

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MONO**

**ALTERNATIVE DISPUTE RESOLUTION (ADR)  
INFORMATION PACKAGE**

**NOTICE TO PLAINTIFF(S) AND/OR CROSS-COMPLAINANT(S):**

California Rules of Court – Rule 3.221  
Information about Alternative Dispute Resolution

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**WHAT IS ALTERNATIVE DISPUTE RESOLUTION (ADR)?**

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According to the California Rules of Court, Rule 3.800(1), ADR is a process, other than formal litigation, in which a neutral person or persons resolve a dispute or assist parties in resolving their dispute.

ADR is usually less formal, less expensive, and less time-consuming than a trial. ADR can also give people more opportunity to determine when and how their dispute will be resolved.

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**WHAT ARE THE MOST COMMON TYPES OF ADR?**

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The most common types of ADR processes are mediation, arbitration, neutral evaluation, and settlement conferences.

**MEDIATION:**

In mediation, a neutral person called a “mediator” helps the parties try to reach a mutually acceptable resolution of the dispute at hand. The mediator does not decide the dispute, but instead is there to help the parties communicate so that they can settle the dispute themselves. The benefit of mediation is that it leaves the control of the outcome with the parties.

Mediation may be particularly useful when parties have a relationship that they wish to preserve. When family members, neighbors, or business partners have a dispute, mediation may be the preferred ADR process to use. Mediation is also effective when emotions are getting in the way of resolution. An effective mediator can hear the parties’ perspectives and help them to communicate with each other in an effective and nondestructive manner.

Mediation may not be particularly useful if one of the parties is unwilling to cooperate or compromise. Mediation also may not be particularly useful if one of the parties has a significant advantage in power over the other. This means that mediation may not be a good choice if the parties have a history of abuse or victimization.

**ARBITRATION:**

In arbitration, a neutral person called an “arbitrator” hears arguments and evidence from each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and often the rules of evidence are more relaxed. There are two forms of arbitration: (1) binding arbitration, meaning that

the parties waive their right to a trial and agree to accept the arbitrator's decision as final, or (2) nonbinding arbitration, meaning that the parties are free to request a trial if they do not accept the arbitrator's decision.

Arbitration may be particularly effective where the parties want another person to decide the outcome of their dispute, but would like to avoid the formality, time, and expense of a trial. Arbitration may also be particularly effective for complex matters where the parties want a decision-maker who has training or expertise in the subject matter of the dispute.

Arbitration may not be particularly effective when the parties want to retain control over how their dispute is resolved. Generally speaking, in binding arbitration the parties cannot appeal the arbitrator's award, even if it is not supported by evidence or law. In nonbinding arbitration, there may be penalties if a party requests a trial and does not receive a more favorable result at trial than the arbitration.

#### **NEUTRAL EVALUATION:**

In neutral evaluation, a neutral person called an "evaluator" listens as each party is given the opportunity to present their case. The evaluator then gives an opinion on the strengths and weaknesses of each party's evidence and arguments, as well as how each party believes the dispute should be resolved. In many situations, the evaluator is an expert in the subject matter of the dispute. Although the evaluator's opinion is nonbinding, the parties typically use it as the basis for trying to negotiate a resolution of the dispute.

Neutral evaluation may be particularly appropriate in cases which there are technical issues that require special expertise to resolve, or when the only significant issue in the case is in the amount of damages.

Neutral evaluation may not be particularly appropriate when there are significant personal or emotional barriers to resolving the dispute.

#### **SETTLEMENT CONFERENCES:**

In a settlement conference, a neutral person called a "settlement officer" or sometimes a judge will meet with the parties and their attorneys to discuss possible settlement of the dispute. Settlement conferences may either be mandatory or voluntary. The judge or settlement officer does not make a decision in the case, but assists the parties in evaluating the strengths and weaknesses of the case and in negotiating a settlement. Mandatory conferences are often held close to the date a case is set for trial, but may be scheduled early in the proceedings whenever appropriate.

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### **WHAT ARE THE ADVANTAGES OF USING ADR?**

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There can be a number of advantages to using ADR over a lawsuit. Because of these advantages, many parties choose ADR to resolve a dispute instead of litigation. ADR has even been used to resolve disputes after a trial, when the result of the trial is appealed.

#### **ADR can save time:**

A lawsuit can take years, but a dispute utilizing ADR can be resolved in a matter of months, or even weeks.

**ADR can save money:**

By producing quicker settlements, ADR can cut attorney's fees, expert fees and court costs that might otherwise be spent during litigation.

**ADR can permit participation:**

When utilizing ADR, the parties involved may have more of a chance to tell their side of the story and express their own interests and concerns. This is not always the case in the courtroom because in many cases, litigation focuses exclusively on the parties' legal rights and responsibilities.

**ADR can preserve relationships:**

ADR can be less adversarial and therefore a less hostile way to resolve a dispute. This can be more advantageous where parties have a relationship that they would like to preserve.

**ADR can provide more control and flexibility:**

Parties are able to choose the type of ADR that best suits their needs. For example, in mediation, the parties may decide how to resolve their dispute in a way that suits all of the individuals involved.

**ADR can reduce stress and provide satisfaction:**

In a trial, there is typically a winner and a loser. This loser is likely to be unhappy, and even the winner, after possible years of litigation, may not be satisfied with the outcome. ADR can be easier for the parties' mental state and can help the parties find win-win solutions and achieve their real goals. This, along with ADR's other potential advantages, may increase the parties' overall satisfaction with both the dispute resolution process and its outcome.

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**WHAT ARE THE DISADVANTAGES OF USING ADR?**

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There can be disadvantages of using ADR as opposed to litigation.

**ADR may not be suitable for every type of dispute:**

ADR may not be effective if it takes place before the parties have sufficient information to resolve the dispute. This is because there is generally less of an opportunity to find out about the other side's case during ADR in contrast to litigation.

**ADR does not provide for the same protections as the litigation process:**

If an ADR is binding, the parties normally give up most court protections, including a decision by a judge or jury under the formal rules of evidence and procedure, and review for legal error by an appellate court.

**ADR does not always settle a dispute:**

If a dispute is unresolvable utilizing ADR, the parties may have to put both time and money into both ADR and litigation.

**There still are fees and costs to be collected:**

The neutral individual may charge a fee for his or her services, and if the parties have an attorney, fees are still to be collected unless otherwise determined by that attorney. There may also be other court costs to be collected during the ADR process.

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## **WHAT IS THE COURT'S ADR POLICY?**

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It is the policy of the Mono County Superior Court to strongly encourage the use of ADR in all general civil cases. The court recognizes the value of early case intervention and the use of ADR options for amendable and eligible cases. The use of ADR will be discussed at all case management and pre-trial conferences. It is the court's expectation that all litigants will utilize some form of ADR.

The court also provides litigants with information about ADR and the parties may agree to a mediator of their own choosing. The court can provide a list of mediators that litigants can choose from if they want to try and resolve their case through mediation.

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## **CAN MONO COUNTY SUPERIOR COURT HELP RESOLVE A CASE WITHOUT TRIAL?**

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Yes. The Mono County Superior Court strongly encourages the use of ADR to help assist the parties in resolving their disputes before trial. The parties must make payment arrangements with the chosen mediator, but many of the court-approved mediators offer the first hour or two of mediation for free.

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## **HOW IS THE ADR PROCESS INITIATED?**

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A mediation process may be initiated by the parties at any time after all parties have appeared in the case, by filing a Stipulation to Mediate form. The court can provide the parties with a list of mediators that parties can choose from.

If the parties do not otherwise agree to use ADR, these options will be discussed at the Case Management Conference, which is held approximately 180 days after the case is filed. It is the court's expectation that all litigants will utilize some form of ADR before trial. The court may refer cases to arbitration or civil mediation. In certain cases, the court may even order the parties to judicial arbitration or a settlement conference.

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## **HOW LONG DOES THE ADR PROCESS TAKE?**

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The time for an ADR process varies depending on which type of ADR is utilized as well as the complexity of the case. Most cases require only one meeting to come up with a resolution, but some cases may require additional sessions. All of the ADR processes must be completed by a date set by the judge, usually within 90-120 days of the date on which the judge referred the case to an ADR process.

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## **WHAT ARE MY RESPONSIBILITIES IF A CASE SETTLES BEFORE THE ADR SESSION?**

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If a settlement occurs prior to a scheduled ADR session, counsel for the parties, or the parties themselves, should immediately notify the court as well as the mediator or arbitrator.

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## **WHO MUST ATTEND THE ADR?**

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All parties, their counsel, and persons with full authority to settle the case must personally attend the ADR, unless excused by the court for good cause. If consent to settle is required for any reason, the party with the consent authority must also personally be present at the ADR.

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## **HOW DO I PREPARE FOR ADR?**

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You and your attorney should be prepared to discuss all relevant issues in your case. Before the mediation session, you and your attorney should discuss the ADR process and understand it is confidential and non-binding (unless it is binding arbitration). You should be prepared to state your position and to listen carefully to what the other party has to say. Persuasive and forceful communication is permitted, but civility, respect and cooperation is vital to the ADR process. Hostile or highly argumentative tactics are likely to cause positions to become entrenched and thus discourage progress. Note that some mediators also require pre-ADR briefs describing the background of the case.

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## WHERE CAN I GO FOR MORE INFORMATION?

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Contact the California Department of Consumer Affairs, Consumer Information Center, toll free at 1-800-852-5210

Contact the President of the Mono County Bar Association at (760) 934-4558

Look in the telephone directories under “Arbitrators” or “Mediators”

Refer to the following websites for additional general ADR information:

- American Arbitration Association
  - [www.adr.org](http://www.adr.org)
- International Mediation Institute
  - [www.imimmediation.org](http://www.imimmediation.org)
- Mediate
  - [www.mediate.com](http://www.mediate.com)
- California Courts Online Self-Help Center
  - [www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)
- Mono County Superior Court Website
  - [www.mono.courts.ca.gov](http://www.mono.courts.ca.gov)

There will likely be a charge for service provided by a private arbitrator or mediator.

The selection of a neutral is an important decision. There is no legal requirement that the neutral be licensed or hold any particular certificate. However, some programs have established requirements for neutrals. You may wish to inquire about the qualifications of any neutral you are considering.

Agreements reached through ADR normally are put in writing by the neutral and, if the parties wish, may become binding contracts that can be enforced by a judge.

You may wish to seek the advice of an attorney as to your legal rights and other matters relating to the dispute.