

**ALTERNATIVE DISPUTE RESOLUTION  
INFORMATION PACKAGE  
Effective July 2, 2001**

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**Instructions to Plaintiff / Cross-Complainant**

In all general civil cases filed in the trial courts after June 30, 2001, the plaintiff is required to serve a copy of this ADR information package on each defendant.

California Rules of Court, Rule 201.9 (Excerpt)

(a) Each court must make available to the plaintiff, at the time of filing of the complaint, an Alternative Dispute Resolution (ADR) information package that includes, at a minimum, all of the following:

- (1) General information about the potential advantages and disadvantages of ADR and descriptions of the principal ADR processes . . .
- (2) Information about the ADR programs available in that court . . .
- (3) In counties that are participating in the Dispute Resolution Programs Act (DRPA), information about the availability of local dispute resolution programs funded under the DRPA . . .
- (4) An ADR stipulation form that parties may use to stipulate to the use of an ADR process.

(b) Court may make package available on Web site . . .

**(c) The plaintiff must serve a copy of the ADR information package on each defendant along with the complaint. Cross-complainants must serve a copy of the ADR information package on any new parties to the action along with the cross-complaint.**

## GENERAL INFORMATION ABOUT ADR

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### Introduction to Alternative Dispute Resolution

Did you know that most civil lawsuits settle without a trial? And did you know that there are a number of ways to resolve civil disputes without having to sue somebody? These alternatives to a lawsuit are known as alternative dispute resolution (also called ADR). The most common forms of ADR are mediation, arbitration, and neutral evaluation. There are a number of other kinds of ADR as well.

In ADR, trained, impartial persons decide disputes or help parties decide disputes themselves. These persons are called neutrals. In mediation, for example, the neutral is the mediator. Neutrals normally are chosen by the disputing parties or by the court. Neutrals can help parties resolve disputes without having to go to court.

ADR is not new. ADR is available in many communities through court-connected and community dispute resolution programs and private neutrals.

### Advantages of Alternative Dispute Resolution

ADR can have a number of advantages over a lawsuit:

- **ADR can be speedier.** A dispute often can be resolved in a matter of months, even weeks, through ADR, while a lawsuit can take years.
- **ADR can save money.** Court costs, attorney fees, and expert witness fees can be saved.
- **ADR can permit more participation.** With ADR, the parties may have more chances to tell their side of the story than in court and may have more control over the outcome.
- **ADR can be flexible.** The parties can choose the ADR process that is best for them.
- **ADR can be cooperative.** In mediation, for example, the parties having a dispute may 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 reduce stress.** There are fewer, if any, court appearances. And because ADR can be speedier, cheaper, and can create an atmosphere in which the parties are normally cooperative, ADR is easier on the nerves. The parties don't have a lawsuit hanging over their heads. For all the above reasons, many people have reported a high degree of satisfaction with ADR.

Because of these advantages, many parties choose ADR to resolve a dispute instead of filing a lawsuit. Even when a lawsuit has been filed, ADR can be used 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 Alternative Dispute Resolution

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 may charge 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 limitations. Parties must be careful not to let a statute of limitations run out while a dispute is in an ADR process.

## Three Common Types of Alternative Dispute Resolution

This section describes the forms of ADR most often found in the California state courts and discusses when each may be right for a dispute.

### **Mediation**

In mediation, a neutral (the mediator) 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.

Mediation 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 where at least one party loses. Mediation normally leads to better relations between the parties and to resolutions that hold up. For example, mediation has been very successful in family disputes, particularly with child custody and visitation.

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 they each see things.

Mediation may not be a good idea when one party is unwilling to discuss a resolution or when one party has been a victim of the other or has unequal bargaining power in the mediation. However, mediation can be successful for victims seeking restitution from offenders. A mediator can meet with the parties separately when there has been violence between them.

### **Arbitration**

In arbitration, a neutral (the arbitrator) reviews evidence, hears arguments, and makes a decision (award) to resolve the dispute. Arbitration normally is more informal and much speedier and less expensive than a lawsuit. Often a case that may take a week to try in court can be heard by an arbitrator in a matter of hours, because evidence can be submitted by documents (like medical reports and bills and business records) rather than by testimony.

There are two kinds of arbitration in California: (1) Private arbitration, by agreement of the parties involved in the dispute, takes place outside of the courts and is normally binding. In most cases "binding" means that the arbitrator's decision (award) is final and there will not be a trial or an appeal of that decision. (2) "Judicial arbitration" takes place within the court process and is not binding unless the parties agree at the outset to be bound. A party to this kind of arbitration who does not like a judicial arbitration award may file a request for trial with the court within a specified time. However, if that party does not do better in the trial than in arbitration, he or she may have to pay a penalty.

Arbitration is best for cases where the parties want a decision without the expense of a trial. Arbitration may be better than mediation when the parties have no relationship except for the dispute.

Arbitration may not be a good idea when the parties want to decide on the outcome of their dispute themselves.

### **Neutral Evaluation**

In evaluation, a neutral (the evaluator) gives an opinion on the strengths and weaknesses of each party's evidence and arguments and makes an evaluation of the case. Each party gets a chance to present his or her side and hear the other side. This may lead to a settlement or at least help the parties prepare to resolve the dispute later on. If the neutral evaluation does not resolve the dispute, the parties may go to court or try another form of ADR.

Neutral evaluation, like mediation, can come early in the dispute and save time and money.

Neutral evaluation is most effective when a party has an unrealistic view of the dispute, when the only real issue is what the case is worth, or when there are technical or scientific questions to be worked out.

Neutral evaluation may not be a good idea when it is too soon to tell what the case is worth or if the dispute is about something besides money, like a neighbor playing loud music late at night.

## Other Types of Alternative Dispute Resolution

There are several other types of ADR besides mediation, arbitration, and neutral evaluation. Some of these are conciliation, settlement conferences, fact-finding, mini-trials, and summary jury trials. Sometimes parties will try a combination of ADR methods. The important thing is to try to find the type or types of ADR that are most likely to resolve your dispute.

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 qualification 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 about your legal rights and other matters relating to the dispute.

### Help Finding an Alternative Dispute Resolution Program (Mediation) in Your Community

To locate a dispute resolution program or private neutral in your community:

- **Visit the California Department of Consumer Affairs' Web site.** The Department of Consumer Affairs (also called the DCA) has posted a list of conflict resolution programs throughout the state. The list can be found at [http://www.dca.ca.gov/r\\_r/mediati1.htm](http://www.dca.ca.gov/r_r/mediati1.htm)

You can also call the Department of Consumer Affairs, Consumer Information Center, at 800-952-5210.

- **Contact your county's small claims court legal advisor.** You can find a list of small claims legal advisors for most counties in the Small Claims Court section of this Self-Help Center.
- **Contact your local bar association.** You can find a list of local bar associations in California on the State Bar Web site at <http://www.calbar.org/2lin/2bar.htm>.

If you cannot find a bar association for your area on the State Bar Web site, check the yellow pages of your telephone book under "Associations."

- **Look in the yellow pages of your telephone book under "Arbitrators" or "Mediators."**
- **Automotive Repair, Smog Check:** The **California Bureau of Automotive Repair** (also known as BAR) offers a free mediation service for consumers who are dissatisfied with an auto repair or a smog check, or who dispute an invoice for such services. BAR registers and regulates California automotive repair facilities and licenses smog, lamp, and brake inspection stations. Learn more at <http://smogcheck.ca.gov/smogweb/geninfo/otherinfo/mediation.htm> or call 800-952-5210.
- **Burglar Alarm Companies, Cemetery/Funeral, Electronic and Appliance Repair, Firearms/Baton Training Facilities/Instructors, Home Furnishings and Thermal Insulation, Locksmith Companies, Private Investigators, Private Patrol Operators, Repossession Agencies, Security Guards:** The **California Department of Consumer Affairs** offers a complaint mediation program for all consumer complaints filed against California businesses regulated in the areas of: cemetery and funeral, electronic and appliance repair, home furnishings and thermal insulation, and security and investigative services. Learn more at <http://www.complainthelp.dca.ca.gov> or call 800-952-5210.
- **Attorney Fees:** The **State Bar of California** administers a mandatory fee arbitration program to resolve attorney fee disputes between lawyers and their clients. The program is an informal, low-cost forum and is mandatory for a lawyer if a client requests it. Mediation of attorney fees disputes may also be available in some areas of California. Learn more at <http://www.calbar.org/2bar/3arb/3arbndx.htm> or call 415-538-2020.

## DISPUTE RESOLUTION PROGRAMS IN ALAMEDA COUNTY

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### **Alameda County Bar Association, ADR Placement Service**

**360 22<sup>nd</sup> Street, Suite 800, Oakland, CA 94612**

Phone:893-7160

Provides civil dispute resolution alternatives countywide, offering disputants the opportunity to select an alternative dispute resolution (ADR) provider from a pool of experienced professionals. Program recruits, trains, and evaluates qualified ADR providers, places civil cases with ADR providers for resolution and settlement, and educates local citizens, consumer groups, businesses, schools, lawyers, and judges on the benefits of ADR.

### **Mediation Resolution Services**

**22227 Redwood Road, Castro Valley, CA 94546**

Phone:733-4940

Provides mediation for neighbor-to-neighbor disputes in Central and South County, receiving and responding to referrals from the courts, schools, organizations and public protection providers to help resolve disputes between neighbors, students, tenants and landlords, merchants and consumers, and employees and employers.

### **Berkeley Dispute Resolution Service**

**1769 Alcatraz Avenue, Berkeley, CA 94703**

Phone:428-1811

Serves the Berkeley-Albany area. Provides mediation between neighbors, roommates, family members, business partners, etc. Mediates construction permit disputes referred from administrative hearings and works collaboratively with law enforcement, schools and the judicial system.

### **Conciliation Forums of Oakland**

**1222 Preservation Park Way, Oakland, CA 94612**

Phone:763-2117

Provides services in Oakland-Piedmont-Emeryville, Alameda, Berkeley-Albany, San Leandro, Hayward and Castro Valley. Services include educating the public about the fundamentals of conflict resolution, referring individuals to other social service agencies, and distributing a training manual on conflict resolution. Multi-lingual services provided.

### **Catholic Charities, Victim Offender Reconciliation Program (VORP)**

**433 Jefferson Street, Oakland, CA 94607**

Phone:768-3100

Program mediators facilitate an intensive intervention for victims and juvenile offenders referred by the Probation Department. Mediators are responsible for mediation sessions involving the youth, victim and family members to work towards a mutually agreeable restitution agreement. Also provide free workshops in anger management and mediation.

### **Center for Community Dispute Settlement**

**291 McLeod Street, Livermore, CA 94550**

Phone:(925)373-1035

Provides services in Tri-Valley for all of Alameda County. Program goals are to increase the number of court cases resolved, mediating small claims cases four days per week, and training youth in listening and conflict resolution skills.

### **Arts Arbitration and Mediation Services**

**Fort Mason Center C-255, San Francisco, CA 94123**

Phone:(415)775-7200 x764

This program increases the resolution of arts related disputes such as artistic control, ownership of intellectual property, credit for work performed or produced and contract issues, through the use of alternative dispute resolution. It also increases the capacity to provide services for counseling, conciliation and administration of mediation, arbitration and meeting facilitation.

**ALAMEDA COUNTY SUPERIOR COURT  
ADR PROGRAM**

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**ADR Program Administrator**

Pursuant to California Rule of Court 1580.3, the presiding judge of the Superior Court of California, County of Alameda has designated Benjamin D. Stough, Berkeley Trial Court Administrator, to serve as ADR program administrator. Mr. Stough may be contacted at (510) 644-8996.

A Plaintiff may elect, the parties may stipulate or a judge may refer a case to Judicial Arbitration. The Judicial Arbitration Program Coordinator may be contacted at (510) 670-5059.

**The Judicial Arbitration Process**

**Appointment of Arbitrator** (must be appointed within 30 days after referral per *CRC 1605*).

- ⇒ Parties mailed list of five names from which to select. (List mailed within 5-10 business days after receipt of referral).
- ⇒ Each party may reject one of the names listed (10 calendar days per *CRC 1605a*)
- ⇒ The administrator randomly appoints the arbitrators from the names remaining on the list. If only one remains then is deemed appointed.

**Assignment of Case (CRC 1605a(4))**

- ⇒ Within 15 days of notice of the appointment, the arbitrator shall contact parties in writing about time, date, and place of the hearing. The parties shall receive at least 30 days notice prior to the hearing.

**Hearings (CRC 1611)**

- ⇒ Shall be scheduled so as to be completed not less than 35 days nor more than 90 days from the date the arbitrator was assigned. For good cause shown, the case may be continued an additional 90 days by the Case Management Judge.

**Award of Arbitrator (CRC 1615b & c)**

- ⇒ Arbitrator must file an award within 10 days after conclusion of the arbitration hearing. The court may allow 20 additional days upon application of arbitrator in cases of unusual length or complexity.
- ⇒ Within 30 days of the filing of the award the parties may file a Request for Trial de Novo. The clerk shall enter the award as a judgment after 30 days provided a Trial de Novo has not been filed.

**Return of Case to Court**

- ⇒ Upon Filing of Trial de Novo the action is returned to Case Management Judge for further proceedings. (*CRC 1616 & Local Rule 6.4*)
- ⇒ If Trial de Novo is not filed then judgment is entered and the Case Management Judge is notified (*CRC 1615c & Local Rule 6.6*)
- ⇒ If parties indicate a settlement then case is returned to Case Management Judge and case is continued 45 days for an Order to Show Cause RE filing a dismissal. (*Local Rule 6.6*)

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA**

<input type="checkbox"/> <b>Allen E. Broussard Justice Center</b> 600 Washington Street, Oakland, CA 94707	<input type="checkbox"/> <b>Berkeley Courthouse</b> 2000 Center Street, Berkeley, CA 94704	<input type="checkbox"/> <b>Berkeley Courthouse</b> 2120 Martin Luther King, Jr. Way, Berkeley 94704
<input type="checkbox"/> <b>Fremont Hall of Justice</b> 39439 Paseo Padre Parkway, Fremont, CA 94538	<input type="checkbox"/> <b>Gale/Schenone Hall of Justice</b> 5672 Stoneridge Drive, Pleasanton, CA 94588	<input type="checkbox"/> <b>George E. McDonald Hall of Justice</b> 2233 Shoreline Drive, Alameda, CA 94501
<input type="checkbox"/> <b>Hayward Hall of Justice</b> 24405 Amador Street, Hayward, CA 94544	<input type="checkbox"/> <b>René C. Davidson Courthouse</b> 1225 Fallon Street, Oakland, CA 94612	<input type="checkbox"/> <b>Wiley W. Manuel Courthouse</b> 661 Washington Street, Oakland, CA 94607

Plaintiff  
vs.

Case No.: \_\_\_\_\_

**STIPULATION FOR ALTERNATIVE  
DISPUTE RESOLUTION (ADR)**

Defendant

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The parties by and through their attorneys of record hereby stipulate to submit the within controversy to the following Alternative Dispute Resolution process:

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\_\_\_\_\_

**ORDER**

The foregoing stipulation having been read and considered, and good cause appearing, now therefore,  
IT IS SO ORDERED.

IT IS FURTHER ORDERED that the matter be set for Order to Show Cause Hearing RE:

Dismissal on \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m. in Department \_\_\_\_\_

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

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

(SEAL)