



Family Settlement Conference Training Manual

ELECTRONIC COPY AVAILABLE ON
<https://superiorcourt.maricopa.gov/adr/>
Click on [ADR resources for Judges Pro Tem](#)

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(PREPARED & COMPILED BY MEL DAILEY, ADR PROGRAM COORDINATOR)

CURRENT AS OF: MAY 8, 2020

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***THESE FORMS MAY BE DOWNLOADED FROM THE ADR WEBSITE:**
<https://superiorcourt.maricopa.gov/adr/> Click on [ADR resources for Judges Pro Tem](#) to access the forms.

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CHAPTER 1

FAMILY SETTLEMENT CONFERENCE

ADMINISTRATIVE PROCEDURES

FOR JUDGES *PRO TEMPORE*

1. **ADR Referrals. Criteria used by judicial officers:**
 - a. Cases with at least one attorney at the time of the referral.
 - b. No post-decree settlement conferences.
 - c. There is a means test (if the parties can afford private mediation, they should go to a private mediator).
 - d. Get the parties to use conciliation services (parenting conferences, open negotiation) for family matters (legal decision making and parenting plans). Try to use settlement conferences only for financial issues.
 - e. No repeaters. If they have had a settlement conference, they are not to be returned to ADR for a second settlement conference.

2. **Referrals to ADR are made during a hearing while parties are present in open court and by minute entry for ex-parte referrals.** The judge assigned to the case uses the ADR Family Scheduling Page to set settlement conferences in open court (this has the JPTs' and judicial officers' available dates). Counsel/parties are given the first available date and once availability of parties/counsel is confirmed, the judge sets the settlement conference. The order to appear is generated and distributed to parties/counsel 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 documents attached: order to appear, settlement conference report, certificate of pro tem hours, evaluation form, and case card.

3. **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. ADR uses a standalone widget to generate orders to appear for ex-parte referrals, amended orders to appear for rescheduled settlement conferences, and orders to appear for subsequent sessions of settlement conferences. The order to appear 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 documents attached: order to appear, settlement conference report, certificate of pro tem hours, evaluation form, and case card.

TWO-TRACK SYSTEM FOR SETTLEMENT CONFERENCES

Track One

Judge *Pro Tempore* (JPT) Settlement Conferences

The current system would remain in place. Parties can seek a referral to ADR at any time or the assigned judge may order the parties to participate in ADR. In either event, concurrent with setting the date, the judicial officer setting the settlement conference will stress the expectation that the parties complete discovery and disclosure to the extent necessary for settlement discussion purposes.

Further, when parties end up not being ready for settlement discussions, it is not generally an eleventh-hour recognition but it is routinely an eleventh-hour acknowledgement. They usually have some inklings that they may not be prepared well before the scheduled date, yet they wait until the last minute to seek a continuance.

Under this new system, when ADR is ordered before a JPT, parties shall be required to certify 30 days in advance of the scheduled settlement conference that they are or will be prepared or that they secured a new date from the assigned JPT. Each JPT would be asked to offer one continuance for each assigned case so long as the request is submitted 30 or more days in advance of the scheduled settlement conference. See 30-Day Joint Certification (Attachment A).

Failure to meet these requirements shall result in vacating the settlement conference before the JPT. However, even with this certification process, there will still likely be cases where a continuance will be sought at or near the actual date of the settlement conference. In those cases, the assigned JPT may still agree to reset the conference but would not be required to do so. If the JPT assigned to that particular case does not agree to make another date available, the assigned JPT will be relieved from further responsibility.

If the parties and the JPT agree at any time to reset the settlement conference to a later date, the new date must be within the time deadlines set by the court for other case management or trial scheduling purposes. If the new date will disrupt the previously set deadlines or court dates set by the court, an extension of those deadlines or continuance of those dates must be sought from the assigned judicial officer.

If a settlement conference is vacated under the procedure detailed above, the parties may later seek a settlement conference under the "Track Two Settlement Conferences Before Commissioners" plan detailed below.

RESPONSIBILITY OF ADR

ADR is responsible for sending a reminder e-mail to counsel (if represented) & self-represented parties (courtesy copy to JPT) re: 30-Day Joint Certification for Track One Settlement Conferences. Below is a copy of the e-mail sent to counsel 5 days prior to the 30-day deadline.

REMINDER

Pursuant to the Family Presiding Judge's Policy:

Joint Certification re: Settlement Conferences set before a Judge *Pro Tempore*: By no later than 30 days prior to the Settlement Conference, the **parties shall file a certification with the Court** (with a copy forwarded to the ADR Office of the Court) confirming that all discovery *necessary to engage in comprehensive settlement negotiations* is complete or that the parties and the Judge *Pro Tempore* have agreed upon a continued Settlement Conference date to allow for preparation completion, so long as the new date does not conflict with any case management schedule entered with the court. If a new date is set, the certification shall include the new date and time. Failure to file this certification may result in the vacating of the Settlement Conference and/or imposition of sanctions noted below.

Pursuant to A.R.F.L.P. Rules 76(D) and 71, failure to comply with this Court Order may result in the imposition of court sanctions, including, but not limited to:

1. The Judge *Pro Tempore* vacating or continuing the conference;
2. An Order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidences;

3. An Order striking out pleadings or part thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against disobedient party;
4. Treating as contempt of court the failure to obey any orders except an order to submit to a physical or mental examination; and,
5. Proceeding by default or dismissing the case should one or both parties fail to appear for the Settlement Conference.
6. Sanctions pursuant to Rule 76D Arizona Family Law Procedure for failure to comply with discovery orders.

For your convenience, I have attached the blank certification form. The original is to be filed with the Clerk of Court and copy provided to ADR office and the Judge *Pro Tempore* assigned to the case.

ADR will check docket for the filed certification form and alert the Judge *Pro Tempore* for either compliance or non-compliance.

Thank you.

Track Two

Settlement Conferences Before Commissioners

Under the new plan, no settlement conference will be set before a Commissioner unless the parties submit a Joint Certification (Attachment B). It would mandate that the parties affirm that all required discovery and disclosure necessary to participate in a settlement conference is complete. Further, the parties would be required to identify the issues that are truly contested (rather than issues being noted as contested because no one had yet attempted to resolve them). Each party would further commit to the submission of certain required documents in advance of the conference and be subject to sanctions for non-compliance.

Since readiness for a settlement conference may not occur until after a specific court proceeding is conducted (thereby not allowing for it to be set during the proceeding), the parties may file a motion for a settlement conference to be set but such motion shall be required to include the joint certification.

The Track Two process shall be available in any case where no prior settlement conference was conducted or where a settlement conference under Track One was vacated for any reason.

All settlement conferences under Track Two will be set before a Commissioner for a 90-minute presumptive duration, rather than 3 hours. This will increase the number of available time slots, limit the overall impact on Commissioner calendars caused by vacated conferences and will place greater demand on the parties to be prepared.

For Track Two settlement conferences set on Commissioner calendars, we will increase the number of assigned settlement conferences per month by 50%. If a Commissioner presently sets four settlement conferences per month, each of three hours in duration, we would have six slots open each month on that Commissioner's calendar, each of 90 minutes in duration.

Attachment A

**SUPERIOR COURT OF ARIZONA
IN MARICOPA COUNTY**

Case Number:
**JOINT CERTIFICATION RE: TRACK
ONE SETTLEMENT CONFERENCE**

A settlement conference before Judge Pro Tem _____ was set by court order to be conducted on _____.

The parties jointly certify that:

[CHOOSE ONE]

_____ (A) all discovery and disclosure *necessary to engage in substantive settlement discussions on contested issues* is complete and the parties are prepared to proceed, as scheduled.¹

_____ (B) the parties have secured a continuance of the settlement conference from the assigned Judge Pro Tem and the new date and time is _____. The parties certify that they shall have all discovery and disclosure necessary to engage in substantive settlement discussions on contested issues in advance of the new date.

Dated _____

Attorney For Petitioner

Attorney For Respondent

Petitioner (Self-Represented)

Respondent (Self-Represented)

ORIGINAL TO BE FILED WITH CLERK OF COURT AND COPY PROVIDED TO ADR OFFICE & JPT

¹ This certification is for settlement conference purposes only and shall not limit the pursuit of on-going discovery or further disclosure as required under the applicable rules.

Attachment B

**SUPERIOR COURT OF ARIZONA
IN MARCIOPA COUNTY**

Case Number:
**JOINT REQUEST AND
CERTIFICATION FOR SETTING OF
TRACK TWO SETTLEMENT
CONFERENCE**

The parties jointly request the scheduling of a settlement conference in this matter. In support of this request, the parties certify that all discovery and disclosure *necessary to engage in substantive settlement discussions on contested issues* is complete.²

The parties further certify that settlement efforts have been pursued prior to this request in the form of the following [check all that apply]:

_____ Exchange of written settlement offers
_____ Participation in face-to-face settlement negotiations between the parties and
respective counsel

_____ Other (please specify): _____

The parties further certify that uncontested issues have been fully addressed and have identified the following issues to be central to the dispute for which a settlement conference is requested:

By no later than ____ days before the scheduled settlement conference, the parties shall submit the following documents to the assigned settlement conference judge. The parties acknowledge that failure to comply with this requirement may subject the violating party to sanctions.

Settlement Conference Memorandum
Child Support Worksheet
Affidavit of Financial Information

² This certification is for settlement conference purposes only and shall not limit the pursuit of on-going discovery or further disclosure as required under the applicable rules.

ADR uses judges *pro tempore* (JPTs), commissioners, retired judges, and judges for conducting settlement conferences.

- a. JPTs: ADR sends an e-mail request to JPTs for their 2-month schedules. An e-mail request is sent approximately every two months for Jan-Feb; Mar-Apr; May-June; Jul-Aug; Sept-Oct; & Nov-Dec. 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. **NOTE: JPTs are requested to notify ADR immediately if their schedule changes after signing up.**
- b. Commissioners/Retired Judges/Judges: ADR enters availability on ADR Scheduling Page.

4. Locations of Settlement Conferences. Settlement conferences may be held at one of the following locations

- a. Central Court Building (201 W. Jefferson St., Phoenix AZ) (commissioners' courtrooms);
- b. Judges' courtrooms;
- c. Alternative Dispute Resolution (ADR), Downtown Justice Center, 620 W. Jackson St., Suite 2049 (2nd floor), Phoenix;
- d. Southeast Regional Court Facility;
- e. Northeast Regional Court Facility (40th St. @ Union Hills); and
- f. JPTs' offices.

JPTs may select one of the above locations to conduct their settlement conferences (except Central Court Building).

NOTE: If a personal appearance settlement conference is not possible, the JPT may conduct the settlement conference via telephone or video technology. Whatever you decide to do, please make sure you notify parties/counsel and please keep ADR informed of any action taken.

5. Documents for the Settlement Conference:

- a. Family Settlement Conference Report*: This is a 3-page report to record the result of the settlement conference.
 - a. Page 3 of the report is to be filled out when a FULL SETTLEMENT is reached. It is an order to be signed by the parties* & JPT and sent to ADR for filing. Note: *If parties' signatures are not obtained, the JPT may insert one of the following in place of parties' signatures: "DICTATED ON THE RECORD" or "SEE RULE 69 AGREEMENT." This will allow the judges' calendars to be vacated in a more efficient manner. **EXCEPTIONS: (1) The order is not required when a consent decree is signed/executed at the settlement conference. (2) When a case does not have future hearings scheduled, cross out "IT IS ORDERED vacating all future court hearings/trials/status conferences in this matter" and write in N/A and complete the rest of the order.**
 - b. ***THE BLANK REPORT IS AVAILABLE ON ADR'S WEBSITE.**
 - c. **DO NOT FILE THE SETTLEMENT CONFERENCE REPORT.**
 - d. The JPT is encouraged to provide counsel & parties a copy of the report, order, and 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 On Line Survey Form (with the link to the on line survey) To be distributed to parties/counsel (if represented).
- e. AS NEEDED: THE FOLLOWING FORMS MAY BE DOWNLOADED FROM ADR'S WEBSITE

- a. Agreement Between the Parties Pursuant to A.R.F.L.P. Rule 69 (with Children). If used, please fill in the appropriate information and have parties/counsel sign the form and send original to ADR for filing. JPT is requested to provide copies to counsel/parties
- b. Agreement Between the Parties Pursuant to A.R.F.L.P. Rule 69 (Without Children). If used, please fill in the appropriate information and have parties/counsel sign the form and send original to ADR for filing. JPT is requested to provide copies to counsel/parties
- c. Agreement Between the Parties Pursuant to A.R.F.L.P. Rule 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**).

NOTE: For OFF SITE SETTLEMENT CONFERENCES (JPT's office; Southeast Court Facility; & Northeast Court Facility): Upon conclusion of the settlement conference, the JPT must ensure that the settlement conference report plus appropriate documents, certificate of pro tem hours, and copy of digital recording are e-mailed, mailed via US mail, or delivered to ADR via runner service.

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

- **Times for settlement conferences (allow at least 2 hours for each session):** Morning (9:30-11:30 a.m.) or afternoon (1:30-3:30 p.m.)
- **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
 - Digital Voice Recorder: Please use Microsoft Windows Media Player or MP3 format. Digital recordings may be e-mailed to adroffice1@jbazmc.maricopa.gov* or uploaded to a CD and mailed to ADR via US mail or delivered via runner service. JPTs are encouraged to e-mail a copy of the recording to counsel/parties. ADR will then save the digital recording in the ADR folder located on the network drive. *Size limit: 7 MB or less; anything over 7 MB should be uploaded to a CD and mailed to ADR via US mail or delivered via runner service.
 - 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.**
 - Agreement Between the Parties Pursuant to A.R.F.L.P. Rule 69 (Without Children)
 - Agreement Between the Parties Pursuant to A.R.F.L.P. Rule 69 (With Children)
 - *Agreement Between the Parties Pursuant to A.R.F.L.P. Rule 69 (With/Without Children) (Blank Form)
- **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 or fax the document to the Clerk's Office at 602-372-8751. In the email or fax 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.

- **Decree of Dissolution:** When a decree is sent to the JPT for signature, please forward signed decree (including envelopes/copies) to ADR. ADR will then enter decree in iCIS and forward decree to Clerk of the Court for processing and filing.
- **Motion to Continue (MTC) Settlement Conference:** JPTs may rule on MTCs. Upon ruling, you may e-file the original order or forward original MTC to ADR for filing. Please provide copies to "pro per" parties and counsel (if represented) via e-mail or U.S. mail.
- **No Show Fee: Except for extraordinary circumstances,** party's failure to appear at the time scheduled for the settlement conference as ordered by the court **will** result in a party being required to pay \$100 no show fee by the assigned judge. Please indicate on the settlement conference report which party failed to appear (petitioner or respondent) and attach supporting documents, i.e., e-mail communications & phone calls to the party who failed to appear.
- **NOTIFY ADR IMMEDIATELY VIA EMAIL: adroffice1@jbazmc.maricopa.gov or phone call: 602-506-7884**
 1. Any changes to the scheduled settlement conference, i.e., date, time, and location, so ADR can issue the amended order to appear.
 2. 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.
 3. When a subsequent session is scheduled so ADR can update our records and issue the order to appear.
- **Processing of settlement conference reports**
 1. Upon receipt of completed report from JPT, ADR updates the court system and ADR's records
 2. A copy of the report, along with appropriate documents, is scanned & sent to the assigned judge's division via e-mail. You may e-file the original agreement form and order vacating future hearings or mail them to ADR for hand filing with Clerk of Court. **PLEASE DO NOT WRITE ANY CONFIDENTIAL INFORMATION ON THIS REPORT.** The scanned report and documents are saved in ADR folder on the Court's network drive.
 3. The reports are also used to generate ADR's statistics.
 4. **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.**

Family Settlement Conference On Line 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.

- **Statistics**

1. 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.
2. At the end of each fiscal year, ADR issues a statistical report to each JPT. The report includes a statistical breakdown of the settlement agreement rate and evaluation comments.
3. The fiscal year statistical report is sent to Family Department Judges, Family Department Administrator, and Court Administration.

**ORDER TO APPEAR FOR
ALTERNATIVE DISPUTE RESOLUTION
(ADR)
SETTLEMENT CONFERENCE**

IT IS ORDERED Judge Pro-Tempore, _____ is appointed to conduct an ADR Settlement Conference and enter stipulated orders in this matter, pursuant to A.R.F.L.P. Rules 66 and 67.

IT IS FURTHER ORDERED that all parties and counsel shall appear in person and be prepared to attend the Settlement Conference for 90 minutes, if set before a Court Commissioner, or at least 3 hours, if set before a Judge *Pro Tempore*. It shall be conducted at the location set forth below.

DATE at TIME
LOCATION (ADDRESS)
PHONE NUMBER
E-MAIL ADDRESS

The Judge Pro Tempore shall notify Alternative Dispute Resolution of any changes, i.e. date/time, to the above settlement conference.

WARNING

Except for extraordinary circumstances, failure to appear at the time scheduled for this settlement conference as ordered will result in your being required to pay a \$100 no show fee by the assigned judge in your case. If you are represented and unable to attend your settlement conference, please contact your counsel so they can file the appropriate motion to continue the settlement conference. If you are not represented, please file the appropriate motion to postpone/continue your settlement conference to avoid paying the no show fee.

IT IS FURTHER ORDERED that each party shall furnish the Judge *Pro Tempore* or Court Commissioner with a separate Settlement Conference Memorandum at least seven days prior to the scheduled Settlement Conference. The Settlement Conference Memorandum shall not be filed with the Clerk of the Court or exchanged with each other. Joint or Separate Pretrial or Resolution Management Statements will not satisfy the requirements for this Settlement Conference Memorandum.

The Settlement Conference Memorandum shall include the following information:

1. A general description of the issues in the lawsuit, and each party's position with respect to each issue;
2. A description of the evidence each party intends to present, with respect to each issue;
3. A summary of any and all settlement negotiations that have previously occurred;
4. A current and complete Affidavit of Financial Information, including dates of acquisition, amounts of encumbrance, and present value;
5. An inventory of major community or joint assets, including dates of acquisition, amounts of encumbrance, and present value;
6. A list of outstanding debts and the party responsible for each debt; and,
7. Any other information the party believes would be helpful to the settlement conference
8. Counsel shall avow the following:
 - a. That all mandatory disclosure has been exchanged
 - b. That all discovery *necessary to engage in comprehensive settlement negotiations* has been completed and there are no outstanding discovery disputes.
 - c. That counsel has met or otherwise conferred with the client prior to the conference regarding the Settlement Conference process.

Documents required for the Settlement Conference are available at:

Joint Certification re: Settlement Conferences set before a Judge *Pro Tempore* (to be submitted 30 days prior to the settlement conference):

<https://superiorcourt.maricopa.gov/adr/joint-certification-re-settlement-conference-set-before-a-judge-pro-tempore/>

Settlement Conference Memorandum: <https://superiorcourt.maricopa.gov/adr/family-confidential-settlement-conference-memoranda-form/>

Child Support Worksheet: https://superiorcourt.maricopa.gov/llrc/fc_drs1/

Affidavit of Financial Information <https://superiorcourt.maricopa.gov/media/2828/drosc13fz.pdf>

IT IS FURTHER ORDERED:

1. All motions to continue the scheduled Settlement Conference shall be brought before the assigned Judge *Pro Tempore*. Any other pre-trial motions shall be brought before the judge permanently assigned to the case.
2. The Judge *Pro Tempore* may notify the court whether the parties were or were not prepared for the Settlement Conference pursuant to the requirements set forth in this order for the purpose of considering sanctions under A.R.S. § 25-415.
3. Any agreement the parties enter into, which is memorialized by the Judge *Pro Tempore*, shall be considered a binding agreement, in accordance with A.R.F.L.P. Rule 69.
4. For a settlement conference set before a Judge *Pro Tempore*, all discovery *necessary to engage in comprehensive settlement negotiations* shall be completed no later than 30 days prior to the Settlement Conference.

IT IS FURTHER ORDERED for settlement conferences set before a Judge *Pro Tempore*, that by no later than 30 days prior to the Settlement Conference, the **parties shall file a certification with the Court** (with a copy forwarded to the ADR Office of the Court) confirming that all discovery *necessary to engage in comprehensive settlement negotiations* is complete or that the parties and the Judge *Pro Tempore* have agreed upon a continued Settlement Conference date to allow for preparation completion, so long as the new date does not conflict with any case management schedule entered with the court. If a new date is set, the certification shall include the new date and time. Failure to file this certification may result in the vacating of the Settlement Conference and/or imposition of sanctions noted below. This order does NOT apply for settlement conferences set before a Court Commissioner.

Pursuant to A.R.F.L.P. Rules 76(D) and 71, failure to comply with this Court Order may result in the imposition of court sanctions, including, but not limited to:

1. The Judge *Pro Tempore* vacating or continuing the conference;
2. An Order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidences;
3. An Order striking out pleadings or part thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against disobedient party;
4. Treating as contempt of court the failure to obey any orders except an order to submit to a physical or mental examination; and,
5. Proceeding by default or dismissing the case should one or both parties fail to appear for the Settlement Conference.
6. Sanctions pursuant to Rule 76D Arizona Family Law Procedure for failure to comply with discovery orders.

**ALTERNATIVE DISPUTE RESOLUTION
JUDICIAL BRANCH OF ARIZONA
MARICOPA COUNTY**

CONFERENCE DATE:

PETITIONER RESPONDENT	CASE NUMBER JUDGE FAMILY COURT SETTLEMENT CONFERENCE (SC) REPORT	COUNSEL/"PRO PER" PARTIES PETITIONER RESPONDENT
--	---	---

This is the time set for the Family Court Settlement Conference before JUDGE *PRO TEMPORE* . At this conference are:

Petitioner Counsel Respondent Counsel Other _____

DOCUMENTS HERETOFORE PRESENTED AND EXCHANGED

PETITIONER

RESPONDENT

- () Settlement Conference Memorandum
- () Joint Pretrial Statement
- () Spousal Affidavit
- () Inventory of Property
- () Proposed Disposition
- () Other Documents:

- () Settlement Conference Memorandum
- () Joint Pretrial Statement
- () Spousal Affidavit
- () Inventory of Property
- () Proposed disposition
- () Other Documents:

FULL SETTLEMENT

A. PLEASE SEE SIGNED ORDER ON PAGE 3 (NOTE TO JPT: SEND ORIGINAL TO ADR FOR FILING)

- B. SETTLEMENT DICTATED:** NO YES Written Agreement:
- Original attached
- Copy attached Filed N/A

- FTR (Courtroom #____)
- Digital Recording: (Please e-mail to: adroffice1@jbazmc.maricopa.gov)

C. JURISDICTIONAL TESTIMONY TAKEN FROM: Petitioner Respondent

D. Signed Decree/Order Attached
 Filed

PARTIAL SETTLEMENT (Provide comments on page 2)

- SETTLEMENT DICTATED:** NO YES Written Agreement:
- Original attached
- Copy attached Filed N/A

- FTR (Courtroom #____)
- Digital Recording: (Please e-mail to: adroffice1@jbazmc.maricopa.gov)

CASE NOT SETTLED (Provide comments on page 2)

- A.** Estimated Length Of Trial _____ (indicate days or hours)
- B.** Testimony to be Taken on Trial Date
- C.** Confirm Trial Date: _____

OTHER:

- FAILED TO APPEAR: () PETITIONER () RESPONDENT () ATTY FOR PETITIONER () ATTY FOR RESPONDENT
- VACATED
- SETTLED PRIOR
- TERMINATED
- CONTINUING TO SUBSEQUENT SESSION

CASE NOT SETTLED/PARTIAL SETTLEMENT

ISSUES TO BE TRIED

COMMENTS

LEGAL DECISION MAKING/
PARENTING TIME

CHILD SUPPORT

SPOUSAL MAINTENANCE

DIVISION OF PROPERTY

DIVISION OF DEBTS

ATTORNEYS' FEES

RELIEF DUE RE:
PENDENTE LITE ORDER

OTHER MATTERS TO BE
CONSIDERED BY THE CT

PARTIAL SETTLEMENT OR NO SETTLEMENT WAS REACHED BECAUSE OF INCOMPLETE DISCOVERY/
DISCOVERY ON THE PART OF:

- A. Petitioner
- B. Respondent
- C. Both parties

DATE: _____

JUDGE PRO TEMPORE

**SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY**

Case Number: _____

Name of Petitioner

ORDER

Name of Respondent

The parties reached full agreement at ADR on _____ and placed the agreement on the record/entered into a signed agreement pursuant to Rule 69 of the Arizona Rules of Family Law Procedure. The parties stipulate to the entry of the following Orders.

Petitioner

Respondent

Based on the foregoing agreement of the parties, and good cause appearing,

IT IS ORDERED vacating all future court hearings/trials/status conferences in this matter.

IT IS FURTHER ORDERED that a Decree or stipulated order shall be submitted for the Court's/JPT's signature by [Petitioner/Respondent] on or before _____ **[specific date in approx. 30 days from the ADR date]** (the "Decree Deadline").

IT IS FURTHER ORDERED that this matter will be dismissed on _____ (ideally 30 days following the Decree Deadline) or, if no date is listed, 30 days after the Decree Deadline, if no Decree or stipulated order is provided to the Court by the above deadline.

Judge *Pro Tempore*

Date

cc: Petitioner
Respondent
ADR
JPT
Judge _____

JUDICIAL BRANCH OF ARIZONA
IN MARICOPA COUNTY

ALTERNATIVE DISPUTE RESOLUTION

(Name of Petitioner)

Case Number: _____

AGREEMENT BETWEEN THE PARTIES
PURSUANT TO A. R. F. L. P. RULE 69
(WITH CHILDREN)

(Name of Respondent)

- FULL SETTLEMENT
 PARTIAL SETTLEMENT

This is the time set for the **Settlement Conference** held _____ before Judge *Pro Tempore* _____

The assigned Judge on this case is _____

Attending this conference are:

- Petitioner Petitioner's Counsel Respondent Respondent's Counsel
 Interpreter Other _____

Has sixty days passed from service of the initial petition Yes No

Is there an Order of Protection in effect now Yes No

Have CPS or police been called on
Petitioner Yes No
Respondent Yes No

Has there been a drug conviction within the last 12 months for
Petitioner Yes No
Respondent Yes No

Does either party have a pending bankruptcy case?
Petitioner Yes No Respondent Yes No

Has a discharge been entered? Yes No If NO, what is the case number? _____

PREGNANCY:

- Wife is **not** pregnant
 Wife is pregnant, and the husband is or is **not** the father of the child.
 A child who is common to the parties is expected to be born this date: _____.

CHILDREN: All minor children common to the parties as follows:

NAME (S) OF CHILD (REN)	D/O/B(s)	AGE
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

If born prior to marriage, has proof of paternity been presented? Yes No

PARENT INFORMATION PROGRAM:

Petitioner has has **not** attended the Parent Information Program Class.

Respondent has has **not** attended the Parent Information Program Class.

LEGAL DECISION MAKING:

The parties are unable to reach an agreement concerning legal decision making

SOLE LEGAL DECISION MAKING: The condition under which one person, **Mother**
 Father shall have sole legal decision making of the minor child(ren).

Both parties agree to **SOLE LEGAL DECISION MAKING:** Sole legal decision making to **Mother** **Father**

JOINT LEGAL DECISION MAKING: The condition under which both parents share legal decision making and neither parent's rights are superior except with respect to specified decisions as set forth by the court or the parents in the final judgment or order.

Both parties agree to joint legal decision making.

Mother **Father** will have the primary residence of the child(ren)

Neither party shall be designated as the primary residence for the child(ren).

EQUAL PARENTING TIME/PARENTING TIME: The condition under which the physical residence of the child(ren) is shared by the parents in a manner that assures that the child(ren) has/have substantially equal time and contact with both parents.

Both parties agree to EQUAL PARENTING TIME or PARENTING TIME

CHILD SUPPORT

The parties are in agreement that child support will paid by the **Mother** **Father** using the child support guidelines.

The parties agree on the following child support amount of _____ to be paid to the **Mother** **Father**.

The parties are in agreement to a deviation from the child support guidelines in the amount of _____ to be paid to **Mother** **Father**.

A child support order currently exists signed on _____ in the amount of _____.

The parties agree to have child support calculated prior to the final agreement.

The parties are **unable** to reach an agreement concerning child support.

MEDICAL, DENTAL AND VISION INSURANCE, PAYMENTS, AND EXPENSES:

Parties agree

- Petitioner Respondent will provide medical, dental and vision insurance for the minor child(ren).

FURTHER: Unreimbursed health care expenses shall be allocated as follows:

- Petitioner will pay _____ % **AND**
- Respondent will pay _____ %
- The parties will pay proportionate to their incomes.
- The parties are **unable** to reach an agreement concerning medical, dental and vision insurance.

TAX DEDUCTION: The parties agree that they shall claim as income tax dependency exemptions on federal and state tax returns as follows.

Parent entitled to claim:

Name of child(ren)

Mother to take tax deduction on _____

- Even year's Odd years Every year.

Name of child(ren)

Father to take tax deduction on _____

- Even year's Odd years Every year.
- The parties agree to take tax deductions based on proportionate to child support worksheet guidelines.

TAX RETURNS: * Subject to IRS Rules and Regulations.

For prior years _____ through _____, the parties agree to:

- File **joint** federal and state income tax returns, and hold the other harmless from half of all additional income taxes and costs, if any, and each party shall share equally in tax refunds, if any.

For prior years, _____ through _____, the parties agree to:

- File **separate** federal and state income tax returns.
- Each party shall file **separate** tax returns this calendar year and continuing thereafter.
- Each party shall give the other party all necessary documentation to file all tax returns.
- The parties are **unable** to reach an agreement concerning tax return issues.

NAME CHANGE:

- Wife** requests that her former name be restored to _____.
- Husband** requests that his former name be restored to _____.
- The Petitioner and Respondent **do not** wish to have their former names restored.

SPOUSAL MAINTENANCE/SUPPORT:

- Parties are in agreement that the Petitioner will pay Respondent Spousal Maintenance/Support \$ _____ for the duration of _____ years.
- Parties are in agreement that the Respondent will pay Petitioner Spousal Maintenance/Support \$ _____ for the duration of _____ years.

- Parties are in agreement that **no** Spousal Maintenance/Support is needed for either party.
- Parties are **unable** to reach an agreement concerning Spousal Maintenance/Support.

COMMUNITY DEBTS:

- Parties agree on how to divide Community debts.
- Parties agree to be responsible for their own sole and separate debts as follows:

Creditors	*Account #	Amount Owed	Petitioner	Respondent	Disputed Debts
_____	_____	\$ _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	\$ _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	\$ _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	\$ _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	\$ _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	\$ _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- Parties agree to submit a comprehensive inventory and breakdown of community debt to the other party by _____.

- The community debts shall be divided as follows:

Creditors	*Account #	Amount Owed	Petitioner	Respondent	Disputed Debts
_____	_____	\$ _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	\$ _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	\$ _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	\$ _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	\$ _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	\$ _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- Any debts or obligations incurred by either party before the date of separation that are not identified in the list above or attached, shall be paid by the party who incurred the debt or obligation and that party shall indemnify and hold the other party harmless from such debts.

- The parties are **unable** to reach an agreement concerning debts.

***DO NOT LIST COMPLETE ACCOUNT NUMBER**

PERSONAL PROPERTY:

- Community personal property has already been distributed prior to conference to both Petitioner and Respondent. Each party to be awarded the personal property in their respective possession.
- The parties are **unable** to reach an agreement concerning personal property.
- The parties **agree** to a division of community personal property as follows:

DIVISION OF COMMUNITY PROPERTY: (Be very specific in your description of the property)

Community property is awarded to each party as follows:

LIST OF COMMUNITY PROPERTY AWARD TO:

	Petitioner	Respondent
<input type="checkbox"/> Household furniture/furnishings. (Be specific.) _____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Appliances. (Be specific.) _____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> TV /VCR/DVD (Be specific) _____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Personal Computer. (Be specific) _____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Other (Be specific) _____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Motor vehicle_____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Motor vehicle_____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Cash, bonds of \$_____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Other: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Other: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Award each party the personal property in his/her possession.	<input type="checkbox"/>	<input type="checkbox"/>

DIVISION OF REAL PROPERTY: Section A is for one piece of real property. Section B is for a second piece of real property.

A. Real property located at (address)_____.

The real property as described above is:

Awarded to Petitioner or Respondent as his/her sole and separate property.

OR

Shall be sold and the proceeds divided as follows:

_____ % or \$_____ to Petitioner.

_____ % or \$_____ to Respondent.

B. Real property located at (address)_____ .

The real property as described above is:

Awarded to Petitioner or Respondent as his/her sole and separate property.

OR

Shall be sold and the proceeds divided as follows:

_____ % or \$_____ to Petitioner.

_____ % or \$_____ to Respondent.

More than two pieces of property are involved. See attached sheet listing the same information as in Sections A and B.

The value of the property is unknown and the parties agree to have a comprehensive analysis or appraisal done prior to the final agreement or by _____ date.

Parties agree that Petitioner Respondent will refinance real property on or before _____. If unsuccessful, the real property will be _____.

The parties are **unable** to reach an agreement concerning real property.

There is no community real property.

DIVISION OF RETIREMENT, PENSION, DEFERRED COMPENSATION:

The parties agree that any community interest in any retirement benefits, pension plans, or other deferred compensation described below will be allocated as follows:
Petitioner's: _____
Respondent's: _____

The parties agree they will submit a Qualified Domestic Relations Order to the assigned Judge by _____.

Each party **waives and gives up** his or her interest in any retirement benefits, pension plan, or other deferred compensation of the other party.

Neither party has a retirement, pension, deferred compensation, 401K Plan and/or benefits.

The parties are **unable** to reach an agreement concerning retirement, pension plan or other deferred compensation.

LEGAL FEES:

- Petitioner will pay Respondent's legal fees in the amount of \$_____.
- Respondent will pay Petitioner's legal fees in the amount of \$_____.
- Each party will pay **their own** legal fees.
- The parties are **unable** to reach an agreement concerning legal fees.
- Legal fees do not apply to this case.

ADDITIONAL AGREEMENTS:

ADDITIONAL ISSUES NOT AGREED UPON:

OTHER ORDERS:

TIMELINE FOR PARTIES:

I am not under force, threats, duress, coercion, or undue influence from anyone, including the other party, to sign this Agreement. The Agreement, with attachments, if any, that I have signed is our agreement. I have not agreed to something different from what is stated in this agreement. The provisions regarding the division of property and debt are fair and equitable.

Pursuant to Rule 69 of the Arizona Rules of Family Law Procedure, it is the intent of both parties that this agreement shall be binding.

This is NOT a finalized divorce decree. This agreement merely provides a statement of resolution to some of the issues involved in your case.

Petitioner: _____

Date: _____

Respondent: _____

Date: _____

If either party is represented by a lawyer, the lawyer must sign:

Petitioner's Attorney: _____

Date: _____

Respondent's Attorney: _____

Date: _____

**JUDICIAL BRANCH OF ARIZONA
IN MARICOPA COUNTY**

ALTERNATIVE DISPUTE RESOLUTION

(Name of Petitioner)

Case Number: _____

**AGREEMENT BETWEEN THE PARTIES
PURSUANT TO A. R. F. L. P. RULE 69
(WITHOUT CHILDREN)**

(Name of Respondent)

- FULL SETTLEMENT**
 PARTIAL SETTLEMENT

This is the time set for the **Settlement Conference** held _____ before Judge *Pro Tempore* _____

The assigned Judge on this case is _____

Attending this conference are:

- Petitioner Petitioner's Counsel Respondent Respondent's Counsel
 Interpreter Other _____

Has sixty days passed from service of the initial petition Yes No

Is there an Order of Protection in effect now Yes No

Does either party have a pending bankruptcy case?

Petitioner Yes No Respondent Yes No

Has a discharge been entered? Yes No If NO, what is the case number? _____

PREGNANCY:

- Wife is **not** pregnant
 Wife is pregnant, and the husband **is** or **is not** the father of the child.
 A child who is common to the parties is expected to be born this date: _____ .

TAX RETURNS: * Subject to IRS Rules and Regulations.

For prior years _____ through _____, the parties agree to:

- File **joint** federal and state income tax returns, and hold the other harmless from half of all additional income taxes and costs, if any, and each party shall share equally in tax refunds, if any.

For prior years, _____ through _____, the parties agree to:

- File **separate** federal and state income tax returns.
 Each party shall file **separate** tax returns this calendar year and continuing thereafter.
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- Wife** requests that her former name be restored to _____.
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_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Appliances. (Be specific.) _____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> TV /VCR/DVD (Be specific) _____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Personal Computer. (Be specific) _____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Other (Be specific) _____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Motor vehicle_____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Motor vehicle_____	<input type="checkbox"/>	<input type="checkbox"/>
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OR

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_____ % or \$_____ to Petitioner.

_____ % or \$_____ to Respondent.

B. Real property located at (address)_____ .

The real property as described above is:

Awarded to Petitioner or Respondent as his/her sole and separate property.

OR

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_____ % or \$_____ to Respondent.

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There is no community real property.

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Petitioner's: _____
Respondent's: _____

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Each party **waives and gives up** his or her interest in any retirement benefits, pension plan, or other deferred compensation of the other party.

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LEGAL FEES:

- Petitioner will pay Respondent's legal fees in the amount of \$_____.
- Respondent will pay Petitioner's legal fees in the amount of \$_____.
- Each party will pay **their own** legal fees.
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- Legal fees do not apply to this case.

ADDITIONAL AGREEMENTS:

ADDITIONAL ISSUES NOT AGREED UPON:

OTHER ORDERS:

TIMELINE FOR PARTIES:

I am not under force, threats, duress, coercion, or undue influence from anyone, including the other party, to sign this Agreement. The Agreement, with attachments, if any, that I have signed is our agreement. I have not agreed to something different from what is stated in this agreement. The provisions regarding the division of property and debt are fair and equitable.

Pursuant to Rule 69 of the Arizona Rules of Family Law Procedure, it is the intent of both parties that this agreement shall be binding.

This is NOT a finalized divorce decree. This agreement merely provides a statement of resolution to some of the issues involved in your case.

Petitioner: _____ Date: _____

Respondent: _____ Date: _____

If either party is represented by a lawyer, the lawyer must sign:

Petitioner's Attorney: _____ Date: _____

Respondent's Attorney: _____ Date: _____

I am not under force, threats, duress, coercion, or undue influence from anyone, including the other party, to sign this Agreement. The Agreement, with attachments, if any, that I have signed is our agreement. I have not agreed to something different from what is stated in this agreement.

This is NOT a finalized divorce decree. This agreement merely provides a statement of resolution to some of the issues involved in your case.

Petitioner: _____

Date: _____

Respondent: _____

Date: _____

If either party is represented by a lawyer, the lawyer must sign:

Petitioner's Attorney: _____

Date: _____

Respondent's Attorney: _____

Date: _____

ALTERNATIVE DISPUTE RESOLUTION (ADR)
SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY
602-506-7884

FAMILY SETTLEMENT CONFERENCE SURVEY

This survey will only take 5 minutes of your time. Your feedback is important to us. This information will be used to inform the court system and the judge *pro tempore* about your experience with the settlement conference. In accordance with ADR Superior Court policy, this information is confidential. Below is the link to the online survey.

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

CHAPTER 2 - GETTING STARTED

Settlement Conference Guide

- What is a settlement. An agreement between parties that resolves some or all of the issues in litigation.
 - Settlement can
 - Be “full” or “partial”
 - Streamline issues that proceed to litigation
 - Allow stipulation of agreed upon facts
- The effective settlement negotiator must know how to discount litigation’s risks and rewards:
 - Know the facts, not necessarily completion of discovery
 - Know the applicable law
 - Communicate the range of probable outcomes
 - Rely on communication skills
- Remember: All cases settle at some point. If not in conference, there may be a good reason for proceeding to trial
- Why try to settle at a conference
 - Expense of litigation costs
 - Financial/emotional drain for parties
 - Time/difficulty collecting fees
 - Toll on the Court system and taxpayer
- Settlement: Generally, most satisfying outcome
 - Based on what’s fair, not what parties are asking for
 - Parties have “day in Court”
 - Attorneys can avoid complete loss for client
 - Judge gets satisfaction of helping parties reach agreement
- Justice is served
 - Settlements avoid extreme results
 - Provide positive satisfaction with Court system
- Effective Settlement Conference Techniques
 - Use basic mediation techniques (Getting to Yes by Fisher & Ury)
 - Personalities impeding case resolution? Identify hidden emotional agendas
 - Use effective listening: Watch what is being communicated, not just what’s being said
 - Focus on “interest” not “positions”: What do parties really need to move on?

- Help parties find creative (non-monetary) alternatives: What can one party do for the other party more easily than that party can do for themselves?
- Maintain a rational, problem-solving focus for negotiations
- Judicial settlement conference techniques
 - Establish your authority/expertise
 - Set conference Ground Rules
 - Start with initial group meeting
 - Parties can consult with counsel
 - Explain caucusing
 - Set conference tone and style in introductory remarks. Project an image of experience, knowledge, fairness, and friendship
 - Relaxed, informal atmosphere
 - Set aside adversarial attitude/posturing
 - Invite parties to reason together to resolve differences
 - Be prepared: Read the file in advance
 - Allow brief statement by attorneys and/or parties
 - Identify the issues
 - Give case history on negotiations
 - State positions/why attorneys believe they're reasonable
 - Judicial analysis
 - Conduct candid discussion of strengths/weaknesses of each party's positions (in caucus)
 - Watch for clues in speech/body language
 - Use "active listening" skills
 - Parroting
 - Paraphrasing
 - Reflective listening
 - Brainstorm potential solutions
 - If caucus
 - Use reality testing
 - Avoid appearance of bias
 - Demonstrate an unreasonable position with role reversal
 - Negotiation. Try to move parties off positions and closer to common ground
 - Exert reciprocal pressure to settle--avoid coercion
 - Split the difference only when parties are close in terms; no reasonable distinction in positions
 - Offer additional conference time if needed
- What to do when parties settle: Always get agreements on the record with attorneys/parties present and their affirmation of settlement terms

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 family's 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. Complete unfinished discovery. If a party has not cooperated with discovery requests or not carried out pre-trial orders, issue orders to timely gain the information and include sanctions for non-compliance.
12. Keep control of the proceedings. Proceed methodically. Don't accept a statement that no settlement is possible. Your job is to explore.

13. Address topics one at a time. When possible, nail down agreements before going on to the next topic.
14. Start with easy things first, such as personal property, debts, who gets what car, etc. This helps get people in the mood to settle.
15. Be a facilitator, not a bully. People are more satisfied when they think they have voluntarily come to their own decisions.
16. 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.
17. 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.
18. Take charge when settlement is imminent on an issue. Do not let it slip away before you get both parties to commit.
19. In reaching settlement, you want to terminate all ties that you can, so that parties do not have to worry about ongoing contact (except with regard to children).
20. 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.
21. Inform unreasonable people quickly if they will not be successful in Court on a point.
22. Start by identifying areas of agreement. This is a good tactic to encourage further agreement. Help avoid distraction by areas of disagreement.
23. Think of contingencies for the future, such as parties moving out of state, visitation when children get older, etc.
24. 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. State which lawyer will prepare the decree, that any judge can sign the decree, and that objections to the form of decree, if any, will be heard by you.
 - Prepare a clear, detailed and complete settlement order
 - When dictating settlement terms, be specific to ensure that the agreement is clear and understandable.
 - If easier, dictate settlement terms as they are reached on each issue (although this may be difficult if parties revise terms).
25. 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 disputants by encouraging disputants to use communication skills, by teaching disputants 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 disputants 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.

THE SETTLEMENT FACILITATION PROCESS

CONFLICT CLASSIFICATION

Consensual or Interest-Based Conflict. Conflicts of interest usually exist in conditions of perceived or actual scarcity in which one or more parties believes that gains for one party may mean a loss for another. Conflicts of interest are often referred to as competitive cooperation, in that the disputants are collaborating to compete for the same set of goods or benefits.

Because there are numerous types of interests that any given party may have in a dispute, there is often great latitude in trading one set of interests for another so that all parties can be satisfied in a settlement.

Dissensual or Value-Based Conflict. In contrast to conflicts of interest in which a consensus exists between parties about competition for the desired end result or in which enough different interests exist to facilitate a trading process to minimize loss on all sides, dissensual conflicts are based on differences in values. Value disputes focus on such issues as guilt and innocence, what norms should prevail in a social relationship, what facts should be considered valid, what beliefs are correct, who merits what, or what principles should guide decision makers. Disputes of whether to build a housing development, whether to cut down a forest, whether divorcing parents should allow new lovers over when the children live at home, or whether a party should be punished (as opposed to making restitution) for committing a theft are all disputes over values.

IDENTIFYING AND FRAMING ISSUES

In the process of defining parameters of the dispute, the parties and the mediator engage in the preliminary definition of topic areas and issues that will be the focus of future negotiations. This process has been referred to variously as framing or reframing (Watzlawick, 1978), characterizing (Stulberg, 1981a), reconceptualizing, or redefining (Boulding, 1962; Sawyer and Guetzkow, 1965) the issues in dispute. Before exploring the moves of framing or reframing a situation, I will briefly explain how parties arrive at their viewpoint of the conflict.

Each Disputant comes to the conflict with his or her own individual picture or subjective reality of what issues are in dispute and what the basis of conflict is (Berger and Luckmann, 1967). Watzlawick (1978,p.119) describes the individual's condition: "Let us remember: We never deal with reality *per se*, but rather with *images* of reality – that is, with interpretations. While the number of potentially possible interpretations is very large, our world image usually permits us to see only one and the one therefore appears to be the only possible, reasonable, permitted view. Furthermore, this one interpretation also suggests only one possible, reasonable, and permitted solution."

An example of how a situation is framed is the joke about how one distinguishes between an optimist and pessimist: “The optimist says of a bottle that it is half full: the pessimist sees it as half empty. The same bottle and the same quantity of wine, in other words, the same first-order reality, but two very different world images, creating two very different (second-order) realities” (Watzlawick, 1978, p. 119).

More in line with our focus is the classic dispute in child custody over which parent will receive legal custody of the level of involvement in their child’s life. They, and in many cases the judicial system, have defined the resolution procedure as a Court decision determining who can legally possess the child. There are, however, alternative ways that this parent-parent/parent-child relationship, and the concept of legal custody or ownership of the child is reframed into terms of parental rights and responsibilities toward their offspring, the bipolar struggle with only a win-lose outcome is transformed into a more complex issue with multiple variables that may be traded off on against another (Haynes, 1981;Ricci, 1980). By reframing how a dispute is seen and defined by the parties, the mediator can open the door to more collaborative and mutually satisfactory solutions.

VARIABLES IN FRAMING AND REFRAMING ISSUES

When negotiators frame issues in a productive, problem-solving format, the mediator may be merely an interested observer. However, some disputes become deadlocked because disputants have not discovered a mutually acceptable definition or framing of the issues that will allow them to cooperate. At this point, the mediator’s intervention can be invaluable. The mediator may either frame the issues before the parties restrict themselves with a particular definition, or may reframe the issues by moving the parties away from an unproductive definition toward one that will lead to successful problem solving.

When reframing the definition of issues in dispute from terms put forth by one or more parties to new terms that are subjectively acceptable to all disputants, the mediator should consider (1) the process for reframing interest-related issues, (2) techniques for reframing value-related issues, (3) the explicitness and timing of reframing, and (4) the appropriate language or syntax used in the redefinition of the situation.

Reframing Interest-Related Issues. The act of reframing itself raises some important questions regarding the mediator’s neutrality. The general assumption of mediators when reframing an issue is that they are making such a move “based on some conception (implicit or explicit) of a more constructive or desirable relationship for the original players than the one that they see themselves engaging in at the onset of the interaction. And in this context, the terms “constructive” and “desirable” inevitably carry normative content. Be this as it may, mediators constantly redefine the context of disputes in ways that disputants find to be extremely helpful to avoid or overcome impasse (Young, 1972, p.59).

In general, reframing interest disputes is easier than reframing value conflicts resulting from dissensus over such issues as guilt, rights, or facts. In reframing interest disputes, mediators often use a technique that expands issues to provide the parties with more bargaining power. For example, in a labor management dispute, the union and management are bargaining to a deadlock over a wage increase. The union negotiators must bring to their constituents some tangible benefits from the negotiations. They have selected salary increases as their goal. The mediator can reframe the issue from the problem of wage increase to the problem of how the union can obtain benefits that its constituents will see are the result of the negotiations. This reframing of the situation allows the negotiator to look for other means of meeting union needs than solely emphasizing wages.

Reframing interest disputes requires a careful analysis of position statements put forth by the parties and the interests represented by the position. Shifting from specific interests to more general ones may widen the number of settlement options available.

Reframing issues and interests in narrower terms is also occasionally effective. For example, consider the case in which several people agreed to purchase a piece of property together that was to be used for cooperative housing. Several months after the purchase, the relationships among the owners deteriorated and several of the people decided that they wanted their money back. However, this would only be possible by revising the financial contract all the owners agreed upon. The initial issue, stated in the form of a demand was, "I want my money back." The problem as the disputants framed it was that one person wanted his money back and was withdrawing from the contract, but the others felt that they could not reimburse him without selling the property. Sale of the property was not acceptable to the other owners. From this either/or situation, the mediator and the parties mutually reframed the issue into smaller, more manageable sub-issues: How much money? In what form? With interest? And so forth. The parties were then able to reach agreement on trade-off for these sub-issues.

Reframing Value-Related Issues. Reframing conflicts over values is much more difficult than redefining interest-related issues. This seems to be because value issues have a strong tendency to become bipolar, with one side representing right and the other side wrong. Disputants place great emphasis on normative judgment, which often makes it difficult to compromise and trade as in interest-related issues. Even proposing such solutions may provoke escalation. People will claim that their "ideas are not for sale" or that one "can't bargain with the truth" (Aubert, 1963).

Mediators accomplish identification and framing of value-based issues by (1) translating value disputes into interest disputes, (2) identifying superordinate goals, and (3) avoidance. I will discuss each approach in turn.

Pure dissensus in conflicts over values and facts is relatively rare. Usually, value disputes are mixed disputes in that participants also have some common interest. Mediators who work with value disputes often try to translate values into interests so that the parties have more tangible issues. For example, if a value dispute over

authority can be translated into conflict over the division of power, there are some possibilities for compromise based on a formula for the division of power. In one case, two employees are rivals for promotion in their organization. There is only one position available at the next grade above their current rank. Both employees want the job and claim to be the best person for the job. If it is in the company's interest to satisfy both employees, those responsible may explore how the task, authority, and status of the job could be divided between the two equally qualified employees. Thus a struggle over who is best becomes moot as each employee is rewarded based on interest.

In another dispute, an association of single-family homeowners were in dispute with a planning department over the construction of multifamily dwellings on the edge of their neighborhood. The single-family homeowners charged that the new construction would change the neighborhood's ambiance and that it would mean an entire shift in life-style. On careful examination, life-style values were translated into interests –limited noise, no abrupt, transitions from single-family to multifamily homes, minimizing height of new construction to preserve views, and maintaining privacy by avoiding building complexes that overlook single-family home backyards. Given the interests of all parties, a mutually satisfactory development plan was negotiated that met most of the needs described above.

A second approach to reframing value disputes is to identify larger superordinate goals with which all parties can identify. (Sherif and others, 1961). For example, in a dispute over a dam's location, one party may argue that the proposed construction site damages a pristine wilderness area, while the other party argues that it has a mandate to provide water to a nearby city and that the dam allows the party to fulfill contractual obligations. The mediator looks for a superordinate goal to join the parties in a cooperative effort. In this instance, the mediator might gain consensus that the topic to be discussed is (1) an agreement that the city needs a certain amount of water and (2) that the wilderness is to be protected. The parties can then participate in a joint search for potential sources of water.

A third strategy for managing and identifying value-based issues is to avoid identifying or responding to them directly, or to reframe the situation so that parties agree to disagree. Since it is difficult to mediate guilt or innocence, right or wrong, respect or lack of respect, and so forth, the mediator may want to avoid these questions entirely and focus only on the dispute's components that can be turned toward interest-based bargaining, the importance of value differences will fade and will be dropped from a list of demands or topics for discussion.

EXPLICIT-IMPLICIT REFRAMING AND TIMING

To resolve disputes over interests or values, parties often must be explicit about the topic areas that divide them, the issues that need to be discussed, and the points on which they must conduct bargaining or negotiation. The degree of explicitness, however, may vary over time due to the dynamics of the negotiation process itself or to conscious strategies of the negotiators or mediator. The mediator should manage the

timing of issue identification so that the parties will be most receptive to the way the issue is framed. Parties are often vague at the start of negotiations about the specifics of issues in dispute. Only through a process of discussion and mutual education can the parties jointly define and make explicit the concrete issues that must be resolved.

One party will often name an issue precisely only to hear another party repeatedly reject it. After several rounds of proposal rejection and exploration, the parties may finally be able to agree to discuss the issue. The final framing of the issues by the parties, or reframing by the mediator, may be identical to the earlier characterization of the problem. The final acceptance of the framing is a result of timing and the psychological readiness of the parties to accept the definition of the situation. This psychological shift often occurs after dialogue or when the neutral intervenor states the framing. There is research evidence that parties are often willing and able to hear and accept statements worded by the mediator when they are not able to hear or accept the identical statement from another disputant (Rubin and Brown, 1975).

Appropriate language or Syntax

One remaining point needs to be covered regarding framing the issues: the mediator's language or syntax. *Syntax* refers to the order and manner in which words are put together to form phrases or express a thought. Disputants use language that is judgmental, positional, and biased toward the subjective view. In joint session, mediators usually try to translate the language of the disputants into neutral terms to remove bias, positions, or judgment. Thus, when one party says, "That fat slob hasn't paid his rent money for the past two months," the mediator translates this to: "You are upset that you have not received money that you feel is due to you according to the terms of your rental agreement with Mr. Brown." In this case, the judgmental statement that Brown is a slob is dropped the "you message," the portion of the communication directed at Brown for nonpayment is also shifted to focus on the landlord's feelings of deprivation and need for reimbursement. This, after all, is what concerns the landlord. Reframing the problem in this way also makes Brown feel more comfortable with the issue. The focus is no longer on his character but the "landlord" needs to be paid.

In identifying and framing issues, mediators should be careful to state the problem clearly in a manner that favors neither side nor makes one part blameworthy. Ideally, the mediator should depersonalize the issues and put them outside the relationship between the disputants. The parties can then focus on the topic in a more objective manner (Fillee, 1975). Stulberg (1981a) notes that mediators should take a great care to avoid "trigger" words or statements that parties may interpret as mediator bias or preconceived judgements as to who is wrong. Mediators occasionally avoid any adversarial language, referring to conflicts as problems, positions as viewpoints, parties as *your group*, and negotiations as *discussions* in order to depolarize and neutralize value-laden and conflict-oriented terminology.

There are times, however, when entirely neutral terminology may not be as effective as more partisan language. If, for example, the parties cannot reach an agreement on

issues in joint session, the mediator may call a caucus to discuss the problem of issue identification. The mediator may use language more biased toward the interests or values of a particular party in the caucus to influence their decision-making.

The mediator may use the same terminology, syntax, and emotion as one part to encourage identification by the part with the mediator and to progress toward agreement on issues with another disputant. Usually, however, mediators should take care that the way they speak in a caucus is not drastically different from their manner in joint session so that parties neither are confused nor feel double-crossed by the shift to more neutral language when they return to joint session.

From Christopher Moore ~ *The Mediation Process*

ARIZONA RULES OF CIVIL PROCEDURE
RULE 16.1. SETTLEMENT CONFERENCES: OBJECTIVES

(a) Mandatory Settlement Conferences. Except as to lower Court appeals, medical malpractice cases, and cases subject to compulsory arbitration under A.R.S. § 12-133, in any action in which a motion to set and certificate of readiness is filed, the Court, at the request of any party, shall, except for good cause shown, direct the parties, the attorneys for the parties and, if appropriate, representatives of the parties having authority to settle, to participate either in person or, with leave of Court, by telephone, in a conference or conferences before trial for the purpose of facilitating settlement. Unless otherwise ordered by the Court, all requests for settlement conferences shall be made not later than 60 days prior to trial. The Court may also schedule a settlement conference upon its own motion.

In medical malpractice cases, the Court shall conduct a mandatory settlement conference no earlier than four (4) months after the conduct of the comprehensive pretrial conference and no later than thirty (30) days before trial.

(b) Scheduling and Planning. The Court shall enter an order that sets the date for the settlement conference, a deadline for furnishing settlement conference memoranda, and other matters appropriate in the circumstances of the case. An order setting a settlement conference shall not be modified except by leave of Court upon a showing of good cause.

(c) Settlement Conference Memoranda. At least five (5) days prior to the settlement conference, each party shall furnish the Court with a separate memorandum. In non-medical malpractice cases, the memorandum shall not be filed with the clerk of the Court, and the parties shall furnish the memoranda sealed to the division assigned to the case. In medical malpractice cases, the settlement conference memoranda shall be filed and exchanged. Each memorandum shall address the following:

(1) a general description of the issues in the lawsuit, and the positions of each party with respect to each issue;

(2) a general description of the evidence that will be presented by each side with respect to each issue;

(3) a summary of the settlement negotiations that have previously occurred;

(4) an assessment by each party of the anticipated result if the matter did proceed to trial; and

(5) any other information each party believes will be helpful to the settlement process.

No part of any settlement conference memorandum shall be admissible at trial.

(d) Attendance: Settlement conferences shall be attended by all of the parties to the litigation and their counsel unless specifically excused for good cause by the Court. In addition, the defendants shall have a representative present with actual authority to enter into a binding settlement agreement. All participants shall appear in person except pursuant to stipulation of the parties or order of the Court.

(e) Confidentiality. The Court shall order that discussions in settlement conferences shall be confidential among the parties, their counsel, and the Court.

(f) Discretion to Transfer. The Court, upon its own motion, or upon the motion of a party, may transfer the settlement conference to another division of the Court, willing to conduct the settlement conference.

(g) *Ex Parte* Communications. At any settlement conference conducted pursuant to this Rule, the Court, with the consent of all those participating in the conference, may engage in *ex parte* communications if the Court determines that will facilitate the settlement of the case.

(h) Sanctions. The provisions of Rule 16(f) of these Rules concerning sanctions shall apply to a conference provided for by this rule.

Added Oct. 10, 2000, effective Dec. 1, 2000.

State Bar Committee Note
2000 Amendment

As part of the effort to consolidate formerly separate sets of procedural rules into either the Arizona Rules of Civil Procedure or the Rules of the Arizona Supreme Court, certain provisions of the former Uniform Rules of Practice of the Superior Court and of the former Uniform Rules of Practice for Medical Malpractice Cases which dealt with the subject of settlement conferences were combined into a new Rule 16.1 dealing with that subject generally. The provisions of subparts (a), (b), (c), (f), and (h) of this new Rule are taken largely from former Rule VI(e) of the Uniform Rules of Practice of the Superior Court; the provisions of subparts (d), (e), and (g) are taken from former Rule 2 of the Uniform Rules of Practice for Medical Malpractice Cases.

The provision making the conduct of a settlement conference mandatory in all medical malpractice cases are retained; in all other cases, a settlement conference may be set either at the request of any party or by the Court, on its own motion. The new Rule also preserves the differing practice concerning the exchange of settlement conference memoranda. In medical malpractice cases, such memoranda are to be filed and exchanged; in other cases, they are not filed but are furnished under seal to the division to which the case is assigned.

In a Comment to the original Uniform Rules of Practice for Medical Malpractice Cases, which was effective January 1, 1990 and was amended effective July 1, 1992, the special Committee stated the following concerning the provisions of rule 2 [now part of Rule 16.1]:

"The committee recognizes that certain professional liability insurance policies require the consent of the insured before an insurer can settle a claim. All parties are encouraged to set forth in detail, orally or in writing, the basis of their positions with respect to their willingness to compromise disputed claims. A party who refuses to settle because that party insists on the right to trial cannot be found to have failed to comply with the provisions of this rule."

AMENDED RULE 16(g), ARIZONA RULES OF CIVIL PROCEDURE
EFFECTIVE DECEMBER 1, 2001
(APPLICABLE TO ALL CASES FILED AFTER DECEMBER 1, 2001)
(Changes or additions in text are indicated by underlining)

RULE 16(g), RULES OF CIVIL PROCEDURE

Rule 16(g) Alternative Dispute Resolution

(1) Upon motion of any party, or upon its own initiative after consultation with the parties, the Court may direct the parties in any action to submit the dispute which is the subject matter of the action to an alternative dispute resolution program created or authorized by appropriate local Court rules.

(2) The Parties' Duty to Consider ADR, and to Confer and Report.

(A) No later than 90 days following the first appearance of a defendant, the parties shall confer, either in person or by telephone, about:

(1) the possibilities for a prompt settlement or resolution of the case; and

(2) whether they might benefit from participating in some alternative dispute resolution ("ADR") process that would be most appropriate in their case, the selection of an ADR service provider and the scheduling of the proceedings:

(B) The attorneys of record and all unrepresented parties who have appeared in the case are jointly responsible for attempting in good faith to settle the case or agree on an ADR process and for reporting the outcome of their conference to the Court. Within 30 days after their conference, the parties shall inform the Court by means of a text prescribed in an official form promulgated pursuant to Rule 84 of the following:

(1) if the parties have agreed to use a specific ADR process, the type of ADR process to be used, the name and address of the ADR service provider they will use and the date by which the ADR proceedings will be completed;

(2) if the parties have not agreed to use a specific ADR process, the position of each party as the type of ADR process that is appropriate for their circumstances or, in the alternative, why ADR is not appropriate; and

(3) whether any party requests that the Court conduct a conference to consider ADR.

(C) Unless the parties have agreed to use a specific ADR process, the Court may direct the parties, the attorneys for the parties and, if appropriate, representatives of the parties having authority to settle, to discuss with a Court-

appointed ADR specialist, either in person or by telephone, whether ADR is appropriate and the types of ADR processes that might benefit their cases.

Comment to 2001 Amendment to Rule 16(g)

Parties are cautioned that the 2001 amendment to Rule 16(g) must be read in light of *Martinez v Binsfield*, 196 Ariz. 466 (2000), which held that Uniform Rule V(e) [now Rule 38.1(d)] applies to cases assigned to mandatory arbitration, and repeated continuances by the arbitrator in connection with mandatory arbitration did not provide good cause for continuing the case on the Inactive Calendar.