

What's a Court-Appointed Neutral and How Can I Become One?

A program for the National Association of Women Judges

May 22, 2026

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Objectives

- Understand what a court-appointed neutral is
- Find out why this might be a good time to become a court-appointed neutral
- Learn about whether the work is right for you
- Locate resources to assist you in becoming one

A Swiss Army Knife that Can

- Help avoid disputes
- Help resolve them
- Help provide expertise
- Help provide information
- Help convey and insulate
- Help ensure fairness
- Help move docket

Can Be:



- Quasi-Adjudicative
- Facilitative
- Informative (Expertise)
- Investigative
- Intermediary (Liaison)
- Implementing
- Broadening and Supportive

Why is Now
a Good Time
to Consider
Becoming a
CAN?



**Reason One: There Has Been
a Huge Increase in Interest In
the Profession in Recent Years**

The ABA



Adopted consensus Guidelines on the appointment and use of Court-Appointed Neutrals in Federal and State Civil Litigation (January 2019)



Adopted a resolution urging substituting “court-appointed neutrals” for “master” or “special master” and amending rules to permit the use of court-appointed neutrals in Bankruptcy (Aug. 2023)



Adopted another resolution proposing a model state, local, tribal and territorial court rules on court-appointed neutrals (Aug. 2023)



Suggested changes to the Federal Rules of Civil Procedure (to change the name) and the Federal Rules of Bankruptcy Procedure (Feb. 2024)

New State Rules

The State of Maryland



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graph TD; A[The State of Maryland] --> B[The Commonwealth of Pennsylvania]; B --> C[The State of Delaware]; C --> D[The State of New Jersey]; D --> E[The Indiana Commercial Court (with a roster)];
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The Commonwealth of Pennsylvania

The State of Delaware

The State of New Jersey

The Indiana Commercial Court (with a roster)

NAWJ and Numerous Other Organizations Support Changes on Court-Appointed Neutrals

The National Association of Women Judges

The American Judges Association

The National Council of Juvenile and Family Court Judges

The National Asian Pacific American Bar Association

The Institute for Inclusion in the Legal Profession

The National Association for Court Management

The Philadelphia Bar Association

The American Arbitration Association

JAMS

The International Institute for Conflict Prevention and Resolution (CPR)

The American Association for Justice

The Academy of Court-Appointed Neutrals (ACAN) (formerly the Academy of Court-Appointed Masters)

**THERE IS A
WIDE ARRAY OF
ARTICLES AND
PROJECTS ON
COURT-
APPOINTED
NEUTRALS**

- Ethics
- Criteria for neutrals to a roster
- A survey instrument to evaluate special masters
- Resource and checklists for using neutrals masters to assist with pandemic-related demand and backlogs

And Dozens of Programs, including

The first (soon to be second) dedicated program on court-appointed neutral ethics at New York Law School (Oct. 2025)



Reason 2: In some ways, the transition from the bench to court-appointed neutral work is easier than for other types of ADR

- For a very old field, it is a very new field
- The transition may be easier
- Matters are larger so it is easier to achieve a critical mass
- Judges make the ultimate decision on whether to use a court-appointed neutral
- There is a whole new effort to create pathways into the profession

Reason 3: (WARNING ... SHAMELESS PLUG)

- There is a whole organization dedicated to helping people become court-appointed neutrals; helping court-appointed neutrals become better; and helping the court-appointed neutral profession better serve the administration of justice ...
- The Academy of Court-Appointed Neutrals

BROADENING

Opening membership to people who have not previously served as court-appointed neutrals and recruiting from a broad and diverse array of sources and to sitting judges.





PARTNERING

Seeking to improve the use of neutrals and the opportunities to serve, by working with...

PARTNERING

- National Association of Women Judges (NAWJ)
- Federal Judicial Center (FJC)
- National Center for State Courts (NCSC)
- National Judicial College (NJC)
- American Judges Association (AJA)
- National Association for Court Management (NACM)
- Federal Magistrate Judges Association (FMJA)
- Federal Court Clerks Association (FCCA)

PARTNERING

- Coalition of Women's Initiatives in Law
- Institute for Inclusion in the Legal Profession
- National Asian Pacific American Bar Association/APABA-DC
- National Bar Association
- South Asian Bar Association
- Women in Dispute Resolution
- Native American Indian Judges Association
- National Native American Bar Association
- National Association of Minority- and Women-Owned Law Firms
- National LGBTQ+ Bar Association
- Hispanic National Bar Association

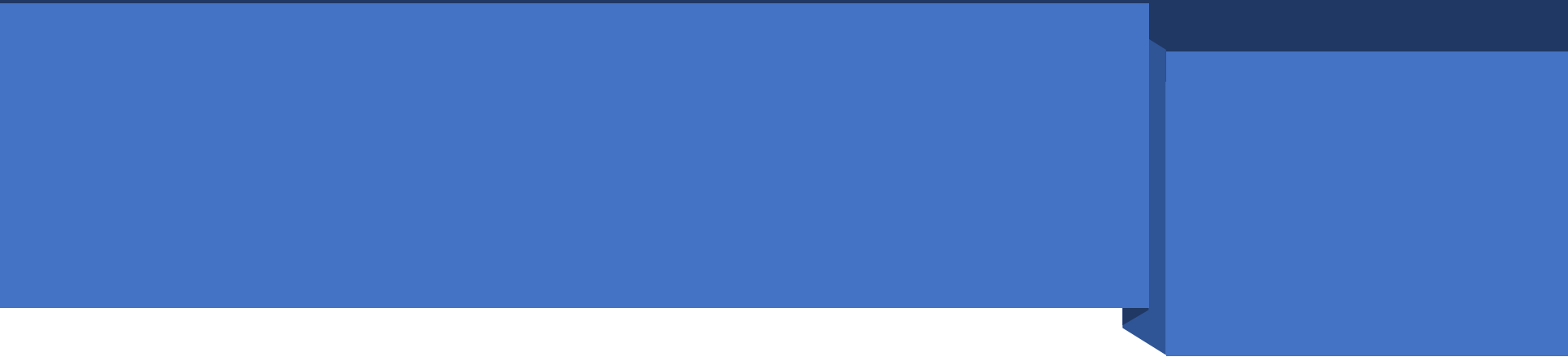
PARTNERING

- American Bar Association (ABA)
 - Judicial Division
 - Dispute Resolution Section
 - GP Solo Division
 - Business Law Section
 - Litigation Section
 - Torts Trials and Insurance Practice Section
 - Ethics Committees
- Institute for the Advancement of the American Legal System (IAALS)
- National Council for Juvenile & Family Ct. Judges/Eq. & Inc. Collab. (NCJFCJ/EIC)
- Specific Courts
- State Bar Organizations
- Law Schools

Why does all this matter to you?

- It means there is a national effort to rethink how we can use court-appointed neutrals
- It means that part of that effort for courts and parties to look at neutrals who can help
- It makes expertise in valuation especially useful
- There's another professional organization working with NAWJ and others to help people who would like to come into this profession

How Do You Decide Whether To Try to Become a Court- Appointed Neutral?



Some things to consider

- Are you comfortable being in a different role?
- Do you want to adapt your expertise to a different form of problem solving?
- Are you patient ... perhaps even suffering fools
- Are you curious and aware not only of your expertise but your own limitations?
- Can you not only make judgments, but suspend them?
- Are you interested in process and not just outcome?
- Are you comfortable working with courts and others?
- Are you willing to try a route less tested?
- Does this excite you?



How Can You Become a Court- Appointed Neutral?



No silver bullet but there is help



The Traditional Method

Meet a judge



The New Pathways

- Work with courts and stakeholders to establish rosters
- Establish best practices to cast a wider net
- Offers an Incubator program
- Provides a platform where people can advertise their qualifications and receive RFPs
- Use social media to publicize new neutrals
- Create training, mentoring and interaction opportunities
- Provides a benchbook to make it easy to use neutrals
- Provide professional guidance on developing business plans
- Partners with other organizations
- Promotes general ADR Training
- Everything else we can think of

Where Can
You Find
Out More?



- The Court=Appointed Neutrals Committee website
<https://www.americanbar.org/groups/judicial/conferences/lawyers/committees/court-appointed-neutrals/?login>

- ACAN's website
<https://www.courtappointedneutrals.org/>

Training/mentoring
program announcements

<https://www.courtappointedneutrals.org/about/about-acan/>

And Benchbook:

<https://www.courtappointedneutrals.org/benchbook/appointing-neutrals-handbook/>

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