

RULE CV-88. ALTERNATIVE DISPUTE RESOLUTION

(a) **Use of ADR.** In all civil cases, unless specifically ordered otherwise, the parties shall agree upon a method of ADR, an ADR provider, the method of compensating the provider, and a date for completing the ADR proceeding. ADR proceedings must be completed not later than 60 days before the date of the trial setting.

(b) **Attendance; Authority to Settle.** Counsel, party representatives with authority to negotiate a settlement, and all other persons necessary to negotiate a settlement, including insurance carrier representatives, must attend the ADR session in person, unless the parties agree or the court orders otherwise.

(c) **Fees.** The provider and the litigants will determine the fees for the ADR. The court reserves the right to review the reasonableness of the fees. If the provider and litigants are unable to agree, the court will determine an appropriate fee.

(d) **Disqualification.** No person shall serve as a provider if any of the circumstances specified in 28 U.S.C. § 455 of the Judicial Code of Conduct exist, or if the provider believes in good faith that such circumstances exist.

(e) **Relief from ADR.** A party opposing ADR must file a motion requesting to be exempt from ADR.

(f) **Confidentiality.** Except as otherwise provided in this rule, or as agreed by the participants, a communication relating to the subject matter of any civil or criminal dispute made by any participant during an ADR procedure, whether before or after the institution of formal judicial proceedings, is confidential, may not be disclosed, may not be used as evidence against the participant in any judicial or administrative proceeding, and does not constitute a waiver of any existing privileges or immunities.

(1) Any record made at an ADR procedure is confidential, and the participants or the third party facilitating the procedure may not be required to testify in any proceedings relating to or arising out of the matter in dispute or be subject to process requiring the disclosure of confidential information or data relating to or arising out of the matter in dispute.

(2) An oral communication or other information used in or made a part of an ADR procedure is admissible or discoverable if it is admissible or discoverable independent of the procedure.

(3) If this section conflicts with other legal requirements for disclosure of communications or materials, the issue of confidentiality may be presented to the court having jurisdiction of the proceedings to determine, in camera, whether the facts, circumstances, and context of the communications or other information sought to be disclosed warrant a protective order of the court or whether the communications or other information are subject to disclosure.

(g) Final ADR Report. At the conclusion of each ADR proceeding, the provider shall submit to the court a notice of outcome, including the style and number of the case, the type of case, the method of ADR, and whether the case has settled.