experts or mental health experts, may be engaged to facilitate a resolution. All participants sign an agreement, pledging to engage in the process in a good faith effort to resolve all matters without litigation in an open and transparent manner. When an agreement is reached, the parties go to court one time to have a judge approve the settlement.

Private Judge

This is a process by which parties to a dispute may select an individual to act as a Private Judge or a retired judge who may be an expert in the subject matter involved in the dispute. The Private Judge will be a neutral third party acting to facilitate a mutually acceptable resolution between the parties. The decision of the Private Judge may be binding depending on the agreement of the parties.

Pre-trial Settlement Conference

Parties, with their attorneys, meet with a judge who acts as a neutral third party. The judge will evaluate the strengths and weaknesses of each party's case and assist them in reaching a mutually-acceptable resolution.

FOR MORE INFORMATION ON ADR:

Persons interested in learning more about ADR in Illinois can obtain information:

• *County and local bar associations*. You can find these associations in a local telephone directory.

• *Your attorney*. If you are represented by an attorney, he or she may be able to recommend ADR resources.

• *Circuit Courts*. Most circuit courts have a list of certified child custody mediators and also maintain lists of individuals certified in dispute resolution for civil disputes.

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This pamphlet is prepared and published by the Illinois State Bar Association as a public service. Every effort has been made to provide accurate information at the time of publication.

For the most current information, please consult your lawyer. If you need a lawyer and do not have one, call Illinois Lawyer Finder at (800) 922-8757 or online **www.IllinoisLawyerFinder.com**

Pamphlets Available

Adoption
Advice to Newly Marrieds
Auto Accidents
Automobile Insurance and Accidents
Bankruptcy for Individuals
Being a Guardian
Buying a Car
Buying a Home
Buying on Time
Estate Planning
General Practitioner
Getting a Divorce
Guide to Jury Service
Health Care Privacy
Landlord-Tenant
Law-Related Careers
Patients' Rights
Rights of Gays, Lesbians, BiSexual and Transgender
Selling a Home
Starting a Business
What is a Living Trust
Your Guide to Illinois Traffic Courts
Your Health Care
Your Rights if Arrested

For more information on legal issues or to obtain single copies of each of the pamphlets listed above (free to individuals), please visit **www.ISBAlawyers.com**

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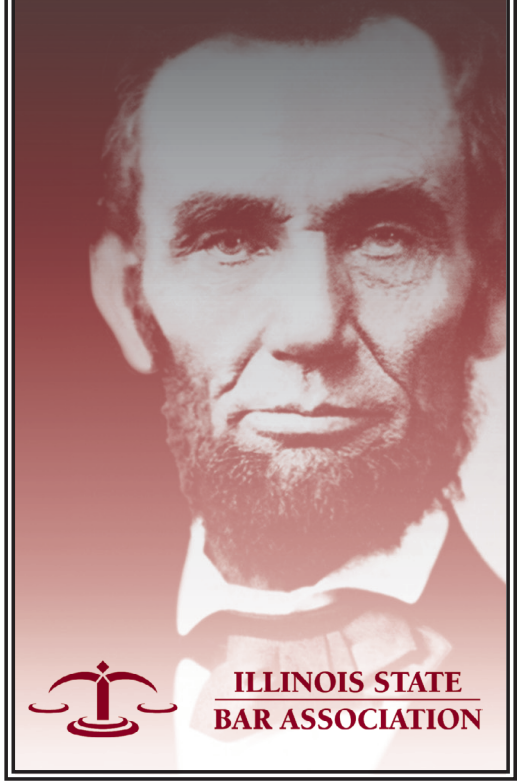
2/09

Consumer Legal Guide

Your Guide to Alternative Dispute Resolution (ADR)

Methods for settling legal disputes without going to court



ILLINOIS STATE BAR ASSOCIATION

WHAT IS ALTERNATIVE DISPUTE RESOLUTION?

Alternative dispute resolution (commonly called ADR) refers to methods used to resolve legal disputes other than a formal court trial.

Generally, these methods are less time-consuming and are more cost effective, making them attractive to a variety of individuals and entities involved in legal disputes.

Methods include:

- *Mediation*
- *Arbitration*
- *Collaborative Law*
- *Private Judge*
- *Pre-trial Settlement Conference*

The two most common methods of ADR used in Illinois are Mediation and Arbitration.

WHAT IS MEDIATION?

Mediation is a confidential process in which an impartial third party called a mediator acts to facilitate the resolution of the parties' dispute. Mediation is an informal, non-adversarial and non-binding process, the objective being to help the parties reach a mutually acceptable agreement on all or part of their dispute.

Decision-making rests with the parties, not with the mediator. The mediator will not render an opinion or decision. The mediator makes no finding of fault or liability and cannot impose a decision on the parties. Rather, the mediator will help guide the issues of the dispute and will help the parties explore settlement alternatives and reassess their goals.

Who are the mediators?

A mediator is a neutral third party who is selected by the disputing parties. The mediator may be an attorney, retired judge, or other individual with specific experience or training in a particular professional field. Some court systems have mediators who are certified in a particular type of law.

How do I choose a mediator?

In selecting a mediator, consideration should be given to the mediator's reputation, experience, training, areas of expertise or concentration and certifications. A mediator will be impartial and free of any bias.

Why choose mediation over court litigation?

Sometimes for reasons of expense or the need to preserve a business or personal relationship between the parties, it may be important to resolve a dispute in a non-adversarial manner or more expeditiously than permitted by court calendars. Mediation is a problem-solving technique that allows parties to work together to form their own mutually acceptable resolution of the dispute. Most mediations are completed in one or two sessions. Because the mediation session is confidential and non-binding, the parties can still proceed to arbitration or litigation with their full rights if the dispute is not resolved in mediation.

WHAT IS ARBITRATION?

Arbitration is a process in which a neutral third person, called an arbitrator, or a panel, called an arbitration panel, considers the facts and arguments presented by the parties and renders a decision. Even though arbitration is less formal than a court trial, there are still procedures to be followed. The decision is usually binding and the right to appeal the decision of the arbitrator or panel of arbitrators is very limited.

Who are the arbitrators?

Arbitrators are often lawyers, but can be any individual. Often arbitrators have met specific criteria and are certified to act as an arbitrator after receiving special training. Usually, you and your attorney will have input as to the selection of the arbitrator.

How do I choose an arbitrator?

In selecting an arbitrator, consideration should be given to the arbitrator's reputation, experience, training, areas of expertise or concentration and any certifications the arbitrator may hold. An arbitrator will be impartial and free of any bias.

Why choose arbitration over court litigation?

Arbitration is similar to a court trial except there is no judge or jury and the arbitration hearing is conducted privately. An arbitration hearing is less formal than a trial and the presentation may be streamlined. This procedure is often simpler, faster, and less expensive than courtroom litigation. The final decision of the arbitrator or panel of arbitrators may or may not preclude you from further litigation.

DO I STILL NEED A LAWYER?

Mediators and arbitrators do not provide legal advice and do not act as a lawyer for any party. A party to any method of ADR should consider retaining the services of a lawyer in order to obtain the necessary legal advice to understand the full nature, scope and potential consequences of the dispute in which they are involved.

A lawyer can also assist a party to a dispute in choosing the most appropriate ADR method. A lawyer will understand the procedure and preparation necessary to mediate or arbitrate a dispute, and can guide and represent you through any method of ADR.

OTHER FORMS OF ADR

Collaborative Law

Collaborative law is a process used primarily in divorce cases, typically involving a series of meetings between both parties and their attorneys. Other professionals, including financial