

Alternative Dispute Resolution (ADR)

WHAT ARE THE MOST COMMONLY USED METHODS OF ADR?

- **DISTRICT COURT – COURT ORDERED ARBITRATION (NON-BINDING)**
- **SUPERIOR COURT – COURT ORDERED MEDIATION**

WHICH TYPES OF CASES ARE EXEMPTED FROM ADR?

- **DISTRICT COURT – EVICTIONS; COLLECTION CASES; DOMESTIC CASES**
- **SUPERIOR COURT – CAVEAT PROCEEDINGS; ADMINISTRATIVE APPEALS (DWI); MINOR SETTLEMENTS**

WHAT IS THE PURPOSE OF ADR?

- **BRINGS LITIGANTS TOGETHER IN A NEUTRAL ENVIRONMENT IN AN ATTEMPT TO RESOLVE A DISPUTE PRIOR TO TRIAL**
- **HELPS PREVENT OVER CROWDING ON THE TRIAL DOCKETS**
- **KEEPS THE COSTS DOWN BY UTILIZING A MEDIATOR / A JURY**

WHEN SHOULD ADR BE COMPLETED?

- **IN ALL CASES THAT ARE NOT EXEMPT FROM ADR PROCEEDINGS:**
 - **DISTRICT COURT - 60 DAYS AFTER THE LAST RESPONSIVE PLEADING (ANSWER) OR 30 DAYS AFTER THE TIME TO ANSWER HAS EXPIRED**
 - **SUPERIOR COURT – NO LATER THAN 8 WEEKS PRIOR TO THE TRIAL DATE**

ARBITRATION COMMONLY ASKED QUESTIONS...

- **THE ARBITRATION IS TOMORROW...CAN I GET A CONTINUANCE?**
Continuances will only be granted in an emergency situation that could not have been foreseen. Continuance request are expected to be submitted according to the rules.
- **IS MY CLIENT RESPONSIBLE FOR THE \$100 ARBITRATION ASSESSMENT FEE?** The \$100 assessment fee will divided equally among the parties by the arbitrator. Your client will be responsible for his/her portion of that fee.
- **I DON'T AGREE WITH THE DECISION THE ARBITRATOR MADE, WHAT CAN I DO?** Once the arbitration has occurred and you are unhappy with the results you may file a request for a Trial de Novo (AOC-CV-803) with the Clerk of Court.
- **I WENT TO ARBITRATION AND THE AWARD WAS ENTERED IN MY FAVOR, WHY HAVEN'T I RECEIVED MY MONEY?** After 30 days if the award is not satisfied,

it will be made into a judgment by the Clerk. You may file for an “execution” which is a process by which the sheriff will seize personal property belonging to the person who you have the judgment against and will attempt to sell that property to satisfy the judgment.

INFORMATION REGARDING ARBITRATIONS...

- **Remember, if the arbitration settles prior to the scheduled hearing date, or if the case is dismissed, transferred to another jurisdiction, etc., it is your responsibility to report that to the ADR Coordinator no later than 4:30 the day prior to the hearing, otherwise, a \$100 Fee will be charged.**
- **If an order is signed by a District Court Judge prior to arbitration transferring the case to Superior Court, the order is considered invalid. District Court Judges cannot sign orders to transfer to a higher court. The order must be signed by a Superior Court Judge.**
- **If you are seeking a continuance based on medical reasons, make sure there is a doctor’s note and/or any other medical documentation submitted with the continuance.**
- **Pursuant to the local rules, District Court Judges are not permitted to grant arbitration continuances. Continuances must be submitted directly to the ADR Coordinator. If you wish to appeal the ADR Coordinator’s decision, you must submit another motion to the ADR Coordinator, who will in turn submit it to the Chief District Court Judge for a decision.**
- **Local Attorneys are noticed only as a courtesy. It is each responsibility to check the published calendars when they know they have a pending case. Calendars are available on the State website, in the Clerk’s Office, and in the Meck Times. They are published at least 30 days in advance.**
- **Pending motions are not reasons to continue an arbitration hearing.**
- **Superior Court Mediations are party scheduled conferences, not court scheduled hearings, and are not reasons to continue an arbitration.**
- **The Arbitration Assessment Fee is to be paid to the Clerk of Superior Court. Checks should not be made payable or sent to, the TCA’s Office, the ADR Coordinator, or the Arbitrator.**
- **Parties have 60 days after the last answer to exchange discovery (pre-arbitration submissions). Continuances will not be granted past that time for reasons of outstanding discovery.**
- **Trial De Novo forms are available online (AOC-CV-803). They should be completed and filed with the Clerk’s Office. The fee is \$100. Do not send these forms to the ADR Coordinator for processing.**

MEDIATION COMMONLY ASKED QUESTIONS...

- **MY ATTORNEY WANTS TO KNOW WHICH ADR DEADLINE IS CORRECT...THE ONE ON THE SCHEDULING ORDER OR THE ORDER TO ADR?** The scheduling order does not assign the actual deadline to mediate the case, it only references the rule regarding the deadline. The actual mediation deadline is assigned in the Order to ADR.
- **DO I SEND THE DESIGNATION OF MEDIATOR TO THE JUDGE OR TO THE CLERK?** Neither. The designation of mediator should be sent directly to the ADR Coordinator with the original, one copy and self addressed postage-paid envelope. Once the ADR Coordinator has entered the designation, the original will go to the Clerk of Court's file and the copy will be mailed back to the submitting party.
- **IS THE ADR DEADLINE AUTOMATICALLY EXTENDED BECAUSE THE TRIAL DATE WAS CONTINUED?** No, a separate motion and order must be submitted to the ADR Coordinator.
- **I RECEIVED A PAST DUE NOTICE FOR THE REPORT OF MEDIATOR...WHAT DO I NEED TO DO?** The mediator needs to submit the Report of Mediator to the ADR Coordinator within 10 days of the date on the notice.
- **I RECEIVED A PAST DUE NOTICE AND THIS CASE IS CLOSED...**The mediator still must submit a Report of Mediator form to report whether a mediation was held prior to the case closing and if so, the results.
- **DO I NEED TO GET MY EXTENSION / DESIGNATION / CONTINUANCE / REPORT OF MEDIATOR FILE STAMPED?** No, all of the above forms should be submitted directly to the ADR Coordinator before going anywhere else.
- **WHY DID THE COURT APPOINT A MEDIATOR? I FILED THE DESIGNATION WITH THE CLERK ON 00/00/07.** The Designation of Mediator forms must be sent to the ADR Coordinator; otherwise they are not properly approved and entered into the system and are not valid.
- **I DO NOT WANT TO USE THE MEDIATOR THAT THE COURT APPOINTED; I WANT TO USE THE ONE THAT I AGREED UPON WITH THE OTHER PARTY TO MY CASE. HOW CAN I HAVE THIS CHANGED?** You may submit a Motion and Order to Substitute Mediator to the ADR Coordinator.
- **I "FAXED" THE EXTENSION / DESIGNATION / CONTINUANCE ON 00/00/07...WAS IT APPROVED?** Faxed copies are not accepted. The original must be submitted, otherwise it can not go into the Court file.

INFORMATION REGARDING MEDIATIONS...

- The Order to ADR will follow the Scheduling Order by approximately 30 days. As set out in the Scheduling Order, a general date for ADR to be completed is given, however, it specifically reads that the actual deadline will be set by the ADR Order.
- Once the Order to ADR has been issued, the parties will have 21 days from the date of that order to select a mediator. The selection of mediator should be submitted on form AOC-CV-812. Please use the revised 02/06 edition. Also, please notice that the entire section for a Non-Certified Mediator is no longer on this form. Per the Supreme Court revisions in March 2006, the use of Non-Certified Mediators is no longer permitted.
- A complete list of mediators in North Carolina may be found on the nccourts.org website. At the homepage, click “Mediators” which is under favorites on the right hand side of the page. Then click “List of Mediators” on the left hand side of the next page. Then click “Mediated Settlement Conference Mediators (Superior Court)”. To view the entire list in alphabetical order, press “enter” or to locate an individual, type the first and/or last name and press “enter”.
- Again, faxed copies of designations, extensions, continuances, or reports of mediator are not accepted. E-mailed copies are also not accepted. Please mail the original, one copy, and a self addressed stamped envelope. Additional copies and mailings may be done by your office when you receive the returned copy.
- If an additional copy is sent, but no envelope accompanies the copy, it will be placed on the front counter in our office in the basket for pick up.
- If you have questions for the Clerk, please, call the Clerk. If they don’t answer their phone, you will need to come to the courthouse in person, or send someone to obtain the information. I cannot make any other office or person answer their calls.
- You must notify the mediator that they have been designated by you to mediate the case and they must agree to do it. Simply calling them to find out their rates is not an agreement between the parties and the mediator. Check their available dates and make sure they will be able to mediate the case prior to the deadline. **(***Remember, from now on the deadline will be set 8 weeks prior to the trial and will not be extended. There will not be any exceptions for parties who choose a mediator who cannot mediate prior to that deadline.***)**

QUICK TIPS...

- **DESIGNATIONS OF MEDIATOR, ADR EXTENSIONS, REPORTS OF MEDIATOR, AND ARBITRATION CONTINUANCES ALL COME DIRECTLY TO THE ADR COORDINATOR.**
- **WHEN SENDING IN ONE OF THE ABOVE FORMS, REMEMBER, ONLY THE ORIGINAL, ONE COPY, AND A SELF ADDRESSED STAMPED ENVELOPE IS APPROPRIATE.**
- **FAXED COPIES ARE NOT ACCEPTED AND WILL NOT BE SIGNED.**
- **REMEMBER, THERE IS NO FORM FOR SUBSTITUTION OF MEDIATOR: MOTIONS AND ORDERS TO SUBSTITUTE MUST BE DRAFTED BY YOUR OFFICE; THE NEW MEDIATOR'S NAME, THE PREVIOUSLY APPOINTED MEDIATOR AND CERTIFICATION THAT THE ADMINISTRATIVE FEE HAS BEEN PAID TO THE COURT APPOINTED MEDIATOR.**

COMMONLY USED FORMS...

- **ARBITRATION CONTINUANCE** – CCF-5 (LOCAL FORM)
- **ADR EXTENTION** – CCF-44 (LOCAL FORM)
- **DESIGNATION OF MEDIATOR** – AOC-CV-812 (STATE FORM)
- **REPORT OF MEDIATOR** – AOC-CV-813 (STATE FORM)
- **STIPULATION TO ADR** – CCF-13 (LOCAL FORM; USED PRIOR TO THE COURT ORDERING MEDIATION IF THE PARTIES WISH TO MOVE FORWARD MORE RAPIDLY)