



Mediator Evaluation Program: Introduction

The Mediation Program for the U.S. District Court for the Southern District of New York has developed a program for ongoing assessment and skills development of panel mediators.

GOALS:

The goals of the program are to: 1) generate a picture of a mediator's strengths and weaknesses both for the mediator's own development and to assist the Mediation Program in determining whether or not the mediator should continue to serve on the panel; 2) support mediators in self-reflective practice; 3) enhance collegiality and sense of community among mediators; and 4) assist the Mediation Program in identifying specific topics for further training and skills enhancement.

EVALUATION PROCESS:

Evaluations will be conducted by mediators who have been trained in the evaluation protocol and in giving constructive feedback. After the evaluation, evaluators will recommend that the mediator should a) continue to mediate for the Court or b) not continue to mediate for the Court. Mediators who receive a "should not continue to mediate" recommendation will be offered the opportunity to participate in the observation/mentoring process that is now mandatory for potential new panel mediators; they will have six months to observe at least three other SDNY mediations, participate in any training offered by the Court, and will be invited to participate in a second evaluation with another evaluator. Mediators who choose not to participate in the evaluation program, who do not pass the initial evaluation and choose not to participate in the observation/mentoring process, or who do not pass a second evaluation, will be removed from the panel. Depending on the needs of the program, mediators who do particularly well in the evaluation may be offered the opportunity to be trained as an evaluator for other panel mediators.

WHEN WILL MEDIATORS BE EVALUATED?

To remain in good standing on the SDNY mediation panel, all panel mediators will participate in an evaluation approximately every four years. Mediators who joined the panel after 2014 will be evaluated approximately four years after the mentor mediation which resulted in their addition to the panel. All mediators who joined the panel prior to 2014 will be evaluated over time, based on the availability of evaluators, and will have subsequent evaluations four years from the date of their initial evaluation.

CONFIDENTIALITY OF PROCESS:

The Mediator Evaluation program has been developed for the benefit of SDNY panel mediators and to enhance the overall effectiveness of the Mediation Program. The success of the evaluation process is

dependent on the full and complete participation by both mediators and evaluators, including candor and openness during feedback conversations. To that end, evaluators and mediators will not share any information, communications, or written materials related to the evaluation with anyone outside of the Mediation Program. In particular, mediator evaluations may not be used as letters of reference or to provide any information to other ADR programs. Any information, communications, or materials related to the evaluation process may be shared with the mediator being evaluated at that mediator's request.

TIMELINE:

1. Mediator accepts a case and evaluator clears conflicts and is assigned.
2. Mediation Office confirms attendance of evaluator with mediation participants.
3. Evaluator/mediator commence pre-mediation process (contacting each other and the participants for scheduling of pre-mediation calls and initial mediation session, reading of pre-mediation submissions).
4. First in-person mediation session.
5. Evaluator completes competencies form.
6. Mediator and evaluator have debrief discussion.
7. Process checklist, final recommendation, and competencies forms submitted to Mediation Program within 48 hours of feedback discussion, and to the mediator if requested.
8. Mediation Program discusses conclusions with mediator and plans next steps.

Role and Expectations of Evaluators

All evaluators for the program have extensive mediation experience and have received an orientation to the process and goals of this program. Evaluators will be assigned before the mediator makes initial contact with the participants. Each evaluator will observe a particular case from the pre-mediation communications through the initial session and, using a form provided by the Mediation Program, will assess the mediator's core mediation competencies. The evaluator will not mediate the case and will endeavor to be as unobtrusive as possible in the presence of parties and lawyers. However, at the request of the mediator, made out of the presence and hearing of parties and counsel, the evaluator may provide limited suggestions or advice to the mediator. The evaluator will sign the confidentiality agreement.

PRE-SESSION PARTICIPATION

The evaluator will speak with the mediator prior to the mediator's contact with counsel in order to review the mediator's planned pre-mediation activities and to coordinate scheduling. Where possible, the evaluator should "observe" all mediator contact with counsel and/or the parties prior to the mediation. When pre-mediation sessions are conducted by telephone, the mediator will conference in the evaluator before the call begins so the evaluator can listen without contributing to the pre-mediation call. In instances where pre-mediation process is extensive, the evaluator will "observe" enough of the communications to be able to make an assessment as to the mediator's demonstration of competencies related to this phase. The evaluator will review all written submissions to the mediator prior to the first session.

PARTICIPATION IN THE FIRST MEDIATION SESSION

During the mediation session, the evaluator will strive to be in the presence of the mediator at all times. As noted above, the evaluator will not participate in or intervene in the mediation process in any way, or communicate with counsel or the parties beyond simple neutral pleasantries.

PARTICIPATION AFTER THE FIRST SESSION

Although it is not required, where possible, the evaluator will continue the evaluation by observing post-session activities of the mediator, including, for example, follow-up telephone calls and scheduling and holding additional mediation sessions.

FEEDBACK MEETING AND SUBMISSION OF FORMS

At the conclusion of the initial mediation session the evaluator will meet with the mediator to share and discuss the results of the evaluation, provide constructive feedback, and encourage positive, neutral, and critical self-reflection by the mediator. The evaluator may choose whether to share the actual evaluation form or to simply use the form as a guide for the conversation. This feedback meeting should begin with the evaluator asking the mediator to reflect on what was done well and what could have been done better in that particular mediation, using the competencies form as a guide to ask about

specific interventions. The focus of the feedback meeting should be the mediator's performance, not the specifics of the case. In the event that the mediation continues past one session, or other information is received such as the participant feedback forms, subsequent feedback meetings may take place. Mediation Program staff may participate in the feedback meeting or in post-process discussions with the mediator or evaluator.

The evaluator will not discuss the mediator's strengths and weaknesses or any contents of the evaluation form with anyone outside of the Mediation Program. Nothing contained within the evaluation form may be used for any purpose other than the Mediator Evaluation Program.

Within 48 hours of the feedback meeting the evaluator will submit the evaluation forms to the Mediation Office. Failure to submit the evaluation forms may result in removal from the list of evaluators.



Mediator Evaluation Program: Process Checklist

- Cleared conflicts for this evaluation mediation.
- Understanding that the goal of this process is to assess a fellow mediator's strengths and weaknesses, have spoken with mediator to determine the extent of my participation during any mediation communications.
- Reviewed the evaluation forms and competencies tool in advance of any mediation communications.
- To the best of my abilities, made myself available for pre-mediation communications and the initial mediation session.
- Signed confidentiality form.
- Filled out the evaluation forms.
- Discussed evaluation conclusions with mediator. (Please note: final determinations regarding a mediator's status on the panel are made by the Mediation Office.)
- Submitted this form, the final evaluation form, and competencies form to the Mediation Office within 48 hours of the post-mediation discussion.
- I departed from the guidelines above for the following reasons:



Mediator Evaluation Program: Final Recommendation

I _____ observed mediator _____ on the following dates _____.

Understanding that any final decision as to a mediator's continued service on the SDNY panel rests with the Mediation Program, based on this observation, I make the following recommendations about this mediator.

This mediator should continue to mediate because he/she demonstrated competencies discussed in the attached form. In particular:

This mediator should not continue to mediate now because he/she needs to develop the following competencies:

This mediator will be offered the opportunity, within 12 months from the date of this form, to observe at least 3 other mediations coordinated by the SDNY Mediation Program then to complete another evaluation mediation. During this 12 month period the mediator may participate in any training or professional development offered by the SDNY Mediation Program.

I recommend this mediator as an evaluator for the program. (Explain briefly.)

I have discussed my recommendations with the mediator.

At his/her request I have provided a copy of the evaluation forms to the mediator.

Date:

: Evaluator



Mediator Evaluation Program: Competencies Form

This form is intended to provide guidelines for the assessment of skills, interventions, and competencies associated with mediators using a variety of styles and approaches to mediation. It is not expected that the mediator will necessarily use or reflect all of the identified skills, interventions, and competencies in any particular mediation. This form is a crucial aspect of the evaluation process and we ask that you take time to read and complete it before speaking with the mediator. Where possible, please include specific examples of a mediator's comments and/or conduct to illustrate your evaluation of individual sections/interventions.

In order to protect the confidentiality interests of the participants, do not use the names of the parties or the lawyers. Also be sure not to provide information that might identify any of the participants.

Mediator: _____

Evaluator: _____

Dates of Observation: _____

In each section below, please 1) check all interventions/skills demonstrated by the mediator, 2) provide an overall rating for that section, and 3) use comments to provide examples of particular strengths and weaknesses. If a particular section or skill could not be accomplished or demonstrated due to circumstances beyond the mediator's control please give no rating for that section and explain the circumstances.

1. Pre-mediation Calls with Counsel:

Contacted parties to schedule call promptly after notice of selection by: phone ___ e-mail ___ other ___

Greet participants; endeavor to set positive, friendly, cooperative tone ___

Ask if participants have mediated before; explain, summarize, invite input about the process ___

Explain confidentiality and confidentiality agreement ___

Confirm identity of persons who will attend, including those with settlement authority ___

Ask status of case and discovery ___

Discuss initial statements in joint session ____

Established interim steps (e.g. limited discovery, content/deadlines for mediation statements) ____

Overall Assessment of Pre-Mediation Calls ____

(5 = Exceptional; 4 = Very Effective; 3 = Competent; 2 = Needs Improvement; 1 = Does Not Perform Necessary Skill)

If specific circumstances prevented demonstration, explain:

2. Mediator's Opening Statement:

Greet participants; establish friendly, cooperative tone ____

Facilitate introductions ____

Explain process, role of mediator, role of counsel, confidentiality ____

Have everyone sign confidentiality agreement ____

Revisit discussion about initial statements ____

Overall Assessment of Opening Statement ____

(5 = Exceptional; 4 = Very Effective; 3 = Competent; 2 = Needs Improvement; 1 = Does Not Perform Necessary Skill)

If specific circumstances prevented demonstration, explain:

3. Joint Session:

Listens attentively without interrupting ____

Manages interruptions that threaten the process, if appropriate ____

Asks clarifying questions ____

Encourages active participation of parties ____

Develops with participants an agenda of issues to be addressed ____

Uses active listening techniques (e.g. reflection, summary, reframing) ____

Overall Assessment of Joint Session ____

(5 = Exceptional; 4 = Very Effective; 3 = Competent; 2 = Needs Improvement; 1 = Does Not Perform Necessary Skill)

If specific circumstances prevented demonstration, explain:

4. Explores Facts/Interests, Develops Options/Transmits Settlement Proposals:

Utilizes caucus effectively ____

Engages parties; encourages them to participate actively ____

Ascertains participants' interests ____

Asks open-ended questions ____

Maintains control of process while allowing participants to shape details ____

Helps participants evaluate strengths and weaknesses of their case ____

Facilitates creative problem-solving, where possible ____

Helps formulate and adjust settlement proposals ____

Encourages reality testing of options and proposals ____

Assists in defining next steps whether or not agreement is reached ____

Overall Assessment of Above Skills ____

(5 = Exceptional; 4 = Very Effective; 3 = Competent; 2 = Needs Improvement; 1 = Does Not Perform Necessary Skill)

If specific circumstances prevented demonstration, explain:

5. Personal Attributes:

Stays calm, positive, and patient ____

Puts participants at ease ____

Listens attentively without interrupting ____

Facilitates interaction between parties, including difficult conversations ____

Responds appropriately to expressions of emotion ____

Shows empathy ____

Makes effort to build trust and confidence of the parties in the mediator and the process ____

Overall Assessment of Personal Attributes ____

(5 = Exceptional; 4 = Very Effective; 3 = Competent; 2 = Needs Improvement; 1 = Does Not Perform Necessary Skill)

If specific circumstances prevented demonstration, explain:

6. Adherence to Ethical Standards:

Demonstrates impartiality ____

Maintains confidentiality ____

Supports self-determination of participants ____

Understands conflicts/recusal ____

Demonstrates requisite subject matter expertise ____

Overall Assessment of Ethics Standards ____

(5 = Exceptional; 4 = Very Effective; 3 = Competent; 2 = Needs Improvement; 1 = Does Not Perform Necessary Skill)

If specific circumstances prevented demonstration, explain:

7. Overall, was the mediator effective? (Y/N): ____

Why or why not?

8. Please describe the mediator's level of engagement with the feedback process (e.g. did the mediator display insight into his/her mediation practice, was the mediator open to comments from the evaluator, etc.)

9. Please describe any consultation between the evaluator and mediator throughout the mediation process:

10. How can this evaluation process and/or form be improved?

NOTES:

MODEL TOOLS FOR MEDIATOR PEER REVIEW

**INCLUDES MODEL POLICY,
OBSERVATION FORM AND
SELF-REFLECTION TOOL**

RESOLUTION SYSTEMS INSTITUTE



RSI

RSI Peer Review Tools

These tools were originally developed, through the generous funding of the Illinois Bar Foundation, for the Kane County Child Protection Mediation Program, which utilizes a co-mediation model to serve families of children who are in the foster care system. The tools, as presented here, have been adapted for general use by any mediation program.

Included are:

- A **Peer Review Policy**, which sets forth goals, procedures and expectations for the program and its mediators
- A **Mediator Observation Tool**, which provides a rubric for peer observers to assess the relative strengths of and challenges encountered by the mediator
- A **Self-Reflection Tool**, which gives the mediator a reference to evaluate and reflect on their performance following the mediation session



MEDIATION PROGRAM PEER REVIEW PROCESS

PROJECT GOALS

The peer review process serves several objectives:

1. The process *ensures that participants are receiving quality mediation services*. Given the disproportionate level of poverty, lack of education and other indicators consistent with inability to access legal services present in the served population, it is imperative that these mediation services be of the highest quality. Conducting peer review provides a view of the mediators' performance and allows the Program and the Court to take corrective action where necessary.
2. The process *fosters the growth of mediator skills*. Discussing and dissecting their tactics and decision-making allows a mediator to gain awareness of their patterns, finding strengths to leverage and weaknesses to shore up. In completing a self-assessment after the mediation session, the mediator gains a new perspective on the experience, removed from the intensity of the mediation table. Information gained from peer review will inform the Program as to what topics can be covered in subsequent continuing education sessions.
3. The process *galvanizes the mediator community*. Through observing and reflecting with one another, the mediators will build rapport and camaraderie. By being able to candidly assess one another, the mediators will grow more comfortable with one another, which will in turn allow them to work better when they are paired during mediation. New ideas may flourish, and the program, the court and the community will be better for it.



PEER REVIEW PROCEDURE

The goal of peer review is for every mediator to be reviewed, be approved, and, in turn, become an observer. Each mediator will be observed no less than once per year, provided caseload and staffing allows.

To begin that process, the mediators will attend a training session for mediators that will prepare them to take on the role of observers. Such training should focus on strengthening the active listening skills of the Peer Observers and improve their ability to give constructive feedback to the Mediator.

In order to participate in the Peer Review process, **which is a requirement for continued participation in the program**, a mediator must review, sign and return this policy statement to the Program Administrator.

Prior to the Mediation Session

1. When the Program Administrator determines that it is a mediator's turn to be peer reviewed, the Administrator will select a Peer Observer.
2. After the Peer Observer confirms their availability, the Program Administrator will notify the mediator that they will be observed.
3. Before the mediation session, the Peer Observer will check in with the Mediators and Program Administrator to determine logistics, including seating arrangements during joint session and caucuses.
4. The Program Administrator will coordinate with the Peer Observer to ensure they have the appropriate documents to observe the mediation session.

During the Mediation Session

1. During the Mediators' Opening Statement, the Mediator shall reference the Agreement to Mediate and obtain all participants' permission to be observed. If there is an objection to observation, the Peer Observer shall be dismissed. The Program Administrator will reschedule the Mediator to be observed, providing a Peer Observer is available. The Peer Observer need not be the same one.
2. The mediation will proceed as normal, with the Peer Observer watching the entirety of the session, employing the skills learned in their Observation Training and the procedures and expectations set forth in this document.
3. The Peer Observer will not participate in the mediation they are observing.



After the Mediation Session

1. Following the session, the Mediators and the Peer Observer will discuss the skills and knowledge used during mediation. They may ask questions of one another so that they can better understand the other's perspective. While the Peer Observer may refer to the observation tool as a reference during the debrief, it is not intended as a report to the Mediator or anyone else and it will not be provided to the Mediator for review.
2. Within 24 hours after the debrief session, the Peer Observer will report to the Program Administrator on the Mediator's performance. This reporting should focus on mediator performance and not the particulars of the case.
3. Following review of the Mediator's performance, which will include both the feedback from the Peer Observer as well as the Participant Surveys, the Program Administrator will make a determination regarding the Mediator's performance. If the Mediator is meeting expectations, the Program Administrator will convey that determination to the Mediator and no further action will be taken.
4. If the Program Administrator determines that some additional action is needed, the Program Administrator will convey that determination to the mediator. That action may include a private meeting with the Program Administrator; attending certain continuing education trainings to be provided by the Program or requiring the Mediator to observe additional mediation sessions.
5. In cases of egregious or repeated serious misconduct, **the Program Administrator may recommend to the Court that the Mediator be removed from the roster.**
6. The final decision of continued inclusion on the roster of approved mediators rests with the Chief Judge.



Mediation Observation Form

Mediator observed _____

Observer _____ Date _____

The purpose of this form is to give you a place to take notes while you observe a mediator. Prompts are included to jog your thinking about mediator behaviors. Feel free to write outside the boxes, check off items, etc. Once the observation process is complete, you will hand this in to the office and they will destroy it. It will not be shared with the mediator.

Instructions to Observer

Use "Stages" to track what the mediator does at each step in the process. If something out of the ordinary happened, use page 4 to write about it. If you need more room for notes about the joint sessions or separate meetings, use pages 5-7.

STAGES

| | |
|-------------------------------------------------------------------------|---|
| Welcoming | ✓ |
| Mediator establishes a safe, welcoming environment for all participants | |

| | | |
|-------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Mediator Orientation | | ✓ |
| Mediator covers all necessary items and sets the tone for the mediation | | |
| Introductions: self, co-mediator, participants | Confidentiality and exceptions to it: <ul style="list-style-type: none"> • New allegations of abuse/neglect • Threats - serious imminent harm • Mandated reporters • Agreement will go to court | Reporting to court: <ul style="list-style-type: none"> • If agreement reached, terms will be reported to court • If no agreement, that fact will be reported to the court |
| Purpose of mediation | | |
| Mediators' role | | |
| Voluntariness | | |
| Neutrality | | |
| | | Disclose any relationships |
| | | Sign Agreement to Mediate |
| | | Questions? |



Keep the following in mind as you observe the mediation:

| |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Functions effectively as co-mediator |
| Maintains safe setting |
| Generally understands subject matter of dispute |
| Able to work through mediation stages |
| Uses appropriate language, e.g., doesn't talk down to parties and isn't too erudite |
| Operates within ethical parameters, e.g.: <ul style="list-style-type: none"> ○ Self-determination ○ Confidentiality ○ Neutrality ○ Voluntariness |
| Uses effective mediation techniques e.g.: <ul style="list-style-type: none"> ○ Listening ○ Reflecting emotions ○ Clarifying the agenda ○ Reality testing |

| | |
|-----------------------------------------------------------------------------|---|
| Joint Session – 1 | ✓ |
| Mediator assists participants in surfacing issues that need to be discussed | |

| | |
|---------------------------------------------------------------------------|---|
| Identifying issues/Setting agenda | ✓ |
| Mediator assists participants in setting agenda for the mediation session | |



| | |
|------------------------------------------------------------|---|
| Joint Session – 2 | ✓ |
| Mediator assists parties in working on items on the agenda | |

See last page for more space for joint session notes.

| | |
|----------------------------------------------------------------------------------------------------------------------|---|
| Caucus – 1 | ✓ |
| Mediator explains purpose of caucus clearly to parties, | |
| Mediator calls for caucus at appropriate times | |
| Mediator reiterates confidentiality policy | |
| Mediator checks in with the party or parties to see how they are feeling | |
| Mediator is able to surface new issues that did not arise during joint session and/or further explore ideas that did | |
| Mediator is able to build rapport while maintaining neutrality | |

See penultimate page for more space for separate meeting notes.

| | |
|-----------------------------------------------------------------------------------------------------------------|---|
| Reaching or not Reaching Agreement | ✓ |
| Mediator assists parties in deciding what they can agree on. | |
| Helps parties memorializes agreed points in a manner that is clear and represents the participants' intentions. | |



| | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|
| Concluding Mediation | ✓ |
| Mediator compliments participants, makes sure they know what happened in mediation (to extent possible), informs them of next steps and safely sends them on their way | |

OCCASIONAL BUMPS IN THE ROAD

Every mediation is different and presents unique challenges. Use the space below to note how the mediator you are observing responded to any unusually difficult situations. Examples might include, emotional outbursts, lack of party capacity, or threats of violence.



MORE JOINT SESSION NOTES

| | |
|--------------------------|---|
| Joint Session – # | ✓ |
| | |

| | |
|--------------------------|---|
| Joint Session – # | ✓ |
| | |



| | |
|-------------------|---|
| Joint Session – # | ✓ |
| | |

| | |
|-------------------|---|
| Joint Session – # | ✓ |
| | |

MORE CAUCUS NOTES

| | |
|------------|---|
| Caucus – # | ✓ |
| | |



| | |
|------------|---|
| Caucus – # | ✓ |
| | |

| | |
|------------|---|
| Caucus – # | ✓ |
| | |

| | |
|------------|---|
| Caucus – # | ✓ |
| | |



Mediator Self-Reflection Tool

This tool is meant to help you continue to develop as a mediator by reflecting on your mediations. It is for your private use and will not be collected by the program. To protect confidentiality, do not include any identifying information about the parties and when filled out, do not share this tool with others.

Start by giving yourself a quick review of how well you did the items listed below using this scale:

4 = did it very well 3 = did it okay 2 = did it poorly 1 = didn't do it NA = Not Applicable

| | |
|------------------------------------------------|--------------------|
| Guiding the mediation process | Self-review: _____ |
| Using separate and joint sessions effectively | Self-review: _____ |
| Reflecting and working with emotions | Self-review: _____ |
| Identifying needs and interests | Self-review: _____ |
| Encouraging communication | Self-review: _____ |
| Generating new ideas, options | Self-review: _____ |
| Encouraging progress, overcoming obstacles | Self-review: _____ |
| Communicating respect and empathy | Self-review: _____ |
| Remaining neutral and coming across as neutral | Self-review: _____ |
| Supporting party self-determination | Self-review: _____ |

Next, reflect on the following prompts.

Things you did particularly well in this mediation

Things you would do differently next time

What did the parties need from you? (Answer only about what is legitimate in the mediation context.)
How did you try to address those needs? Did it work? Why or why not?

If this was a peer reviewed mediation, what was/was not helpful about your debrief with the observer?

KINGS COUNTY PRESUMPTIVE MEDIATION PILOT

Introduction: Part 5F Hon. Rachel Adams, Part 5G Hon. Jeffrey Sunshine, and Part 5T Hon. Delores Thomas will be designated as presumptive matrimonial mediation parts. All new cases appearing for a P.C. after January 14, 2019 that are randomly assigned to parts 5F or 5G will be presumed eligible for mediation. All new cases appearing for a P.C. after May 18, 2019 that are randomly assigned to part 5T will be presumed eligible for mediation. Initial return dates for those cases in Part 5F will be Tuesday and in 5G and 5T will be Thursday.

Mediation: The parties meet face-to-face in the same room with a mediator and talk about the concerns that brought them to court to resolve contested issues. The mediator is a trained neutral who conducts the mediation session. The mediator may be associated with a not-for-profit mediation service provider or an independent mediator whose credentials and qualifications have been reviewed and approved to work together with the Court in this program. A mediator is not a judge and will not decide issues if parties cannot agree. The mediation may take place in the courthouse, the mediator's office, or in the offices of a mediation center. If the mediation takes place in the court it will usually be in an assigned mediation conference room. Some mediations may take place with co-mediators or experienced mediators who are professor(s) accompanied by law students.

Mediation is voluntary, which means that parties can stop the process at any time; parties also do not have to agree to anything. Mediation is confidential with one of the exceptions being an allegation of child abuse or neglect. Anything said during mediation is not shared with the Judge.

Presumptive mediation means that all cases assigned to Parts 5F and 5G will be deemed eligible for mediation and may, at the Judges' discretion, be assigned to one mandated mediation session. Initial mediation sessions are at no cost to the parties for the mediator's services. A party or counsel may opt out of presumptive mediation by filing and signing a form on the date of the preliminary conference (PC), or an adjourned date of the PC, stating that they wish to not participate in mediation. If they wish to engage in mediation, a preliminary conference will be conducted taking into account expanded time frames to accommodate the mediation. If a mediator is available on site, then the mediation can occur before or after the preliminary conference.

Where are We Going and How Do We Get There? -- The Future of ADR.

**New York State Bar Association ADR Section
Annual Fall Meeting
Friday, October 25, 2019
New York Law School**

Also called "What New York can learn from Maryland, and vice versa!"



**Jonathan S. Rosenthal, Esq.
Director, Mediation and Conflict Resolution Office (MACRO)
Maryland Judiciary**

The Maryland Judiciary Mediation and Conflict Resolution Office (MACRO)

**We are part of the Administrative Office of the
Courts (AOC)**

Mission: to promote the availability, use, and
quality of alternative dispute resolution (ADR)
throughout Maryland.

The Maryland Judiciary Mediation and Conflict Resolution Office (MACRO)

We do this by:

- ❖ **Collaborating** with courts, ADR practitioner organizations, and other stakeholders to advance the field
- ❖ **Providing grants and technical assistance** to support court, community, school, and other ADR programs and projects
- ❖ Working to **improve the quality of mediation** services via the Maryland Program for Mediator Excellence (MPME)

The Maryland Judiciary Mediation and Conflict Resolution Office (MACRO)

And by:

- ❖ Supporting, conducting, and encouraging **research and evaluation** of ADR programs and processes
- ❖ **Raising public awareness** of ADR and supporting the appropriate use of ADR by people and groups experiencing conflict
- ❖ Providing **training and presentations** to courts, bar associations, and others on skill enhancement, professional growth, ethics, and public awareness

Availability

- ☆ Champion at the top
- ☆ Court rules
- ☆ Buy-in of judges
 - ☆ Training for judges and magistrates to help them understand what is happening behind closed doors, understand benefits, understand which cases might be best suited
 - ☆ Some judges take the training within 6 months to a year of retiring.
- ☆ Court staff who understand the process and can answer questions
 - ☆ We now provided mediation training for high level court staff and those administering mediation programs so they can better understand what's going on in the process

Maryland Court Rules

RULE 17-201. AUTHORITY TO ORDER ADR

(a) Generally. A circuit court may order a party and the party's attorney to participate in ADR but only in accordance with the Rules in this Chapter and in Chapter 100 of this Title.

(b) Referral Prohibited. The court may not enter an order of referral to ADR in a protective order action under Code, Family Law Article, Title 4, Subtitle 5, Domestic Violence.

(c) Mediation of Child Custody or Visitation Disputes.

Rule 9-205 governs the authority of a circuit court to order mediation of a dispute as to child custody or visitation, and the Rules in Title 17 do not apply to proceedings under that Rule except as otherwise provided in that Rule.

Maryland Court Rules

RULE 9-205. MEDIATION OF CHILD CUSTODY AND VISITATION DISPUTES

(b) Duty of Court.

- (1) Promptly after an action subject to this Rule is at issue, the court shall determine whether:
 - (A) mediation of the dispute as to custody or visitation is appropriate and likely would be beneficial to the parties or the child; and
 - (B) a mediator possessing the qualifications set forth in section (c) of this Rule is available to mediate the dispute.
- (2) If a party or a child represents to the court in good faith that there is a genuine issue of abuse, as defined in Code, Family Law Article, § 4-501, of the party or child, and that, as a result, mediation would be inappropriate, the court may not order mediation.
- (3) If the court concludes that mediation is appropriate and likely to be beneficial to the parties or the child and that a qualified mediator is available, it shall enter an order requiring the parties to mediate the custody or visitation dispute. The order may stay some or all further proceedings in the action pending the mediation on terms and conditions set forth in the order.

Availability

- ★ Champion at the top

- ★ Court rules


- ★ Buy-in of judges

- ★ Training for judges and magistrates to help them understand what is happening behind closed doors, understand benefits, understand which cases might be best suited

- ★ Court staff who understand the process and can answer questions

- ★ We now provided mediation training for high level court staff and those administering mediation programs so they can better understand what's going on in the process

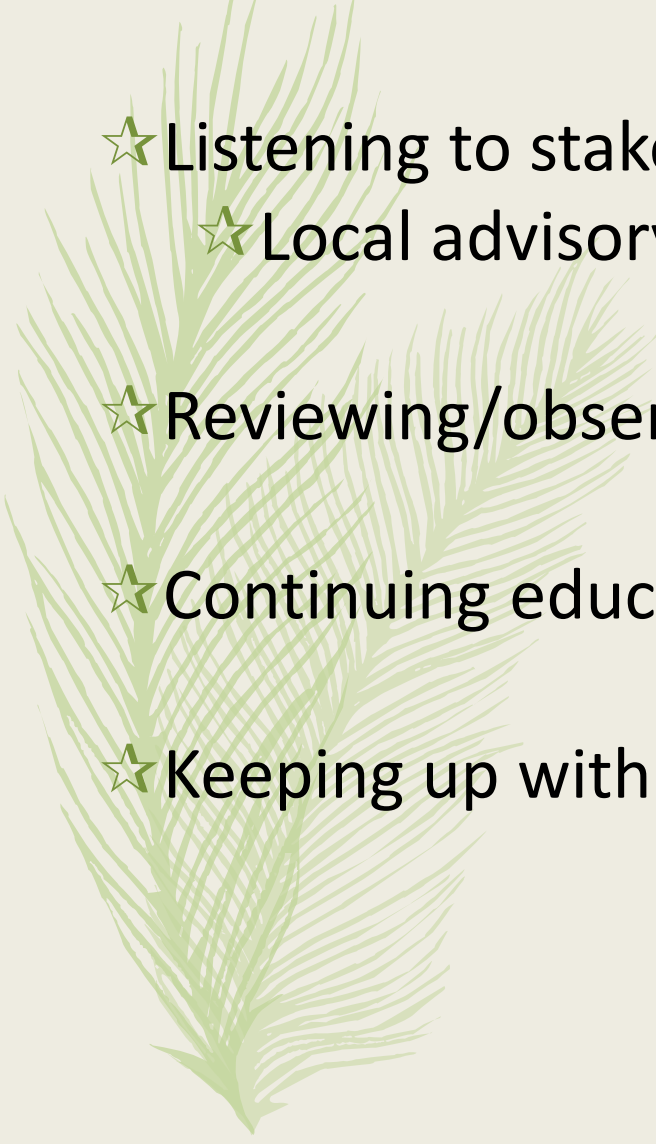
Use

- ☆ Setting mediator qualifications
 - ☆ Identifying mediators and justice partners
 - ☆ In-house
 - ☆ Roster
 - ☆ Roster size
 - ☆ Case Management – moving cases to ADR/mediation
- 

Use

- ★ Consumer/attorney choice
 - ★ Process
 - ★ Timing
 - ★ Mediator
- ★ Scheduling the mediation session(s)
- ★ Setting fees and other costs
- ★ Paperwork and data collection
 - ★ Mediator responsibilities
 - ★ Developing processes that work
 - ★ Upholding confidentiality

High Quality

- ★ Listening to stakeholder concerns
 - ★ Local advisory councils
 - ★ Reviewing/observing practitioners
 - ★ Continuing education requirements
 - ★ Keeping up with research
- 

High Quality

- ★ Completing paperwork & data collection

- ★ Survey forms

 - ★ Practitioners

 - ★ Litigants

 - ★ Attorneys

- ★ Using the data to improve programs



What questions do you have for me?



Statewide Evaluation of Court ADR

The Maryland Judiciary commissioned independent researchers to conduct the following studies as part of its long-term commitment to build alternative dispute resolution (ADR) programs in Maryland and to provide the highest quality ADR services to Marylanders. The research was led by the Administrative Office of the Courts and funded in part by a grant from the State Justice Institute.

Alternative Dispute Resolution Landscape: An Overview of ADR in the Maryland Court System. This report provides a comprehensive snap-shot of the court-affiliated ADR programs throughout Maryland, based on interviews of Court ADR Program Managers and courthouse staff conducted from July 2010 through January 2013.

- [ADR Landscape](#)

Criminal Court - Impact of Mediation on Criminal Misdemeanor Cases. This study examined the effect in terms of cost to the court system for cases which are referred to mediation compared to cases which are not referred to mediation. It also explores the effect on the participants regarding how the situation has worked out for them.

- [Criminal Court Two-Page Summary](#)
- [Criminal Court Full Report](#)

District Court Comparison - Impact of ADR on Responsibility, Empowerment, and Resolution. This study compared the attitudes and changes in attitudes of District Court litigants who went through ADR to an equivalent comparison group who went through the standard court process

- [District Court Comparison Two-Page Summary](#)
- [District Court Comparison Full Report](#)

District Court Strategies - What Works in District Court Day of Trial Mediation. This study examined the effect of mediator strategies (i.e. techniques) and program factors on case outcomes in day of trial mediations in the Maryland District Court.

- [District Court Strategies Two-Page Summary](#)
- [District Court Strategies Full Report](#)

Family - Effectiveness of Mediator Strategies in Custody Mediation. This study examined the effect of mediator strategies (i.e. techniques) in child custody cases in three Maryland circuit courts.

- [Family Two-Page Summary](#)
- [Family Full Report](#)

Collaborative Law: The Current and Prospective Use of Collaborative Law in Maryland. This report presents the emerging area of collaborative law through an examination of previous research in this area, and through interviews and surveys of court personnel and attorneys practicing collaborative law in Maryland.

- [The Current and Prospective Use of Collaborative Law in Maryland \(September 2013\)](#)

MARYLAND JUDICIARY

MEDIATION AND CONFLICT RESOLUTION OFFICE (MACRO)

Jonathan S. Rosenthal, Esq., Director

jonathan.rosenthal@mdcourts.gov

<http://mdcourts.gov/courtoperations/adrprojects.html>

Maryland Judiciary Statewide Evaluation of Alternative Dispute Resolution Effectiveness of Mediator Strategies in Custody Mediation

Maryland court rules require judges to refer all contested child custody cases to attend mediation, except in situations of abuse. Statistical analysis of actual mediations revealed four groups of mediator strategies for study. **Mediators often use more than one set of strategies: the groupings described are strategies commonly used together. These are not labels for types of mediators.**

Reflecting Strategies:

- Reflecting emotions & interests
- Clarifying topics to work on
- Reflecting what participants say (LT)
- Open-ended questions (LT)

Reflect



The greater percentage of reflecting strategies used, the more likely it is that participants will:

- Say the other person listened & understood
- Become more able to work together
- Develop more personalized agreements

The less likely it is they will:

- Dismiss the other's perspective
- Reach an agreement

Long Term Results (LT)

Six months after mediation, the greater percentage of reflective strategies used, the more likely it is that participants will:

- Become more able to work together
- Prioritize their children's needs and consider the other parent's perspective

Directing Strategies:

- Introducing & enforcing guidelines
- Explaining one participant to another
- Advocating for one participant's ideas

Direct



The greater percentage of directing strategies used, the less likely it is that participants will:

- Report the mediator listened to them and respected them

Long Term Results (LT)

Twelve months after the mediation, the greater percentage of directive strategies used, the more likely it is that participants will:

- Return to court and file an adversarial motion and the more adversarial motions they are likely to file

Eliciting Strategies:

- Asking participants to think of solutions
- Summarizing solutions
- Asking how solutions might work for them

Elicit



The greater percentage of eliciting strategies used, the more likely it is that participants will:

- Reach an agreement
- Say the other person listened & understood
- Become clearer about their desires
- Say the underlying issues came out
- Become more able to work together

Telling Strategies:

- Sharing opinions
- Offering solutions
- Assessing legal options
- Introducing topics

Tell



This strategy was not statistically significant in any positive or negative outcomes.

When Reflecting and Eliciting are combined:



Participants are more likely to: report a positive shift in their ability to work together, say that the other person listened and understands them better, indicate that the underlying issues came out, and **reach a personalized agreement.**

Data Collection

Data for this study were collected in the Family Court mediation programs in Anne Arundel County, Baltimore County, and Charles County. The mix of programs and mediation approaches allows for enough diversity to **measure the impacts of the different components** of the process.

Trained researchers observed 135 cases including 270 participants, and tracked the mediator strategies and participant behaviors using a common guide of 35 possible behaviors.

Many survey questions were asked of participants both before and after the mediation, to measure their change in attitude. Researchers also reviewed each court case file to examine the final parenting agreement, consent order or court decree relating to custody.

The Maryland Judiciary has a long-term commitment to building ADR programs in Maryland. The Administrative Office of the Courts commissioned this study to be conducted by independent researchers in its ongoing effort to provide the highest quality service to Marylanders.

Additional Findings

In addition, this research found that participants who reported that they found the location of the mediation to be convenient were more likely to reach an agreement. This finding underlines the importance of holding mediation sessions in convenient locations.

This research, commissioned by the **Maryland Judiciary**, is part of its Statewide Evaluation of Court ADR. The project was led by the Administrative Office of the Courts, and funded in part by a grant from the State Justice Institute. Salisbury University and the University of Maryland worked on the statewide study under memoranda of understanding with AOC. The research for this portion of the study was conducted by the Community Mediation Maryland, and the Bosserman Center for Conflict Resolution at Salisbury University. Lorig Charkoudian, PhD, served as lead researcher. Additional information about the research methods, data collection tools, and statistical analyses, and the full study can be found in the full report at: <http://www.mdcourts.gov/courtoperations/adrprojects.html>

Impact of Caucusing

The impact of caucusing is interesting in that it leads to positive reports about the mediator but negative outcomes for participants' ability to work together. The greater the percentage of time spent in caucus, the more likely the participants were to report the mediator respected them and did not take sides.

Greater percentage of time in caucus also resulted in the following changes in participants attitudes from *before to after the mediation*.

Participants were

- More hopeless about the situation
- Less likely to believe they could work with the other participant
- Less likely to believe there are a range of options for resolution

What it Means

In family mediation, mediators can engage with parents in ways that support parents making their own decisions, by seeking to understand parents' values and by asking them about their ideas for possible outcomes. Alternatively, mediators can engage ways that assume parents need the mediators' ideas and suggestions.

Our research found that when mediators seek to understand parents and elicit their ideas, parents believe they can work together and make decisions for their family. The mediator strategies of eliciting parents' ideas are also the only strategies that were more likely to reach an agreement and consent order.

Maryland Judiciary Statewide Evaluation of Alternative Dispute Resolution

Impact of ADR on responsibility, empowerment, and resolution

This research is the only research in the country that compares the attitudes and changes in attitudes of participants who went through ADR to an equivalent comparison group who went through the standard court process. In this study, we measured: 1) attitude toward the other participant; 2) a sense of empowerment and having a voice in the process; 3) a sense of responsibility for the situation; 4) a belief that the conflict has been resolved; 5) satisfaction with the judicial system; and, 6) the likelihood of returning to court for an enforcement action in the subsequent 12 months. *This handout summarizes key points; the full report provides technical details and statistical equations.*

Short Term Outcomes

The study found several areas where ADR had a statistically significant impact on participants' experiences and attitudes, compared to participants who went through the standard court process.



Those who went to ADR, regardless of whether they reached an agreement in ADR, are more likely to report that:

- 1) They **could express themselves, their thoughts, and their concerns.**
- 2) All of the **underlying issues came out.**
- 3) The **issues were resolved.**
- 4) The issues were **completely resolved** rather than partially resolved.
- 5) They **acknowledged responsibility for the situation**

Short Term Shifts in Attitude

The study measured shifts in attitude from before to after and compared the shifts in treatment and control groups.



We found that participants who went through ADR are more likely than those who went through the standard court process:

- 1) To have an **increase in their rating of their level of responsibility** for the situation from before to after the intervention.
- 2) To **disagree more with the statement "the other people need to learn they are wrong"** from before to after the process.

Satisfaction with the Courts

The study measured how attitudes differed in satisfaction with the courts when an agreement was reached in ADR as opposed to in court.



Participants who developed a negotiated agreement in ADR were **more likely to be satisfied with the judicial system than others**, while participants who reached negotiated agreements on their own (without ADR) were not more likely to be satisfied with the judicial system than those without negotiated agreements

This seems to imply that the process of reaching an agreement in ADR is the factor that led to higher satisfaction, rather than just the process of having negotiated a settlement.

Long Term Shifts in Attitude

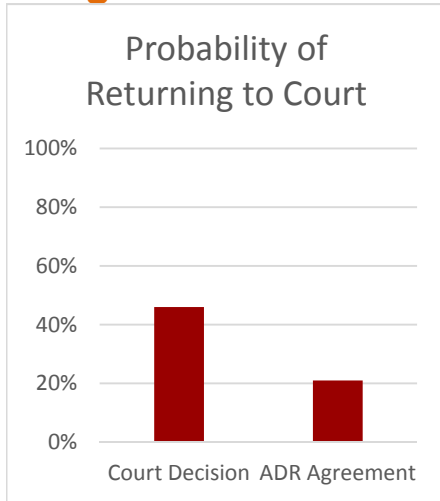
The present analysis finds the following in terms of the long-term impact of ADR on the self-reported outcomes we measure.



Participants who went through ADR are more likely than those who went through the court process to report:

- 1) An improved relationship and attitude toward the other participant measured from before the intervention (the ADR session or trial) to 3-6 months later.
- 2) The outcome was working.
- 3) Satisfaction with the outcome.
- 4) Satisfaction with the judicial system 3-6 months after the intervention.

Long-Term Costs to Court



The long-term analysis also indicates that cases that reached an agreement in ADR are less likely to return to court for an enforcement action in the 12 months following the intervention compared to cases that did not get an agreement in ADR (including those that reached an agreement on their own, ADR cases that did not get an agreement, and cases that got a verdict).

Reaching an agreement in ADR decreases the predicted probability of returning to court for an enforcement action. Cases that reached agreement in mediation are half as likely (21%) to return to court for enforcement actions compared to cases that reached a verdict (46%).

The Maryland Judiciary commissioned this study to be conducted by independent researchers in its ongoing effort to provide the highest quality service to Marylanders, which includes ADR.

Demographics

This research also explored whether ADR had a different effect for different demographic groups. With a few exceptions which are detailed in the full report, ADR did not have a different impact on different demographic groups.

Data Collection

In any study that seeks to identify the impact of an intervention on a particular outcome, one needs to be certain that the two groups being compared are equivalent in all ways other than the intervention itself. We surveyed participants in cases agreeing to participate in ADR, and then suspended the ADR program and surveyed participants in similar cases who were never offered ADR. The researchers reviewed case characteristics, demographics, and pre-test attitudinal variables to identify differences between the groups. The groups were determined to be generally comparable. Characteristics that were identified to be different between the two groups were included in the regression analysis to account for any possible difference. (For details on this or any aspect of the research methodology, please see the larger research report.)



Our Process

To measure the impact of ADR on potential shifts in participants' attitudes and perspectives, we took into account that there are a range of factors that could affect these shifts and perspectives. Participants' roles in court (plaintiff or defendant), whether they are represented by an attorney, their general outlook before they got to court, the history of the relationship between the litigants, the history of the conflict, and the type of case can all have an effect on attitudes and perspectives. Our research methodology, called *regression analysis*, allows us to isolate the impact of ADR as opposed to other variables that may affect the outcome. By doing this, we can reach conclusions about the impact of ADR itself, confident that we are not inadvertently measuring one of these other factors.

One other unique aspect of this study is that we separate the impact of reaching an agreement from the impact of the ADR process. We look at people who got an agreement through ADR, and those who settled on their own. By doing this, **we are able to isolate the impact of the process of ADR**, separate from its effect on reaching an agreement.

This research, commissioned by the **Maryland Judiciary**, is part of its Statewide Evaluation of ADR. The project was led by the Administrative Office of the Courts, and funded in part by a grant from the State Justice Institute. Salisbury University and the University of Maryland worked on the statewide study under memoranda of understanding with AOC. The research for this portion of the study was conducted by Community Mediation Maryland and the Bosserman Center for Conflict Resolution at Salisbury University. Lorig Charkoudian, PhD, served as lead researcher. Additional information about the research methods, data collection tools, and statistical analyses, and the full study can be found in the full report at:

<http://www.mdcourts.gov/courtoperations/adrprojects.html>



Maryland Judiciary Statewide Evaluation of Alternative Dispute Resolution

What Works in District Court Day of Trial Mediation: Effectiveness of Various Mediation Strategies on Short-Term and Long-Term Outcomes

Maryland court rules permit judges to order or refer civil cases in the District Court to mediation or a settlement conference. This study identifies the mediator strategies and program factors affecting case outcomes. Statistical analysis of actual mediations revealed four groups of mediator strategies for study. **Mediators often use more than one set of strategies: the groupings described are strategies commonly used together. These are not labels for types of mediators.**

Reflect

Reflecting Strategies:

- Reflecting emotions & interests



SHORT TERM: Reflecting strategies are positively associated with participants reporting:

- that the other person took responsibility and apologized
- an increase in self-efficacy (belief in one's ability to talk and make a difference)
- an increase from before ADR to after ADR in their sense that the court cares

LONG TERM: This strategy was not statistically significant in any positive or negative outcomes.

Elicit

Eliciting Strategies:

- Asking participants to suggest solutions
- Summarizing solutions that have been offered
- Asking participants how those solutions might work for them



SHORT TERM: Eliciting participant solutions was positively associated with participants reporting that:

- they listened & understood each other & jointly controlled the outcome
- the other person took responsibility and apologized

Eliciting was positively associated with reaching an agreement in ADR.

Eliciting participant solutions was negatively associated with participants reporting ADR practitioner:

- controlled the outcome
- pressured them into solutions and prevented issues from coming out

LONG TERM: Participants were more likely to report a change in their approach to conflict and were less likely to return to court for an enforcement action.

Offering / Tell

Offering Strategies:

- Offering opinions
- Advocating for their own solutions
- Offering legal analysis
(long term only)



SHORT TERM: This strategy was not statistically significant in any positive or negative outcomes.

LONG TERM: The more offering strategies are used, the less participants report:

- The outcome was working
- They were satisfied with the outcome
- They would recommend ADR
- They changed their approach to conflict

Caucus

Caucusing is the practice of meeting with the participants on each side of the case separately and privately.

SHORT TERM:

The greater the percentage of time participants spend in caucus, the *more likely* participants report:

- the ADR practitioner: controlled the outcome, pressured them into solutions, and prevented issues from coming out.
- an increase in a sense of powerlessness, an increase in the belief that conflict is negative, and an increase in the desire to better understand the other participant.

The greater the percentage of time in caucus, the *less likely* the participants report:

- they were satisfied with the process and outcome, and the issues were resolved with a fair and implementable outcome.

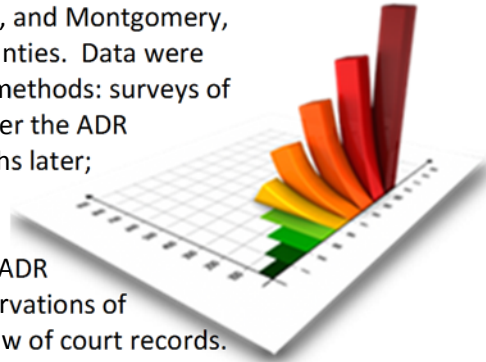
LONG TERM: The greater the percentage of time participants spend in caucus, the *less likely* participants report:

- consideration of the other person,
- self-efficacy (belief in one's ability to talk and make a difference), and
- a sense that the court cares about resolving conflict from before the ADR session to several months later.

Long-term analysis finds that greater the percentage of time participants spend in caucus, the more likely the case will return to court in the 12 months after mediation for an enforcement action.

Data Collection

Data for this study were collected in the District Court Day of Trial programs in Baltimore City, and Montgomery, Calvert, and Wicomico Counties. Data were collected through several methods: surveys of participants before and after the ADR session as well as six months later; surveys of the ADR practitioners; behavior coding of participants and ADR practitioners through observations of the ADR process; and review of court records.



Researchers were present on days when ADR practitioners were scheduled to appear for a court docket. Once the ADR practitioner received a case referral and solicited the parties' agreement to participate in ADR, researchers requested the parties consent to participate in the research study. In all four counties, pre-intervention questionnaires were given before the ADR process. Next, researchers observed the ADR process and coded the behaviors of the ADR practitioners and the participants. At the conclusion of the process, participants were escorted back to the courtroom to either record their settlement or proceed with their trial. At the conclusion of the court process, post-intervention questionnaires were given.

Three months following the ADR process, researchers called participants to conduct a follow-up interview. Finally, 12 months after the court date, researchers reviewed the electronic court records of each observed case to determine if the parties had required further intervention by the court. When the electronic record was not clear, researchers reviewed the original case file at the Clerk's office.

Analysis

This two page flier simplifies a rigorous study which used a variety of statistical tools to determine the results. A detailed discussion of the data collection instruments and analysis tools can be found in the full report; see below for more information.

Returning to Court

More likely to return to court:

Caucus: Cases in which a greater percentage of time was spent in caucus are more likely to return to court.

Less likely to return to court:

Eliciting: Cases in which ADR Practitioners used more eliciting strategies are less likely to return to court.

Mediation experience: Cases in which the ADR practitioner had greater ADR experience in the previous 12 months are less likely to return to court.

Racial Match

Having at least one ADR practitioner at the table match the race of the responding participant was **positively** associated with participants reporting that they listened and understood each other in the ADR session and jointly controlled the outcome, and an increase in a sense of self-efficacy (belief in one's ability to talk and make a difference) and an increase in the sense that the court cares from before to after the ADR session.

The Maryland Judiciary has a long-term commitment to building ADR programs in Maryland. The Administrative Office of the Courts commissioned this study to be conducted by independent researchers in its ongoing effort to provide the highest quality service to Marylanders.

This research, commissioned by the **Maryland Judiciary**, is part of its Statewide Evaluation of ADR. The project was led by the Administrative Office of the Courts, and funded in part by a grant from the State Justice Institute. Salisbury University and the University of Maryland worked on the statewide study under memoranda of understanding with AOC. The research for this portion of the study was conducted by Community Mediation Maryland and the Bosserman Center for Conflict Resolution at Salisbury University. Lorig Charkoudian, PhD, served as lead researcher. Additional information about the research methods, data collection tools, and statistical analyses, and the full study can be found in the full report at:

<http://www.mdcourts.gov/courtoperations/adrprojects.html>



Maryland Judiciary Statewide Evaluation of Alternative Dispute Resolution

Impact of Mediation on Criminal Misdemeanor Cases

This is the first study of its kind that compares mediated and non-mediated criminal misdemeanor cases with such great attention to creating a comparison group. This report explores the impacts in terms of cost to the court system for cases which are referred to mediation compared to cases which are not referred to mediation. It also explores the impact on the participants regarding how the situation has worked out for them. *This handout summarizes a multidimensional study that includes sophisticated data collection instruments and analysis tools. Information on accessing the full report can be found on the back of this flier.*

Short Term Outcomes

The study found that mediation had a statistically significant impact in reducing the likelihood of:

- judicial action
- jury trial prayer
- supervised probation or jail-time

Mediated cases were five times less likely to result in judicial action, five times less likely to result in jury trial prayed, and ten times less likely to result in supervised probation or jail-time.



Long Term Outcomes

Mediated cases were almost five times less likely to return to criminal court in the subsequent 12 months than those that were not mediated.

Mediation did not have a statistically significant impact on:

- individuals finding themselves in civil court in the subsequent 12 months



Participant Follow-Up

Participating in the mediation has a positive and significant impact on participants reporting several months after the intervention that:

- the outcome is working
- the issues have been resolved
- they are satisfied with this process



This reinforces the findings on case outcomes, and generally points to long term resolution.

Overall, participant reports and case level analysis reinforce each other and indicate that **mediation resolves issues** with outcomes that work in the long term and keep cases from returning to court with subsequent criminal charges. **Mediation results in the use of fewer court and law enforcement resources in the short and long term.**

DATA COLLECTION

The data for this study were collected from two Maryland counties: Washington and Frederick. Washington County and Frederick County are adjacent, and share similar geographic and demographic characteristics. These similarities led researchers to be confident that the two groups being compared were equivalent enough in ways other than the intervention itself. This allowed researchers to properly assess the impact of mediation. The Washington County State Attorney's Office (SAO) refers some criminal cases to mediation prior to a trial date and these cases served in the mediation (treatment) group. The Frederick County SAO does not offer mediation for criminal cases, and therefore those cases were used in the non-mediation (comparison) group.

The mediation group cases were identified from cases referred to mediation by the Washington County SAO. Researchers were then present for all mediation sessions they could attend, and cases were included in the data when mediation participants consented to inclusion in the study.

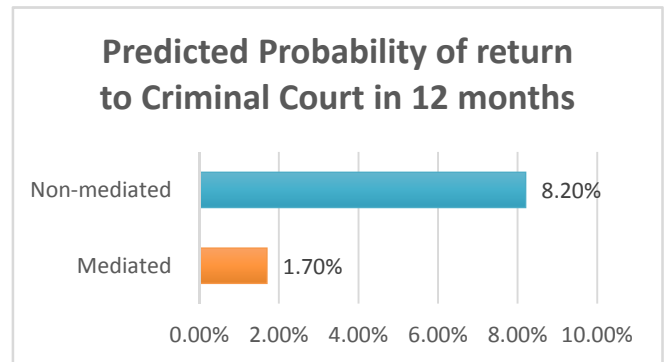
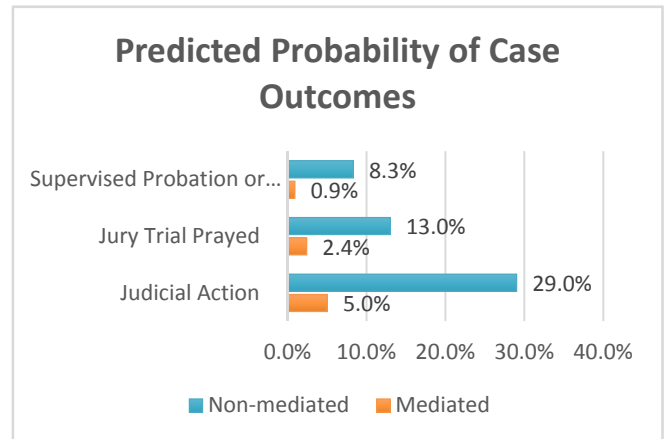
Non-mediation group cases from Frederick County were selected by researchers based on mediation referral criteria gathered from interviews with the Washington County SAO. This resulted in a group of cases that would have likely been referred to mediation had the option been available.

The Maryland Judiciary commissioned this study to be conducted by independent researchers in its ongoing effort to provide the highest quality service to Marylanders, which includes ADR.

PROCESS & ANALYSIS

The research methodology included the use of propensity score matching to consider possible selection bias and ensure cases being compared were essentially equivalent according to the variables measured. Additionally, the methodology used logistic regression analysis to isolate the effect of mediation and consider other factors that may influence the outcome.

As illustrated in the graphs below, the study found that mediated cases had far lower predicted probabilities for both continuing with court procedures or actions and returning to criminal court within a year than cases that were not mediated. These predicted probabilities were calculated after taking into consideration the many other factors that may affect these outcomes.



This research, commissioned by the **Maryland Judiciary**, is part of its Statewide Evaluation of ADR. The project was led by the Administrative Office of the Courts, and funded in part by a grant from the State Justice Institute. Salisbury University and the University of Maryland worked on the statewide study under memoranda of understanding with AOC. The research for this portion of the study was conducted by Community Mediation Maryland and the Bosserman Center for Conflict Resolution at Salisbury University. Lorig Charkoudian, PhD, served as lead researcher. Additional information about the research methods, data collection tools, and statistical analyses, and the full study can be found in the full report at: www.mdcourts.gov/courtoperations/adrprojects.html



MEDIATION PARTICIPANT SURVEY - CIVIL



Mark as shown: Please use a ball-point pen or a thin felt tip. This form will be processed automatically.
 Correction: Black out the wrong answer and put an X in the correct box.

To improve our program, these results may be shared with the mediator in the future; however, your name will remain **confidential**. Thank you for your feedback.

1. Please evaluate the mediator and process. Mark *one* response for each statement.

| | Strongly Disagree | Disagree | Neither | Agree | Strongly Agree | N/A |
|------------------------------------------------------------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 1.1 The mediation process was clearly explained. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.2 I had enough time to say what I wanted to say. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.3 The mediator(s) understood what I said I needed. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.4 The mediator(s) helped me think about different ways to resolve our issues. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.5 I felt heard by the other participant(s). | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.6 I understand the other participants' views better now than I did before the session. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.7 We discussed all issues that brought us to mediation. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.8 The mediator(s) did not favor any party. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.9 I felt pressured by the mediator(s) to reach an agreement. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.10 The mediator(s) were good listener(s). | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.11 The mediator(s) helped clarify issues. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.12 The mediator(s) were respectful to me. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.13 The mediator(s) told me what I should agree to. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.14 If the mediator(s) met with me/my side separately (caucus), it was helpful. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.15 If an agreement was reached, it met my needs. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.16 If an agreement was written, I understood it. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.17 The mediator(s) helped me consider whether the agreement was realistic for me. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.18 I will be able to communicate better with the other party because of mediation. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.19 I would suggest mediation to others. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.20 I am glad mediation services are available. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.21 Overall, I was satisfied with this mediation session. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Please complete side two of this form.

2. General Questions

2.1 Case #: Case Name (ex. Jane Doe v. John Doe):

2.2 Mediation date: Mediator name or ID #:

2.3 I am the: Plaintiff Defendant

2.4 The mediator(s) told me what outcome(s) might occur if my case went to trial. Yes No Not sure

2.5 We: (Mark *all* that apply.)

Did *not* agree on any issues Agreed on *some* issues Agreed on *all* issues
 Agreed to continue for another session

2.6 Do you think this case went to mediation: Too early Right time Too late
 Don't know

2.7 The mediator(s): Ended the session too soon Allowed the right amount of time Made the session too long

2.8 I would use this process again: Yes No Not Sure

2.9 I came to this session because: (Mark *all* that apply.)

My choice Judge recommended Judge ordered
 My attorney recommended Other

3. Please provide the following information VOLUNTARILY. It is for statistical purposes only.

3.1 Gender: Female Male

3.2 Age: 19 and under 20-29 30-39
 40-49 50-59 60+

3.3 Mark *all* that apply:

Hispanic/Latino American Indian/Alaskan Native Asian
 Black/African American Native Hawaiian/Pacific Islander White

3.4 Education (highest level achieved): 1-8th grade High school/ GED 2-year college degree/ professional certificate

3.5 Household income: 4-year degree Graduate degree
 Up to \$14,999 \$15,000-\$24,999 \$25,000-\$34,999
 \$35,000-\$49,999 \$50,000-\$74,999 \$75,000-\$99,999
 \$100,000-\$149,999 \$150,000-\$199,999 \$200,000+

3.6 Military status: Active military Military veteran N/A

3.7 Zip code:

MEDIATOR REPORT – CIVIL



Mark as shown: Please use a ball-point pen or a thin felt tip. This form will be processed automatically.

Correction: Black out the wrong answer and put an X in the correct box.

1. Case Information – Please fill out this section even if mediation did not occur.

1.1 Date of mediation:

Case #:

1.2 Mediator name or ID#:

1.3 Did mediation take place?

 Yes No

If mediation **did not** occur, please skip to section marked **did not occur** on the next page. If mediation **did occur**, please continue below.

2. About the mediation:

2.1 Outcome (mark **all** that apply): Full agreement Partial agreement Temporary agreement No agreement2.2 Mark **all** scheduling/mediation issues that you encountered in this case: Party failed to contact mediator for scheduling as required by the Order Party with settlement authority failed to appear Mediation was not scheduled by ADR deadline Mediator had to schedule date without input of parties

2.3 Was an insurance adjuster involved?

 No Adjuster involved but did not attend Adjuster attended in person Adjuster attended via telephone

2.4 How many people on the plaintiff's side were in the room?

 1 2 3 4 5 6 or more2.5 Mark **all** that apply for the plaintiff. Plaintiff in the room Plaintiff's attorney in the room Plaintiff has an attorney who did not attend Plaintiff did not have an attorney

2.6 How many people on the defendant's side were in the room?

 1 2 3 4 5 6 or more2.7 Mark **all** that apply for the defendant. Defendant in the room Defendant's attorney in the room Defendant has an attorney who did not attend Defendant did not have an attorney2.8 For this case, I practiced (mark **all** that apply): Solo mediation Co-mediation Facilitative Transformative Analytical Inclusive Settlement conferencing Other

2.9 Number of sessions:

 1 2 3 4 5 6 or more

2. About the mediation: [Continue]

2.10 Hours spent on this case (excluding travel, preparation, and follow-up time):

- | | | |
|-----------------------------|-----------------------------|-------------------------------------|
| <input type="checkbox"/> 1 | <input type="checkbox"/> 2 | <input type="checkbox"/> 3 |
| <input type="checkbox"/> 4 | <input type="checkbox"/> 5 | <input type="checkbox"/> 6 |
| <input type="checkbox"/> 7 | <input type="checkbox"/> 8 | <input type="checkbox"/> 9 |
| <input type="checkbox"/> 10 | <input type="checkbox"/> 11 | <input type="checkbox"/> 12 or more |

2.11 Payment (mark **all** that apply):

- | | | |
|----------------------------------------------------------------------------------|-----------------------------------------|----------------------------------------------------------------------------------|
| <input type="checkbox"/> Plaintiff paid | <input type="checkbox"/> Defendant paid | <input type="checkbox"/> Plaintiff has not paid (please contact ADR Coordinator) |
| <input type="checkbox"/> Defendant has not paid (please contact ADR Coordinator) | | |

2.12 Settlement amount:

- | | | |
|---------------------------------------------|----------------------------------------------|------------------------------------------------|
| <input type="checkbox"/> N/A | <input type="checkbox"/> Under \$7,500 | <input type="checkbox"/> \$7,5001-\$50,000 |
| <input type="checkbox"/> \$50,001-\$100,000 | <input type="checkbox"/> \$100,001-\$500,000 | <input type="checkbox"/> \$500,001-\$1 million |
| <input type="checkbox"/> Over \$1 million | | |

2.13 Comments (**without** breaking confidentiality):

2.14 Mediator's signature:

3. If the mediation **did not** occur:

3.1 Why did the mediation not occur?

- | | | |
|---------------------------------------------------------------|--------------------------------------------------------------|-------------------------------------------------------------------|
| <input type="checkbox"/> Agreement reached prior to mediation | <input type="checkbox"/> Party failed to appear | <input type="checkbox"/> Dismissed, stayed, transferred, remanded |
| <input type="checkbox"/> Waived/exempt by court | <input type="checkbox"/> Other (mark here and explain below) | |

3.2 If you marked *other*, please explain:

3.3 Mediator's signature:

CONFIDENTIAL ADR ATTORNEY SURVEY



Mark as shown: Please use a ball-point pen or a thin felt tip. This form will be processed automatically.

Correction: Black out the wrong answer and put an X in the correct box.

To improve our program, these results may be shared with the mediator in the future; however, your name will remain **confidential**. Thank you for your feedback.

1. Questions

1.1 ADR session date:

Case #:

1.2 ADR practitioner name or ID#:

- | | Strongly Disagree | Disagree | Neither | Agree | Strongly Agree |
|---------------------------------------------------------------------------------------------------------------------|--------------------------------------------|--------------------------------------------|------------------------------------------------|--------------------------|--------------------------|
| 1.3 The ADR practitioner was attentive to my comments. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.4 The ADR practitioner helped clarify issues. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.5 The ADR practitioner maintained appropriate control over the session. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.6 The ADR practitioner pressured the parties to reach an agreement. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.7 The ADR practitioner did not favor any party. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.8 I was satisfied with the pace of the session. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.9 The ADR practitioner advocated for a specific outcome. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.10 The ADR practitioner allowed the parties to develop their own outcome. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.11 Overall, I was satisfied with this session. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.12 Overall, I was satisfied with the skills of the ADR practitioner. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.13 Overall, I was satisfied with the professionalism of the ADR practitioner. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.14 In approximately how many disputes, before this one, have you participated in a mediation : | | | | | |
| <input type="checkbox"/> 0 | <input type="checkbox"/> 1-10 | <input type="checkbox"/> 11-25 | | | |
| <input type="checkbox"/> 26+ | | | | | |
| 1.15 In approximately how many disputes, before this one, have you participated in a settlement conference : | | | | | |
| <input type="checkbox"/> 0 | <input type="checkbox"/> 1-25 | <input type="checkbox"/> 26-75 | | | |
| <input type="checkbox"/> 76+ | | | | | |
| 1.16 What is the status of discovery? | <input type="checkbox"/> Not Started | <input type="checkbox"/> Ongoing | <input type="checkbox"/> Concluded | | |
| | <input type="checkbox"/> Not Requested | | | | |
| 1.17 I am counsel for the: | <input type="checkbox"/> Plaintiff | <input type="checkbox"/> Defendant | <input type="checkbox"/> Third party defendant | | |
| | <input type="checkbox"/> Counter plaintiff | <input type="checkbox"/> Counter defendant | | | |
| 1.18 Do you think this case went to the ADR process: | <input type="checkbox"/> Too early | <input type="checkbox"/> Right time | <input type="checkbox"/> Too late | | |
| | <input type="checkbox"/> Don't know | | | | |

1. Questions [Continue]

- 1.19 Did the ADR practitioner need substantive knowledge related to the issues in this case? Yes No Not sure
- 1.20 The ADR practitioner told me what outcome(s) might occur if my case went to trial. Yes No Not sure
- 1.21 Was ADR appropriate to resolve the issues of this case? Yes No Not sure
- 1.22 The parties: (Mark *all* that apply.)
 Did *not* agree on any issues Agreed to continue for another session Agreed on *some* issues
 Agreed on *all* issues
- 1.23 If this case was not completely resolved, **please mark all reasons** why you believe the case was not resolved:
 My client wanted his/her day in court. The other side wanted his/her day in court. My client was unwilling to compromise.
 The other side was unwilling to compromise. Opposing counsel was not prepared. The ADR practitioner made it difficult to settle.
 My client refused to make a settlement proposal. The other side refused to make a settlement proposal. Continuing the ADR process was too expensive.
 There was not enough time to continue the process to a conclusion. Opposing counsel was not willing to compromise. I was not willing to compromise.
 N/A
- 1.24 If your case was completely resolved, did the final agreement include a clause to return to ADR if a problem arises? Yes No
- 1.25 Would you recommend this ADR process to other clients involved in a similar dispute? Never Sometimes Always
- 1.26 Did you encourage or discourage your client from participating in this ADR process? Encourage Discourage Neither
- 1.27 If applicable, settlement amount:
 \$1-\$25,000 \$25,001-\$50,000 \$50,001-\$100,000
 \$100,001-\$500,000 \$500,001-\$1 million Over \$1 million

1.28 Any additional comments or suggestions:

MEDIATION PARTICIPANT SURVEY - FAMILY



Mark as shown: Please use a ball-point pen or a thin felt tip. This form will be processed automatically.
 Correction: Black out the wrong answer and put an X in the correct box.

To improve our program, these results may be shared with the mediator in the future; however, your name will remain **confidential**. Thank you for your feedback.

1. Please evaluate the mediator and process. Mark *one* response for each statement.

| | Strongly Disagree | Disagree | Neither | Agree | Strongly Agree | N/A |
|------------------------------------------------------------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 1.1 The mediation process was clearly explained. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.2 I had enough time to say what I wanted to say. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.3 The mediator(s) understood what I said I needed. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.4 The mediator(s) helped me think about different ways to resolve our issues. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.5 I felt heard by the other participant(s). | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.6 I understand the other participants' views better now than I did before the session. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.7 We discussed all issues that brought us to mediation. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.8 The mediator(s) did not favor any party. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.9 I felt pressured by the mediator(s) to reach an agreement. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.10 The mediator(s) were good listener(s). | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.11 The mediator(s) helped clarify issues. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.12 The mediator(s) were respectful to me. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.13 The mediator(s) told me what I should agree to. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.14 If the mediator(s) met with me/my side separately (caucus), it was helpful. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.15 If an agreement was reached, it met my needs. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.16 If an agreement was written, I understood it. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.17 The mediator(s) helped me consider whether the agreement was realistic for me. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.18 I will be able to communicate better with the other party because of mediation. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.19 I would suggest mediation to others. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.20 I am glad mediation services are available. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 1.21 Overall, I was satisfied with this mediation session. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Please complete side two of this form.

2. General Questions

2.1 Case #: Case Name (ex. Jane Doe v. John Doe):

2.2 Mediation date: Mediator name or ID #:

2.3 I am the: Plaintiff Defendant

2.4 Who suggested the possible solutions? (Mark *all* that apply.)

I did The other side(s) The mediator(s)
 The lawyers No solutions were suggested

2.5 We: (Mark *all* that apply.)

Did *not* agree on any issues Agreed on *some* issues Agreed on *all* issues
 Agreed to continue for another session

2.6 Do you think this case went to mediation: Too early Right time Too late
 Don't know

2.7 The mediator(s): Ended the session too soon Allowed the right amount of time Made the session too long

2.8 I would use this process again: Yes No Not Sure

2.9 What issues were addressed in this process? (Mark *all* that apply.)

Custody Visitation Use & possession of marital home
 Marital property Alimony Monetary award
 Child support

3. Please provide the following information VOLUNTARILY. It is for statistical purposes only.

3.1 Gender: Female Male

3.2 Age: 19 and under 20-29 30-39
 40-49 50-59 60+

3.3 Mark *all* that apply:

Hispanic/Latino American Indian/Alaskan Native Asian
 Black/African American Native Hawaiian/Pacific Islander White

3.4 Education (highest level achieved): 1-8th grade High school/ GED 2-year college degree/ professional certificate

3.5 Household income: 4-year degree Graduate degree
 Up to \$14,999 \$15,000-\$24,999 \$25,000-\$34,999
 \$35,000-\$49,999 \$50,000-\$74,999 \$75,000-\$99,999
 \$100,000-\$149,999 \$150,000-\$199,999 \$200,000+

3.6 Military status: Active military Military veteran N/A

3.7 Zip code:

MEDIATOR REPORT – FAMILY



Mark as shown: Please use a ball-point pen or a thin felt tip. This form will be processed automatically.

Correction: Black out the wrong answer and put an X in the correct box.

1. Case Information – Please fill out this section even if mediation did not occur.

1.1 Date of mediation: _____ Case #: _____

1.2 Mediator name or ID#: _____

1.3 Did mediation take place? Yes No

If mediation did not occur, please skip to section marked did not occur on the next page. If mediation did occur, please continue below.

2. About the mediation:

2.1 Outcome (mark **all** that apply):

Full agreement Partial agreement Temporary agreement
 No agreement

2.2 Was a best interest attorney present? Yes No

2.3 How many people on the plaintiff's side were in the room? 1 2 3
 4 5 6 or more

2.4 Mark **all** that apply for the plaintiff.

Plaintiff in the room Plaintiff's attorney in the room Plaintiff has an attorney who did not attend
 Plaintiff did not have an attorney

2.5 How many people on the defendant's side were in the room? 1 2 3
 4 5 6 or more

2.6 Mark **all** that apply for the defendant.

Defendant in the room Defendant's attorney in the room Defendant has an attorney who did not attend
 Defendant did not have an attorney

2.7 If custody was an issue, what arrangement was reached? (Mark **all** that apply.)

Joint legal Primary legal Joint physical
 Primary physical

2.8 For this case, I practiced (mark **all** that apply):

Solo mediation Co-mediation Facilitative
 Transformative Analytical Inclusive
 Settlement conferencing Other

2.9 Number of sessions: 1 2 3
 4 5 6 or more

2.10 Hours spent on this case (excluding travel, preparation, and follow-up time):

1 2 3
 4 5 6
 7 8 9
 10 11 12 or more

2. About the mediation: [Continue]

2.11 Comments (**without** breaking confidentiality):

2.12 Mediator's signature:

3. If the mediation **did not** occur:

3.1 Why did the mediation not occur?

Agreement reached prior to mediation

Dismissed, stayed, transferred

Exempt by court

Domestic violence issue

Other (mark here and explain below)

3.2 If you marked *other*, please explain:

3.3 Mediator's signature:

CONFIDENTIAL ADR ATTORNEY SURVEY



Mark as shown: [] [X] [] [] [] Please use a ball-point pen or a thin felt tip. This form will be processed automatically.
Correction: [] [] [X] [] [] Black out the wrong answer and put an X in the correct box.

To improve our program, these results may be shared with the Alternative Dispute Resolution (ADR) practitioner in the future; however, your name will remain confidential. Thank you for your feedback.

1. Case and ADR Practitioner(s)

1.1 Trial date Case # [] []

1.2 ADR practitioner name and ID # If applicable, name and ID # of second ADR practitioner [] []

2. Please evaluate the ADR practitioner and process. Mark one response fore each statement.

2.1 The ADR practitioner was attentive to my comments. [] Strongly Disagree [] Disagree [] Neither [] Agree [] Strongly Agree
2.2 The ADR practitioner helped clarify issues. [] Strongly Disagree [] Disagree [] Neither [] Agree [] Strongly Agree
2.3 The ADR practitioner maintained appropriate control over the session. [] Strongly Disagree [] Disagree [] Neither [] Agree [] Strongly Agree
2.4 The ADR practitioner pressured the parties to reach an agreement. [] Strongly Disagree [] Disagree [] Neither [] Agree [] Strongly Agree
2.5 I was satisfied with the pace of the session. [] Strongly Disagree [] Disagree [] Neither [] Agree [] Strongly Agree
2.6 The ADR practitioner advocated for a specific outcome. [] Strongly Disagree [] Disagree [] Neither [] Agree [] Strongly Agree
2.7 The ADR practitioner allowed the parties to develop their own outcome. [] Strongly Disagree [] Disagree [] Neither [] Agree [] Strongly Agree
2.8 Overall, I was satisfied with this ADR session. [] Strongly Disagree [] Disagree [] Neither [] Agree [] Strongly Agree
2.9 Overall, I was satisfied with the skills of the ADR practitioner. [] Strongly Disagree [] Disagree [] Neither [] Agree [] Strongly Agree
2.10 Overall, I was satisfied with the professionalism of the ADR practitioner. [] Strongly Disagree [] Disagree [] Neither [] Agree [] Strongly Agree
2.11 In approximately how many disputes, before this one, have you participated in a mediation: [] 0 [] 1-10 [] 11-25 [] 26-50 [] 51-100 [] 101+
2.12 In approximately how many disputes, before this one, have you participated in a settlement conference: [] 0 [] 1-25 [] 26-50 [] 51-75 [] 76-100 [] 101+
2.13 Today's session seemed like: [] Mediation [] Settlement conference [] Not sure
2.14 Was discovery requested in this case? [] No [] Yes, but not started [] Yes, and is ongoing [] Yes, and has concluded [] N/A
2.15 Do you think this case went to an ADR process: [] Too early [] Right time [] Too late [] Don't know
2.16 Did the ADR practitioner need substantive knowledge related to the issues in this case? [] Yes [] No [] Not sure
2.17 Was ADR appropriate to resolve the issues of this case? [] Yes [] No [] Not sure
2.18 If no, what process would have been appropriate, and why? []
2.19 Would you recommend this ADR process to other clients involved in a similar dispute? [] Never [] Sometimes [] Always

Please complete side two of this form.



3. General questions

3.1 The parties: (mark **all** that apply)

- Did *not agree* on any issues
- Agreed to continue for another session
- Agreed on *some* issues
- Agreed on *all* issues

3.2 If this case was not completely resolved, **please mark all reasons** why you believe the case **was not** resolved:

- My client wanted his/her day in court.
- The other side was unwilling to compromise.
- My client refused to make a settlement proposal.
- There was not enough time to continue the process to a conclusion.
- N/A
- The other side wanted his/her day in court.
- Opposing counsel was not prepared.
- The other side refused to make a settlement proposal.
- Opposing counsel was not willing to compromise.
- My client was unwilling to compromise.
- The ADR practitioner made it difficult to settle.
- Continuing the ADR process was too expensive.
- I was not willing to compromise.

3.3 Other reason(s) not specified above:

3.4 If your case **was** completely resolved, did the final agreement include a clause to return to ADR if a problem arises?

- Yes
- No
- N/A

3.5 Why:

3.6 Did you encourage or discourage your client from participating in the current ADR process?

- Encourage
- Discourage
- Neither

3.7 Why:

3.8 I am the attorney for:

- Plaintiff
- Defendant
- Third party defendant

3.9 Who suggested the possible solutions? (mark **all** that apply)

- My client
- I did
- The other side(s)
- No solutions were suggested
- The ADR practitioner

3.10 Any additional comments or suggestions:

3.11 **I would like to help the program improve, so I agree to be contacted to discuss my ADR experience.** I understand that all of my case information and any discussions that occurred in the ADR process will remain confidential, even if I agree to be contacted.

- Yes
- No

3.12 If yes, please print your name and tell us when (day/evening) and how (phone #/email) to contact you.



CONFIDENTIAL ADR PARTICIPANT SURVEY



Mark as shown: Please use a ball-point pen or a thin felt tip. This form will be processed automatically.
 Correction: Black out the wrong answer and put an X in the correct box.

To improve our program, these results may be shared with the Alternative Dispute Resolution (ADR) practitioner in the future; however, your name will remain confidential. Thank you for your feedback.

1. Case and ADR Practitioner(s)

1.1 Trial date Case #

1.2 ADR practitioner name and ID # If applicable, name and ID # of second ADR practitioner

2. Please evaluate the ADR practitioner and process. Mark *one* response for each statement.

| | Strongly Disagree | Disagree | Neither | Agree | Strongly Agree | N/A |
|------------------------------------------------------------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 2.1 The ADR process was clearly explained. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.2 I had enough time to say what I wanted to say. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.3 The ADR practitioner understood what I said I needed. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.4 To help us check survey quality, mark N/A. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.5 The ADR practitioner helped me think about different ways to resolve our issues. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.6 I felt heard by the other participant(s). | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.7 I understand the other participants' views better now than I did before the session. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.8 We discussed all issues that brought us here. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.9 The ADR practitioner did not favor any party. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.10 I felt pressured by the ADR practitioner to reach an agreement. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.11 The ADR practitioner was a good listener. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.12 The ADR practitioner helped clarify issues. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.13 The ADR practitioner was respectful to me. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.14 The ADR practitioner told me what I should agree to. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.15 If the ADR practitioner met with me/my side separately (caucus), it was helpful. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.16 If an agreement was reached, it met my needs. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.17 If an agreement was written, I understood it. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.18 The ADR practitioner helped me consider whether the agreement was realistic for me. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.19 I would suggest this ADR process to others. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.20 I am glad ADR services are available. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.21 Overall, I was satisfied with this ADR session. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

3. General questions

3.1 How did you hear about ADR? (mark **all** that apply)

| | | |
|-----------------------------------------|------------------------------------------|--------------------------------------------------|
| <input type="checkbox"/> Word of mouth | <input type="checkbox"/> Family/friend | <input type="checkbox"/> Judge |
| <input type="checkbox"/> Lawyer | <input type="checkbox"/> Info from court | <input type="checkbox"/> District Court web site |
| <input type="checkbox"/> Video in court | <input type="checkbox"/> Bailiff/Sheriff | <input type="checkbox"/> Other |

3.2 This court uses two ADR processes to see if an agreement can be reached before trial. The session today was: (mark only **one**)

| | | |
|------------------------------------|------------------------------------------------|-----------------------------------|
| <input type="checkbox"/> Mediation | <input type="checkbox"/> Settlement Conference | <input type="checkbox"/> Not Sure |
|------------------------------------|------------------------------------------------|-----------------------------------|

3.3 I am the:

| | | |
|------------------------------------|------------------------------------|--------------------------------|
| <input type="checkbox"/> Plaintiff | <input type="checkbox"/> Defendant | <input type="checkbox"/> Other |
|------------------------------------|------------------------------------|--------------------------------|

Please complete side two of this form.



3. General questions [Continue]

- 3.4 Who suggested the possible solutions? (mark **all** that apply)
 - I did
 - The lawyers
 - The other side(s)
 - No solutions were suggested
 - The ADR practitioner
- 3.5 We: (mark **all** that apply)
 - Did *not* agree on any issues
 - Agreed to continue for another session
 - Agreed on *some* issues
 - Agreed on *all* issues
- 3.6 Do you think this case went to ADR:
 - Too early
 - Don't know
 - Right time
 - Too late
- 3.7 The ADR practitioner told me what outcome(s) might occur if my case went to trial.
 - Yes
 - No
 - Not sure
- 3.8 The ADR practitioner:
 - Ended the session too soon
 - Allowed the right amount of time
 - Made the session too long
- 3.9 I came to this session because: (mark **all** that apply)
 - I requested
 - Judge recommended
 - Other side requested
 - Judge ordered
 - My attorney recommended
 - Other
- 3.10 I would use this ADR process again:
 - Yes
 - No
 - Not Sure

3.11 Please tell us why you checked Yes, No, or Not Sure.

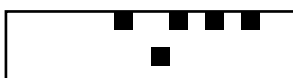
3.12 What else would you like to tell us about your experience?

- 3.13 I would like to help the program improve, so I agree to be contacted to discuss my ADR experience. I understand that all of my case information and any discussions that occurred in the ADR process will remain confidential, even if I agree to be contacted.
 - Yes
 - No

3.14 If yes, please print your name and tell us when (day/evening) and how (phone #/email) to contact you.

4. Please provide the following information VOLUNTARILY. It is used for statistical purposes only.

- 4.1 Gender:
 - Female
 - Male
- 4.2 Age:
 - 19 and under
 - 40-49
 - 20-29
 - 50-59
 - 30-39
 - 60+
- 4.3 Mark *all* that apply:
 - Hispanic/Latino
 - Black/African American
 - American Indian/Alaskan Native
 - Native Hawaiian/Pacific Islander
 - Asian
 - White
- 4.4 Education (highest level achieved):
 - 1-8th grade
 - 4-year degree
 - Up to \$14,999
 - \$35,000-\$49,999
 - \$100,000-\$149,999
 - High school/ GED
 - Graduate degree
 - \$15,000-\$24,999
 - \$50,000-\$74,999
 - \$150,000-\$199,999
 - 2-year college degree/ professional certificate
 - \$25,000-\$34,999
 - \$75,000-\$99,999
 - \$200,000+
- 4.5 Household income:
 - Active military
 - Military veteran
 - N/A
- 4.6 Military status:
- 4.7 Zip code:



ADR PRACTITIONER ACTIVITY REPORT



Mark as shown: Please use a ball-point pen or a thin felt tip. This form will be processed automatically.

Correction: Black out the wrong answer and put an X in the correct box.

1. About today: If you conduct more than one case today, you only have to complete this side once. However, please paperclip all pages together (please do not staple).

1.1 Today's date, courthouse, room number for ADR session if applicable:

1.2 Docket: a.m. p.m.

1.3 Total number of cases referred today: 0 1 2
 3 4 5

1.4 If you are volunteering for a Day of Trial partner (i.e., community mediation center, law school clinic, MVLS), indicate the name of that entity:

1.5 ADR practitioner name and ID#. (Please note, Apprentices **must** be listed as practitioner 2, 3, or 4.)

1.6 **Full hours** donated today (including travel time). 0 1 2
Please note partial hours in the next question: 3 4 5
 6 7 8

1.7 **Partial hours** donated today (including travel time). Please round up to the quarter hour: .25 .5 .75
 RPD

1.8 If applicable, ADR practitioner #2 and ID#.

1.9 If applicable, practitioner #2 **full hours** donated today (including travel time). 0 1 2
Please note partial hours in the next question: 3 4 5
 6 7 8

1.10 If applicable, practitioner #2 **partial hours** donated today (including travel time), please round up to the quarter hour: .25 .5 .75
 RPD

1.11 If applicable, today, practitioner #2 is an Apprentice completing: 1st observation 2nd observation 3rd observation
 1st review 2nd review 3rd review
 Other

1.12 If applicable, ADR practitioner #3 name and ID#:

1.13 If applicable, practitioner #3 **full hours** donated today (including travel time). 0 1 2
Please note partial hours in the next question: 3 4 5
 6 7 8

1.14 If applicable, practitioner #3 **partial hours** donated today (including travel time), please round up to the quarter hour: .25 .5 .75
 RPD

1.15 If applicable, today, practitioner #3 is an Apprentice completing: 1st observation 2nd observation 3rd observation

1.16 If applicable, ADR practitioner #4 name and ID#:

1.17 If applicable, practitioner #4 **full hours** donated today (including travel time). 0 1 2
Please note partial hours in the next question: 3 4 5
 6 7 8

1.18 If applicable, practitioner #4 **partial hours** donated today (including travel time), please round up to the quarter hour: .25 .5 .75
 RPD

1.19 If applicable, today, practitioner #4 is an Apprentice completing: 1st observation 2nd observation 3rd observation

Please complete side two for each case.



2. About this case: Complete this side for each case you get today.

- 2.1 Of the cases referred today, **this case** is the:
- 2.2 This case was sent to me by (mark only **one**):
- First
 - Second
 - Third
 - Fourth
 - Fifth
 - Sixth
 - Direct referral from judge
 - Judge asked for volunteers
 - Courtroom clerk referral
 - Bailiff/sheriff referral
 - Party's request
 - Attorney's request
 - Other (please note in comments below)

2.3 Name of Judge for this case:

2.4 Case number:

2.5 Case name (ex. Plaintiff v. Defendant):

- 2.6 Counsel represented:
- Neither party
 - Plaintiff(s) only
 - Defendant(s) only
 - All parties
 - Other

- 2.7 Amount in controversy (mark "N/A" for Peace Order/Replevin/Tenant Holding Over/Breach of Lease/Wrongful Detainer only)
- N/A
 - \$1 to \$5,000
 - \$5,001 to \$10,000
 - \$10,001 to \$20,000
 - \$20,001 to \$30,000

- 2.8 What was the ADR outcome? (mark only **one**)
- After I explained the ADR process, participant(s) or their attorney(s) chose to return to the courtroom.
 - The judge asked us to return to the courtroom before we finished.
 - No settlement after trying the process
 - Full settlement
 - Partial settlement
 - Screened out (P.O. only)
 - ADR Practitioner terminated the session

- 2.9 If applicable, the ADR Practitioner terminated the session (please select **one**):
- Before the signing of the Agreement to Participate
 - After the signing of the Agreement to Participate

2.10 If applicable, please indicate the reason for terminating the session, without breaking confidentiality. Note, only applicable if the ADR Practitioner ended the session (i.e. safety concerns, conflict of interest, not appropriate for ADR, other ethical concerns, etc.):

- 2.11 Full hours spent on **this** case. Please note partial hours in the next question:
- 0
 - 1
 - 2
 - 3
 - 4
 - 5

- 2.12 Partial hours spent on **this** case. Please round up to the quarter hour:
- .25
 - .5
 - .75

- 2.13 For this case, I practiced (mark only **one**):
- Settlement conference
 - Solo mediation
 - Co-mediation

2.14 Comments about anything that happened today (without breaking confidentiality):

