



Family Settlement Conference Training Manual

Alternative Dispute Resolution (ADR)
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Website: <https://superiorcourt.maricopa.gov/court-resources/services/adr/>

(THIS TRAINING MANUAL IS NOT ALL INCLUSIVE OF INSTRUCTIONS
NECESSARY TO PERFORM YOUR DUTIES AS AN ADR FAMILY JUDGE *PRO
TEMPORE*)

CURRENT AS OF: APRIL 8, 2024

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TO ACCESS THE FORMS AND TRAINING, CLICK ON [View Training and Resources for Professionals](#).

GENERAL INFORMATION

- **Criteria Used for ADR Referrals**
 - Cases with at least one attorney at the time of the referral.
 - No post-decree settlement conferences.
 - There is a means test (if the parties can afford private mediation, they should go to a private mediator).
 - No repeaters. If they have had a settlement conference, they are not to be returned to ADR for a second settlement conference.
- **ADR Referrals:** See [ADMINISTRATIVE ORDER NO. 2021-144: IN THE MATTER OF ALTERNATIVE DISPUTE RESOLUTION PROGRAM PROCEDURES FOR FAMILY COURT CASES \(AMENDMENT TO AO 2021-041\)](#): Effective October 4, 2021, for any pre-decree case in which either or both parties are represented by counsel and either or both parties seek the setting of a settlement conference through the ADR program, the parties shall submit the request to the assigned judicial officer on the case.
- **Scheduling:** The Scheduling Page, which is available in integrated Court Information System (iCIS) Next Generation (NG) for Family Department, is maintained by ADR. ADR enters judicial officers' and judges *pro tempore's* available dates/times on the Scheduling Page. (1) A scheduling widget (when in open court) and stand-alone scheduling widget (for ex-parte referrals) are used by judicial officers to schedule settlement conferences. (2) ADR uses a stand-alone widget to generate orders to appear (OTAs) for ex-parte referrals, amended OTAs for rescheduled settlement conferences, and OTAs for subsequent sessions of settlement conferences. Once a settlement conference is scheduled by the judicial officer or ADR, an OTA is generated and distributed to counsel via e-mail and US mail to self-represented parties and e-filed by the Clerk of Court. This will populate an iCISng_DoNotReply@superiorcourt.maricopa.gov e-mail sent to the JPT/judicial officer & adroffice1@jbazmc.maricopa.gov with the following attached documents: OTA, settlement conference report, certificate of pro tem hours, evaluation form, and case card.

ADMINISTRATIVE PROCEDURES FOR SETTLEMENT JUDGES (JUDGES *PRO TEMPORE* & RETIRED JUDGES)

1. ADR utilizes judges *pro tempore* (JPTs), retired judges, and volunteer sitting judges for conducting settlement conferences. ADR sends an e-mail request to JPTs & retired judges for their 2-month schedule worksheets. An e-mail request is sent approximately every two months for Jan-Feb; Mar-Apr; May-June; Jul-Aug; Sept-Oct; & Nov-Dec timeframes. ADR schedules settlement conferences for JPTs in the dates and times provided to ADR. As soon as the schedule worksheets are received, the available dates will be entered on the ADR Scheduling Page in iCIS NG.
 - a. Settlement judges may sign up for either VIRTUAL or IN-PERSON settlement conference.
 - b. Settlement judges are requested to notify ADR immediately if their schedule changes after signing up.

2. You may conduct your settlement conference in-person or virtually. Please indicate this on the schedule worksheet mentioned on paragraph 1 above. Please see Administrative Order 2022-113 (In the Matter of Presumptive Standards for Remote and In-Person Hearings):
<https://www.superiorcourt.maricopa.gov/SuperiorCourt/AdministrativeOrders/AdminOrders/AO%202022-113.pdf>
 - a. In Person Settlement Conference: May be conducted in the JPT's office; ADR (Downtown Justice Center); Northeast Court Facility; and Southeast Court Facility.
 - b. Virtual settlement conference: You may use a virtual platform: ZOOM, MS TEAMS, WEBEX, GoTo Meeting, etc. It is the responsibility of the JPT to send the virtual link to counsel and parties. NOTE: If you do not have access to a virtual settlement conference platform, you may request GoTo access from ADR by e-mail: adroffice1@jbazmc.maricopa.gov or by calling 602-506-7884. Access is available on a first-come, first-served basis.

3. Documents for the Settlement Conference: **ADR is a paperless department.** Please send your completed settlement conference documents via e-mail to adroffice1@jbazmc.maricopa.gov or fax at 602-506-5836 (our fax machine can receive the incoming fax and convert it to an e-mail). **Note: If you need parties' and attorneys' contact information, please e-mail adroffice1@jbazmc.maricopa.gov.**

- a. Family Settlement Conference Report: This is a 3-page report to record the result of the settlement conference. **PLEASE DO NOT WRITE ANY CONFIDENTIAL INFORMATION ON THIS REPORT.**
- (1) Page 3 of the report **MUST** be completed when a **FULL SETTLEMENT** is reached. It is an order to be signed by parties and counsel (if represented) & JPT and sent to ADR for filing. Note: If parties'/counsel's signatures are not obtained, the JPT may insert one of the following in place of parties'/counsel's signatures: "DICTATED ON THE RECORD"; "SEE RULE 69 AGREEMENT"; or you may write in PARTIES'/COUNSEL'S NAMES on the order.
 - (2) THE BLANK REPORT IS AVAILABLE ON ADR'S WEBSITE.
 - (3) **DO NOT FILE THE SETTLEMENT CONFERENCE REPORT.**
 - (4) The JPT is encouraged to provide counsel & parties a copy of the report, order, settlement agreement form and a copy of the digital recording of the settlement agreement.
- b. Certificate of Pro Tem Hours form (MAY BE ATTACHED TO THE SETTLEMENT CONFERENCE REPORT).
- c. Case card: Case information
- d. Family Settlement Conference Online Survey Form (with the link to the online survey): To be distributed to parties/counsel (if represented).
- e. AS NEEDED: THE FOLLOWING FORMS MAY BE DOWNLOADED FROM ADR'S WEBSITE: <https://superiorcourt.maricopa.gov/court-resources/services/adr/>. Click on [View Training and Resources for Professionals](#)
- (1) Agreement Between the Parties Pursuant to Ariz. R. Fam. Law Proc. 69 (With Children). If used, please fill in the appropriate information and have parties/counsel sign the form and send electronic copy to ADR for filing. JPT is requested to provide copies to counsel/parties.
 - (2) Agreement Between the Parties Pursuant to Ariz. R. Fam. Law Proc. 69 (Without Children). If used, please fill in the appropriate information and have parties/counsel sign the form and send electronic copy to ADR for filing. JPT is requested to provide copies to counsel/parties.
 - (3) Agreement Between the Parties Pursuant to Ariz. R. Fam. Law Proc. 69 (With/Without Children) (Blank Form) (**NOTE: IF YOU CHOOSE TO PREPARE A HANDWRITTEN AGREEMENT, PLEASE USE THIS FORM AS THE COVERSHEET; PLEASE NOTE THAT THE CLERK'S OFFICE WILL NOT ACCEPT WRITTEN AGREEMENTS WITHOUT A COVERSHEET**).

ADR's address:
**Alternative Dispute Resolution (ADR)
Downtown Justice Center
620 W. Jackson St., Suite 2049
Phoenix AZ 85003**

ADR's email address: adroffice1@jbazmc.maricopa.gov
Fax: 602-506-5836

4. **Times for settlement conferences (allow at least 2 hours for each session):**
At the discretion of the Judge *Pro Tempore*, the time allocated may be expanded.
Morning (9:30-11:30 a.m.) or afternoon (1:30-3:30 p.m.)
5. **Memorializing Settlement Agreements:** JPTs may use one of the following methods for memorializing settlement agreements as a result of FULL or PARTIAL settlements during family settlement conferences.
 - a. Digital Voice Recorder or Video Technology Recording (i.e., Zoom, MS Teams, etc.): Please use Microsoft Windows Media Player or MP3/MP4 format. Digital recordings may be e-mailed to adroffice1@jbazmc.maricopa.gov. A digital recording link may be e-mailed to adroffice1@jbazmc.maricopa.gov if the sound file is too large to send via e-mail. JPTs are encouraged to e-mail a copy of the recording/link to counsel/parties. ADR will then save the digital recording in the ADR folder located in the Court's network drive.
 - b. Written Agreement (available on ADR's website): **NOTE: PLEASE PREPARE THE AGREEMENT BY USING ONE OF THE FORMS BELOW. IF YOU CHOOSE TO PREPARE THE AGREEMENT ON A BLANK SHEET OR LEGAL PAD, PLEASE USE PAGE 1 OF THE BLANK FORM BELOW AS THE COVER SHEET.**
 - (1) Agreement Between the Parties Pursuant to Ariz. R. Fam. Law Proc. 69 (With Children)
 - (2) Agreement Between the Parties Pursuant to Ariz. R. Fam. Law Proc. 69 (Without Children)
 - (3) Agreement Between the Parties Pursuant to Ariz. R. Fam. Law Proc. 69 (With/Without Children) (Blank Form)
6. **Court Files:** To view records remotely, the JPT needs to first register with the Electronic Court Record Online (ECR Online) at <https://ecr.clerkofcourt.maricopa.gov/login.aspx>. Email a copy of the order naming the attorney as JPT to the customer support email address: efilesupport@cosc.maricopa.gov. In the email to the Clerk's Office, include the case number and JPT's name as well as preferred contact information in case Clerk staff needs to follow-up. Office staff will manually add the case number to the JPT's list of viewable cases within ECR Online and will email confirmation when the case is added, typically by the next business day. This customer service enhancement improves access for customers and allows the Clerk of the Court's Office to better manage its limited resources.

For Assistance with ECR Online contact:
Phone: (602)37-CLERK, or (602)372-5375
Email: efilesupport@cosc.maricopa.gov

7. **Decree of Dissolution or Stipulated Order shall be submitted by the parties to the division of the judge assigned to the matter for signature. Any extension on the Decree Deadline shall be sought from the assigned judge.**
8. **Continuances:** If counsel or a party is unable to attend the scheduled settlement conference, the parties/counsel shall confer, along with the assigned JPT, to determine whether an agreed upon continuance date and time can be set. The JPT shall notify the Alternative Dispute Resolution Office of any changes in the dates and times to the above settlement conference. If there is no such agreement, the requesting party shall file a motion to continue with the JPT as much in advance of the ADR Conference as possible. Only motions to continue the scheduled Settlement Conference shall be brought before the assigned JPT. Upon ruling, you may e-file the original order or forward the electronic order to adroffice1@jbazmc.maricopa.gov for filing. Please distribute a copy to counsel and party (if self-represented) via e-mail. Any other pre-trial motions shall be brought before the judge permanently assigned to the case.
9. **Order Vacating Settlement Conference:** You may issue an order vacating the settlement conference when parties fail to submit the settlement conference memorandum prior to the scheduled settlement conference. Please e-mail a copy of the order to adroffice1@jbazmc.maricopa.gov for filing and distribute a copy to counsel and party (if self-represented). Submit the settlement conference report to above e-mail address so we can update our records and forward a copy to the judge assigned to the case.
10. **Failure to Appear:** If a party or counsel fails to appear for the scheduled settlement conference without good cause, a \$100 sanction may be imposed against the offending party and additional sanctions, such as the imposition of attorney fees, may be ordered. Please indicate on the settlement conference report which party/counsel failed to appear (petitioner or respondent) and attach supporting documents, i.e., e-mail communications & phone calls to the party who failed to appear, if available.
11. **NOTIFY ADR IMMEDIATELY VIA EMAIL: adroffice1@jbazmc.maricopa.gov or phone call: 602-506-7884**
 - a. Any changes to the scheduled settlement conference, i.e., date, time, and location, so ADR can issue the amended OTA.
 - b. Vacating a settlement conference when parties settle prior to the scheduled settlement conference or when a motion to continue is granted and the settlement conference will be reset to a later date.
 - c. When a subsequent session is scheduled so ADR can update our records and issue the OTA.

12. Processing of settlement conference reports

- a. Please send the report & appropriate documents to ADR via e-mail.
- b. Upon receipt of completed report from JPT, ADR updates the court system and ADR's records.
- c. You may e-file the original agreement form and order re: settlement or e-mail an electronic copy to ADR for hand filing with Clerk of Court.
- d. The reports are also used to generate ADR's statistics.
- e. **It is imperative that each JPT return the report upon conclusion of the settlement conference. This assures that our records and statistics are as accurate as possible.**

13. Family Settlement Conference Online Survey Form: The link to the Family Settlement Conference On Line Survey is:

<https://superiorcourt.maricopa.gov/ADRFC>

All party information remains confidential. The comments are shared with the individual JPT at the end of the fiscal year.

14. Statistics

- a. One week after the end of each month, ADR prepares a statistical report for submission to Court Administration. It is imperative that each JPT submits their settlement conference reports for the previous month. This will ensure timely submission of the monthly statistical report to Court Administration.
- b. At the end of each fiscal year, ADR distributes, via e-mail, an electronic statistical report (overall and individual statistics, which includes a statistical breakdown of the settlement agreement), along with the individual survey comments (if any) to each JPT.
- c. The fiscal year statistical report is sent to Family Department Judges, Family Department Administrator, and Court Administration.

Top Tips for Conducting Settlement Conferences

1. The Judge should be proactive in trying to resolve the issues in the case.
2. Create an environment conducive to settlement. Set the tone to encourage compromise and conciliation.
3. Make an introductory statement:
Explain the purpose of the conference:
 - To organize and clarify the issues for trial, settling issues that can be settled; issue any orders necessary to that end.
 - Let parties know that you understand the seriousness of the matter and the emotional issues they are facing.
 - Let parties know they don't have to settle; however, if they can work out their differences, it will save everyone significant time, frustration, and expense.
 - Let parties know they have a right to trial, but sometimes the Judge makes a decision that no one likes. By working on a settlement, they can reach an agreement that meets their needs.
 - Encourage parties to be open about compromise. You are not the trial judge. Therefore, efforts at compromise will not be used against them at trial.
4. Be aware of the attorneys' need to preserve their relationship with their client. Some nice words about the lawyers in the presence of their clients will tend to reduce obstruction from counsel.
5. Recognize the attorneys' roles. Allow each attorney to make a brief "opening statement" regarding issues not yet resolved. Keep these statements to a minimum. Save the bulk of time for finding solutions.
6. Act as a sounding board for the issues. Parties and attorneys may be looking for feedback from the Judge. Be proactive and address the issues, making appropriate comment on the law as applied to these facts.
7. When parties begin by stating no agreement is possible, explore easy issues first to see if you can limit disagreements.
8. Think creatively. Create options or suggest alternatives that the attorneys may not have foreseen or could not suggest themselves.
9. Be a good listener. Identify and deal with emotional issues that may be impeding settlement.
10. Remain neutral even if you are inclined to side with one party.
 - Avoid caucus or it could be construed as siding with one party.
 - Avoid any appearance of favoring one side or one attorney. If you call one attorney by a first name, address the other attorney in the same manner.
 - Acknowledge aloud that each party's feelings are genuine about their positions, but your hope is to discover what they really need to move on and put this litigation behind them.
11. Keep control of the proceedings. Proceed methodically. Don't accept a statement that no settlement is possible. Your job is to explore.
12. Address topics one at a time. When possible, nail down agreements before going on to the next topic.

13. Start with easy things first, such as personal property, debts, who gets what car, etc. This helps get people in the mood to settle.
14. Be a facilitator, not a bully. People are more satisfied when they think they have voluntarily come to their own decisions.
15. In most cases, one or two issues are important to each party. They are not always the same issues. Find them. They will negotiate everything else.
16. Compliment attorneys on the work they have done, but let parties know that even though these attorneys will work hard for them, by settling this case they will save significant attorneys' fees. Remind people of the benefits of settlement, in terms of money, time, and trauma.
17. Take charge when settlement is imminent on an issue. Do not let it slip away before you get both parties to commit.
18. In reaching settlement, you want to terminate all ties that you can, so that parties do not have to worry about ongoing contact.
19. When telling a party that the court will not sustain their position, watch for their lawyer's reaction. If it is quiet and passive, it's probably reinforcing what the lawyer has already told the client.
20. Inform unreasonable people quickly if they will not be successful in court on a point.
21. Start by identifying areas of agreement. This is a good tactic to encourage further agreement. Help avoid distraction by areas of disagreement.
22. Think of contingencies for the future, if applicable, such as parties moving out of state, visitation when children get older, etc.
23. If the case settles, swear both parties in, have both parties say that they understand and approve of the settlement terms and consider the terms fair and equitable.
24. Even if no settlement, encourage parties/attorneys to continue to negotiate. Seeds of settlement can be planted at the conference that result in subsequent agreements.

COMMUNICATION TECHNIQUES FOR SUCCESSFUL NEGOTIATIONS

1. Restatement – The settlement judge listens to what has been said and repeats the content to the party in the party's own words.
2. Paraphrase – The settlement judge listens to what has been said and restates the content to the party using different words that have the same meaning as the original statement. This is often called *translation*.
3. Active Listening – The settlement judge decodes a spoken message and then feeds back to the speaker. This is commonly used in conciliation.
4. Summarization – The settlement judge condenses the message of a speaker.
5. Expansion – The settlement judge receives a message, expands, and elaborates on it, states it back to the listener, and then checks to verify accurate perception.
6. Ordering – The settlement judge helps a speaker organize ideas into a sequence (historical, size, importance, amount, and so forth).
7. Grouping – The settlement judge helps a speaker identify common ideas or issues and combine them into logical units.
8. Structuring – The settlement judge assists a speaker to organize and arrange his or her thoughts and speech into a coherent message.
9. Separation or Fractionating – The settlement judge divides general points or principles in a speaker's component parts.
10. Generalization – The settlement judge identifies general points or principles in a speaker's presentation.
11. Probing Questions – The settlement judge asks questions to encourage a speaker to elaborate on an idea.
12. Questions of Clarification – The settlement judge asks questions to encourage the speaker to give further information about a point in question.

The settlement judge can enhance communication between participants by encouraging participants to use communication skills, by teaching participants how to use them, and by reinforcing their use by commending parties who utilize them.

ESTABLISHING A POSITIVE EMOTIONAL CLIMATE

In addition to facilitating communication, the settlement judge often must create an emotional climate conducive to clear communication and joint problem solving. Interventions related to promoting a positive emotional climate include:

- Preventing interruptions or verbal attacks.
- Encouraging parties to focus on the problem and not each other.
- Translating judgmental language of participants into less emotionally charged terms.
- Affirming clear descriptions or statements, procedural suggestions, or gestures of good faith while not taking sides on substantive issues.
- Accepting the expression of feelings and being empathetic while not taking sides.
- Reminding parties about behavioral guidelines that they have established.
- Intervening to prevent conflict escalation.