

## The Importance of Alternative Dispute Resolution (ADR) in Settling Family Law Cases

The Minnesota Judicial Branch understands the great emotional and other difficulties associated with divorce and other family law disputes. Thus, the aim of the Branch is to reduce – to the extent possible – the length, conflict, and cost of these cases.

Prompt resolution of these cases is especially important to the well-being of children when they are involved. Moreover, prolonged cases can have a significant adverse impact on the finances of the parties.

At the first meeting with the parties, the judge will discuss the requirement that the parties carefully consider various court-supervised ADR processes to facilitate a faster and more effective resolution of their dispute.

The parties understand their situation better than anyone else, and so are in the best position to reach an agreement that: (a) will best meet their needs; and (b) they will be able to work with in the future. The far less desirable option (for most cases) is the court's imposing an agreement on the parties.

The parties can select any of the ADR processes noted in [Minnesota Court Rules / General Rules of Practice, Rule 114](#), which include:

- **Arbitration** – the parties participate in a hearing before a neutral third party, who then issues a specific award that can be binding or not.
- **Consensual special magistrate** – the parties present their positions to a neutral third party in the same manner a civil lawsuit is presented to a judge. The neutral's decision is binding and can be appealed to the Minnesota Court of Appeals.
- **Early neutral evaluation (ENE)** – The parties present a summary of their dispute to a neutral evaluator who gives an assessment of the strengths and weaknesses of the case. ENE starts after the case is filed, but before the information-gathering phase.
- **Non-binding advisory opinion** – The parties present their positions to one or more neutrals, who then issue a non-binding advisory opinion.
- **Neutral fact-finding** – A neutral investigates and analyzes a factual dispute and issues findings, which are non-binding unless the parties decide otherwise.
- **Mediation** – A neutral third party facilitates communication between the parties in order to promote a settlement.

- **Mini-trial** – The parties present their positions to a selected representative for each party, a neutral third party, or both. The neutral may issue an advisory opinion regarding the merits of the case, which is not binding unless decided otherwise by the parties.
- **Mediation-arbitration** – The parties initially mediate their disputes, but if they reach an impasse, use an arbitrator for any unresolved issues.
- **Other** – The parties create their own ADR process.

### **Case types that do not require consideration of ADR**

- **Domestic abuse** – one or both parties claim to be a victim of domestic abuse by the other, or the court has determined that one or both parties (or a child of the parties) has been physically abused or threatened with physical abuse by the other;
- **Contempt** – a party asks the court to hold the other party accountable for willfully failing to obey a court order; and
- **Other** – spousal maintenance, child support, or parentage cases in which the county is a party to, or is providing services to a party in the case.

### **For further information**

Please [contact](#) the District Court where you filed your case, and see the resources below (the first four are provided by the Minnesota Judicial Branch.)

#### **1. Alternative Dispute Resolution**

[www.mncourts.gov/Help-Topics/AlternativeDisputeResolution.aspx](http://www.mncourts.gov/Help-Topics/AlternativeDisputeResolution.aspx)

#### **2. Alternative Dispute Resolution (brochure)**

[www.mncourts.gov/mncourtsgov/media/scao\\_library/ADR/ADR-Brochure.pdf](http://www.mncourts.gov/mncourtsgov/media/scao_library/ADR/ADR-Brochure.pdf)

#### **3. Settle Out of Court**

[www.mncourts.gov/Help-Topics/Settle-Out-of-Court.aspx](http://www.mncourts.gov/Help-Topics/Settle-Out-of-Court.aspx)

#### **4. Early Neutral Evaluation / Early Case Management**

[www.mncourts.gov/Help-Topics/ENE-ECM.aspx#tab01County](http://www.mncourts.gov/Help-Topics/ENE-ECM.aspx#tab01County)

#### **5. Hennepin County Family Court Services**

(only for cases filed at the Hennepin County Family Court / Fourth Judicial District):

[www.hennepin.us/residents/public-safety/family-court-services](http://www.hennepin.us/residents/public-safety/family-court-services)