

## SCREENING GUIDELINES

1. Review the CIS. If the parties indicate that there is or was a relationship (unless it is a book account (503) or action on a negotiable instrument (511) or that counsel fees are sought by the winner from the loser (*i.e.* a fee shifting case), the matter should be considered for referral to the Statewide Civil Mediation Program at first answer. At initial case entry, the CDR indicator should be manually changed to “m” and the case at answer will come up on the weekly Mediation Eligibility Worksheet. If the party noting that attorney’s fees are sought is a *pro se*, staff should review the party’s pleading to determine if the case actually is founded on a fee shifting statute (*e.g.* consumer fraud). A list of fee shifting statutes is attached.
2. If the case type on the CIS is book account (503) or action on a negotiable instrument (511), the matter must be scheduled for arbitration within 60 days from the close of the applicable discovery period unless it previously went to a court-referred mediation, *e.g.*, at the parties’ request. See R. 4:21A-1(a). . These case types will come up on the Arbitration “To Be Scheduled List”.
3. LAD (618), Civil Rights (005) and CEPA (616) cases should always be considered for referral to mediation after first answer. They are always fee shifting cases. They will automatically come up on the weekly Mediation Eligibility Worksheet sorted by team and case type.
4. If any of the following factors are present, the case should be considered for referral to the Statewide Mediation Program (or Presumptive Mediation if applicable):
  - The case is contract/commercial transaction (599) complex commercial (508) or complex construction (513);
  - the parties have or have had a significant business or personal relationship;
  - the principal barriers to settlement are personal and/or emotional;
  - resolving the dispute is more important than the legal or moral principles;
  - parties want to tailor a solution that meets their specific needs or interests;
  - multi-faceted settlements (*e.g.*, restructuring the deal) are possible;
  - the law governing the dispute is well-established and not challenged;
  - subjective questions of fact (*e.g.*, state of mind, intent) or parties’ interpretation of objective facts exists;

- the parties have an incentive to settle because of time, cost of litigation, or other factors;
- the parties are not represented by attorneys;
- a private valuation process (such as arbitration) has failed to resolve the case.