

2019 MAR - 1 AM 9:52
SUPREME COURT

IN THE SUPREME COURT OF THE VIRGIN ISLANDS

IN RE:) **PROMULGATION No. 2019-006**
ESTABLISHMENT OF FEE MEDIATION)
PROGRAM.)
_____)

ORDER OF THE COURT

THIS MATTER is before the Court pursuant to the requests of the Office of Disciplinary Counsel and the Virgin Islands Bar Association to establish a fee mediation program to facilitate the resolution of attorney discipline matters that consist essentially of a dispute over a fee. Accordingly, it is hereby

ORDERED that the following new language **SHALL BE ADOPTED** as Supreme Court Rule 207.30:

Rule 207.30. Fee Mediation.

(a) Referral to Fee Mediation.

(1) Where the matter consists essentially of a dispute over a fee, the matter may, with the written consent of the complainant and respondent and the approval of the Chair of the Board on Professional Responsibility, be referred to fee mediation. The Chair of the Board on Professional Responsibility shall approve the matter for fee mediation upon a finding that the matter is suitable for fee mediation. Fee mediation is not suitable when the dispute involves an allegation of lawyer misconduct, which, if true, would warrant a sanction of probation, suspension, or disbarment.

(2) The Office of Disciplinary Counsel, with the approval of the Supreme Court of the Virgin Islands, shall develop a Fee Mediation Referral Form that, if duly-executed, will satisfy the requirements of Rule 207.30(a).

(3) During the pendency of the mediation the matter will be marked as "Stayed" in the files of the Office of Disciplinary Counsel and the Board on Professional Responsibility.

(b) Fee Mediators. Up to four members from the Board of Professional Responsibility shall be designated each year as the Board's Fee Mediators. The Board Member fee mediators may not charge for their services.

(c) Assignment of Fee Mediators. Upon execution of the Fee Mediation Referral Form, the Office of Disciplinary Counsel shall appoint a fee mediator from the list of designated fee mediators to mediate the matter.

March 1, 2019

VERONICA HANDY, ESQUIRE
CLERK OF THE COURT

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The fee mediator may not be a member of the Committee to which the complaint has been or may be assigned.

(d) *Confidentiality of Fee Mediation.* All discussions preceding and during fee mediation shall be strictly confidential.

(e) *Fee Mediation Procedure.* Two hours shall be allotted for a fee mediation. In the discretion of the fee mediator, mediation may be terminated at any time should it appear to them that either, or both, of the complainant or respondent are not proceeding in good faith. In the discretion of the fee mediator, the mediation may be extended beyond two (2) hours if there has been substantial progress in the mediation and should it appear that a successful mediation is probable.

(f) *Result of Fee Mediation.*

(1) If the fee mediation is successful, the fee mediator shall so state in a report to the Office of Disciplinary Counsel; provided, however, that a matter successfully resolved through fee mediation shall not be dismissed as a result of the agreement without the approval of the Chair of the Board on Professional Responsibility.

(2) If the fee mediation is unsuccessful, the fee mediator shall so state, and the fee mediator shall refer the matter back to the Office of Disciplinary Counsel and the Board on Professional Responsibility for further action.

(g) *Fees for Fee Mediation.* There shall be no charge for any fee mediation performed by a member of the Board on Professional Responsibility.

It is further

ORDERED that, pursuant Rule 37(a) of the Virgin Islands Rules of Appellate Procedure, the Bench, Bar, and the public **MAY FILE** comments with the Clerk of this Court no later than thirty (30) days from the date of entry of this Order. It is further

ORDERED that these amendments **SHALL GO INTO EFFECT IMMEDIATELY** unless modified as a result of comments submitted under Rule 37(a).

ORDERED that copies of this order be directed to the appropriate parties.

SO ORDERED this 28th day of February, 2019.

March 1, 2019

VERONICA HANDY, ESQUIRE
CLERK OF THE COURT

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IVE ARLINGTON SWAN
Associate Justice


MARIA M. CABRET
Associate Justice


RHYS S. HODGE
Chief Justice

ATTEST:

VERONICA J. HANDY, ESQ.
Clerk of the Court

By: 
Deputy Clerk

Dated: 3/01/19

Copies to:

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Judges & Magistrate Judges of the Superior Court
Judges & Magistrate Judges of the District Court
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Hinda Carbon, Executive Director, V.I. Bar Association
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