

**UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE TENTH CIRCUIT**

IN RE GENERAL ORDERS OF THE UNITED STATES BANKRUPTCY APPELLATE PANEL OF THE TENTH CIRCUIT.	GENERAL ORDER NO. 4 September 9, 2009
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Before CORNISH, Chief Judge, BOHANON, MICHAEL, NUGENT, BROWN, THURMAN,
RASURE, KARLIN and ROMERO, Bankruptcy Judges.

WHEREAS, the Tenth Circuit Court of Appeals established a mediation office (“Circuit Mediator”) which began operations in 1991; and

WHEREAS, on April 20, 2009, the Bankruptcy Appellate Panel (“BAP”) voted to implement a trial mediation program for a period of twelve months (“Pilot Mediation Program”), utilizing the services of the Circuit Mediator.

Accordingly, it is **HEREBY ORDERED THAT:**

1. **Effective Date.** The Pilot Mediation Program is established effective for appeals filed on or after October 1, 2009.

2. **Mediation Conference.** The Circuit Mediator may schedule and conduct mediation conferences in any matter referred to it by a Motions Panel of the BAP. If the Motions Panel decides not to refer the case to the Circuit Mediator, the parties may nevertheless file a motion to be referred for mediation, which the Motions Panel shall then review and decide. The primary purpose of the Pilot Mediation Program is to explore settlement, but case management matters may also be addressed. Participation in the Pilot

Mediation Program consists of participation in one or more conferences to address any matter that may aid in disposing of the proceedings, including simplifying the issues and discussing settlement, pursuant to Federal Rule of Appellate Procedure 33.

3. **Participation of Counsel and Parties.** Counsel must participate in every scheduled mediation conference and in related discussions. Generally a party may participate but need not unless required by the Circuit Mediator. Conferences are conducted by telephone unless the Circuit Mediator directs otherwise.

4. **Preparation of Counsel for Mediation Conference; Settlement Authority.** Counsel must consult with their clients and obtain as much authority as feasible to settle the case and agree on case management matters in preparing for the initial conference. These obligations continue throughout the mediation process.

5. **Confidentiality.** Statements made during the conference and in related discussions, and any records of those statements, are confidential and must not be disclosed by anyone (including the Circuit Mediator, counsel, or the parties; and their agents or employees) to anyone not participating in the mediation proceedings. Proceedings under this General Order may not be recorded by counsel or the parties.

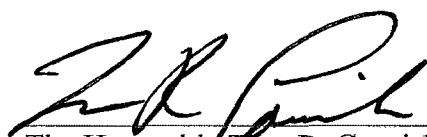
6. **Conference Order; Mediator Authority.** The Circuit Mediator may cause a judgment or order to be entered controlling the course of the case or the mediation proceedings. The Circuit Mediator is a delegate of this court. Any conference orders or other communications from the Circuit Mediator must be treated the same as any other court directive.

7. **Extensions for Ordering Transcript or Filing Brief.** The time allowed by Federal Rule of Bankruptcy Procedure 8007 for ordering a transcript and by Federal Rule Bankruptcy Procedure 8009 for filing briefs is not automatically tolled pending a conference. If a conference has been scheduled, counsel may contact the Circuit Mediator for an extension of time to order a transcript or file a brief.

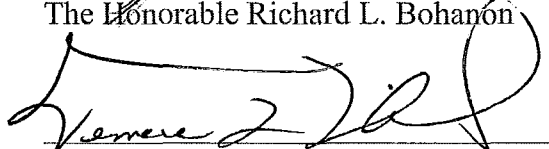
8. **Sanctions.** The court may impose sanctions if counsel or a party violates any provision of this General Order.


Prior to the expiration of the Pilot Mediation Program, the BAP will evaluate the effectiveness of the program and determine whether it should be extended or made permanent.

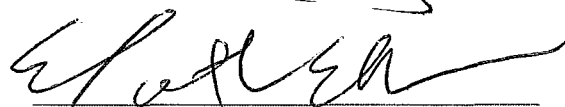
By the Panel:

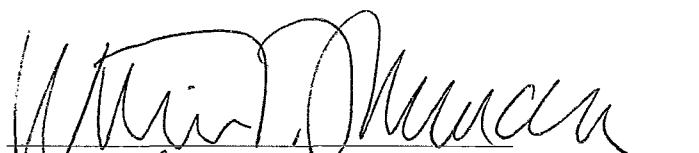

The Honorable Tom R. Cornish, Chief

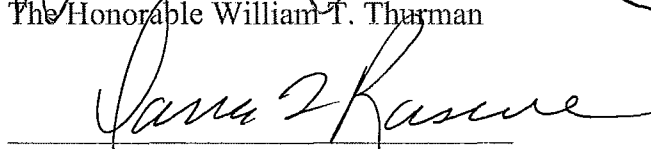

The Honorable Richard L. Bohanon


The Honorable Terrence L. Michael

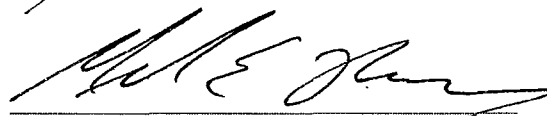

The Honorable Robert E. Nugent


The Honorable Elizabeth E. Brown


The Honorable William T. Thurman


The Honorable Dana L. Rasure


The Honorable Janice Miller Karlin


The Honorable Michael E. Romero