

Alternative Dispute Resolution

WHOM DO YOU CALL?

To locate a dispute resolution program or neutrals in our community.

Visit the *Superior Court Civil Division*

825 Fifth Street, Eureka, or the court website at www.humboldtcourt.ca.gov for a list of mediators and the areas of the law in which they specialize.

Contact the *California Department of Consumer Affairs* Consumer Information Center, Toll free: 800-952-5210

Did you know...

- ☛ You don't have to go to trial or even file a lawsuit?
- ☛ Over 95% of all civil cases filed in court are resolved without going to trial?
- ☛ There are a number of ways to resolve civil disputes without having to go to trial or even file a lawsuit? These less formal, less adversarial alternatives to a lawsuit are known as *Alternative Dispute Resolution* (ADR).

This is a compilation of information and resources about alternative means of resolving disputes that are available at the Humboldt County Superior Court, including background information, links & downloads, and frequently asked questions.

Background

The Humboldt County Superior Court offers this Alternative Dispute Resolution (ADR) information to the public in order to help them explore an alternate way to resolve their disputes.

Links and Downloads

- California Courts Self-Help Center
- Court & Arbitration Center for the Judicial Council of California
- Voluntary Arbitration Center for the Judicial Council of California
- WVA & ADR (Voluntary Arbitration & ADR)
- Mediation Resources

ADVANTAGES OF ADR

ADR may have a number of advantages over a lawsuit.

- **ADR can save time:** A dispute often can be resolved in a matter of months, even weeks, through ADR, while a lawsuit can take a year or more.
- **ADR can save money:** Court costs, attorney fees, and expert fees can be saved.
- **ADR can permit more participation:** In ADR, the parties may have more opportunity to tell their side of the story than in court and may have more control over the outcome of their dispute.
- **ADR can be flexible:** The parties can choose the ADR process that is best for them. Some ADR processes, such as mediation, allow the parties to fashion creative resolutions that are not available at trial.
- **ADR can preserve relationships:** In ADR, the parties having a dispute can work together with the neutral to resolve the dispute and agree to a remedy that makes sense to them, rather than work against each other.
- **ADR can be more satisfying:** If parties go to trial, neither party may be completely satisfied with the outcome, even the winning party. ADR can help parties find a win-win solution and achieve their real goals, which may increase both parties' overall satisfaction with the process.

Because of these advantages, many parties choose ADR to resolve a dispute, instead of filing a lawsuit. Even when a lawsuit has been filed, the court can refer the dispute to a neutral before the parties' positions harden and the lawsuit becomes costly. ADR has been used to resolve disputes even after a trial, when the result is appealed.

DISADVANTAGES OF ADR

- ADR may not be suitable for every dispute.
- If ADR is binding, the parties normally give up most court protections, including a decision by a judge or jury under formal rules of evidence and procedure, and review for legal error by an appellate court.
- There generally is less opportunity to find out about the other side's case with ADR than with litigation. ADR may not be effective if it takes place before the parties have sufficient information to resolve the dispute.
- The neutral usually charges a fee for his or her services.
- If a dispute is not resolved through ADR, the parties may have to put time and money into both ADR and a lawsuit.

Lawsuits must be brought within specified periods of time, known as statutes of limitation. Parties must be careful not to let a statute of limitations run out while a dispute is in an ADR process.

COMMON TYPES OF ADR

Forms of ADR most often found in California courts are:

Mediation

In mediation, a neutral assists the parties in reaching a mutually acceptable resolution of their dispute. Unlike lawsuits or some other types of ADR, the mediator does not decide how the dispute is to be resolved—the parties do in a cooperative process. Mediation is particularly effective when the parties have a continuing relationship, like neighbors or business people. Mediation also is very effective where personal feelings are getting in the way of a resolution. This is because mediation normally gives the parties a chance to let out their feelings and find out how the other party sees things.

Arbitration

In Arbitration, a neutral reviews evidence, hears arguments, and makes a decision which resolves the dispute. This is very different from mediation, where the mediator helps the parties reach their own resolution. Arbitration can be either *binding* or *non-binding*, meaning that the arbitrator's decision is either final or advisory. In non-binding arbitration, a party who does not like the award may file a request for trial. There may be penalties, however, if that party does not do better in the trial than in arbitration.

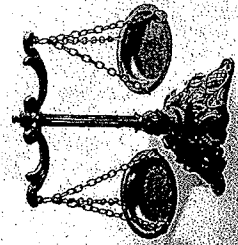
Settlement Conferences

In a Settlement Conference a judge or a neutral attempts to get the parties to evaluate and re-evaluate their case so as to achieve a negotiated settlement. Settlement conferences may occur at any time in the course of the dispute or litigation, and often are required as a case nears trial.

Neutral Evaluation

In neutral evaluation, each party gets a chance to present the case to a neutral person called an *evaluator*. The evaluator then gives an opinion on the strengths and weaknesses of each party's evidence and arguments and about how the dispute could be resolved. The evaluator is often an expert in the subject matter of the dispute. The evaluator's opinion is not binding, but the parties typically use it as a basis for trying to negotiate a resolution to the dispute.

The important thing is to consider the type of ADR that is most likely to resolve your dispute. 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 any attorney as to your legal rights and other matters relating to the dispute.



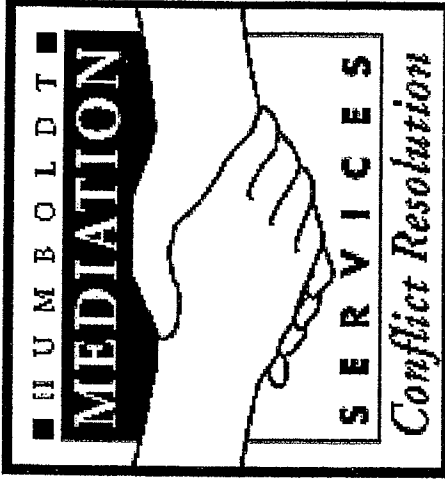
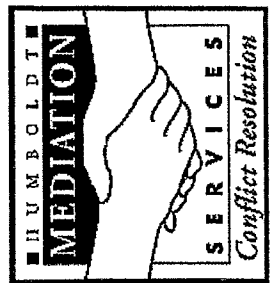
Our Goals

- To establish simple, effective, and confidential forums for resolution of conflicts between people in the community.
- To divert from the courts those cases more appropriately handled in a neutral and non-threatening forum.
- To encourage people to deal with problems they have unhappily tolerated.
- To allow those in conflict to take responsibility for resolving their disputes before they escalate into irreconcilable situations.
- To train members of the community to serve as mediators.

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Sincerely,

Rosie Thompson



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Is it a dispute with a...

- Neighbor or Organization?
- Housemate or Spouse?
- Child or Youth?
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- Merchant or Business?

Police can't help; you really don't want to take it to court?

Would you like to find a solution that will let you live in peace?

Humboldt Mediation Services
517 Third Street, Suite 3
Eureka, California 95501
humboldtmediation@reninet.com
fax: (707) 445-2547
phone: (707) 445-2505



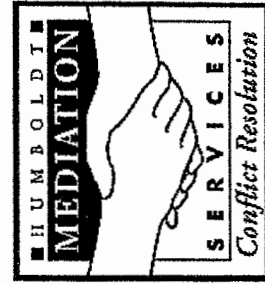
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Mediation An Alternative

- Often we forget that the best solution to a conflict is not in winning the argument or ignoring the problem, but in cooperation to find a peaceful agreement that everyone can live with.
- Mediation is a proven way to settle differences confidentially in a fair and informal setting.
- Mediators help people find a mutually satisfactory agreement. A mediator is not a judge or someone who tells the disputants what they should or must do.

Who We Are

- Established in 1983, Humboldt Mediation Services is a non-governmental, community-based organization of volunteers.
- We encourage interested community member to volunteer their time. Please contact our office for information concerning training sessions for new mediators.



What We Do

- We listen to the problem. If we think we can help, we will ask you for information concerning others involved in the dispute (names, address, and phone numbers).
- We will then contact the other people involved and encourage them to participate in a mediation session.
- We will schedule the mediation session at a time and place that is convenient to all.
- We provide skilled mediators at each session to guide the mediation process and help the participants reach an agreement.
- We will provide follow-up consultations, if desired.

At the Mediation Session

- Everyone is introduced, and the mediators explain the procedures to be followed during the session.
- Ground rules are explained and agreed to by the participants.
- Each person has the opportunity to speak without interruption.
- Mediators assist the disputants in clarifying issues, thoughts, and feelings involved in the dispute.
- Solutions are explored by the disputants and the mediators.
- If all disputants can agree on a solution, an agreement is written and signed by all.

HMS Training Programs

Community Mediation Training is a 30-hour course required for volunteer mediators, but many others take the course as well, to learn the skills and advantages of mediation techniques for application in other agencies, workplaces, or volunteer organizations. This course is scheduled twice a year, over four evenings and two Saturdays.

Basic Communications and Conflict Management

is a one-day interactive workshop that offers tools and techniques for better communication and for understanding and dealing with conflict at home, at work, or in the community. It is offered on four Saturdays a year.

Custom Workshops

can be arranged for agencies that want to develop communication and conflict management skills among their staff or constituencies.

The Speakers' Bureau

offers short presentations to give information to community groups about the benefits of mediation as an effective way to help people find the best solution to disagreements among family, friends, neighbors, or business associates.

*For more information on any of these training/informational opportunities, call 445-2505 or visit the HMS website:
<http://www.humboldtmediationservices.org>*

Our fees for mediations are based on a sliding scale. Fee waivers may be available; services are provided regardless of ability to pay. Donations are encouraged. For facilitations or business mediations, please call for fee information.

NAME OF COURT: SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT

ADR Information Form

This form should be filled out and returned, within 10 days of the resolution of the dispute, to:

1. Case name: _____ No. _____

2. Type of civil case: PIPD-Auto PIPD-Other Contract Other (specify): _____

3. Date complaint filed _____ Date case resolved _____

4. Date of ADR conference _____ 5. Number of parties _____

6. Amount in controversy \$0-\$25,000 \$25,000-\$50,000 \$50,000-\$100,000 over \$100,000 (specify): _____

7. Plaintiff's Attorney Cross Complainant's Attorney 8. Defendant's Attorney Cross Defendant's Attorney

NAME _____
ADDRESS _____
TELEPHONE NUMBER _____

NAME _____
ADDRESS _____
TELEPHONE NUMBER _____

9. Please indicate your relationship to the case:
 Plaintiff Plaintiff's attorney Defendant Defendant's attorney
 3rd party defendant 3rd party defendant's attorney Other (specify): _____

10. Dispute resolution process:
 Mediation Arbitration Neutral case evolution Other (specify): _____

11. How was case resolved?
a. As a direct result of the ADR process.
b. As an indirect result of the ADR process. c. Resolution was unrelated to ADR process.

12. Check the closest dollar amount that you estimate you saved (attorneys fees, expert witness fees, and other costs) by using this dispute resolution process compared to resolving this case through litigation, whether by settlement or trial.
 \$0 \$250 \$500 \$750 \$1,000 more than \$1,000 (specify): \$ _____

13. If the dispute resolution process caused a net increase in your costs in this case, check the closest dollar amount of the additional cost:
 \$0 \$250 \$500 \$750 \$1,000 more than \$1,000 (specify): \$ _____

14. Check the closest number of court days that you estimate the court saved (motions, hearings, conferences, trial, etc.) as a result of this case being referred to this dispute resolution process:
 0 1 day more than 1 day (specify): _____

15. If the dispute resolution process caused a net increase in court time for this case, check the closest number of additional court days:
 0 1 day more than 1 day (specify): _____

16. Would you be willing to consider using this dispute resolution process again? Yes No

MEDIATOR (Name and Address):		FOR COURT USE ONLY
TELEPHONE NO.:	FAX NO. (Optional):	
E-MAIL ADDRESS (Optional):		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT STREET ADDRESS: MAILING ADDRESS: 825 Fifth St. CITY AND ZIP CODE: Eureka, CA 95501 BRANCH NAME:		
CASE NAME:		CASE NUMBER:
STATEMENT OF AGREEMENT OR NONAGREEMENT <input type="checkbox"/> First <input type="checkbox"/> Supplemental		
NOTE: This form must be used by mediators in the Civil Action Mediation Program (Code Civ. Proc., § 1775 et seq.) and in the Early Mediation Pilot Program (Code Civ. Proc., § 1730 et seq.).		

1. This case was filed on (date if known):
2. I was selected as the mediator in this matter on (date):
3. Mediation (check one):
 - a. did not take place.
 - (1) A party who was ordered to appear at the mediation did not appear.
 - (2) Other reason (please specify without disclosing any confidential information):
 - b. took place on (date or dates):
and lasted a total of _____ hours.
4. The mediation has not ended. I submit this form to comply with the court's requirement to do so by a specified date.
5. The mediation ended (check one):
 - a. in full agreement by all parties on (date):
 - b. in partial agreement
 - (1) in full agreement as to the following parties:
on (date):
 - (2) in full agreement as to limited issues on (date):
 - c. in nonagreement.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF MEDIATOR)

NOTE: Within 10 days of the conclusion of the mediation or, when applicable, by the deadline set by the court, the mediator must serve a copy of this statement on all parties and file the original, with proof of service, with the court clerk. The proof of service on the back of this form may be used.

CASE NAME:

CASE NUMBER:

PROOF OF SERVICE

Mail Personal Service

1. At the time of service I was at least 18 years of age and not a party to this legal action.

2. My residence or business address is (specify):

3. I mailed or personally delivered a copy of the *Statement of Agreement or Nonagreement* as follows (complete either a or b):

a. **Mall.** I am a resident of or employed in the county where the mailing occurred.

(1) I enclosed a copy in an envelope and

(a) **deposited** the sealed envelope with the United States Postal Service, with the postage fully prepaid.

(b) **placed** the envelope for collection and mailing on the date and at the place shown in items below, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

(2) The envelope was addressed and mailed as follows:

(a) Name of person served:

(b) Address on envelope:

(c) Date of mailing:

(d) Place of mailing (city and state):

b. **Personal delivery.** I personally delivered a copy as follows:

(1) Name of person served:

(2) Address where delivered:

(3) Date delivered:

(4) Time delivered:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

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NAME _____
 ADDRESS _____
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- 9. Please indicate your relationship to the case:
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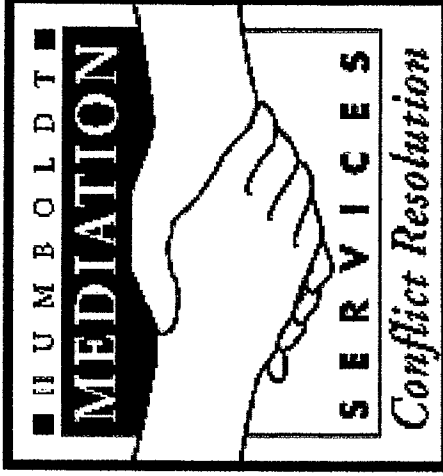
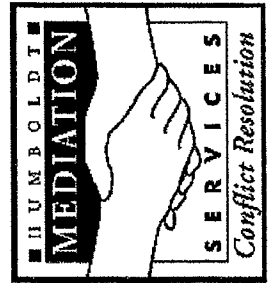
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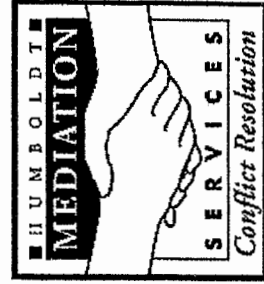


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