

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OKLAHOMA

ALTERNATE DISPUTE RESOLUTION PROGRAM (ADR)

INTRODUCTION

Historically, over 90 percent of civil cases settle before trial. Therefore, it makes sense to explore settlement early in a case before substantial costs and expenses are incurred. To obtain earlier, more satisfactory results, the United States District Court for the Northern District of Oklahoma has made the following methods of alternative dispute resolution available. You are encouraged to seriously consider using these alternative procedures.

SETTLEMENT CONFERENCE

The settlement conference is the most commonly used and most successful ADR procedure offered by the Court. Settlement conferences generally should be scheduled early in the case, but you may request a settlement conference at any time before trial.

The settlement conference is hosted by an adjunct settlement judge (ASJ) or a magistrate judge. An ASJ is a lawyer who has been specially selected and trained by the Court to conduct settlement conferences. Each ASJ has one or more areas of special legal expertise and is assigned only to cases involving those areas of expertise. When the case is referred to an ASJ, the conference is scheduled as conveniently as possible for the parties. Ordinarily, there is no charge for the services of an ASJ. An hourly charge, however, may be imposed at the discretion of the trial judge. When appropriate, these charges are equitably apportioned among the parties. A settlement conference provides significant advantages over trial.

- It is a relatively inexpensive, nonbinding process that often results in the immediate resolution of the dispute.
- If a settlement can be reached, the parties will save discovery, litigation, and appeal costs.
- It is private and noncoercive and proceeds under the protection of a strict confidentiality order imposed by the Court.
- It is informal and unstructured with each litigant having an opportunity to discuss his or her case in private with the settlement judge, an independent third party.
- It allows the litigants to control the outcome of their dispute and encourages creative resolutions that are not available through trial.
- It is more cooperative and less confrontational than a trial.
- It eliminates the uncertainties that are inherent in a trial.
- If a settlement is not reached, the settlement judge will not participate in the trial of the case.

MINI-TRIAL

The mini-trial is a nonbinding process that is often useful in resolving disputes between corporate parties. In a mini-trial, settlement authorized representatives (usually senior executives of the respective corporations) join a judge to form a three-person panel. The panel hears a summary presentation of the case by the attorneys. After the presentation, the corporate members of the panel discuss settlement, often with the judge's assistance.

- The hearing lasts no more than one day.
- The hearing crystallizes the case for all participants.
- The corporate representatives hear both sides of the case, often for the first time.

- The post-hearing settlement discussions capitalize on the senior executives' negotiating skills and the skills of the judge.
- If settlement can be reached, the costs of discovery, trial, and appeal can be saved.

SUMMARY JURY TRIAL

The summary jury trial is a sophisticated settlement mechanism involving a summary presentation by attorneys to a judge and jury. The procedure is flexible and tailored to the particular requirements of each case. Although the summary jury trial may be structured so no witnesses are used, when the credibility of witnesses becomes important, a limited number of witnesses are permitted to testify.

A regular jury is selected to hear the case. At the conclusion of the evidentiary presentation, the jury is given a limited amount of time to deliberate, and settlement discussions are commenced. The litigants and their lawyers are permitted to talk at length with the jurors after the verdict is returned. The verdict and comments of the jurors are then considered as the settlement negotiations proceed.

In an executive summary jury trial, senior executives from the litigating corporations are asked to sit on the bench with the judge during the abbreviated jury trial.

The preparation and presentation of a summary jury trial requires substantial effort, and they are not routinely used. In an appropriately selected case, however, a summary jury trial offers distinct advantages over trial.

- A summary jury trial is normally conducted in one day.
- The attorneys present the evidence in summary fashion, and the rules of evidence and procedure are relaxed.
- The jury verdict is nonbinding unless the parties agree that it shall be binding.
- If the jury verdict is nonbinding, the verdict provides the parties with insight into the probable outcome of the case.
- If the parties agree that the jury verdict shall be binding, no further trial is necessary.
- The parties can stipulate to high and low parameters on the outcome, and thus control their respective trial risks, as well as their costs.

HOW DO I ASK FO COURT SPONSORED ADR

Your lawyer may orally request ADR at the case management conference that is held early in the case or may make a written request for ADR at any time.

NON-COURT SPONSORED ADR

Non-court-sponsored alternative methods of dispute resolution are also available in our community, usually at nominal charge. Due to scheduling, timing, or other considerations, litigants may find the use of these services preferable. These private methods include mediation, arbitration, and private trials. Your attorney can provide you with additional information concerning private ADR providers.

REVISION HISTORY

<u>Date:</u>	<u>Description:</u>