

Alternative Dispute Resolution (ADR) Program Information Packet



ALTERNATIVES TO TRIAL

NOTE: The plaintiff must serve a copy of the ADR Information Packet on each defendant along with the complaint (CRC 3.221 (c))

Superior Court, Modesto, County of Stanislaus

ADR INTRODUCTION

Did you know that most Civil lawsuits settle without a trial?

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 (ADR). The most common forms of ADR are Mediation and Arbitration. 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. For example, in mediation, 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 dispute resolution programs and private neutrals.

ADVANTAGES OF ADR

ADR can have a number of advantages over a lawsuit.

- ADR can save time. 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 fees can be saved.
- ADR can be cooperative. This means that 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. ADR can be speedier, and save money and because the parties are normally cooperative, ADR is easier on the nerves. The parties don't have a lawsuit hanging over their heads for years.
- ADR encourages participation. 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 is flexible. The parties can choose the ADR process that is best for them. For example, in mediation the parties may decide how to resolve their dispute.
- ADR can be more satisfying. For all the above reasons, many people have reported a high degree of satisfaction with ADR.

Superior Court, Stanislaus offers all parties the opportunity to voice their satisfaction/dissatisfaction by completing an exit survey.

Because of these advantages, many parties choose ADR to resolve a dispute, instead of filing a lawsuit. Even when a lawsuit has been filed, the court can refer the dispute to a neutral before the parties' position harden and the lawsuit becomes costly. ADR has been used to resolve disputes even after a trial, when the result is appealed.

DISADVANTAGES OF ADR

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

PROGRAM ASSISTANCE

CRLA (California Rural Legal Assistance)

Superior Court, Stanislaus and our local CRLA Office works with the court to provide information and education to proper patrons of the Court who are, or desire to be, parties in landlord/tenant and other housing matters. These matters also include Small Claims Court.

PROJECT SENTINEL

Superior Court, Stanislaus and Project Sentinel work out of our Self Help Center on Fridays and also assist with Dispute Resolution Programs Act (DRPA) and Small Claims questions.

WORKSHOPS

PARENTAGE WORKSHOP

This workshop is for parents who are not married to the other parent and wish to start a case for custody, visitation and child support. The workshop will last approximately 3 hours and will be held every **Monday morning**. **Attendees must arrive and sign in by 8:30 a.m. to attend workshop.**

BRING WITH YOU:

- Children's names, dates of birth, and all addresses where they have lived for the last 5 years.
-

DIVORCE, LEGAL SEPARATION OR ANNULMENT WORKSHOP

This workshop is for those wishing to file for divorce, legal separation or an annulment. The workshop will last approximately 3 hours and will be held every **Tuesday morning**. **Attendees must arrive and sign in by 8:30 a.m. to attend workshop.**

BRING WITH YOU:

- Children's names, dates of birth, and all addresses where they have lived for the last 5 years.
- List of all debts or property, whether in your name alone, your spouse's name, or both your names.
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ORDER TO SHOW CAUSE WORKSHOP

This workshop is for parties who have an existing action for Divorce/Legal Separation, Paternity or Department of Child Support Services and want to request a hearing for custody and visitation orders or support orders. The workshop will last approximately 3 hours and held every **Wednesday morning**. **Attendees must arrive and sign in by 8:30 a.m. to attend workshop.**

BRING WITH YOU:

Copies of all documents filed with the court, **including all current orders for custody/visitation and child/spousal support.**

GUARDIANSHIP WORKSHOP

This workshop is for those wishing to start a case to obtain custody of a minor other than their own child. The workshop will last approximately 2 hours and will be held every **Wednesday afternoon**. **Attendees must arrive and sign in by 1:30 p.m. to attend workshop.**

DEFAULT JUDGMENT WORKSHOP

This workshop is for those who have filed for Divorce, Legal Separation or Annulment and at least thirty (30) days have passed since the other party was served, no Response was filed and the Request for Default has been filed. The workshop will last approximately 3 hours and held every **Thursday morning**. **Attendees must arrive and sign in by 8:30 a.m. to attend workshop.**

BRING WITH YOU:

- Copies of all documents filed with the court, **including all current orders for custody/visitation and child/spousal support**
- Copy of the **Schedule of Assets and Debts (Form FL-142)**
- 2 envelopes with postage, 1 addressed to you and 1 addressed to the other party.
- Enough change to make your own copies.

IMPORTANT: You must have already filed a Proof of Service of Summons (FL-335), Request to Enter Default (FL-165), Income and Expense Declaration (FL-150), Schedule of Assets and Debts (FL-142), and Declaration Regarding Service of Disclosures (FL-341) with the Clerks' office prior to attending this class.

OPEN CLINIC

This workshop is for those individuals who are unable to attend any of the scheduled workshops, or have other legal matters not covered by workshops, or would like assistance with the completion of court forms and/or instructions on the "next step" in their legal proceeding. This workshop is held every **afternoon Monday thru Thursday**.

BRING WITH YOU:

- Copies of all documents filed with the court
- Enough change to make your own copies

MEDIATION GUIDELINES
(For inclusion in ADR Packet)

Before the CMC (Case Management Conference)

All parties are required to meet-and-confer with the opposing side before the CMC pursuant to California Rule of Court 212(f). Alternative dispute resolution is discussed. If parties agree to mediation they must stipulate to mediation by filling out a STAN-100 (attached).

At the CMC (Case Management Conference), the judge will determine if case is suitable for Voluntary Mediation.

- All parties must be prepared to discuss Alternative Dispute Resolution at the CMC. The judge may order case into Judicial Arbitration. If parties agree to participate in Voluntary Mediation in lieu of Judicial Arbitration, the court will have available the ADR Packet which includes attached guidelines and our Local Stipulation and Order to ADR form

Selecting a Mediator

- When parties agree to participate in mediation they must also agree to the mediator. You may select a mediator from the court provided panel list (attached and available on the court website http://www.stanct.org/Content.aspx?page=adr_info_mediation_panel)
- Contact the mediator and get his or her signature on the STAN-100 form before it is filed. Don't forget both parties must sign the Stipulation form
- If and the opposing party wishes, you may request the court randomly select a mediator for your case, by indicating on the STAN-100 form

Filing the STAN-100 form

- You have **25 days** to select a mediator and return the STAN-100 form with \$400 (\$200 for each side to the party)
- Cases cannot be entered into the Court's Voluntary Mediation program after this date.

Completing Mediation

- If you selected your own mediator set up mediation as soon as possible. A mediator might not be able to schedule the mediation for a few weeks or even months. You must complete mediation at least **60 days** before trial. If the mediation is not completed before that time sanctions may be imposed.
- Once you have scheduled the mediation date fill; out and return a STAN-220, Notice of Date, Time and Place of Mediation (attached) and return it to the ADR program office.
- ATTEND AND COMPLETE MEDIATION at least **60 days** before trial. Contact the mediator before the mediation for any special instructions. The mediator may ask you to bring special documents

After Mediation

- After mediation the mediator may provide you with an evaluation of the mediation process. These are evaluations from which go to the ADR program Administrator, for the courts information. Do not include any confidential information, or information regarding what went on during the mediation.

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|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|
| ATTORNEY FOR PLAINTIFF <i>(name, bar card, and address):</i> <div style="display: flex; justify-content: space-between;"> TELEPHONE NO.: FAX NO. <i>(Optional):</i> </div> E-MAIL ADDRESS <i>(Optional):</i> | FOR COURT USE ONLY |
| SUPERIOR COURT OF CALIFORNIA, STANISLAUS COUNTY MAILING ADDRESS: 801 10TH STREET, 4TH FLOOR CITY AND ZIP CODE: MODESTO, CA 95354 BRANCH NAME: MODESTO | |
| STIPULATION AND ORDER TO ADR | |
| CASE NAME: | CASE NUMBER: |

The parties or by and through their attorneys' of record stipulate that the claims in this action shall be submitted to the following alternative dispute resolution process:

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Voluntary Mediation <input type="checkbox"/> Private Mediation <input type="checkbox"/> Judicial Arbitration | <input type="checkbox"/> Private Arbitration <input type="checkbox"/> Voluntary Mediation in lieu of Judicial Arbitration |
|---------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|

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|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| This box is to be filled out for Voluntary Mediation and Neutral Evaluation only. |
| <input type="checkbox"/> In accordance with Stanislaus County Rule of Court 3.10(D)(4) and 3.11(C)(2) this form must be signed by the agreed upon mediator. If both parties agree the court will select a mediator for the case. |
| <input type="checkbox"/> It is Stipulated that _____ (Name of mediator) shall serve as the neutral for this case. <div style="display: flex; justify-content: space-between; width: 80%; margin-left: auto; margin-right: auto;"> _____ Signature of Mediator _____ Date </div> |
| <input type="checkbox"/> It is Stipulated that the Court select a mediator for this case. |
| For Voluntary Mediation this form must be completed and returned with \$400 (\$200 from the plaintiffs and \$200 from the defendants). |

| | |
|--------------------------------------------|--------------------------------------------|
| ▶ _____ SIGNATURE | ▶ _____ SIGNATURE |
| _____ DATE | _____ DATE |
| _____ PLAINTIFF OR PLAINTIFF'S ATTORNEY | _____ DEFENDANT OR DEFANDANT'S ATTORNEY |

| | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|
| <i>Name and Address):</i> TELEPHONE NO.: E-MAIL ADDRESS (Optional): FAX NO. (Optional): | FOR COURT USE ONLY |
| SUPERIOR COURT OF CALIFORNIA, STANISLAUS COUNTY MAILING ADDRESS: 801 10TH STREET, 4TH FLOOR CITY AND ZIP CODE: MODESTO, CA 95354 BRANCH NAME: MODESTO | |
| CASE NAME: | |
| NOTICE OF DATE, TIME AND PLACE OF MEDIATION | CASE NUMBER: |

All parties to this case are notified that this matter has been set for Mediation on _____, 20 __, at the hour of _____, at this address:

Date: _____

Signature: _____

Print Name: _____

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| <p><i>Name and Address):</i></p> <p>TELEPHONE NO.:</p> <p>E-MAIL ADDRESS <i>(Optional)</i>: FAX NO. <i>(Optional)</i>:</p> | <p>FOR COURT USE ONLY</p> |
| <p>SUPERIOR COURT OF CALIFORNIA, STANISLAUS COUNTY</p> <p>MAILING ADDRESS: 801 10TH STREET, 4TH FLOOR</p> <p>CITY AND ZIP CODE: MODESTO, CA 95354</p> <p>BRANCH NAME: MODESTO</p> | |
| <p>CASE NAME:</p> | |
| <p>NOTICE OF DATE, TIME AND PLACE OF MEDIATION</p> | <p>CASE NUMBER:</p> |

All parties to this case are notified that this matter has been set for Mediation on _____, 20 __, at the hour of _____, at this address:

Date: _____

Signature: _____

Print Name: _____

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| MEDIATOR (Name and Address): TELEPHONE NO.: E-MAIL ADDRESS (Optional): FAX NO. (Optional): | FOR COURT USE ONLY |
| SUPERIOR COURT OF CALIFORNIA, STANISLAUS COUNTY MAILING ADDRESS: 801 10TH STREET, 4TH FLOOR CITY AND ZIP CODE: MODESTO, CA 95354 BRANCH NAME: MODESTO | |
| CASE NAME: | |
| MEDIATOR'S REPORT | CASE NUMBER: |

1. Mediation (*check one*)

- did not take place, because _____

 _____.
- is continuing until _____.
- took place on _____ and is completed.

2. The mediation ended in (*check one*)

- full agreement.
- partial agreement.
- no agreement.

 (TYPE OR PRINT NAME)

▶ _____
 (SIGNATURE OF MEDIATOR)

 Date:

NOTE: Within 10 days of the end of the mediation process or by the ADR completion deadline set by the court, the mediator must forward a copy of this report to the ADR Clerk at the Stanislaus County Courthouse. Please do not include any confidential information on this form (see *Evidence Code* §1121).