Rule 401 Appellate Mediation Pilot Program for Civil Appeals by Self-Represented Litigants

(a) **Program Goals.** The primary purpose of this Pilot Program is to increase access to justice for all parties in civil appeals by self-represented litigants pending in the Second District Appellate Court and to promote resolution of those appeals by providing a forum to explore settlement, limit and simplify the issues on appeal, and consider any matters that may aid in the disposition of the appeal.

(b) **Definitions.** When used in this rule, the following terms shall have the meanings hereinafter ascribed to them, except when the context requires otherwise.

(1) "Court" means the Second District Appellate Court.

(2) "Appellate Mediator" means a person approved by the mediation committee to facilitate mediations conducted under this rule.

(3) "Mediation Committee" means the committee of justices of the Court appointed to administer and oversee the operation of this Pilot Program.

(4) "Volunteer Attorney" means an attorney approved by the mediation committee to represent self-represented litigants in mediations conducted under this rule.

(5) "Self-Represented Litigant" means an individual party representing themselves.

(6) "Mediation" is a means of alternative dispute resolution conducted by an appellate mediator under this rule, and serves as a forum to explore settlement, limit and simplify the issues on appeal, and consider any matters that may aid in the disposition of the appeal. The mediation process may include a pre-mediation session, at the appellate mediator's discretion. At any point during the mediation process, the appellate mediator may communicate with the parties directly, separately, or however the appellate mediator deems appropriate.

(7) "Presiding Justice" means the justice elected by the justices of the Court to preside over administrative matters pursuant to Supreme Court Rule 22(d).

(8) "Eligible matters" means those appeals subject to mediation under this rule.

(c) **Authority**. This Pilot Program is authorized by M.R. 33234.

(d) **Administration**. This Pilot Program shall be administered by a mediation committee consisting of at least two justices of the Court, appointed by the Presiding Justice to one-year terms. The mediation committee members shall select one member to serve as the chair. The mediation committee shall be assisted in its duties by the clerk of the court and anyone else so authorized by the Presiding Justice.

(e) **Appellate Mediators.**

(1) *Qualifications*: Any current or retired attorney, licensed to practice law in Illinois for at least 10 years, able to independently host a videoconference mediation, with substantial and recent experience mediating actual cases, is qualified to serve as an appellate mediator upon completing (i) a recognized 40-hour mediation training and (ii) training for this Pilot Program provided by the Court. Any retired judge of the Illinois Supreme Court, the Illinois Appellate Court, or any Illinois circuit court is qualified to serve as an

appellate mediator upon completing (i) a recognized 40-hour mediation training and (ii) training for this Pilot Program provided by the Court. In addition, mediators for family cases must demonstrate completion of at least 10 hours of recognized training specific to family mediation.

(2) *Approval*: Before launching this Pilot Program, the mediation committee will approve a roster of qualified appellate mediators. Thereafter, any person possessing the qualifications set forth in the preceding paragraph may apply to the mediation committee for approval. The mediation committee will maintain a current roster of all approved appellate mediators, who shall serve at the mediation committee's pleasure. The roster shall indicate each appellate mediator's area(s) of expertise.

(3) *Assignment*: Upon the selection of an appeal for mediation as hereinafter provided, the clerk of the court shall select an appellate mediator from the roster maintained by the mediation committee and assign that mediator to the case. The clerk shall make every reasonable effort to suitably match appellate mediators with cases that fall within their areas of expertise. If the selected appellate mediator is unavailable or must recuse from the case due to a conflict of interest under section 9 of the Uniform Mediation Act (710 ILCS 35/9), the appellate mediator shall notify the clerk within seven days, and the clerk shall select another appellate mediator.

(4) *Compensation*: Appellate mediators shall be compensated at rates set by the Court, which rates may depend on whether mediation was commenced. Mediators will not be compensated by the parties.

(5) *Immunity*: Appellate mediators shall be entitled to such immunity as provided by law to mediators in other court-annexed mediation programs. See Illinois Supreme Court Rule 99(f)(1) (eff. Mar. 1, 2026).

(f) **Volunteer Attorneys.**

(1) *Qualifications*: Attorneys who are currently licensed to practice law in Illinois and have had responsibility with at least one appeal before any state or federal appellate court or have had mediation advocacy education and experience are qualified to serve as volunteer attorneys upon completing training for this Pilot Program provided by the Court.

(2) *Approval*: Before launching this Pilot Program, the mediation committee will approve a roster of qualified volunteer attorneys. Thereafter, any person possessing the qualifications set forth in the preceding paragraph may apply to the mediation committee for approval. The mediation committee will maintain a current roster of all approved volunteer attorneys, who shall serve at the mediation committee's pleasure.

(3) *Assignment*: Upon the selection of an appeal for mediation as hereinafter provided, the clerk of the court shall select a volunteer attorney from the roster maintained by the mediation committee and assign that attorney to represent the self-represented appellant for purposes of the mediation process only. If the appellee is also self-represented, the clerk shall select a different volunteer attorney to represent the appellee. If a selected volunteer

attorney is unavailable or must recuse from the case due to a conflict of interest, the attorney shall notify the clerk within seven days, and the clerk shall select another volunteer attorney.

(4) *Compensation*: Volunteer attorneys shall serve *pro bono*, except that, if an applicable statute authorizes the award of attorney fees, a volunteer attorney may enter into a written agreement with the party assigning to the attorney any amounts designated as attorney fees.

(5) *Scope of Representation*: If the mediation does not result in the dismissal of the appeal, no volunteer attorney is required to continue to represent the party, but they may choose to continue the representation if the party agrees in writing. The mediation committee may adopt and implement specific procedures in furtherance of this rule.

(g) **Eligible Matters.** The Pilot Program shall apply to civil appeals that meet the following criteria:

(1) The appeal is not one of the following: (i) an appeal excluded by Supreme Court Rule 310.1(b), (ii) an appeal in a civil action seeking relief from a criminal judgment, (iii) an accelerated appeal, or (iv) an appeal in which the appellant or the appellee is incarcerated.

(2) The appellant is a self-represented litigant; the self-represented litigant has filed a docketing statement; and the appellee, having been given notice to do so, has filed an appearance, either as a self-represented litigant or through counsel.

Notwithstanding the above, the mediation committee may decline to assign an otherwise eligible matter to the Pilot Program, if the mediation committee deems the appeal inappropriate.

(h) **Notification of Assignment.** Upon identifying an appeal as an eligible matter, the clerk of the court, on behalf of the mediation committee, will enter an order to stay the appeal and assign an appellate mediator and volunteer attorney(s). The clerk will send the order to the parties, the appellate mediator, the volunteer attorney(s), and the circuit court.

(i) **Mediation.**

(1) *Scheduling*: The appellate mediator may require a pre-mediation session in order to, among other things:

- determine whether each party is able to exercise free will and has the capacity to make decisions during the mediation,
- learn about the issues on appeal, and
- discover any impediments to settlement.

Any pre-mediation session must occur within 21 days after the notification of assignment. The mediation must occur within 35 days after the pre-mediation session or, if none takes place, within 35 days after the notification of assignment. The appellate mediator and the parties shall make every reasonable effort to cooperate in scheduling.

(2) *Method of mediation*: At the appellate mediator's discretion, the pre-mediation session (if any) and mediation may be conducted in person, via videoconference, or via telephone.

(3) *Participation*: All parties and their attorneys must attend the pre-mediation session (if any) and mediation. During the mediation, if a party is a corporation, partnership, or other organization, its attorney must be able to contact a person with full settlement authority. If a party requires a nonparty to approve any settlement, its attorney must be able to contact that nonparty.

(4) *Role of the Appellate Mediator*: The appellate mediator's role is to facilitate the voluntary resolution of the case, assist the parties in simplifying the issues, and, if necessary, set the dates for continued mediation sessions, provided that no mediation may occur more than 60 days after the notification of assignment. The appellate mediator has the authority to cancel or terminate the mediation at any time. The appellate mediator is required to complete and submit forms required by the Court.

(5) *Nature of the Mediation*: The mediation shall be an informal, confidential meeting. The agenda for the mediation, including the sequence of presentation and discussion, shall be set by the appellate mediator.

(j) **Settlement Agreements.**

(1) *Dismissals*: If the mediation results in the settlement of the case and the parties agree to dismiss the appeal, the attorneys shall prepare and the parties shall execute a stipulation to dismiss and file same with the clerk of the court within 14 days after the mediation. Upon the filing of the stipulation to dismiss, the clerk, on behalf of the mediation committee, will enter an order dismissing the appeal.

(2) *Agreements to Narrow Issues*: If the mediation does not result in a settlement of the case but the parties do agree to narrow the issues on appeal, the attorneys shall prepare and the parties shall execute a statement of the issues that will be presented on appeal and file same with the clerk of the court within 14 days after the mediation. The statement of the issues shall be binding upon the parties. Upon the filing of the statement of the issues, the clerk, on behalf of the mediation committee, will enter an order lifting the stay of the appeal.

(3) If the mediation results in neither a dismissal nor an agreement to narrow the issues on appeal, the appellate mediator shall file a statement to that effect with the clerk of the court within 14 days after the mediation was completed or after the appellate mediator determined that the mediation could not be completed. Upon the filing of the statement, the clerk, on behalf of the mediation committee, will enter an order lifting the stay of the appeal.

(k) **Confidentiality.** Pursuant to the Uniform Mediation Act (710 ILCS 35), the mediation shall be confidential, and the mediation communications shall be privileged. The pre-mediation session (if any), the mediation, and all documents prepared by the parties, the attorneys, and the appellate mediator, except forms required by the Court, shall be confidential. No transcript or recording shall be made of any pre-mediation session or mediation and no mention of any mediation

pursuant to this rule shall be made in any brief filed with the Court or in oral argument.

(l) **Sanctions.** Failure to attend any pre-mediation session, failure to attend a mediation session and have those with settlement authority available during the session, or failure to comply with this rule may subject a party to the imposition of sanctions under Illinois Supreme Court Rule 375.

(m) **Reporting.** The clerk of the court shall collect surveys from all participants and maintain statistics as to the number of cases assigned to this Pilot Program and the result of the mediation in each case. The clerk shall make a report, annually or upon request, to the Court and the Administrative Office of the Illinois Courts.