 2007, the Advisory Committee has received seven complaints. All except one complaint that was resolved in the vicinage have been resolved informally. The one remaining complaint is still in the investigative phase.

1. Development of Formal Guidelines:

During the current Rules cycle the Advisory Committee commenced with the development of formal guidelines to ensure consistent and efficient processing of complaints against mediators. These guidelines will serve as a source of reference from the acknowledgment

of the complaint to its resolution as well as serve as an orientation manual for new members appointed to this Committee.

2. Conditional Review of Fee Disputes:

Also during this Rules cycle, at the request of the Civil Practice and Family Practice Committees, and with the support of the Supreme Court Committee on CDR, the Advisory Committee will now review fee disputes against mediators when it appears that the complaint raises a competency issue.

E. Mediator Education and Training

1. Mediation Conference:

The Education Subcommittee, charged with proposing sound minimum training and curriculum requirements for Judiciary and court –annexed mediators, commenced the 2007-2009 Rules cycle crafting a proposal for a one day conference for mediation trainers and educators. The purpose of the conference would be to provide a collaborative forum where experienced trainers can share information and insights on the most current and successful mediator training tools, techniques and curricula. The recorded product of the Conference discussions would provide the Education Subcommittee with a wealth of information to guide their recommendations for mediator training and education. In recognizing the importance of promoting the highest quality and competency of Judiciary mediators, the full CDR Committee has supported the Conference proposal. It is anticipated that much, if not all, of the de minimis costs of the conference could be absorbed by co-sponsoring organizations interested in promoting quality mediation in New Jersey.

2. Continuing Education and Reciprocal Training Relations:

In addition, the Education Subcommittee will continue discussions relevant to reciprocity involving other training programs and to the need for increased continuing education opportunities for roster mediators.

3. Standards of Quality and Competency for Mediators:

The Education Subcommittee will continue collecting and analyzing articles and information from scholars and practitioners in New Jersey, and across the country, related to the quality education of mediators. The Subcommittee has also undertaken to research the experience of other states' mediation training programs through objective data analyses (ie.,

training hours and curricula, mentoring requirements, interviews with mediators in New Jersey and nationwide, etc.) and more to provide a comprehensive barometer of current practices throughout the country.

Through utilizing a variety of information gathering techniques, the Subcommittee will be best positioned to offer mediator training recommendations to ensure New Jersey sets the standard for mediator quality and competency.

Respectfully Submitted,

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2007-2009 Rules Cycle

Report of the New Jersey Supreme Court
Committee on Complementary Dispute Resolution

Appendix

Pilot Study
Municipal Presumptive Mediation Report

Pilot Study: Presumptive Mediation Report

October 31, 2008

Submitted by:

Supreme Court Committee on Complementary Dispute Resolution – Municipal Programs Subcommittee

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I. Introduction

In 2007, the statewide municipal courts system handled approximately 545,004 cases per month. On an average, there is a 53.25% backlog of pending cases monthly.[1] One means of reducing backlog is to encourage parties to resolve matters through means other than trial. Mediation is one alternative that may be used to divert litigants from formal trial procedures.

Currently R. 7:8-1 of the Rules Governing the Courts of New Jersey provides:

> If a person seeks to file or has filed a complaint charging an offense that may constitute a minor dispute, the court may issue a notice to the person making the charge and the person charged, requiring their appearance before the court or before a person or program designated by the court and approved by the Assignment Judge pursuant to R. 1:40-8 (Mediation of Minor Disputes in Municipal Court Actions). If on the return date of a summons, it appears to the court that the offense charged may constitute a minor dispute, the court may order the persons involved to participate in mediation in accordance with R. 1:40-8.

The language of the rule indicates that mediation is permitted as an alternative to trial in municipal court. The Municipal Programs Subcommittee (Subcommittee) of the Supreme Court Committee on Complementary Dispute Resolution (CDR Committee) proposed initiating a presumptive mediation pilot program to determine its efficacy as an alternative to trials in municipal court. An earlier pilot program conducted by the Superior Court, Civil Division found that mediation had a "significant potential for handling a variety of civil cases . . . [t]he data derived clearly demonstrated that mediation in appropriate cases brings about early resolution after only nominal discovery."[2]

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[1] State of New Jersey Judiciary, Administrative Office of the Courts, *Reports on Demand-Municipal Courts Reports Case Flow Summary All Cases 2007*

[2] State of NJ Judiciary, Supreme Court Committee on Complementary Dispute Resolution, *Report on the Evaluation of the Presumptive Mediation Pilot Program* (2002)

II. Background

In April 2005, the Subcommittee recommended that a presumptive mediation pilot program be initiated to explore the effectiveness and efficiency of resolving certain types of cases in municipal court by diverting them from the traditional courtroom setting. Presumptive mediation would require all parties in minor disputes, as defined by R. 7:8-1, to enter into mediation rather than go to court. The CDR Committee endorsed the recommendation of the Subcommittee in May 2005. The Supreme Court approved the pilot program in July 2005.

The Subcommittee designated seven municipal courts to participate in the pilot program. They were: (1) North Wildwood Municipal Court, Cape May County; (2) Fort Lee Municipal Court, Bergen County; (3) Hoboken Municipal Court, Hudson County; (4) Lawrence Township Municipal Court, Mercer County; (5) Fair Lawn Municipal Court, Bergen County; (6) Galloway Township Municipal Court, Atlantic County; and, (7) West Deptford Municipal Court, Gloucester County.

The courts that were selected were located in municipalities that represented a diverse cross-section of municipalities throughout the state. North Wildwood is a shore community of 4,900 located in the southern part of the state in Cape May County. It is 2.1 square miles with a population density of roughly 2,300 people per square mile.

Fort Lee is an urban municipality located in North Jersey in Bergen County. It is about 2.9 square miles with a population of 37,000. It has a population of about 12,700 people per square mile.

Hoboken is a city of 1.3 square miles located in Hudson County in North Jersey as well. It is a densely populated urban community of about 40,000 with about 30,700 people per square mile. Like Fort Lee, it is in close proximity to New York City.

Two suburban municipalities were chosen to participate in the pilot: Lawrence Township and Fair Lawn Borough. Lawrence is a municipality with a population of 31,800 situated on 22.2 square miles, approximately 1,400 people per square mile. It is located in the central part of the state in Mercer County between Princeton and Trenton. Fair Lawn is located in North Jersey in Bergen County and has a population of 31,000. It is 5.2 square miles and has an estimated population 5,900 people per square mile.

Both West Deptford and Galloway Townships are located in the southern part of the state. West Deptford is a suburban community with a population of 22,000. Situated on roughly 17 square miles, it has a population density of 1,300 people per square mile. It is located in Gloucester County and it is in close proximity to Philadelphia. Galloway is located in Atlantic County near the border of Burlington County. It has approximately 36,000 inhabitants, however, because it is 115 square miles, it is relatively sparsely populated with 313 people per square mile.

III. Description of Pilot Program

A. Duration of the Program

The Subcommittee recommended that the pilot program be conducted for eighteen months. The actual survey of the program participants would occur for twelve months to allow enough time for a sufficient amount of data to be collected, from January 1, 2006 to December 31, 2006. The data would be reviewed initially after six months and then again after twelve months. The final six months of the eighteen month pilot would be used to analyze the data collected.

B. Types of Cases to Include in Pilot

R. 7:8-1 provides that "the court may order the persons involved to participate in mediation in accordance with R. 1:40-8. No referral to mediation shall be made, however, if the complaint involves (1) serious injury, (2) repeated acts of violence between the parties, (3) clearly demonstrated psychological or emotional disability of a party, (4) incidents involving the same persons who are already parties to a Superior Court action between them, (5) matters arising under the Prevention of Domestic Violence Act (N.J.S.A. 2C:25-17 et seq.), (6) a violation of the New Jersey Motor Vehicle Code (Title 39), or (7) matters involving penalty enforcement actions." The Subcommittee determined that only those minor disputes that are not barred by the language of R. 7:8-1 should be included in the presumptive mediation pilot program. In addition, the Subcommittee decided that municipal and code enforcement matters should not be a part of the pilot.

C. Methodology

The Subcommittee developed three distinct surveys using Likert–scaling. Likert-scale item surveys are generally used to investigate how respondents agree or disagree with a series of statements. The respondents rate their degree of agreement or disagreement of a given statement by rating numbered categories from 1 to 5. Because there are five rating levels, this type of survey is usually referred to as a "5-level Likert item" survey. In a 5-level Likert item survey, the categories represent a continuum that measures a respondent's attitude about a given statement where 1 would represent the respondent's strongest disagreement with the statement and 5 would be the strongest agreement. Likert-scale item surveys are generally used to gather information on feelings, opinions or attitudes.

The surveys developed by the Subcommittee were designed to discern the participating respondents' attitude toward the effectiveness of mediation by listing a series of statements regarding the mediation process and asking the respondents to rate their opinion with regard to the statement from "strongly disagree" to "strongly agree." One set of statements was developed for response by the involved parties, i.e. defendant and complaining witness. Appendix Table 1 is 'All Parties Surveys.' It is a summation of three tables: Appendix Table 2 – Defendants Surveys; Appendix Table 3 – Complaining Witnesses Surveys; and, Appendix Table 4 - Parties Not Identified Surveys. The statements in these surveys focused on the parties' satisfaction with the mediation process. Another set of statements, which dealt with the efficacy of mediation in terms of time and paperwork, was developed for response by the judge and court staff. This set of statements is in Appendix Table 5 - Judges and Court Staff Surveys. A third and final set of statements was developed for the mediators themselves. It can be found in Appendix Table 6 - Mediator Surveys. The statements in this set sought to examine the mediators' opinions about the type of cases being directed to mediation and whether mediation was effective.

IV. Survey of Parties

The Subcommittee developed an informational pamphlet entitled 'Mediation in the Municipal Courts: Resolving Cases Without Going Before a Judge.' The pamphlet was written in plain English and was designed to introduce and explain mediation to the public. It was also intended to foster the acceptance of mediation as an alternative to trial.

It was determined that the pamphlet would be made available to the public and complaining witnesses during court hours. If a private citizen filed a complaint that was amenable to mediation, he or she would be advised that the court would send the case to mediation. The individual would be provided a copy of an intake form entitled "Mediation Information", a copy of which may be found in Appendix Two. The form would be completed, signed and dated by the complaining witness at that time. Court staff would ascertain whether any special accommodations were necessary, such as an interpreter or disability accommodations. Depending on the operation of the court, the mediation would then be scheduled. For example, in some courts, if both parties appeared for court, they would be sent to mediation on the same day. In others, the mediation would be scheduled after filing, at a time when court was not in session. Directions to the location of the mediation session, any special instructions and notification would be provided to the parties. At the close of the mediation session, if the parties reached an agreement, the mediator would provide them with a written mediation agreement which they would sign. If the parties failed to reach an agreement, the unresolved matter would be referred to the court for further proceeding. In either case, the mediator would ask the parties to complete a mediation survey.

The surveys collected were forwarded to the division manager in each vicinage and then sent to the project coordinator for input and analysis.

V. Analysis of Surveys

Appendix Table 1 summarizes the responses of parties who participated in mediation during the study period. There were 202 individuals who responded to the survey. Of that number, approximately 42% identified themselves as complaining

witnesses, 35% as defendants and 23% did not identify themselves as either. For clarity sake, the result for each of the statements in the surveys will be noted separately. General discussion of the results concludes the section. Throughout the analyses, the calculated percentages may be slightly skewed due to rounding.

Statement 1: The explanation of the mediation program that you received before mediation was adequate.

There were 202 responses to this statement. Seventy-one participants identified themselves as defendants, 85 identified themselves as complaining witnesses and 46 were unidentified. The responses were as follows: 4 participants (2%) strongly disagreed; 3 participants (1%) disagreed; 18 participants (9%) were neutral; 59 participants (29%) agreed; and 118 participants (58%) strongly agreed. The mean score for this statement for all parties was 4.41 (see Appendix Table 1). The mean score to this statement for defendants was 4.56 (see Appendix Table 2), for complaining witnesses it was 4.41 (see Appendix Table 3), and for unidentified respondents it was 4.15 (see Appendix Table 4).

Statement 2: The mediator was pleasant and courteous.

There were 197 responses to this statement. Seventy participants identified themselves as defendants, 83 identified themselves as complaining witnesses and 44 were unidentified. The responses were as follows: 2 participants (1%) strongly disagreed; 2 participants (1%) disagreed; 8 participants (4%) were neutral; 38 participants (19%) agreed; and 147 participants (75%) strongly agreed. The mean score for all parties to this statement was 4.65 (see Appendix Table 1). The mean

score to this statement for defendants was 4.70 (see Appendix Table 2), for complaining witnesses it was 4.71 (see Appendix Table 3), and for unidentified respondents it was 4.48 (see Appendix Table 4).

Statement 3: I was satisfied with the mediation program and the way my mediation was handled.

There were 197 responses to this statement. Sixty-nine participants identified themselves as defendants, 85 identified themselves as complaining witnesses and 43 were unidentified. The responses were as follows: 5 participants (3%) strongly disagreed; 5 participants (3%) disagreed; 16 participants (8%) were neutral; 65 participants (33%) agreed; and 106 participants (54%) strongly agreed. The mean score to this statement for all parties was 4.33 (see Appendix Table 1). The mean score to this statement for defendants was 4.46 (see Appendix Table 2), for complaining witnesses it was 4.27 (see Appendix Table 3), and for unidentified respondents it was 4.23 (see Appendix Table 4).

Statement 4: The mediator was fair and impartial.

There were 199 responses to this statement. Sixty-nine participants identified themselves as defendants, 85 identified themselves as complaining witnesses and 45 were unidentified. The responses were as follows: 3 participants (2%) strongly disagreed; 3 participants (2%) disagreed; 7 participants (4%) were neutral; 62 participants (31%) agreed; and 124 participants (62%) strongly agreed. The mean score to this statement for all parties was 4.61 (see Appendix Table 1). The mean score to this statement for defendants was 4.57, (see Appendix Table 2), for

complaining witnesses it was 4.54 (see Appendix Table 3), and for unidentified respondents it was 4.38 (see Appendix Table 4).

Statement 5: The mediator kept the discussion direct to the main issues of the dispute during the mediation.

There were 198 responses to this statement. Sixty-eight participants identified themselves as defendants, 83 identified themselves as complaining witnesses and 47 were unidentified. The responses were as follows: 3 participants (2%) strongly disagreed; 3 participants (2%) disagreed; 11 participants (6%) were neutral; 58 participants (29%) agreed; and 123 participants (62%) strongly agreed. The mean score to this statement for all parties was 4.49 (see Appendix Table 1). The mean score to this statement for defendants was 4.59 (see Appendix Table 2), for complaining witnesses it was 4.49 (see Appendix Table 3), and for unidentified respondents it was 4.34 (see Appendix Table 4).

Statement 6: The mediator appeared to be genuinely interested in the settlement of my dispute.

There were 196 responses to this statement. Sixty-eight participants identified themselves as defendants, 83 identified themselves as complaining witnesses and 45 were unidentified. The responses were as follows: 4 participants (2%) strongly disagreed; 1 participant (1%) disagreed; 19 participants (10%) were neutral; 46 participants (23%) agreed; and 126 participants (64%) strongly agreed. The mean score to this statement for all parties was 4.47 (see Appendix Table 1). The mean score to this statement for defendants was 4.60 (see Appendix Table 2), for complaining

witnesses it was 4.45 (see Appendix Table 3), and for unidentified respondents it was 4.33 (see Appendix Table 4).

Statement 7: The mediator encouraged both parties to reach an agreement.

There were 199 responses to this statement. Seventy participants identified themselves as defendants, 84 identified themselves as complaining witnesses and 45 were unidentified. The responses were as follows: 2 participants (1%) strongly disagreed; 4 participants (2%) disagreed; 12 participants (6%) were neutral; 58 participants (29%) agreed; and 123 participants (62%) strongly agreed. The mean score to this statement for all parties was 4.49 (see Appendix Table 1). The mean score to this statement for defendants was 4.61 (see Appendix Table 2), for complaining witnesses it was 4.46 (see Appendix Table 3), and for unidentified respondents it was 4.33 (see Appendix Table 4).

Statement 8: If your mediation resulted in a written agreement - I was satisfied with the terms of the agreement.

There were 186 responses to this statement. Sixty-seven participants identified themselves as defendants, 77 identified themselves as complaining witnesses and 42 were unidentified. The responses were as follows: 4 participants (2%) strongly disagreed; 3 participants (2%) disagreed; 13 participants (7%) were neutral; 60 participants (32%) agreed; and 106 participants (57%) strongly agreed. The mean score to this statement for all parties was 4.40 (see Appendix Table 1). The mean score to this statement for defendants was 4.57 (see Appendix Table 2), for complaining

witnesses it was 4.30 (see Appendix Table 3), and for unidentified respondents it was 4.33 (see Appendix Table 4).

Statement 9: If your mediation did not result in an agreement - I was satisfied that the mediator did everything possible to bring about a settlement.

There were 132 responses to this statement. Forty-five participants identified themselves as defendants, 51 identified themselves as complaining witnesses and 36 were unidentified. The responses were as follows: 3 participants (2%) strongly disagreed; 1 participant (1%) disagreed; 15 participants (11%) were neutral; 41 participants (31%) agreed; and 72 participants (55%) strongly agreed. The mean score to this statement for all parties was 4.35 (see Appendix Table 1). The mean score to this statement for defendants was 4.27 (see Appendix Table 2), for complaining witnesses it was 4.41 (see Appendix Table 3), and for unidentified respondents it was 4.36 (see Appendix Table 4).

Statement 10: If I become a party to a dispute in the future, I am likely to want to try mediation again.

There were 190 responses to this statement. Sixty-seven participants identified themselves as defendants, 81 identified themselves as complaining witnesses and 42 were unidentified. The responses were as follows: 8 participants (4%) strongly disagreed; 4 participants (2%) disagreed; 23 participants (12%) were neutral; 51 participants (27%) agreed; and 104 participants (55%) strongly agreed. The mean score to this statement for all parties was 4.26 (see Appendix Table 1). The mean score to this statement for defendants was 4.48, (see Appendix Table 2), for

complaining witnesses it was 4.05 (see Appendix Table 3), and for unidentified respondents it was 4.31 (see Appendix Table 4).

Statement 11: How many times did you come to court and/or mediation in this case?

There were 183 responses to this statement. Sixty-eight participants identified themselves as defendants, 78 identified themselves as complaining witnesses and 37 were unidentified. The responses were as follows: 135 participants (74%) appeared once to mediate their case; 24 participants (13%) appeared twice; 17 participants (9%) appeared three times; 5 participants (3%) appeared four times and two participants (1%) appeared five times.

All participants appear to have been satisfied with the mediation process. The mean score for each statement was greater than 4. On the five-level Likert Scale, this indicates that the participants agreed with the efficacy of mediation. What is interesting and perhaps should be studied further are the attitudinal differences between defendants and complaining witnesses.

The scores to Statement 4, which asked about the impartiality of the mediators, indicated that both parties felt that the mediators were impartial. The defendants' score was 4.57 and the complaining witness score was 4.54. This suggests that the difference in attitude was not due to a perception that the mediator was biased. The inference may be that complaining witnesses felt unsatisfied with the mediation process because they did not appear before a judge. Again, this is a statement that perhaps should be explored further.

Statement 9 asked if the participants were satisfied with the mediator despite not reaching an agreement. The difference in mean score of all parties was negligible. This supports the assumption that the participants were not dissatisfied with the mediators.

Statement 10 is important because it reveals the participants' experience with the mediation process and the likelihood that they would choose it as an option to trial. The difference in mean scores between the defendant and complaining witnesses suggests that the complaining witnesses were less satisfied with the mediation process than the defendants. The mean score of the remaining 42 participants who were unidentified was 4.31.

VI. Survey of the Judge and Court Staff

There were 34 responses to the Judge and Court Staff Surveys. The judge and court staff survey was composed of a total of eleven statements. Seven statements were of the five-level Likert item type and four required a written opinion. As with the Parties' Surveys, each Likert item statement will be noted separately with a discussion thereafter.

Statement 1: Presumptive mediation is an efficient way to manage caseflow.

There were 20 responses to this statement. There were no participants who strongly disagreed or disagreed with this statement (0%). Five participants (25%) were neutral; nine participants (45%) agreed and six participants (30%) strongly agreed. The mean score was 4.05.

Statement 2: As a result of presumptive mediation, there was more paperwork.

There were 33 responses to this statement. There were two participants (6%) who strongly disagreed with this statement. There were seven participants (21%) who disagreed with this statement. Eight participants (25%) were neutral; eight participants (25%) agreed and eight participants (25%) strongly agreed. The mean score was 3.52.

Statement 3: There was very few or no problems assigning mediators to cases.

There were 31 responses to this statement. There was one participant (3%) who strongly disagreed with this statement, one (3%) who disagreed and three participants (10%) who were neutral. Eight participants (26%) agreed and eighteen participants (58%) strongly agreed. The mean score was 4.32.

Statement 4: There were very few or no problems with the parties.

There were 31 responses to this statement. There was one participant who strongly disagreed with this statement (3%). There were no participants who disagreed with this statement (0%). Nine participants (29%) were neutral; seventeen participants (55%) agreed and four participants (13%) strongly agreed. The mean score was 3.74.

Statement 5: The parties seemed satisfied with mediation.

There were 31 responses to this statement. There were no participants (0%) who strongly disagreed or disagreed with this statement. Two participants were neutral (6%); twenty-three participants (74%) agreed and six participants (19%) strongly agreed. The mean score was 4.13.

Statement 6: The pilot project caused very few or no scheduling problems.

There were 33 responses to this statement. There was one participant (3%) who strongly disagreed with this statement. There were no participants (0%) who disagreed with this statement. Two participants (6%) were neutral; nineteen (58%) agreed and eleven participants (33%) strongly agreed. The mean score was 4.18.

Statement 7: Presumptive mediation is an efficient way to handle minor disputes.

There were 34 responses to this statement. There was one participant who strongly disagreed with this statement (3%). There were no participants (0%) who disagreed with this statement. Eight participants (24%) were neutral; nine (26%) agreed and sixteen participants (47%) strongly agreed. The mean score was 4.15.

The scores for Statements 1, 3, 5, 6 and 7 were all greater than 4 which indicates that the respondents agreed or strongly agreed with the statements made regarding presumptive mediation. The responses to Statements 2 and 4 indicate some ambivalence with regard to presumptive mediation. It is the recommendation of the Subcommittee that consideration be given to a follow-up inquiry to these statements.

Statement 2 stated "As a result of presumptive mediation, there was <u>more</u> paperwork." The mean score for this statement was 3.52. It implies that there is no significant time-savings with regard to paperwork for presumptive mediation.

It should be noted that this statement was awkwardly phrased and the respondents could have easily misread it. To ensure that the respondents were reading the statement correctly and responding to it appropriately, the statement could have been reframed to say, "As a result of presumptive mediation, there was <u>less</u>

paperwork." If presumptive mediation is approved statewide, any future evaluation regarding this topic should be reviewed to ensure that it is clear. Also, the respondents should be randomly interviewed to garner more detailed information about staff attitude towards presumptive mediation.

Statement 4 sought to determine whether court staff perceived any problems associated with the presumptive mediation pilot. The mean score for this statement was 3.74 which indicates that the respondents' attitude toward the pilot was better than neutral but was not in full agreement. The responses to this statement may need to be explored further to determine what if any ambivalence court staff feels about presumptive mediation.

The judges and court staff were asked to respond to four statements that were non-Likert type statements. These statements were designed to elicit opinions from the respondents. They were as follows:

Statements 8: If I could add another case type to those that must be mediated, it would be:

There were three responses to this statement. The respondents indicated that they would add: (1) motor vehicle cases where citizens were the complaining witnesses; (2) bad check cases; and (3) cross complaints.

Statement 9: If I could eliminate one case type from those that must be mediated, it would be:

There were three responses to this statement and all three responses indicated that they would eliminate simple assault from the mediation process.

Statement 10: The best part of the presumptive mediation pilot project was:

This statement elicited eleven responses. The benefits of presumptive mediation that were cited were: (1) it permits cases to be resolved without the involvement of a judge; (2) it presents an alternative to resolving cases without the defendant going to first appearance; (3) there were fewer first appearances scheduled; (4) it reduces paperwork; (5) it reduces the number of times that litigant must appear; (6) it saves court time; (7) it's an effective way of handling time consuming disputes; and, (8) it is an effective case management tool.

Statement 11: The one thing I would change about the presumptive mediation pilot project would be:

There were twelve responses to this statement. The suggested changes included: (1) when parties are being directed to mediation they should be not allowed to file complaints but instead issue "notice in lieu of complaints;" (2) the letter notifying the mediating parties should be automated; (3) court staff should be permitted to evaluate which cases should go to mediation; and, (4) there should be trained mediators rather than volunteers.

VII. Survey of Mediators

Seven mediators responded to this survey. The responses to the statements are noted below.

Statement 1: Mediation was appropriate for the types of cases that you received.

There were seven responses to this statement. Two participants agreed and five strongly agreed. None felt that the cases were inappropriate for mediation.

Statement 2: The court's procedures were efficient in getting the cases to you.

There were six responses to this statement. Five respondents strongly agreed with this statement and one was neutral.

Statement 3: The presumptive mediation pilot project created substantially more paperwork for you.

There were six responses to this statement. One respondent strongly disagreed, three disagreed, one was neutral and one agreed.

Statement 4: The scheduling of the mediation sessions was done effectively.

There were six responses to this statement. Three strongly agreed, two agreed and one was neutral.

Statement 5: The parties were more familiar with the mediation process as a result of the written materials given to them

There were seven responses to this statement. Three agreed with the statement in this statement and four were neutral.

Statement 6: I recommend that presumptive mediation should be used statewide.

There were six responses to this statement. Four strongly agreed, one agreed and one disagreed.

Statement 7: I was satisfied with the presumptive mediation pilot program.

There were six responses to this statement. Four strongly agreed, one agreed and one disagreed.

Statement 8: What suggestions do you have to improve the program?

Of the statements posed to the mediators, this one provided the most useful information from the mediators' critique of the mediation process. There were four responses to this statement. It was suggested: (1) that the court should depend on the mediator's expertise; (2) that mediation session should be scheduled earlier so that cases can be resolved by mid-morning; and (3) that parties should <u>not</u> be given the opportunity to rate mediators. One mediator opined that one problem with the mediation process is that parties feel that they have not "had their day in court."

VIII. Pilot Program Challenges

Because the study sought direct input from all interested parties, it relied on data collected from the participating municipal courts. The results of this type of study are only as good as the data collected. Issues regarding the collection of the data are highlighted below.

A. Issues with data

There have been some problems associated with the collection and procedures used in the collection of the data for this study. The original design of the study was for data from defendants and complaining witnesses to be collected for twelve months. At the end of each month, the data would be collected by court staff and forwarded to the coordinator of the project. An analysis of the data was to be performed at the end of the sixth month and then again at the end of the twelfth month. The final report was to be a complete summation and analysis of the defendant and complaining witness data, as well as data collected from surveys of judges and court staff and mediators.

Unfortunately little of the data that was to be collected at the end of six months was found. This problem can possibly be attributed to two factors: (1) there was little response from the litigants and other interested parties, i.e. mediators or court staff; and (2) there were some problems with the transfer the data to the coordinator and the subsequent input of the data into a spreadsheet.

B. Issues with courts selected

One of the objects of the study was to determine the efficacy of presumptive mediation in a variety of court settings, i.e. small rural courts, suburban courts, and large urban courts. While the courts chosen to participate in the studies did fit into the categories selected for study, two of the courts, Fairlawn and Fort Lee, as a rule, do not

utilize mediation. As a result, no useful data were obtained from these courts. Exacerbating the problem presented by this lack of data was the fact that both courts are located in the same vicinage, this means that the study ignores an important area of the state, i.e. Bergen County.

North Wildwood Municipal Court was also chosen to participate in the study. This court is located in a unique community: it is a shore town with a large seasonal population. Because the data were not preserved carefully by month over the twelve-month duration, there were no usable data available. This court particularly provided an exceptional opportunity to determine the effectiveness of mediation in rural municipalities with a fluid population.

C. Issues with Methodology

Likert Scale surveys are generally used to determine the attitudes of a given study group. They are frequently used in psychology studies. Consequently, the information that was captured by this survey measured the attitudes of the participant involved in the mediation process, i.e. the parties, judges, court staff, and mediators. However, what the data are not able to provide are such relevant information as how much time is saved by the courts as a result of mediation, what resources are saved or expended, or what the relapse rate is, i.e. parties returning to mediation for the same problem. In order to secure this information, more probing investigatory tools should have been employed, including in-depth interviews with court staff, judges, defendants, complaining witnesses, and mediators.

The Likert Scale survey is a useful tool to gather information on attitudes. However, while there are a number of statistical implications that may be derived from

this type of survey, the Likert Scale is difficult to manipulate to gain traditional statistical illations.

D. Usefulness of the Study

The information gathered does yield positive inferences. In those courts that participated in this study, both the defendant and complaining witness appear to be satisfied with the process. The complaining witnesses appear to be less slightly satisfied, however. This lower satisfaction may be attributable to the desire of the complaining witnesses to "have their day-in-court" or the desire to punish the defendants. The reason for this incongruence in attitude would require additional research that could include a detailed interview with the complaining witnesses.

Based on the data gathered from municipal court judges and court staff, mediation appears to be an effective alternative to a trial. There are some areas however that should be closely monitored during full implementation of the program to determine cost-effectiveness and resolve procedural problems.

IX. Conclusion

This study sought to determine effectiveness of presumptive mediation by examining the attitudes of all parties involved in the process, i.e. the defendant, the complaining witness, the judge, the court staff and the mediator. Presumptive mediation assumes that all minor disputes, with certain exceptions, would be sent to mediation for resolution at the time the complaint is filed.

The benefits of presumptive mediation include a decreased number of cases scheduled for court appearances, a shorter period of time from filing to disposition and an increased use of court volunteers. Currently, presumptive mediation is permitted but

not required.[3] Requiring cases to undergo this process will increase the number of cases resolved outside the courtroom, allotting more time during a court session to adjudicate mandatory court appearances, not guilty pleas, and trials, hence aiding in the reduction of backlog.

It is the recommendation of this Subcommittee that the presumptive mediation pilot be expanded to collect additional data from other courts around the state. Expansion will improve the quality of the data collected thus far and corroborate the existing study. Three municipalities from each vicinage, of similar size to those used for the initial pilot, may be used. Recommendations for the expanded pilot program are as follows:

1. Continue using the same surveys for the respective parties with minor revisions to accommodate the collection of data. Revise the survey to include a line for the name of the municipality and the date the survey was completed. Communicate with judges, court staff and mediators to brief them on the time frame and data collection.
2. Monitor the accurate collection of data on a monthly basis. In addition to collecting surveys from the interested parties, participating courts must complete the monthly mediation statistical summary report and submit to the vicinage Municipal Division office. Vicinage staff will compile the data into a single report that will then be forwarded to the AOC. Accurate monthly records will determine the amount of cases that go to mediation, those that are settled and those that are returned to court for resolution.

[3] During calendar year 2006, 61% of municipal courts referred cases to mediation.

3. Monitor success of presumptive mediation through the comparison of success rate prior to implementation. The CDR unit collects statistical data from each vicinage monthly. The success rate and the number of cases that are returned to court are captured on the report.
4. Upon conclusion and immediate analysis of the twelve-month expansion, and if the results are consistent with the original pilot, a recommendation can be made to implement presumptive mediation statewide.

If the recommendation is made to implement presumptive mediation statewide, it is recommended that motor vehicle matters where there is no police officer as a complainant (including cross complainants) be added to the types of cases approved for mediation. Addition of this type of complaint will require a court rule change to R.1:40-8(a)(6) and R.7:8-1(6).

The Subcommittee also recommends improved case processing through enhancements in the Automated Complaint System (ACS) that accommodate mediation scheduling and automated mediation notices. The manual administration of the program requires court staff to schedule cases according to mediators' schedules and notice involved parties without the benefit of a central electronic system. Hard copy forms are completed and mailed to the involved parties to advise them of the appearance date. Case files are pulled from the master file and housed separately until cases are returned from mediation. The paperwork involved can be significantly reduced through an ACS enhancement.

Manual administration of the program significantly contributes to the ambiguity of statistical data collection. Tracking of cases disposed through mediation is only available if court personnel use the ACS disposition code of M for such cases.

Presently this code is not used consistently. Through the use of the monthly Police Disposition Report in RMDS, a comparison can then be made with the manual Monthly Municipal Mediation Statistical Report presently used to report mediation activity to determine its accuracy.

Due to the challenges presented during this study in acquiring and compiling statistical data, the Subcommittee recommends that improved controls for collection and monitoring be implemented by the vicinage municipal divisions as well as the CDR unit. Municipal courts must be retrained on a standardized form of data collection until such time that ACS is enhanced and appropriate RMDS reports are made available.

To further improve the quality of the mediation program and to assist in the managing of an increased number of cases once presumptive mediation is implemented statewide, the Subcommittee recommends a tool be developed that permits municipal division staff to evaluate the objective and subjective aspects of the mediation program. A form of in-session observation, where the observer is held to the same confidentiality restrictions as a mediator, may be helpful to observe the process in motion. Regular assessment of mediators through surveys will help identify problems they may face with the process and identify training needs.

Appendix One

No.	Appendix Table 1: All Parties Surveys	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	Totals	Average
		1	**2**	**3**	**4**	**5**		
1	***The explanation of the mediation program that you received before mediation was adequate.***							
	West Deptford	1	0	1	9	24	35	4.57
	Lawrence Twp	0	1	3	7	11	22	4.27
	North Wildwood	0	0	0	0	0	0	0.00
	Hoboken	1	0	7	15	26	49	4.33
	Galloway Twp	2	2	7	28	57	96	4.42
	Fair Lawn	0	0	0	0	0	0	0.00
	Fort Lee	0	0	0	0	0	0	0.00
	Statement 1 Totals	**4**	**3**	**18**	**59**	**118**	202	4.41
	Percent	**2%**	**1%**	**9%**	**29%**	**58%**	**100%**	
2	***The mediator was pleasant and courteous.***							
	West Deptford	1	0	2	4	27	34	4.65
	Lawrence Twp	0	0	1	6	14	21	4.62
	North Wildwood	0	0	0	0	0	0	0.00
	Hoboken	0	2	0	8	38	48	4.71
	Galloway Twp	1	0	5	20	68	94	4.64
	Fair Lawn	0	0	0	0	0	0	0.00
	Fort Lee	0	0	0	0	0	0	0.00
	Statement 2 Totals	**2**	**2**	**8**	**38**	**147**	197	4.65
	Percent	**1%**	**1%**	**4%**	**19%**	**75%**	**100%**	
3	***I was satisfied with the mediation program and the way my mediation was handled.***							
	West Deptford	1	0	1	13	20	35	4.46
	Lawrence Twp	0	1	1	9	9	20	4.30
	North Wildwood	0	0	0	0	0	0	0.00
	Hoboken	1	1	3	13	30	48	4.46
	Galloway Twp	3	3	11	30	47	94	4.22
	Fair Lawn	0	0	0	0	0	0	0.00
	Fort Lee	0	0	0	0	0	0	0.00
	Statement 3 Totals	**5**	**5**	**16**	**65**	**106**	197	4.33
	Percent	**3%**	**3%**	**8%**	**33%**	**54%**	**100%**	

No.	Appendix Table 1: All Parties Surveys	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	Totals	Average
		1	**2**	**3**	**4**	**5**		
4	***The mediator was fair and impartial.***							
	West Deptford	1	0	0	10	23	34	4.59
	Lawrence Twp	1	0	2	8	10	21	4.24
	North Wildwood	0	0	0	0	0	0	0.00
	Hoboken	0	3	1	16	29	49	4.45
	Galloway Twp	1	0	4	28	62	95	4.58
	Fair Lawn	0	0	0	0	0	0	0.00
	Fort Lee	0	0	0	0	0	0	0.00
	Statement 4 Totals	**3**	**3**	**7**	**62**	**124**	199	4.61
	Percent	**2%**	**2%**	**4%**	**31%**	**62%**	**100%**	
5	***The mediator kept the discussion direct to the main issues of the dispute during the mediation.***							
	West Deptford	1	0	0	10	24	35	4.60
	Lawrence Twp	0	0	2	10	9	21	4.33
	North Wildwood	0	0	0	0	0	0	0.00
	Hoboken	0	2	4	12	29	47	4.45
	Galloway Twp	2	1	5	26	61	95	4.51
	Fair Lawn	0	0	0	0	0	0	0.00
	Fort Lee	0	0	0	0	0	0	0.00
	Statement 5 Totals	**3**	**3**	**11**	**58**	**123**	198	4.49
	Percent	**2%**	**2%**	**6%**	**29%**	**62%**	**100%**	
6	***The mediator appeared to be genuinely interested in the settlement of my dispute.***							
	West Deptford	1	0	1	9	24	35	4.57
	Lawrence Twp	0	0	2	8	10	20	4.40
	North Wildwood	0	0	0	0	0	0	0.00
	Hoboken	1	0	4	13	29	47	4.47
	Galloway Twp	2	1	12	16	63	94	4.46
	Fair Lawn	0	0	0	0	0	0	0.00
	Fort Lee	0	0	0	0	0	0	0.00
	Statement No. 6 Totals	**4**	**1**	**19**	**46**	**126**	196	4.47
	Percent	**2%**	**1%**	**10%**	**23%**	**64%**	**100%**	

No.	Appendix Table 1: All Parties Surveys	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	Totals	Average
		1	**2**	**3**	**4**	**5**		
7	***The mediator encouraged both parties to reach an agreement.***							
	West Deptford	1	2	0	10	22	35	4.43
	Lawrence Twp	0	0	0	11	10	21	4.48
	North Wildwood	0	0	0	0	0	0	0.00
	Hoboken	0	1	5	13	29	48	4.46
	Galloway Twp	1	1	7	24	62	95	4.53
	Fair Lawn	0	0	0	0	0	0	0.00
	Fort Lee	0	0	0	0	0	0	0.00
	Statement No. 7 Totals	**2**	**4**	**12**	**58**	**123**	199	4.49
	Percent	**1%**	**2%**	**6%**	**29%**	**62%**	**100%**	
8	***If your mediation resulted in a written agreement - I was satisfied with the terms of the agreement.***							
	West Deptford	1	0	2	7	23	33	4.55
	Lawrence Twp	0	0	2	8	11	21	4.43
	North Wildwood	0	0	0	0	0	0	0.00
	Hoboken	0	3	5	14	24	46	4.28
	Galloway Twp	3	0	4	31	48	86	4.41
	Fair Lawn	0	0	0	0	0	0	0.00
	Fort Lee	0	0	0	0	0	0	0.00
	Statement No. 8 Totals	4	3	13	60	106	186	4.40
	Percent	**2%**	**2%**	**7%**	**32%**	**57%**	**100%**	
9	***If your mediation did not result in an agreement - I was satisfied that the mediator did everything possible to bring about a settlement.***							
	West Deptford	2	0	2	8	15	27	4.26
	Lawrence Twp	0	0	2	5	4	11	4.18
	North Wildwood	0	0	0	0	0	0	0.00
	Hoboken	0	0	6	10	18	34	4.35
	Galloway Twp	1	1	5	18	35	60	4.42
	Fair Lawn	0	0	0	0	0	0	0.00
	Fort Lee	0	0	0	0	0	0	0.00
	Statement No. 9 Totals	3	1	15	41	72	132	4.35
	Percent	**2%**	**1%**	**11%**	**31%**	**55%**	**100%**	

No.	Appendix Table 1: All Parties Surveys	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	Totals	Average
		1	**2**	**3**	**4**	**5**		
10	***If I become a party to a dispute in the future, I am likely to want to try mediation again.***							
	West Deptford	2	0	2	9	22	35	4.40
	Lawrence Twp	0	1	5	6	8	20	4.05
	North Wildwood	0	0	0	0	0	0	0.00
	Hoboken	2	2	4	12	25	45	4.24
	Galloway Twp	4	1	12	24	49	90	4.26
	Fair Lawn	0	0	0	0	0	0	0.00
	Fort Lee	0	0	0	0	0	0	0.00
	Statement No. 10 Totals	8	4	23	51	104	190	4.26
	Percent	**4%**	**2%**	**12%**	**27%**	**55%**	**100%**	
11	***How many times did you come to court and/or mediation in this case?***	once	twice	three	four	five		
	West Deptford	25	5	0	0	0	30	
	Lawrence Twp	17	4	0	0	0	21	
	North Wildwood	0	0	0	0	0	0	
	Hoboken	35	3	6	2	1	47	
	Fair Lawn	0	0	0	0	0	0	
	Galloway Twp	58	12	11	3	1	85	
	Fort Lee	0	0	0	0	0	0	
							0	
	Times Total	135	24	17	5	2	183	
	Percent	**74%**	**13%**	**9%**	**3%**	**1%**	**100%**	

No.	Appendix Table 2: Defendant Surveys	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	Totals	Average
		1	**2**	**3**	**4**	**5**		
1	***The explanation of the mediation program that you received before mediation was adequate.***							
	West Deptford				1	11	12	4.92
	Lawrence Twp			1	4	5	10	4.40
	North Wildwood						0	0.00
	Hoboken			1	7	11	19	4.53
	Galloway Twp	1	1	1	6	21	30	4.50
	Fair Lawn						0	0.00
	Fort Lee						0	0.00
	Statement 1 Totals	**1**	**1**	**3**	**18**	**48**	**71**	4.56
	Percent	**1%**	**1%**	**4%**	**25%**	**68%**	**100%**	
2	***The mediator was pleasant and courteous.***							
	West Deptford				1	11	12	4.92
	Lawrence Twp			1	3	5	9	4.44
	North Wildwood						0	0.00
	Hoboken				4	15	19	4.79
	Galloway Twp	1		1	5	23	30	4.63
	Fair Lawn						0	0.00
	Fort Lee						0	0.00
	Statement 2 Totals	**1**	**0**	**2**	**13**	**54**	**70**	4.70
	Percent	**1%**	**0%**	**3%**	**19%**	**77%**	**100%**	
3	***I was satisfied with the mediation program and the way my mediation was handled.***							
	West Deptford				4	8	12	4.67
	Lawrence Twp				5	3	8	4.38
	North Wildwood						0	0.00
	Hoboken			1	4	14	19	4.68
	Galloway Twp	1		4	10	15	30	4.27
	Fair Lawn						0	0.00
	Fort Lee						0	0.00
	Statement 3 Totals	**1**	**0**	**5**	**23**	**40**	**69**	4.46
	Percent	**1%**	**0%**	**7%**	**33%**	**58%**	**100%**	

No.	Appendix Table 2: Defendant Surveys	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	Totals	Average
		1	**2**	**3**	**4**	**5**		
4	***The mediator was fair and impartial.***							
	West Deptford				1	10	11	4.91
	Lawrence Twp	1			5	3	9	4.00
	North Wildwood						0	0.00
	Hoboken			1	5	13	19	4.63
	Galloway Twp	1			9	20	30	4.57
	Fair Lawn						0	0.00
	Fort Lee						0	0.00
	Statement 4 Totals	**2**	**0**	**1**	**20**	**46**	**69**	4.57
	Percent	**3%**	**0%**	**1%**	**29%**	**67%**	**100%**	
5	***The mediator kept the discussion direct to the main issues of the dispute during the mediation.***							
	West Deptford				1	11	12	4.92
	Lawrence Twp			1	5	3	9	4.22
	North Wildwood						0	0.00
	Hoboken		1	1	4	12	18	4.50
	Galloway Twp	1		1	5	22	29	4.62
	Fair Lawn						0	0.00
	Fort Lee						0	0.00
		1	**1**	**3**	**15**	**48**	**68**	4.59
	Percent	**1%**	**1%**	**4%**	**22%**	**72%**	**100%**	
	Statement 5 Totals							
6	***The mediator appeared to be genuinely interested in the settlement of my dispute.***							
	West Deptford				1	11	12	4.92
	Lawrence Twp			1	4	4	9	4.33
	North Wildwood						0	0.00
	Hoboken			**1**	**3**	14	18	4.72
	Galloway Twp	**1**	**1**	**3**	**2**	22	29	4.48
	Fair Lawn						0	0.00
	Fort Lee						0	0.00
	Statement No. 6 Totals	**1**	**1**	**5**	**10**	**51**	**68**	4.60
	Percent	**1%**	**1%**	**7%**	**15%**	**75%**	**100%**	

No.	Appendix Table 2: Defendant Surveys	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	Totals	Average
		1	**2**	**3**	**4**	**5**		
7	***The mediator encouraged both parties to reach an agreement.***							
	West Deptford				2	10	12	4.83
	Lawrence Twp				5	4	9	4.44
	North Wildwood						0	0.00
	Hoboken			1	4	14	19	4.68
	Galloway Twp	1		1	8	20	30	4.53
	Fair Lawn						0	0.00
	Fort Lee						0	0.00
	Statement No. 7 Totals	**1**	**0**	**2**	**19**	**48**	**70**	4.61
	Percent	**1%**	**0%**	**3%**	**27%**	**69%**	**100%**	
8	***If your mediation resulted in a written agreement – I was satisfied with the terms of the agreement.***							
	West Deptford				1	11	12	4.92
	Lawrence Twp			1	3	4	8	4.38
	North Wildwood						0	0.00
	Hoboken			2	4	13	19	4.58
	Galloway Twp	1			11	16	28	4.46
	Fair Lawn						0	0.00
	Fort Lee						0	0.00
	Statement No. 8 Totals	1	0	3	19	44	**67**	4.57
	Percent	**1%**	**0%**	**4%**	**28%**	**66%**	**100%**	
9	***If your mediation did not result in an agreement - I was satisfied that the mediator did everything possible to bring about a settlement.***							
	West Deptford	1			1	7	9	4.44
	Lawrence Twp			1	3	1	5	4.00
	North Wildwood						0	0.00
	Hoboken			2	3	9	14	4.50
	Galloway Twp	1	1	1	7	7	17	4.06
	Fair Lawn						0	0.00
	Fort Lee						0	0.00
	Statement No. 9 Totals	2	1	4	14	24	**45**	4.27
	Percent	**4%**	**2%**	**9%**	**31%**	**53%**	**100%**	

No.	Appendix Table 2: Defendant Surveys	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	Totals	Average
		1	**2**	**3**	**4**	**5**		
10	***If I become a party to a dispute in the future, I am likely to want to try mediation again.***							
	West Deptford					12	12	5.00
	Lawrence Twp			1	5	3	9	4.22
	North Wildwood						0	0.00
	Hoboken			1	4	12	17	4.65
	Galloway Twp	2		4	6	17	29	4.24
	Fair Lawn						0	0.00
	Fort Lee						0	0.00
	Statement No. 10 Totals	2	0	6	15	44	**67**	4.48
	Percent	**3%**	**0%**	**9%**	**22%**	**66%**	**100%**	
11	***How many times did you come to court and/or mediation in this case?***	once	twice	three	four	five		
	West Deptford	9	2				11	
	Lawrence Twp	8	1				9	
	North Wildwood						0	
	Hoboken	15	1	2	1		19	
	Galloway Twp	21	3	4	1		29	
	Fair Lawn						0	
	Fort Lee						0	
	Times Total	53	7	6	2	0	**68**	
	Percent	**78%**	**10%**	**9%**	**3%**	**0%**	**100%**	

No.	Appendix Table 3: Complaining Witness Surveys	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	Totals	Average
		1	**2**	**3**	**4**	**5**		
1	***The explanation of the mediation program that you received before mediation was adequate.***							
	West Deptford				8	7	15	4.47
	Lawrence Twp		1	2	2	3	8	3.88
	North Wildwood						0	0.00
	Hoboken			3	4	12	19	4.47
	Galloway Twp	1		2	15	25	43	4.47
	Fair Lawn	0	0	0	0	0	0	0.00
	Fort Lee	0	0	0	0	0	0	0.00
	Statement 1 Totals	**1**	**1**	**7**	**29**	**47**	**85**	4.41
	Percent	**1%**	**1%**	**8%**	**34%**	**55%**	**100%**	
2	***The mediator was pleasant and courteous.***							
	West Deptford			2	3	10	15	4.53
	Lawrence Twp				2	6	8	4.75
	North Wildwood						0	0.00
	Hoboken		1		1	17	19	4.79
	Galloway Twp			1	9	31	41	4.73
	Fair Lawn	0	0	0	0	0	0	0.00
	Fort Lee	0	0	0	0	0	0	0.00
	Statement 2 Totals	**0**	**1**	**3**	**15**	**64**	**83**	4.71
	Percent	**0%**	**1%**	**4%**	**18%**	**77%**	**100%**	
3	***I was satisfied with the mediation program and the way my mediation was handled.***							
	West Deptford			1	8	6	15	4.33
	Lawrence Twp		1	1	3	3	8	4.00
	North Wildwood						0	0.00
	Hoboken	1		2	5	11	19	4.32
	Galloway Twp	1	1	4	16	21	43	4.28
	Fair Lawn	0	0	0	0	0	0	0.00
	Fort Lee	0	0	0	0	0	0	0.00
	Statement 3 Totals	**2**	**2**	**8**	**32**	**41**	**85**	4.27
	Percent	**2%**	**2%**	**9%**	**38%**	**48%**	**100%**	

No.	Appendix Table 3: Complaining Witness Surveys	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	Totals	Average
		1	**2**	**3**	**4**	**5**		
4	***The mediator was fair and impartial.***							
	West Deptford				6	9	15	4.60
	Lawrence Twp			2	2	4	8	4.25
	North Wildwood						0	0.00
	Hoboken		2		7	11	20	4.35
	Galloway Twp			1	12	29	42	4.67
	Fair Lawn	0	0	0	0	0	0	0.00
	Fort Lee	0	0	0	0	0	0	0.00
	Statement 4 Totals	**0**	**2**	**3**	**27**	**53**	**85**	4.54
	Percent	**0%**	**2%**	**4%**	**32%**	**62%**	**100%**	
5	***The mediator kept the discussion direct to the main issues of the dispute during the mediation.***							
	West Deptford				6	9	15	4.60
	Lawrence Twp			1	4	3	8	4.25
	North Wildwood						0	0.00
	Hoboken		1	2	2	13	18	4.50
	Galloway Twp	1	1	1	12	27	42	4.50
	Fair Lawn	0	0	0	0	0	0	0.00
	Fort Lee	0	0	0	0	0	0	0.00
	Statement 5 Totals	**1**	**2**	**4**	**24**	**52**	**83**	4.49
	Percent	**1%**	**2%**	**5%**	**29%**	**63%**	**100%**	
6	***The mediator appeared to be genuinely interested in the settlement of my dispute.***							
	West Deptford				6	9	15	4.60
	Lawrence Twp			1	3	3	7	4.29
	North Wildwood						0	0.00
	Hoboken	**1**		**2**	**5**	11	19	4.32
	Galloway Twp	**1**		**5**	**8**	28	42	4.48
	Fair Lawn	**0**	**0**	**0**	**0**	0	0	0.00
	Fort Lee	0	0	0	0	0	0	0.00
	Statement No. 6 Totals	**2**	**0**	**8**	**22**	**51**	**83**	4.45
	Percent	**2%**	**0%**	**10%**	**27%**	**61%**	**100%**	

No.	Appendix Table 3: Complaining Witness Surveys	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	Totals	Average
		1	**2**	**3**	**4**	**5**		
7	***The mediator encouraged both parties to reach an agreement.***							
	West Deptford		2		6	7	15	4.20
	Lawrence Twp				5	3	8	4.38
	North Wildwood						0	0.00
	Hoboken		1	1	6	11	19	4.42
	Galloway Twp			3	11	28	42	4.60
	Fair Lawn	0	0	0	0	0	0	0.00
	Fort Lee	0	0	0	0	0	0	0.00
	Statement No. 7 Totals	**0**	**3**	**4**	**28**	**49**	**84**	4.46
	Percent	**0%**	**4%**	**5%**	**33%**	**58%**	**100%**	
8	***If your mediation resulted in a written agreement – I was satisfied with the terms of the agreement.***							
	West Deptford			2	5	6	13	4.31
	Lawrence Twp			1	4	4	9	4.33
	North Wildwood						0	0.00
	Hoboken		3	2	6	7	18	3.94
	Galloway Twp	1		1	14	21	37	4.46
	Fair Lawn	0	0	0	0	0	0	0.00
	Fort Lee	0	0	0	0	0	0	0.00
	Statement No. 8 Totals	1	3	6	29	38	**77**	4.30
	Percent	**1%**	**4%**	**8%**	**38%**	**49%**	**100%**	
9	***If your mediation did not result in an agreement - I was satisfied that the mediator did everything possible to bring about a settlement.***							
	West Deptford			1	6	3	10	4.20
	Lawrence Twp			1	2	1	4	4.00
	North Wildwood						0	0.00
	Hoboken			2	5	5	12	4.25
	Galloway Twp			1	7	17	25	4.64
	Fair Lawn	0	0	0	0	0	0	0.00
	Fort Lee	0	0	0	0	0	0	0.00
	Statement No. 9 Totals	0	0	5	20	26	**51**	4.41
	Percent	**0%**	**0%**	**10%**	**39%**	**51%**	**100%**	

No.	Appendix Table 3: Complaining Witness Surveys	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	Totals	Average
		1	**2**	**3**	**4**	**5**		
10	***If I become a party to a dispute in the future, I am likely to want to try mediation again.***							
	West Deptford	1		2	8	4	15	3.93
	Lawrence Twp		1	4	1	2	8	3.50
	North Wildwood						0	0.00
	Hoboken	2	1	2	6	8	19	3.89
	Galloway Twp	1	1	4	13	20	39	4.28
	Fair Lawn	0	0	0	0	0	0	0.00
	Fort Lee	0	0	0	0	0	0	0.00
	Statement No. 10 Totals	4	3	12	28	34	**81**	4.05
	Percent	**5%**	**4%**	**15%**	**35%**	**42%**	**100%**	
11	***How many times did you come to court and/or mediation in this case?***	once	twice	three	four	five		
	West Deptford	12	2				14	
	Lawrence Twp	7	1				8	
	North Wildwood						0	
	Hoboken	12	1	3	1	1	18	
	Galloway Twp	23	6	7	1	1	38	
	Fair Lawn	0	0	0	0	0	0	
	Fort Lee	0	0	0	0	0	0	
	Times Total	54	10	10	2	2	**78**	
	Percent	**69%**	**13%**	**13%**	**3%**	**3%**	**100%**	

No.	Appendix Table 4: Parties – Not Identified Surveys	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	Totals	Average
		1	**2**	**3**	**4**	**5**		
1	***The explanation of the mediation program that you received before mediation was adequate***							
	West Deptford	1		1		6	8	4.25
	Lawrence Twp				1	3	4	4.75
	North Wildwood						0	0.00
	Hoboken	1		3	4	3	11	3.73
	Galloway Twp		1	4	7	11	23	4.22
	Fair Lawn						0	0.00
	Fort Lee						0	0.00
	Statement 1 Totals	**2**	**1**	**8**	**12**	**23**	**46**	4.15
	Percent	**4%**	**2%**	**17%**	**26%**	**50%**	**100%**	
2	***The mediator was pleasant and courteous.***							
	West Deptford	1				6	7	4.43
	Lawrence Twp				1	3	4	4.75
	North Wildwood						0	0.00
	Hoboken		1		3	6	10	4.40
	Galloway Twp			3	6	14	23	4.48
	Fair Lawn						0	0.00
	Fort Lee						0	0.00
	Statement 2 Totals	**1**	**1**	**3**	**10**	**29**	**44**	4.48
	Percent	**2%**	**2%**	**7%**	**23%**	**66%**	**100%**	
3	***I was satisfied with the mediation program and the way my mediation was handled.***							
	West Deptford	1			1	6	8	4.38
	Lawrence Twp				1	3	4	4.75
	North Wildwood						0	0.00
	Hoboken		1		4	5	10	4.30
	Galloway Twp	1	2	3	4	11	21	4.05
	Fair Lawn						0	0.00
	Fort Lee						0	0.00
	Statement 3 Totals	**2**	**3**	**3**	**10**	**25**	**43**	4.23
	Percent	**5%**	**7%**	**7%**	**23%**	**58%**	**100%**	

No.	Appendix Table 4: Parties – Not Identified Surveys	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	Totals	Average
		1	**2**	**3**	**4**	**5**		
4	***The mediator was fair and impartial.***							
	West Deptford	1			3	4	8	4.13
	Lawrence Twp				1	3	4	4.75
	North Wildwood						0	0.00
	Hoboken		1		4	5	10	4.30
	Galloway Twp			3	7	13	23	4.43
	Fair Lawn						0	0.00
	Fort Lee						0	0.00
	Statement 4 Totals	**1**	**1**	**3**	**15**	**25**	**45**	4.38
	Percent	**2%**	**2%**	**7%**	**33%**	**56%**	**100%**	
5	***The mediator kept the discussion direct to the main issues of the dispute during the mediation.***							
	West Deptford	1			3	4	8	4.13
	Lawrence Twp				1	3	4	4.75
	North Wildwood						0	0.00
	Hoboken			1	6	4	11	4.27
	Galloway Twp			3	9	12	24	4.38
	Fair Lawn						0	0.00
	Fort Lee						0	0.00
	Statement 5 Totals	**1**	**0**	**4**	**19**	**23**	**47**	4.34
	Percent	**2%**	**0%**	**9%**	**40%**	**49%**	**100%**	
6	***The mediator appeared to be genuinely interested in the settlement of my dispute.***							
	West Deptford	1		1	2	4	8	4.00
	Lawrence Twp				1	3	4	4.75
	North Wildwood						0	0.00
	Hoboken			**1**	**5**	4	10	4.30
	Galloway Twp			**4**	**6**	13	23	4.39
	Fair Lawn						0	0.00
	Fort Lee						0	0.00
	Statement No. 6 Totals	**1**	**0**	**6**	**14**	**24**	**45**	4.33
	Percent	**2%**	**0%**	**13%**	**31%**	**53%**	**100%**	

No.	Appendix Table 4: Parties – Not Identified Surveys	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	Totals	Average
		1	**2**	**3**	**4**	**5**		
7	***The mediator encouraged both parties to reach an agreement.***							
	West Deptford	1			2	5	8	4.25
	Lawrence Twp				1	3	4	4.75
	North Wildwood						0	0.00
	Hoboken			3	3	4	10	4.10
	Galloway Twp		1	3	5	14	23	4.39
	Fair Lawn						0	0.00
	Fort Lee						0	0.00
	Statement No. 7 Totals	**1**	**1**	**6**	**11**	**26**	**45**	4.33
	Percent	**2%**	**2%**	**13%**	**24%**	**58%**	**100%**	
8	***If your mediation resulted in a written agreement – I was satisfied with the terms of the agreement.***							
	West Deptford	1			1	6	8	4.38
	Lawrence Twp				1	3	4	4.75
	North Wildwood						0	0.00
	Hoboken			1	4	4	9	4.33
	Galloway Twp	1		3	6	11	21	4.24
	Fair Lawn						0	0.00
	Fort Lee						0	0.00
	Statement No. 8 Totals	2	0	4	12	24	**42**	4.33
	Percent	**5%**	**0%**	**10%**	**29%**	**57%**	**100%**	
9	***If your mediation did not result in an agreement - I was satisfied that the mediator did everything possible to bring about a settlement.***							
	West Deptford	1		1	1	5	8	4.13
	Lawrence Twp					2	2	5.00
	North Wildwood						0	0.00
	Hoboken			2	2	4	8	4.25
	Galloway Twp			3	4	11	18	4.44
	Fair Lawn						0	0.00
	Fort Lee						0	0.00
	Statement No. 9 Totals	1	0	6	7	22	**36**	4.36
	Percent	**3%**	**0%**	**17%**	**19%**	**61%**	**100%**	

No.	Appendix Table 4: Parties – Not Identified Surveys	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	Totals	Average
		1	**2**	**3**	**4**	**5**		
10	***If I become a party to a dispute in the future, I am likely to want to try mediation again.***							
	West Deptford	1			1	6	8	4.38
	Lawrence Twp					3	3	5.00
	North Wildwood						0	0.00
	Hoboken		1	1	2	5	9	4.22
	Galloway Twp	1		4	5	12	22	4.23
	Fair Lawn						0	0.00
	Fort Lee						0	0.00
	Statement No. 10 Totals	2	1	5	8	26	**42**	4.31
	Percent	**5%**	**2%**	**12%**	**19%**	**62%**	**100%**	
11	***How many times did you come to court and/or mediation in this case?***	once	twice	three	four	five		
	West Deptford	4	1				5	
	Lawrence Twp	2	2				4	
	North Wildwood						0	
	Hoboken	8	1	1			10	
	Galloway Twp	14	3		1		18	
	Fair Lawn						0	
	Fort Lee						0	
	Average Times Total	28	7	1	1	0	**37**	
	Percent	**76%**	**19%**	**3%**	**3%**	**0%**	**100%**	

No.	Appendix Table 5: Judge and Court Staff Surveys	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	Totals	Average.
		1	**2**	**3**	**4**	**5**		
1	**Presumptive mediation is an efficient way to manage caseflow.**							
	West Deptford							
	Lawrence Twp			4		1	5	3.40
	North Wildwood				3	2	5	4.40
	Hoboken				3	2	5	4.40
	Galloway Twp				2		2	4.00
	Fair Lawn			1		1	2	4.00
	Fort Lee				1		1	4.00
	Totals	**0**	**0**	**5**	**9**	**6**	**20**	4.05
	Percent	**0%**	**0%**	**25%**	**45%**	**30%**	**100%**	
2	**As a result of presumptive mediation, there was more paperwork.**							
	West Deptford	1	3	6	2	2	14	3.07
	Lawrence Twp			1	2	2	5	4.20
	North Wildwood				3	2	5	4.40
	Hoboken		4			1	5	2.60
	Galloway Twp			1		1	2	4.00
	Fair Lawn	1			1		2	2.50
	Fort Lee							
	Totals	**2**	**7**	**8**	**8**	**8**	**33**	3.52
	Percent	**6%**	**21%**	**25%**	**26%**	**25%**	**100%**	
3	**There was very few or no problems assigning mediators to cases.**							
	West Deptford	1	0	1	1	10	13	4.46
	Lawrence Twp		1		3	1	5	3.80
	North Wildwood				2	1	3	4.33
	Hoboken				2	3	5	4.60
	Galloway Twp			2			2	3.00
	Fair Lawn					2	2	5.00
	Fort Lee					1	1	5.00
	Totals	**1**	**1**	**3**	**8**	**18**	**31**	4.32
	Percent	**3%**	**3%**	**10%**	**26%**	**58%**	**100%**	

No.	Appendix Table 5: Judge and Court Staff Surveys	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	Totals	Average.
		1	**2**	**3**	**4**	**5**		
4	**There were very few or no problems with the parties.**							
	West Deptford	0	0	3	6	2	11	3.91
	Lawrence Twp	1		3		1	5	3.00
	North Wildwood				5		5	4.00
	Hoboken				5		5	4.00
	Galloway Twp			2			2	3.00
	Fair Lawn			1		1	2	4.00
	Fort Lee				1		1	4.00
	Totals	**1**	**0**	**9**	**17**	**4**	**31**	3.74
	Percent	**3%**	**0%**	**29%**	**55%**	**13%**	**100%**	
5	**The parties seemed satisfied with mediation.**							
	West Deptford	0	0	0	10	2	12	4.17
	Lawrence Twp			1	3	1	5	4.00
	North Wildwood				4	1	5	4.20
	Hoboken				4	1	5	4.20
	Galloway Twp			1			1	3.00
	Fair Lawn				1	1	2	4.50
	Fort Lee				1		1	4.00
	Totals	**0**	**0**	**2**	**23**	**6**	**31**	4.13
	Percent	**0%**	**0%**	**6%**	**74%**	**19%**	**100%**	
6	**The pilot project caused very few or no scheduling problems.**							
	West Deptford	1	0	0	10	3	14	4.00
	Lawrence Twp			1	3	1	5	4.00
	North Wildwood				2	3	5	4.60
	Hoboken				3	2	5	4.40
	Galloway Twp			1			1	3.00
	Fair Lawn					1	1	5.00
	Fort Lee				1	1	2	4.50
	Totals	**1**	**0**	**2**	**19**	**11**	**33**	4.18
	Percent	**3%**	**0%**	**6%**	**58%**	**33%**	**100%**	

No.	Appendix Table 5: Judge and Court Staff Surveys	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	Totals	Average.
		1	**2**	**3**	**4**	**5**		
7	**Presumptive mediation is an efficient way to handle minor disputes.**							
	West Deptford	1	0	3	3	7	14	4.07
	Lawrence Twp			2	2	1	5	3.80
	North Wildwood				2	3	5	4.60
	Hoboken				1	4	5	4.80
	Galloway Twp			1	1		2	3.50
	Fair Lawn			1		1	2	4.00
	Fort Lee			1			1	3.00
	Totals	**1**	**0**	**8**	**9**	**16**	**34**	4.15
	Percent	**3%**	**0%**	**24%**	**26%**	**47%**	**100%**	

No.	Appendix Table 6: Mediator Surveys	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	TOTALS
1	**Mediation was appropriate for the types of cases that you received.**						
	West Deptford						0
	Lawrence Twp				2	4	6
	North Wildwood						0
	Hoboken					1	1
	Galloway Twp						0
	Fair Lawn						0
	Fort Lee						0
	Statement No. 1 Totals	**0**	**0**	**0**	**2**	**5**	**7**
	Percent	**0%**	**0%**	**0%**	**29%**	**71%**	**100%**
2	**The court's procedures were efficient in getting the cases to you.**						
	West Deptford						0
	Lawrence Twp					5	5
	North Wildwood						0
	Hoboken			1			1
	Galloway Twp						0
	Fair Lawn						0
	Fort Lee						0
	Statement No. 2 Totals	**0**	**0**	**1**	**0**	**5**	**6**
	Percent	**0%**	**0%**	**17%**	**0%**	**83%**	**100%**
3	**The presumptive mediation pilot project created substantially more paperwork for you.**						
	West Deptford						0
	Lawrence Twp	1	2	1	1		5
	North Wildwood						0
	Hoboken		1				1
	Galloway Twp						0
	Fair Lawn						0
	Fort Lee						0
	Statement No. 3 Totals	**1**	**3**	**1**	**1**	**0**	**6**
	Percent	**17%**	**50%**	**17%**	**17%**	**0%**	**100%**

No.	Appendix Table 6: Mediator Surveys	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	TOTALS
4	**The scheduling of the mediation sessions was done effectively.**						
	West Deptford						0
	Lawrence Twp				2	3	5
	North Wildwood						0
	Hoboken			1			1
	Galloway Twp						0
	Fair Lawn						0
	Fort Lee						0
	Statement No. 4 Totals	**0**	**0**	**1**	**2**	**3**	**6**
	Percent	**0%**	**0%**	**17%**	**33%**	**50%**	**100%**
5	**The parties were more familiar with the mediation process as a result of the written materials given to them**						
	West Deptford						0
	Lawrence Twp			3	2		5
	North Wildwood						0
	Hoboken			1	1		2
	Galloway Twp						0
	Fair Lawn						0
	Fort Lee						0
	Statement No. 5 Totals	**0**	**0**	**4**	**3**	**0**	**7**
	Percent	**0%**	**0%**	**57%**	**43%**	**0%**	**100%**
6	**I recommend that presumptive mediation should be used statewide.**						
	West Deptford						0
	Lawrence Twp		1		1	3	5
	North Wildwood						0
	Hoboken					1	1
	Galloway Twp						0
	Fair Lawn						0
	Fort Lee						0
	Statement No. 6 Totals	**0**	**1**	**0**	**1**	**4**	**6**
	Percent	**0%**	**17%**	**0%**	**17%**	**67%**	**100%**

No.	Appendix Table 6: Mediator Surveys	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	TOTALS
7	**I was satisfied with the presumptive mediation pilot program.**						
	West Deptford						
	Lawrence Twp		1		1	3	5
	North Wildwood						0
	Hoboken					1	1
	Galloway Twp						0
	Fair Lawn						0
	Fort Lee						0
							0
	Statement No. 7 Totals	**0**	**1**	**0**	**1**	**4**	**6**
	Percent	**0%**	**17%**	**0%**	**17%**	**67%**	**100%**

Appendix Two

Mediation Information

For Office Use Only

Mediation Case Number:

Please PRINT your answers

Your Information	Other Party's Information
Name: Last First Middle	Name: Last First Middle
Your Address: Street	Other party's relationship to you (e.g. neighbor, friend, etc.)
City State Zip Code	Is the other party 18 years old or older? Yes ☐ No ☐ Don't Know ☐
Your Telephone Numbers Home / Work	Other Party's Telephone Numbers (if known) Home / Work
Do you require disability accomidations? Yes ☐ No ☐	Does the other party require disability accomidations? (if known) Yes ☐ No ☐ Don't Know ☐
Do you understand English? Yes ☐ No ☐	Does the other party understand English? Yes ☐ No ☐ Don't Know ☐

Briefly describe what happened

Were there any serious injuries?	Yes ☐	No ☐
Does your dispute involve a traffic violation?	Yes ☐	No ☐
Is there a current Domestic Violence Restraining Order between you and the other party, or are you and the other party involved in a court matter under the Prevention of Domestic Violence Act?	Yes ☐	No ☐
Are you and the other party involved in a Supreme Court matter at this time?	Yes ☐	No ☐
Are you aware of a clearly demonstrated psychological or emotional disability of the other party?	Yes ☐	No ☐
Have there been repeated acts of violence between you and the other party?	Yes ☐	No ☐
I understand that mediation is an alternative to formal court proceedings and is a way to resolve disputes without using a judge to decide the case.	Yes ☐	No ☐

Date _____ Signature _____

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