



Self-Represented

Information and Tips from a lawyer to non-lawyers

How to succeed without a lawyer and save thousands of dollars

www.selft-represented.com

Tel: (416) 465-9955

Fax (416) 465-8114



About Alternative Dispute Resolution (ADR)

Most civil lawsuits settle without a trial. You don't have to always try your case in court in order to solve your dispute. Other ways to resolve lawsuits are known as alternative dispute resolution (also called ADR). ADR is a general term which includes mediation, facilitation, negotiation and other out-of-court approaches for resolving cases without going to trial. ADR allows the parties to play a more active role in resolving their dispute in a more informal setting. Cases can usually be resolved more quickly when ADR is used.

In ADR, trained, impartial individuals decide disputes or help parties decide disputes themselves. These individuals are usually lawyers or retired judges and are normally chosen by the disputing parties, their lawyers or by the court. These individuals can help parties resolve disputes without having to go to court and follow the formal courtroom procedures. You often have more time and flexibility to fully explain your side of the case using ADR than you would in court.

A popular form of ADR is mediation. Mediation is an informal process in which a neutral third party – the mediator – helps you and the other party reach an agreement on some or all of your disputes. In the mediation process, the mediator helps the parties identify important issues, clarify misunderstandings, explore solutions, and negotiate a settlement rather than having a costly and time-consuming trial. In mediation, decision-making by the parties must be voluntary, so only those issues upon which both parties can agree will be included in the settlement.

Some courts have programs for low-cost or no-cost mediation services to families who are involved in divorce or other family law cases, such as custody, access and child support, and are unable to pay for private mediators. In such cases, if you meet financial eligibility requirements, you typically only pay a small fee. To learn more about how you can receive assistance with mediation costs, contact your lawyer or the local court office.

Advantages of ADR

- You and the other party maintain more control over the resolution of your own problems.
- Disputes can be settled promptly. A mediation session can be scheduled as soon as everyone agrees to use mediation to resolve your disputes, even before a lawsuit is filed.
- ADR costs can be significantly less than taking a case to court.
- ADR can promote better relationships through cooperation, creative problem-solving and improved communications.
- Resolving the case cooperatively helps avoid further conflict and involvement of the children.
- Parties are more likely to abide by agreements that they create themselves.
- In most types of ADR, settlement is entirely voluntary (unless you opt for binding arbitration). If you cannot reach an agreement on all the issues, you still have the right to take your disputes before a judge.
- 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 ADR

- ADR may not be suitable for every dispute.
- Some forms of ADR are binding. This means that the parties may give up certain 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. If you are not sure if the ADR method you are using is binding, be sure to ask the mediator/arbitrator this question.
- 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 or there is domestic violence involved and general mistrust between the parties.
- ADR may not work if one or both of the parties are vindictive, use intimidation or abusive tactics to coerce the other into submission.
- The mediator/arbitrator 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.