

Canon 3
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The ABA Section of Dispute Resolution suggests a new paragraph "C" in Canon 3 entitled "Settlement Responsibilities" between "Adjudicative Responsibilities" and "Administrative Responsibilities" .

The proposed paragraph "C" contains sub-paragraphs addressing: 1) the distinction between encouragement to settle and coercion to settle; 2) disqualification from settlement conferences when the judge will also serve as adjudicator; 3) clear statements of expected outcomes from court-ordered ADR, and a clearly written order for such expectations; 4) standards for imposition of sanctions against a party for failure to participate in a good-faith settlement conference or other ADR; 5) contents of a post-mediation report highlighting protection of the confidentiality of the proceeding, typically limited to whether the mediation occurred or has terminated, whether a settlement was reached, and the identity of the persons in attendance; and, 6) cooperation with stakeholders, such as court administrators, lawyers, mediators, and especially the users of court-sponsored mediation and other ADR programs, to adopt procedures to minimize foreseeable abuses and to educate these stakeholders productive participation in court-sponsored ADR programs.

A detailed commentary to the proposed section "C" details constitutional and policy considerations supporting the black letter mandate of the proposed rule.