

2024



UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK



ALTERNATIVE DISPUTE RESOLUTION REPORT

DANIELLE SHALOV, ADR ADMINISTRATOR
HON. ROBERT M. LEVY, USMJ, ADR OVERSIGHT JUDGE
BRENNAN B. MAHONEY, CLERK OF COURT
EDNY ADR DEPARTMENT
225 CADMAN PLAZA EAST BROOKLYN, NY 11201

PROGRAM OVERVIEW

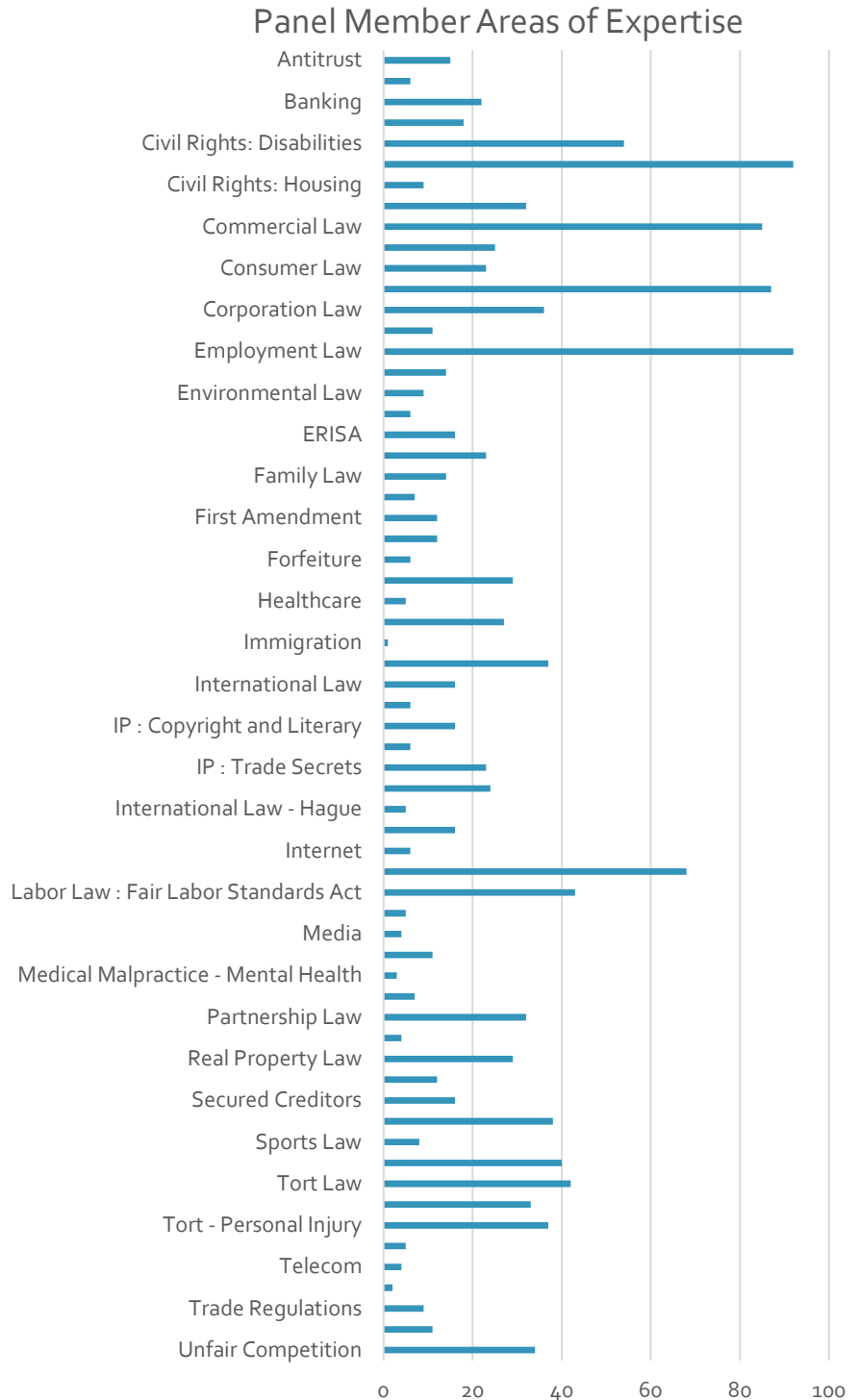
The Eastern District of New York (EDNY) is a trial-level federal court that serves Kings, Queens, Richmond, Nassau and Suffolk Counties, with courthouses located in Brooklyn and Central Islip. The EDNY Alternative Dispute Resolution (ADR) Department administers mediation and arbitration services for civil cases filed in the EDNY. The ADR Department is overseen by the ADR Oversight Judge and the ADR Administrator, as well as the Arbitration Coordinator, Brennan Frazier, and the ADR Clerk, Julissa Rey.

MEDIATION PROGRAM

PANEL MEDIATORS

There are 169 mediators on the EDNY Mediation Panel. EDNY litigants may review biographies for EDNY Mediation Panel members on the EDNY ADR Website at: <https://www.nyed.uscourts.gov/adr/>

The accompanying chart (right) illustrates the number of EDNY panel mediators qualified in each area of expertise.



From January 1, 2024, through December 31, 2024, 121 panel mediators were selected to mediate 777 cases. Not all of these cases held an initial mediation session.¹

Of the 169 mediators on the EDNY panel, 72% were selected to mediate at least one case. Two percent (2%) of cases referred to the program were mediated by private mediators not listed on the EDNY Panel. This was a 50% decrease from the previous reporting period.

The most frequently utilized EDNY mediator conducted 83 mediations with a 64% success rate.

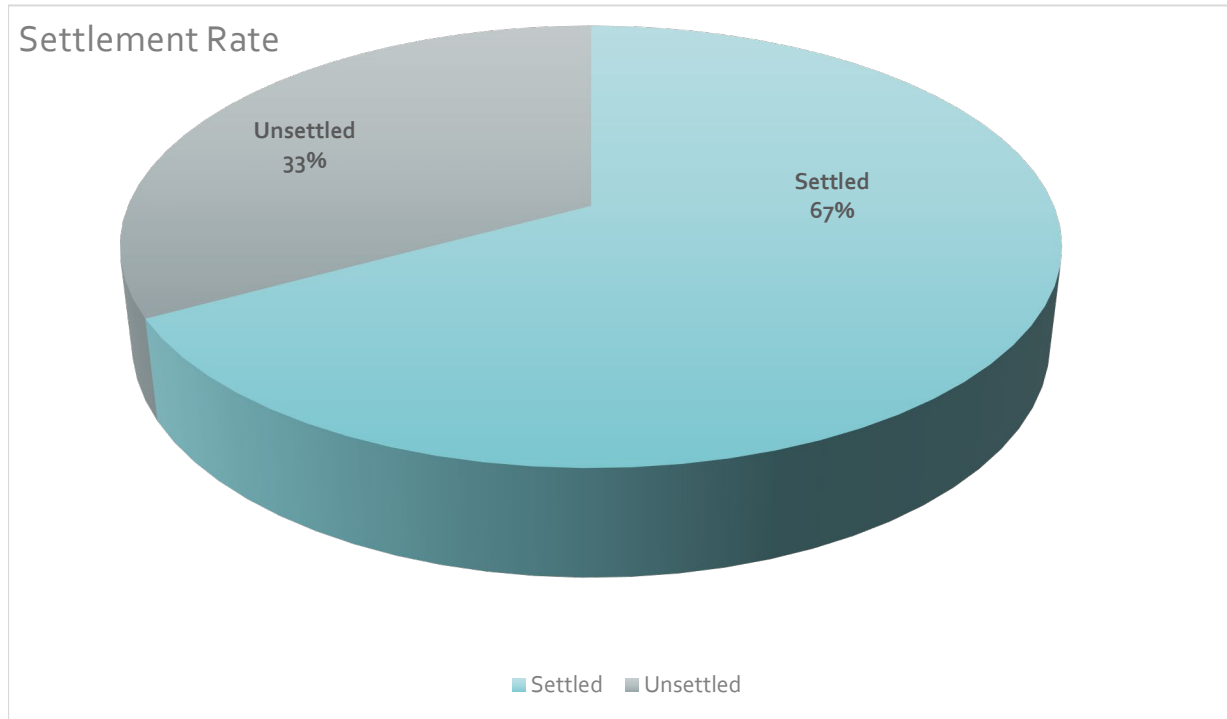
MEDIATION CASE REFERRALS

From January 1, 2024, through December 31, 2024, 898 cases were referred to the mediation program 70% of mediation referrals were from the Brooklyn courthouse, and 30% were from the Central Islip courthouse. 90% of cases were referred to mediation by Magistrate Judges, and 10% were referred by District Judges. Mediation referrals increased by 3% compared to the pervious reporting period.

¹ While 777 mediators were selected to mediate matters referred in 2024, not all of the cases held an initial session. Two contributing factors are cases where a mediator was selected and then the matter either settled or was returned from mediation before the initial session.

MEDIATION CASE STATUS AND SETTLEMENT RATES

Of the 898 cases referred to the mediation program, ten percent (10%) settled before an initial mediation session was held. At least one mediation session was held in 78% of all cases referred. 67% of cases were settled as a result of a mediation referral. This is an increase of 3% from the previous reporting period.



This settlement rate includes matters that were resolved at the completion of a mediation session, as well as matters that resolved after a referral to the mediation program but prior to a formal mediation session. Some of the matters that resolved prior to a mediation session were resolved with mediator assistance and others were resolved through direct negotiation by the parties.

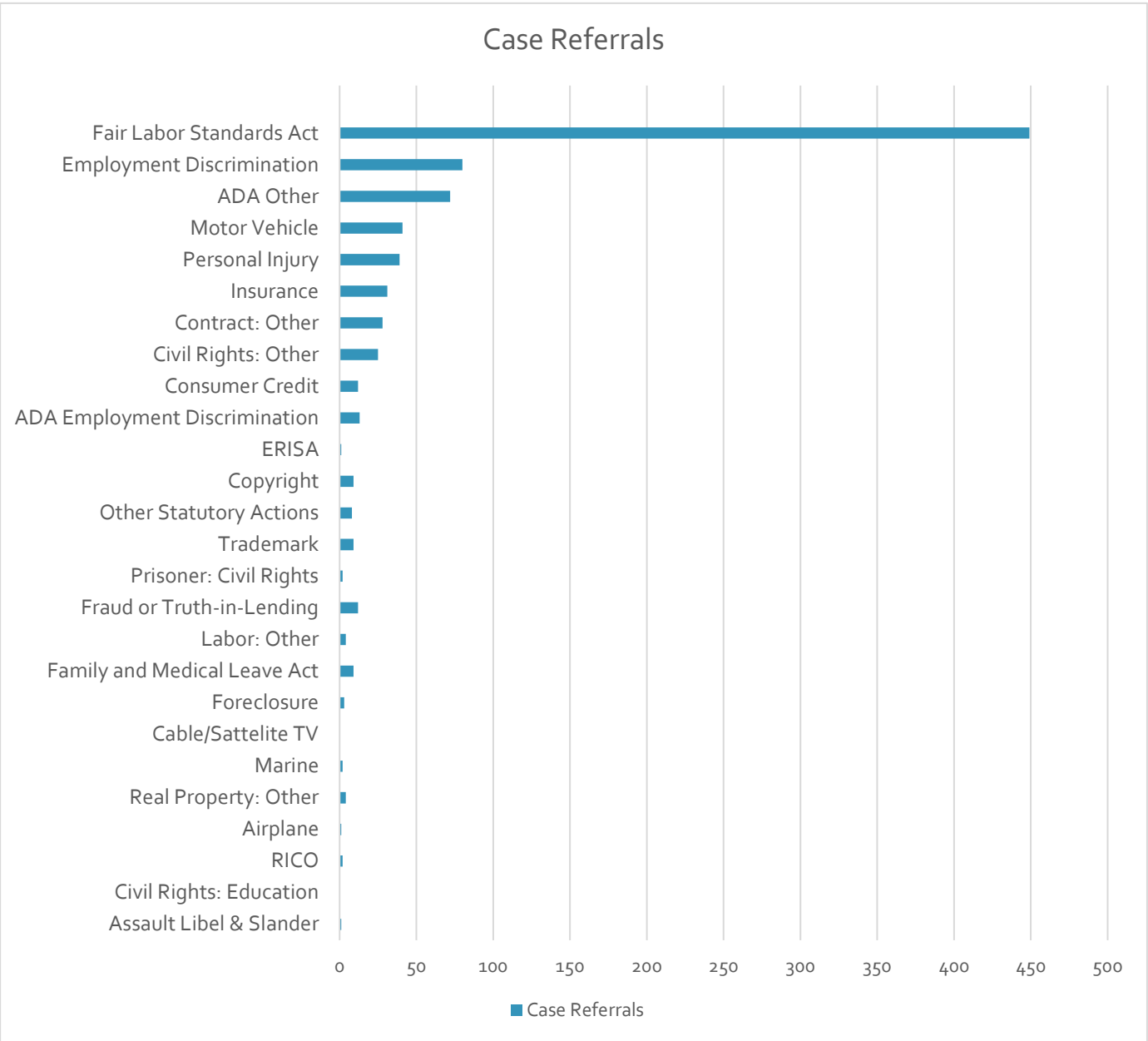
REQUESTS FOR AND LOCATION OF MEDIATION

Parties may request mediation by appealing to the referring judge. The referral becomes active when so ordered by the Court. 69% of cases referred to mediation in 2024 were made at the request of the parties. This is the first year the ADR Department has tracked this statistic.

The location of a mediation session was recorded in 98% of cases where at least one mediation session was held. 93% of recorded cases were conducted remotely.

MEDIATION REFERRAL BY CAUSE OF ACTION

The following chart outlines the referrals to the mediation program by cause of action.



Cases filed under the Fair Labor Standards Act (FLSA) constitute about five percent (5%) of the total civil filings in the Eastern District. In 2024, 657 FLSA cases were filed in the EDNY and 68% of those cases were referred to mediation. FLSA referrals made up 50% of the mediation referrals in 2024. 449 cases referred to the mediation program were cases arising under the FLSA. 65% of the FLSA matters referred to mediation during the period of this report were resolved prior to or as a result of a mediation session. These cases were mediated by members of the EDNY's specialized FLSA Mediation Panel.

Employment discrimination cases are the second most common type of case referred to the EDNY mediation program. During the period of this report, 80 cases referred to the mediation program were employment discrimination matters. From January 1, 2024, through December 31, 2024, 58% of employment discrimination matters referred to mediation were resolved prior to or as a result of a mediation session.

MEDIATION SETTLEMENT RATES BY CAUSE OF ACTION

Cause of Action (Nature of Suit Code)	Sub-Category	Percentage Settled	Settled	Unsettled	Did not Proceed to Mediation	Pending	Total
Contract Actions							
110	Insurance	67%	16	8	6	1	31
120	Contract: Marine	0%	0	1	0	0	1
150	Contract: Recovery/Enforcement	50%	1	1	1	0	3
151	Contract: Recovery Medicare	100%	1	0	0	0	1
190	Contract: Other	41%	9	13	6	0	28
195	Contract Product Liability	100%	1	0	0	0	1
Real Property Actions							
220	Real Property: Foreclosure	0%	0	3	0	0	3
240	Torts to Land	0%	0	1	0	0	1
290	Real Property: Other	67%	2	1	1	0	4
Tort Actions							
310	Airplane	0%	0	1	0	0	1
320	Assault Libel & Slander	N/A	0	0	1	0	1
330	Federal Employers' Liability	0%	0	2	2	0	4
340	Marine	0%	1	0	1	0	2
350	Motor Vehicle	58%	18	13	10	0	41
360	Personal Injury	68%	15	7	13	4	39
362	Personal Injury: Med Mal	100%	2	0	2	0	4
365	Personal Injury: Product Liability	50%	1	1	1	0	3
67	Personal Injury: Healthcare	N/A	0	0	1	0	1
Personal Property							
370/371	Truth in Lending	67%	6	3	3	0	12
376	Qui Tam	100%	1	0	0	0	1
380	Product Liability Other	100%	4	0	1	0	5

385	Prop. Damage Product Liability	100%	1	0	0	0	1
Civil Rights							
430	Banks and Banking	100%	1	0	0	1	2
433	Civil Rights: Accommodations	100%	1	0	0	0	1
440	Other Civil Rights (including 1983)	33%	6	12	6	0	24
442	Employment	58%	40	29	9	2	80
443	Housing/ Accommodations	67%	2	1	2	0	5
445	Civil Rights: ADA Employment	70%	7	3	3	0	13
446	Americans with Disabilities: Other	81%	30	7	31	4	72
550	Prisoner: Civil Rights	0%	0	1	1	0	2
Labor & Emp.							
710	FLSA	65%	245	130	59	15	449
751	FMLA	63%	5	3	1	0	9
790	Other Labor Litigation	N/A	0	0	4	0	4
791	E.R.I.S.A.	100%	1	0	0	0	1
Intellectual Property							
820	Copyright	63%	5	3	1	0	9
830	Patent	0%	0	2	1	0	3
840	Trademark	17%	1	5	3	0	9
RICO							
70	Racketeer	N/A	0	0	1	0	1
470	RICO	100%	1	0	1	0	2
Consumer Credit							
480	Consumer Credit	100%	5	0	7	0	12
Other Stat. Actions							
485	Telephone Consumer Protection Act	N/A	0	0	1	0	1
850	Securities/ Commodities	0%	0	1	0	0	1

880	Defend Trade Secrets Act	0%	0	1	0	0	1
890	Other Statutory Actions	29%	2	5	1	0	8
899	Other Statutes: Administrative Procedures	100%	1	0	0	0	1
	Totals		432	258	181	27	898

PARTICIPANT EVALUATION OF EDNY MEDIATORS

The ADR Department requests that all counsel submit a post-mediation evaluation to assess each mediator's performance. From January 1, 2024, through December 31, 2024, the EDNY ADR Department received 505 evaluations.

A review of the post-mediation evaluations revealed the following data:

- 79% of respondents indicated that the mediation session had been helpful (an increase of 4% from the previous reporting period)
- 93% of respondents indicated that they would recommend their mediator to other litigants
- 95% of respondents indicated that their mediator was prepared
- 87% of respondents indicated that the mediator was able to help the parties engage in a meaningful discussion of the case (an increase of 2% from the previous reporting period)
- 94% of respondents indicated satisfaction with the mediator's knowledge of the law

Overall, the responses to the post-mediation evaluations indicate satisfaction with EDNY mediators' skills, legal knowledge, and ability to facilitate meaningful discussion.

MEDIATION ADVOCACY PROGRAM AND PRO BONO MEDIATION

The EDNY ADR Department administers the court's Mediation Advocacy Program (MAP) which seeks limited scope pro bono counsel for pro se litigants.

Between January 1, 2024, and December 31, 2024, 16 cases were referred to MAP, an approximate 80% increase from the previous reporting period. 15 pro se litigants were matched with limited scope counsel for the purpose of mediation. Of the 13 cases that held a mediation session with a MAP advocate, 54% settled.

Under EDNY Local Civil Rule 83.8 each EDNY mediator is required to conduct a maximum of two pro bono mediations annually, if requested by the Court. During the period of this report, 30 cases were referred to the program for pro bono mediation services. The number of referrals to mediation with fee waivers more than doubled from the previous reporting period. 48% of the cases referred to mediation with a fee waiver settled.

During the period from January 1, 2024, through December 31, 2024, the following EDNY Mediation and MAP Panel members provided their services pro bono:

William Bell, Alida Camp, Richard Crisona, Elizabeth Dolan, Felicia Faber, Alan Gettner, Hon. Steven M. Gold (Ret.), Kristina Heuser, Kyle-Beth Hilfer, Andrew Kimler, Michael Kreitman, Hon. Roanne Mann (Ret.), Barry Peek, Davida Perry, Nadia Pervez, Hon. Viktor Pohorelsky (Ret.), David Reilly, Donald Rose, Leslie Salzman (Cardozo Bet Tzedek Legal Services), Henry Saurborn, Rita Sethi, Nydia Shahjahan, Martin Siegel, Matthew Weinick, Charles Weiss and David White (Seton Hall University School of Law).

MEDIATION PANEL ADMISSIONS

In 2024, the following individuals were competitively selected for admission to the EDNY Mediation Panel: William Barrett, Andrew Berman, Jennifer Cook, Hannah Diamond, Jennine Disomma, Erin Gleason-Alvarez, Jonathan Herman, Kyle-Beth Hilfer, Rebecca Houlding, Michele Kern-Rappy, Ira Maurer, F. Peter Phillips, and Leslie Salzman.

EDNY ARBITRATION PROGRAM

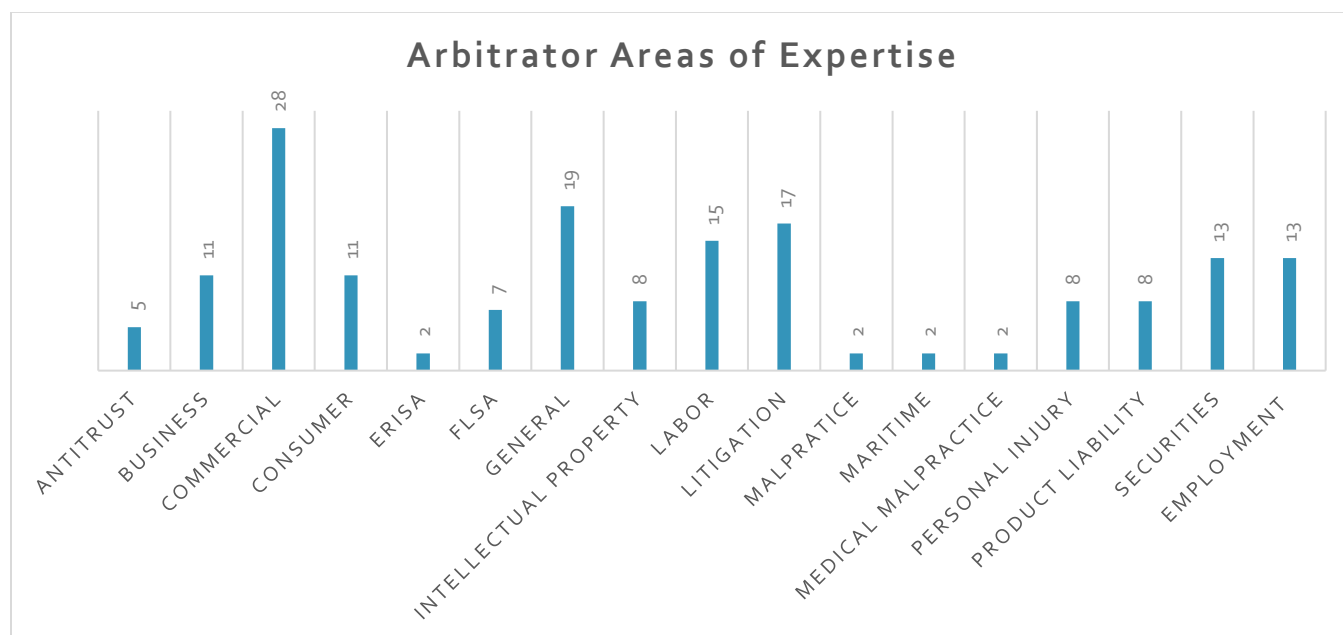
Compulsory arbitration is authorized under EDNY Local Civil Rule 83.7 for cases where money damages do not exceed \$150,000.00 (excluding social security cases, tax matters, prisoner civil rights cases and any action based on an alleged violation of a right secured by the United States Constitution or if jurisdiction is based in whole or in part on Title 28, U.S.C. § 1343). Upon issuance of an arbitration award, there is a thirty-day period during which parties may request a trial de novo.

ARBITRATION PANEL

There are 50 arbitrators on the EDNY Arbitration Panel. EDNY litigants may search for and review biographies for EDNY Arbitration Panel members on the EDNY ADR website at:

<https://www.nyed.uscourts.gov/adr/>

During the period from January 1, 2024, through December 31, 2024, 35 arbitration hearings were scheduled, and three (3) hearings were conducted.



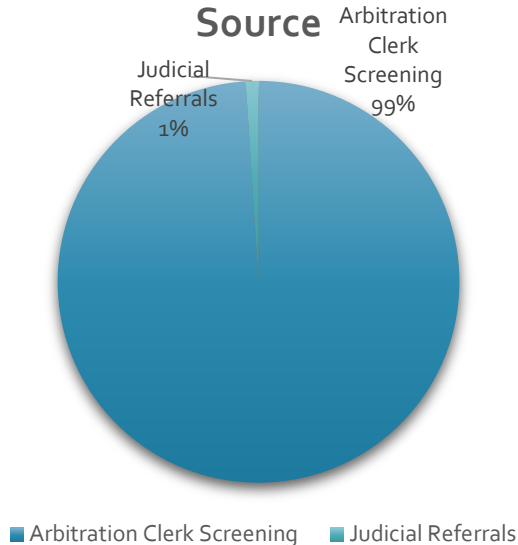
ARBITRATION CASE REFERRAL SOURCES

In accordance with Local Civil Rule 83.7(d), the EDNY ADR Coordinator designates all civil cases for compulsory arbitration (excluding social security cases, tax matters, prisoners’ civil rights cases and any action based on an alleged violation of a right secured by the Constitution of the United States or where jurisdiction is based in whole or in part on Title 28, U.S.C. § 1343), wherein money damages being sought do not exceed \$150,000.00, exclusive of interest and costs.

96 cases were referred to the EDNY court-annexed arbitration program between January 1, 2024, and December 31, 2024. 56% of arbitration referrals were from the Brooklyn courthouse, and 44% were from the Central Islip courthouse.

99% of the referrals into the arbitration program were made by the EDNY ADR Coordinator, who screens each civil case filed in the EDNY for eligibility for the arbitration program. The remaining one percent (1%) of arbitration referrals were issued by the assigned District Judge or Magistrate Judge on a case-by-case basis.

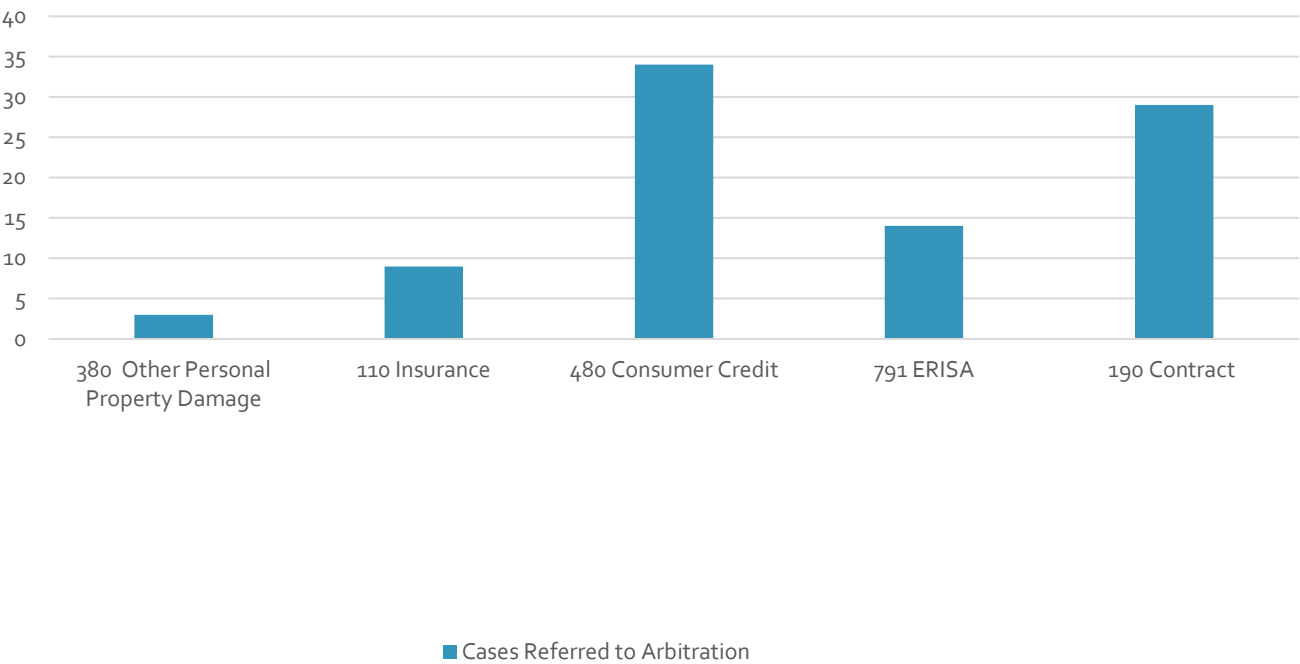
Arbitration Referral Source



ARBITRATION REFERRALS BY CAUSE OF ACTION

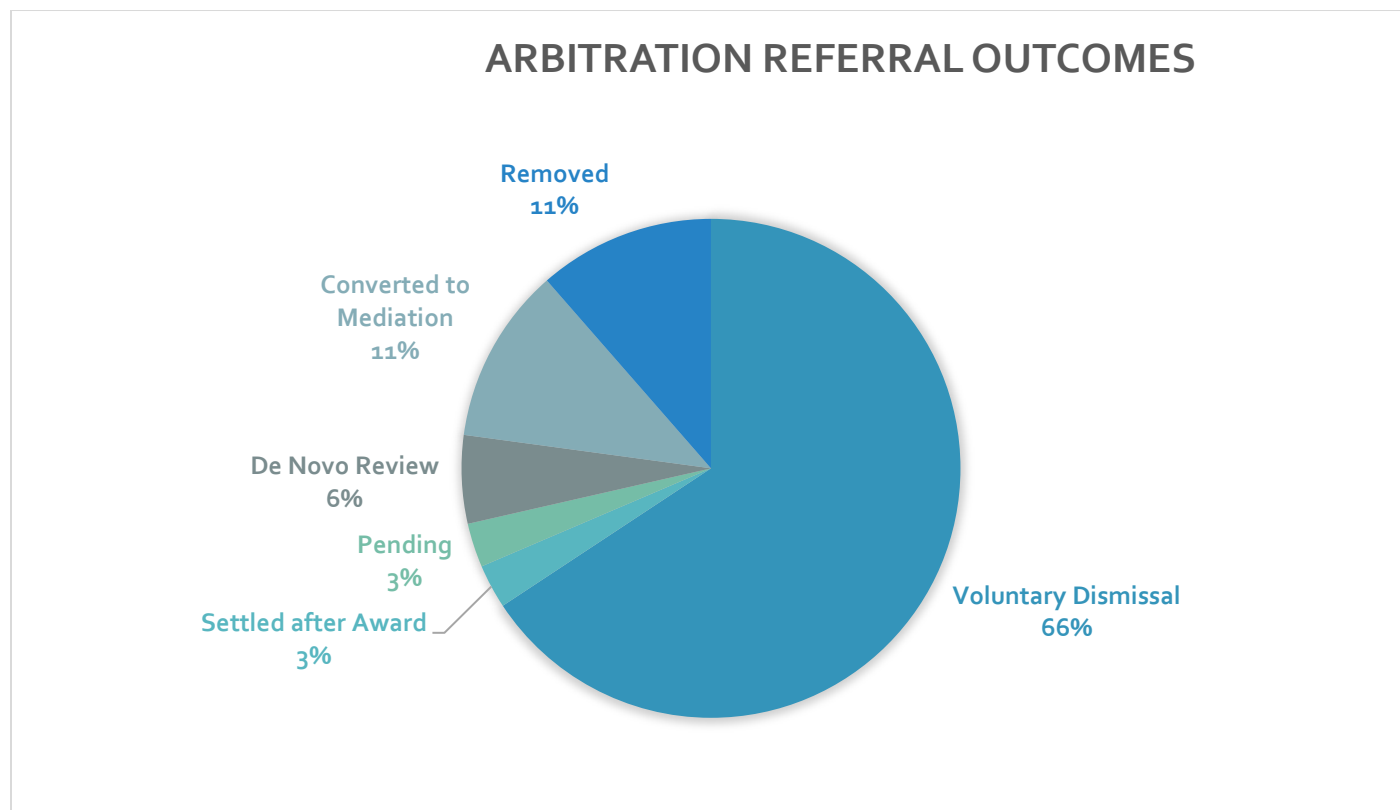
The following chart illustrates the types of cases referred to the EDNY Arbitration Program. Contract, ERISA, and Consumer Credit cases were the most frequent referral, followed by insurance and personal property matters.

Case Types Referred to Arbitration



ARBITRATION OUTCOMES AND CASE STATUS

A referral to the court-annexed arbitration program is effective in encouraging parties to reach early resolution. Of the cases referred to the program, 66% were voluntarily dismissed prior to the administration of the arbitration hearing. As of the publication of this report, an arbitration award was issued in three (3) cases, and de novo review was requested in two (2) of those matters. The remaining case settled during the 30-day period following the issuance of the arbitration award. 11% of cases were scheduled but later removed from the program and 11% were converted from arbitration to mediation. All but one of the cases that converted from arbitration to mediation settled at mediation (one case is still pending). The outcomes in three percent (3%) of scheduled arbitrations are still pending.



ARBITRATION PANEL ADMISSIONS

In 2024, the following individuals were selected for admission to the EDNY Arbitration Panel: Sara Kula, Eoin Ó Muimhneacháin, and Donald Rose.

ADR PROGRAM OUTREACH, TRAINING, AND EVENTS

ADR Department staff planned, participated in, and attended several programs and training events. These outreach efforts include presentations to the legal community, the dispute resolution community, and the EDNY judiciary to raise awareness about EDNY ADR Department programs and initiatives.

January 17, 2024 Law Clerk Orientation (Brooklyn, NY)

February 4, 2024 Presentation to New York Law School Students (remote)

February 21, 2024	ComFed Executive Committee Presentation (New York, NY)
February 26, 2024	Presentation to Brooklyn Law School's Federal Judicial Externship Seminar (Brooklyn, NY)
March 4, 2024	Presentation to New York Law School Advanced Mediation and Dispute System Design Class "ADR in Federal Courts" (remote)
March 21, 2024	Presentation to Cardozo Law School Field Clinic (remote)
April 9-12, 2024	ABA Dispute Resolution Conference (San Diego, California)
May 8, 2024	EDNY ADR CLE "Recent Changes in New York Employment Law" (remote)
May 23, 2024	EDNY ADR Pro Se Clinic Presentation in Partnership with the City Bar Justice Center's Federal Pro Se Litigation Assistance Project (remote)
June 4, 2024	EDNY ADR CLE "Mediator's Proposal Workshop" (remote)
June 20, 2024	Orientation for Mediation Mentorship Program (Brooklyn, NY)
July 23, 2024	Basic Mediation Training, Presenter, New York City Bar (New York, NY)
July 24, 2024	Law Clerk Orientation (Brooklyn, NY)
August 1, 2024	ABA Dispute Resolution Section – DIDR and WIDR Joint Meeting (remote)
August 13, 2024	"Court-Annexed Mediation" Presentation to delegation of Brazilian lawyers, judges, notaries, law students and government employees. University of Fortaleza Mediation Program at Columbia Law School. (Brooklyn, NY)
September 10, 2024	EDNY and SDNY Personal Injury Training (New York, NY)
September 20, 2024	National Employment Lawyers Association Conference, Presenter, "Employment Law Mediations for Plaintiffs' Lawyers" (New York, NY)
September 23, 2024	New York State Dispute Resolution Association Conference (remote)
October 9, 2024	Law Clerk Orientation (Brooklyn, NY)
October 15, 2024	Law Clerk Orientation (Central Islip, NY)
October 22, 2024	"ADR in State and Federal Court" Presentation to delegation of neutrals from Kosovo. (Brooklyn, NY)
December 4, 2024	Mediator Mentorship Training "Co-Mediation" (Brooklyn, NY)
December 10, 2024	Basic Mediation Training, Presenter (New York, NY)

EDNY ADR ADVISORY COUNCIL

Formed in 2017, the EDNY ADR Advisory Council is comprised of members of the EDNY mediation, arbitration and MAP panels. The Council assists the ADR Administrator with panel admissions, the development of ethics guidelines and training for EDNY panelists, designing and implementing initiatives, and envisioning the future of the ADR Department. EDNY ADR Advisory Council Members serve a two-year term and attend six meetings annually. Several Council members extended their term by one year to accommodate the new ADR Administrator.

Members of the 2024 EDNY Advisory Council include:

Howard Adelsberg (2022-2024)
David Berger (2022-2024)
Felicia Farber (2021-2024)
Robin Gise (2022-2024)
Noah Hanft (2022-2024)
Andrew Kimler (2022-24)
Nancy Kramer (2022-2024)
Sara Kula (2021-2024)
Michael Levy (2022-2024)

Patrick “Mike” McKenna (2021-2024)
Elena Paraskevas-Thadani (2022-2024)
Paul Radvany (2022-2024)
Royce Russell (2022-2024)
Vivien B. Shelanski (2022-2024)
Martin Siegel (2022-2024)
Evan Spelfogel (2022-2024)
Debra Wabnik (2022-2024)
Giulio Zanolli (2021-2024)