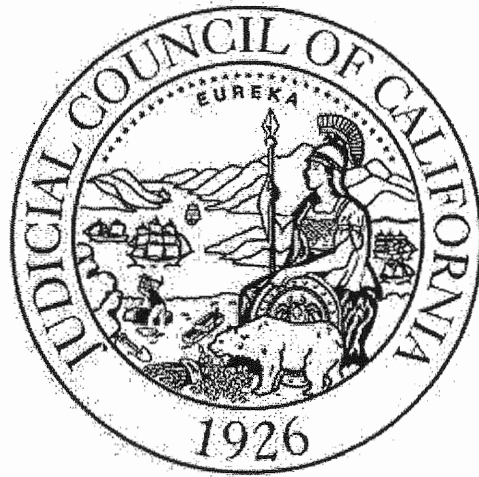
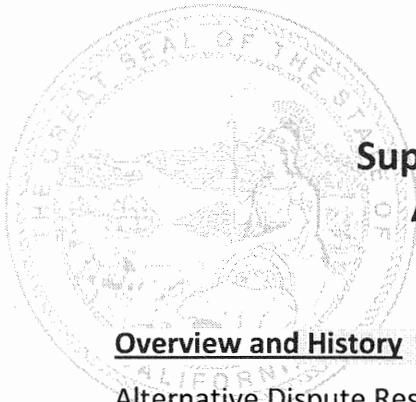


**ALTERNATIVE DISPUTE RESOLUTION  
IN CIVIL CASES**





## Superior Court of California, County of Inyo Alternative Dispute Resolution (ADR) Program Information Packet

### Overview and History

Alternative Dispute Resolution (ADR) is an increasingly popular option that allows people to resolve disputes in a cooperative manner outside of court or without going to a trial. ADR can be faster, cheaper, and less stressful than going to court. Most importantly, the use of ADR can provide greater satisfaction with the way disputes are resolved.

Since 2008, the Superior Court of California, County of Inyo has been in the process of developing its ADR program, with particular emphasis on mediation. The Court received a grant from the Administrative Office of the Court (AOC) to implement and develop a court-connected Civil Mediation and Settlement Program. The project includes the training of mediators and the development of a court approved panel of trained and experienced mediators to assist in the mediation and/or the settlement of cases pending before the court. The project also envisions establishment of a community based mediation program to assist in the settlement of disputes before they are filed in the judicial system. While ADR methods are generally most effective in a face-to-face setting, efforts will be made to provide ADR services to remote locations in Inyo County by Tele-conferencing equipment as available and to provide the services of ADR experts from other geographical locations by electronic methods.

Effective July 1, 2010, The Court has provided for participation in mandatory mediation by parties in most general civil cases by amendments to the Local Rules of Court, section 6.4.1 et. seq.

This ADR Information packet and a "Stipulation to Participate in Mediation" must be served with all applicable civil complaints (Local Rule 6.5 (d)).

The Court currently provides trained mediators at no cost to the parties through an AOC grant. The Court is also finalizing a "Fee-for-service" Court Approved Mediation Panel for use by parties in all general civil cases. Information about the Mediators on the Court Approved Mediation Panel will be provided by the Court and listed on the Courts Website. Forms for ADR participation and compliance reporting will be provided by the Court and available at the Court website.

Complaints about ADR neutrals in court programs are rare. If you have a complaint or a concern about a neutral who handled a case as part of the court's ADR program, please refer to Local Rules of Court section 6.4.2 et. seq.

## Court-Connected Dispute Resolution

### Disputes

ADR techniques have been used successfully in a variety of disputes involving individuals, small and large businesses, government and the general public. Various types of ADR processes are available depending on the nature of the dispute. Many types of conflict often lend themselves to an alternative and informal method of dispute resolution. Some examples of dispute often settled by ADR include, but are not limited to:

- Business disputes- contracts, partnerships
- Property/Land use disputes- property transfers, boundaries, easements
- Family disputes – divorce, property division, child custody, visitation & support
- Consumer/Collection disputes, - repairs, services, warranties, debts
- Employment disputes – employment contracts, terminations, work conditions
- Landlord/Tenant disputes – evictions, rent, repairs, security deposits
- Neighborhood disputes/Relational disputes or other civil or personal conflicts
- Personal injury/Insurance disputes – accidents, coverage, liability

### Processes

The most common forms of ADR are Mediation, Arbitration, and Case Evaluation. In most ADR processes, a trained impartial person (a neutral) decides or helps the parties reach a resolution of their dispute together. The persons are neutrals who are normally chosen by the disputing parties or by the court. Neutrals can often assist parties in resolving disputes without having to continually go to court or to a trial. Below is a description of the commonly used processes.

### Mediation

In mediation, the mediator (a neutral) assists the parties in reaching a mutually acceptable resolution of their dispute. Unlike trials or other types of ADR, the mediator **does not** decide how the dispute is to be resolved. The parties do. It is a cooperative process in which the parties work together toward a resolution that tries to meet everyone's interests, instead of working against each other. Mediation often leads to better communication between the parties and lasting resolutions. It is particularly effective when parties have a continuing relationship, such as neighbors or businesses. It also is very effective where personal feelings are getting in the way of resolution. Mediation normally gives the parties a chance to express their concerns in a voluntary, confidential process while working towards a resolution. The mediation process is the most commonly used form of ADR in civil cases and can provide the greatest level of flexibility for parties.

### Arbitration

In arbitration, the arbitrator (a neutral) reviews evidence, hears arguments, and makes a decision (award) to resolve the dispute. This is different from mediation in which the mediator helps the parties reach their own resolution. Arbitration normally is more informal, quicker and less expensive than a trial. In a matter of hours, an arbitrator often can hear a case that otherwise may take days or weeks in court to litigate. This is because the evidence can be received by documents rather than by testimony (live witnesses).

1. **Binding arbitration:** Usually conducted by private arbitrator, this process takes place outside of the court. "Binding" means that the arbitrator's decision (award) is final and there will not be a trial or an opportunity to appeal the decision.
2. **Non-Binding arbitration:** May be ordered through the court (Judicial Arbitration) or conducted privately. In this process, the arbitrator's decision is "not binding." This means that if a party is not satisfied with the decision of the arbitrator, they can file a request for a trial with the court within a specified time. However (depending on the process) if that party does not receive a more favorable result at trial they may have to pay a penalty.

### Case Evaluation

In case evaluation, the evaluator (a neutral) usually an attorney or other professional in the subject area, gives an opinion on the strengths and weaknesses of each party's evidence and arguments. Each party gets a chance to present their case and hear the other side. This may lead to a settlement, or at least, help the parties prepare to resolve the dispute at a later time. Case evaluation, like mediation, can come early in the dispute and save time and money. The case evaluation process is most effective when parties have an unrealistic view of the dispute, need outside assistance in determining case value, and/or have technical or scientific questions to be worked out. This process is sometimes used in combination with mediation or arbitration.

### ADR Agreements

Agreements reached through ADR are normally written and can become binding contracts that can be enforced by the court, if the parties agree. Parties may choose to seek the advice of an attorney as to their legal rights and other matter relating to the dispute before finalizing any agreement.

### ADR Process Selection and Information

There are several other types of ADR. This other types of ADR include conciliation, settlement conference, fact finding, mini-trial, Victim Offender conferencing, and summary jury trials. Sometimes parties will try a combination of ADR types. The important thing is to find the type of ADR that is most likely to resolve the dispute. Contact the Court Arbitration Administrator or

the ADR Coordinator for assistance with additional information and referral to services appropriate for each type of case.

### Advantages and Disadvantages of ADR

#### Advantages of ADR

- ❖ **Often quicker than going to trial.**
- ❖ **Often less expensive**, saving the litigants court costs, attorney's fees and expert fees.
- ❖ **Permits more participation and empowerment**, allowing the parties the opportunity to tell their side of the story and have more control over the outcome.
- ❖ **Allows for flexibility** in choice of ADR processes and resolution of the dispute.
- ❖ **Fosters cooperation** by allowing the parties to work together with the neutral to resolve the dispute and mutually agree to a remedy.
- ❖ **Often less stressful** than litigation. Most people have reported a high degree of satisfaction with ADR.

Because of these advantages, many parties choose ADR to resolve disputes instead of filing a lawsuit. Even after a lawsuit has been filed, the court can refer the dispute to a neutral before the court case becomes costly. ADR has been used to resolve disputes even after trial, when results are pending an appeal.

#### Disadvantages of ADR

- ❖ ADR may not be suitable for every dispute.
- ❖ If the ADR process 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.
- ❖ ADR may not be effective if it takes place before the parties have had sufficient time to acquire information to resolve the dispute.
- ❖ The neutral may charge a fee for his or her services. If the dispute is not resolved through ADR, the parties may then have to face the usual trial cost, such as attorney's fees, expert fees, and court costs.
- ❖ Lawsuits must be brought within a specified time period, known as the Statute of Limitations. Parties must be careful not to let a Statute of Limitation period run out while the dispute is in an ADR process.

### Neutral Selection

The selection of a neutral is an important decision. Please note that currently there is no legal requirement that the neutral be licensed or hold any particular certificate. However, some programs and the Superior Court of California, County of Inyo have established qualification requirements for neutrals.

A list of trained and/or experienced mediators will be available to assist parties on a fee-for-service basis. These individuals have met the requirements to participate on the Court's panel and provide dispute services, including the requirements of the Dispute Resolution Program Act (DRPA). **Panelists are not Court employees; therefore services, styles and expertise will vary by individual provider.**

A list of Court approved mediators who provide mediation service on a voluntary basis will also be maintained for use in cases involving self-represented litigants or those unable to afford a private mediator. The Court Arbitration Administrator and the ADR Coordinator will assist parties in locating outside private mediation and other ADR services, including free or low cost community-based mediation services funded by the Dispute Resolution Program Act (DRPA), such as the Eastern Sierra Mediation Service.

### ADR Checklist:

1. Plaintiffs and cross-complainants in all general civil cases must serve a copy of this ADR Program Information Packet and a copy of Local Form ADR-001 "Stipulation to Mediation" on all defendants and new cross-defendants. (Local Rule of Court, 6.5 (d), effective July, 1, 2010)
2. Attorneys must provide of the ADR Information Packet to, and review its contents with, their Clients.
3. Attorneys and/or self-represented parties must be prepared to discuss Mediation or ADR alternatives at the Case Management Conference (CMC).

For more information, go to [www.inyocourt.ca.gov/adr](http://www.inyocourt.ca.gov/adr), or contact:

Virginia Bird, Arbitration Administrator  
P.O. Drawer "U"  
Independence, CA 93526  
Tel. (760) 873-5217, Fax (760) 872-5213

or

ADR Coordinator  
301 West Line Street  
Bishop, CA 93514  
Tel. (760) 872-4852, Fax (760) 872-4984

|  |                    |
|--|--------------------|
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF INYO   | FOR COURT USE ONLY |
| PLAINTIFF/PETITIONER:<br>DEFENDANT/RESPONDENT: |                    |
| <b>STIPULATION TO PARTICIPATE IN MEDIATION</b> | CASE NUMBER:       |

**(DO NOT FILE WITH THE COURT; send to Virginia Bird, ADR Administrator, P.O. Drawer U, Independence, CA 93526)**

Plaintiff(s), \_\_\_\_\_

and Defendant(s), \_\_\_\_\_

agree to participate in the Inyo County Superior Court Mediation Program.

Case Type: \_\_\_\_\_

The Mediation Party List is attached to this Stipulation.

We understand that there may be a charge for services provided by mediators. We understand that participating in the mediation process does not extend the time periods specified in California Rules of Court Rule 3.720 et seq.

PLAINTIFF(S)

\_\_\_\_\_  
(SIGNATURE OF PLAINTIFF'S ATTORNEY)      Date

PRINT NAME:  
PHONE:  
FAX:

\_\_\_\_\_  
(SIGNATURE OF PLAINTIFF'S ATTORNEY)      Date

PRINT NAME:  
PHONE:  
FAX:

DEFENDANT(S)

\_\_\_\_\_  
(SIGNATURE OF DEFENDANT'S ATTORNEY)      Date

PRINT NAME:  
PHONE:  
FAX:

\_\_\_\_\_  
(SIGNATURE OF DEFENDANT'S ATTORNEY)      Date

PRINT NAME:  
PHONE:  
FAX:

**STIPULATION TO PARTICIPATE IN MEDIATION**