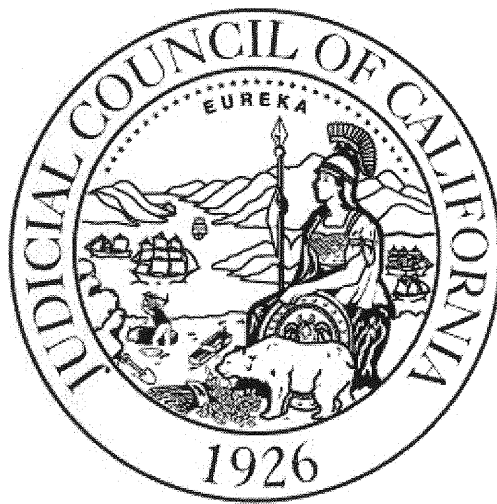


**ALTERNATIVE DISPUTE RESOLUTION  
IN CIVIL CASES**



**REPORT OF THE  
TASK FORCE ON THE QUALITY OF JUSTICE  
SUBCOMMITTEE ON  
ALTERNATIVE DISPUTE RESOLUTION  
AND THE JUDICIAL SYSTEM**

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August 1999

**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF VENTURA**

**ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION**

Most civil disputes are resolved without filing a lawsuit, and most civil lawsuits are resolved without a trial. The courts, community organizations, and private providers offer a variety of Alternative Dispute Resolution (ADR) processes to help people resolve disputes without a trial. Many courts encourage or require parties to try ADR before trial, and it may be beneficial to do this early in the case.

Below is some information about the potential advantages and disadvantages of ADR, the most common types of ADR, and how to find a local ADR program or neutral. You can read more information about these ADR processes and watch videos that demonstrate them at [www.courtinfo.ca.gov/programs/adr/types.htm](http://www.courtinfo.ca.gov/programs/adr/types.htm). A form for agreeing to use ADR is attached.

**Potential Advantages and Disadvantages**

ADR may have a variety of advantages or disadvantages over a trial, depending on the type of ADR process used and the particular case:

**Potential Advantages**

- Saves time
- Saves money
- Gives parties more control over the dispute resolution process and outcome
- Preserves or improves relationships

**Potential Disadvantages**

- May take more time and money if ADR does not resolve the dispute
- Procedures to learn about the other side's case (discovery), jury trial, appeal, and other court protections may be limited or unavailable

**Most Common Types of ADR**

**Mediation** – A neutral person called a “mediator” helps the parties communicate in an effective and constructive manner so they can try to settle their dispute. The mediator does not decide the outcome, but helps the parties to do so. Mediation is usually confidential, and may be particularly useful when parties want or need to have an ongoing relationship, such as in disputes between family members, neighbors, co-workers, or business partners.

**Settlement Conferences** – A judge or another neutral person called a “settlement officer” helps the parties to understand the strengths and weaknesses of their case and to discuss settlement. The judge or settlement officer does not make a decision in the case but helps the parties to negotiate a settlement. Settlement conferences may be particularly helpful when the parties have very different ideas about the likely outcome of a trial and would like an experienced neutral to help guide them toward a resolution.

**Arbitration** – The parties present evidence and arguments to a neutral person called an “arbitrator” who then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are usually relaxed. If the parties agree to *binding arbitration*, they waive their right to a trial and agree to accept the arbitrator's decision as final. With *nonbinding arbitration*, any party may reject the arbitrator's decision and request a trial. Arbitration may be appropriate when 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, or want an expert in the subject matter of the dispute to make a decision.

**Local ADR Programs for Civil Cases**

**Mediation** – The Ventura Superior Court has maintained a mediation program since April 1, 1993. Its goals are to speed resolution of cases by bringing the parties together before they have made a major economic and emotional investment in litigation, and to increase awareness of this effective method of alternative dispute resolution.

Mediators need not be attorneys, but must have 25 hours of formal mediation training by a recognized mediation training/education provider. Mediator duties include a brief review/preparation time and three hours of hearing time on a pro bono basis and pursuant to such rules as may be designated for mediators by the Ventura Superior Court.

Party Pay Mediation Panel – The court has a second mediation panel where mediators are paid by the parties rather than offering their services pro bono. Mediators on the “party pay” panel must have completed 25 hours of formal mediation training and have participated as mediator a minimum of 25 court assigned mediations with a minimum hearing time of two hours each from any California Superior Court. All mediators on the “party pay” panel will provide three hours of mediation services per case at the rate of \$150 per hour to be shared equally by all participating parties.

**Arbitration** – Arbitration is normally an informal process in which a neutral person (the arbitrator) decides the dispute after hearing the evidence and arguments of the parties. The parties can agree to binding or nonbinding arbitration. Binding arbitration is designed to give each side a resolution of their dispute when they cannot agree between themselves or with a mediator. If the arbitration is nonbinding, any party can reject the arbitrator’s decision and request a trial.

**Mandatory Early Settlement Conference** – The MESC program was implemented through joint efforts of the Superior Court and the Ventura County Bar Association working primarily through the Bench/Bar Subcommittee. Cases that are appropriate for the program are identified and referred to a settlement officer to conduct a settlement conference. The parties have the opportunity for a serious exchange of facts, theories, and evaluations at the earliest possible time with an impartial attorney volunteer conducting the conference. The basic difference between cases assigned to the MESC and Mediation programs is the nature of the case and the relief sought. If the injury or damage is compensable in money damages and there is no emotional component or “hidden agenda” on the part of one or more of the parties, as is frequently the case in mediation cases, then the case is sent to the MESC program. MESC may be appropriate when negotiations between the parties have not proven successful.

**Settlement Conference** – Settlement Conferences may be mandatory or voluntary. In general, if the settlement conference is mandatory, ordered by the judge, the parties to the dispute and their attorneys will meet with a judge who conducts conference aimed at negotiating an agreement to settle the dispute rather than doing through the formal trial process.

**More Information about Court-Connected ADR:** Visit the court’s webpage at [www.ventura.courts.ca.gov](http://www.ventura.courts.ca.gov).

**Dispute Resolution Programs Act (DRPA) funded ADR Program** - The following community dispute resolution programs are funded under DRPA (Bus. and Prof. Code 465 et seq.):

- Ventura Center for Dispute Settlement, 1200 Paseo Camarillo, Suite 165, Camarillo, CA 93010  
805-384-1313
- Ventura County District Attorney’s Consumer Mediation Unit  
805-654-3110

**Private ADR** – To find a private ADR program or neutral, search the internet, your local telephone or business directory, or legal newspaper for dispute resolution, mediation, settlement, or arbitration services.

**Legal Representation and Advice** – To participate effectively in ADR, it is generally important to understand your legal rights and responsibilities and the likely outcomes if you went to trial. ADR neutrals are not allowed to represent or to give legal advice to the participants in the ADR process. If you do not already have an attorney, the California State Bar or your local County Bar Association can assist you in finding an attorney. Information about obtaining free and low cost legal assistance is also available on the California Courts Website at [www.courtinfo.ca.gov/selfhelp/lowcost](http://www.courtinfo.ca.gov/selfhelp/lowcost).

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address)	Telephone Number	FOR COURT USE ONLY
ATTORNEY FOR (Name): SUPERIOR COURT OF CALIFORNIA, COUNTY OF VENTURA <input type="checkbox"/> 800 SOUTH VICTORIA AVE. VENTURA, CA 93009		
PLAINTIFF/PETITIONER DEFENDANT/RESPONDENT		
<b>STIPULATION TO USE OF ALTERNATIVE DISPUTE RESOLUTION PROCESS</b>		
		CASE NUMBER:

The parties and their attorneys stipulate that the claim(s) in this action shall proceed to the following alternative dispute resolution process:

- |  |  |
|--|--|
| <input type="checkbox"/> Private Mediation<br><input type="checkbox"/> Mandatory Early Settlement Conference<br><input type="checkbox"/> Binding Arbitration<br><input type="checkbox"/> Other (specify) : _____ | <input type="checkbox"/> Volunteer Mediation _____<br><input type="checkbox"/> Assignment to Private Judge<br><input type="checkbox"/> Non-Binding Arbitration |
|--|--|

It is further stipulated that the deadline for selection of a neutral and completion of the ADR process is: \_\_\_\_\_

Plaintiff (print)	Defendant (print)
Signature of Plaintiff	Signature of Defendant
Plaintiff's Attorney (print)	Defendant's Attorney (print)
Attorney's Signature	Attorney's Signature
Dated: _____	Dated: _____

**IT IS SO ORDERED.**

IT IS FURTHER ORDERED THAT: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Judicial Officer