

Rules for Alternate Dispute Resolution Civil Litigation in the Justice of the Peace Courts Of Lubbock County

1. Purpose

To enhance case-flow management of litigation and maximize effective use of judicial resources, time standards and goals for disposition of cases are needed. Administrative matters related to this activity are delegated to the Dispute Resolution Department and Master of Dispute Resolution, subject to review by the referring judge.

2. Authority for Referral of Cases to ADR Procedures

Constitution, statutes, and common law of Texas, and in particular upon the authority of the Texas Alternate Dispute Resolution Procedures Act, TEX. CIV. PRAC. & REM. CODE Section 154.001, et seq., provided for referral of cases to ADR procedures.

3. Policy for Referral of Cases by the courts

It shall be the policy of the Courts to encourage the peaceable resolution of disputes and the early settlement of pending litigation.

4. Referrals

The courts may refer appropriate cases to the Dispute Resolution Center (DRC) before trial. The DRC is authorized by TEX. CIV. PRAC. & REM. CODE Section 152.002 to accept referrals from the court. When a referral is made, copies of the referral will be mailed to attorneys/representatives or parties and the DRC. Referral can be made on the court's own motion or upon request by a party.

5. Objection

In accordance with TEX. CIV. PRAC. & REM. CODE Section 154.022, an objection shall be filed with the court within ten days after referral. Upon receiving the written objection specifying why the referral is inappropriate, the court will grant or deny the motion. If the objection is granted, the judge will notify all parties that the ADR referral is rescinded.

6. ADR Administrative Guidelines

After litigation has begun and an original answer is filed, the court may refer the case for Alternative Dispute Resolution (ADR). Upon receipt of the referral, the respective parties are ordered to participate in scheduled ADR procedures. Attorneys shall advise their client about the purpose and intent of ADR. If an objection is not filed within the prescribed time, attorneys of record should continue their discovery activities until five days prior to a schedule ADR activity.

Upon receiving notice of an ADR referral, the attorney should consult with the Master of Dispute Resolution to select an appropriate ADR procedure. The

options are set forth in the Texas Civil Practice and Remedies Code, Sections 154.023-154.027. Should a procedure not be selected by the attorneys, clients, or parties the Master shall select the procedure.

Not less than seven (7) days prior to the scheduled ADR procedures, the parties shall serve upon the Master a memorandum as specified by the Master. At the time said information is requested, but at least fifteen (15) days prior to the court-ordered procedure, an attorney of record may request an extension. A request for extension may be granted by the master of referring judge. Should said request be granted, a new date will automatically be established for the ADR procedure.

The three (3) principal ADR procedures used by the ADR system are:

Mediation

Mediation is forum in which an impartial person who is trained in ADR procedures facilitates communication between parties to promote reconciliation, settlement, or understanding among them.

Moderated Settlement Conference Procedures

The MSC is designed to assist the attorneys of records and clients in obtaining an objective opinion about the merits and value of the dispute. Each evaluation will be conducted by a three-person panel. Panel members are not encouraged to provide professional advice. The evaluation is based solely upon the instant case, as it is presented to the panel. The following format will generally be used for each MSC:

- Panel introductory statement
- Plaintiff's presentation
- Defendant's presentation
- Panel questions/answers
- Plaintiff's summation
- Defendant's summation
- Panel deliberates
- Panel issues an opinion

The Rules of Civil Procedure or of Civil Evidence generally do not apply. Demonstrative evidence may be utilized during the presentations. Each side is permitted to call two (2) non-party witnesses. No other live testimony will be heard, unless specifically requested by the panel. A party may submit affidavits as a part of its case in examination shall be allowed. Parties need not to call witnesses; however, and may present summaries of contentions and anticipate testimony through their counsel.

Upon completion of the presentations, the panel will recess for deliberation. The panel's opinion shall be based on the instant presentation and may reflect a unanimous opinion or a divergence of opinion on each issue being presented. After expressing its opinion, members may be questioned, not to justify, but for reasoning.

Upon completion of the evaluation, the parties are encouraged to begin negotiations to settle the dispute. If the parties wish to mediate the dispute, the Dispute Resolution Center will arrange for mediators at the rates listed below.

Arbitration

The parties can elect to submit a case to binding arbitration. Binding arbitration procedures are contractually agreed to by the parties to resolve disputes. In a binding arbitration, the award of the arbitrators cannot be appealed on the merits of the case. The grounds for vacating an award are provided for in the Texas General Arbitration Act.

7. Fees

No mediation fees will be assessed. Administrative costs are otherwise covered through existing filing fees.

8. Qualifications

Persons who serve as neutrals in Lubbock County court referrals must meet qualifications set forth by the Legislature, Texas Supreme Court, and/or other appropriate credentialing entity designated by the Lubbock County Board of Judges. The Master of Dispute Resolution is responsible for assuring that all mediators comply with the qualifications and training required of neutral(s) and that neutrals comply with the selected Code of Ethics


9. Report to Court

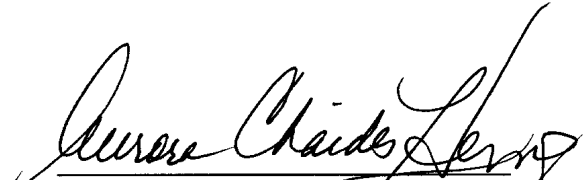
Following completion of an ADR procedure by the DRC or private neutral, certification will be given to the appropriate Court by the DRC that the parties have or have not submitted to ADR. Once the parties have submitted to ADR, and upon receipt of certification, the Court will set the case for trial if the dispute is not resolved.

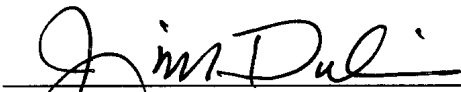
10. Confidentiality of ADR Procedures

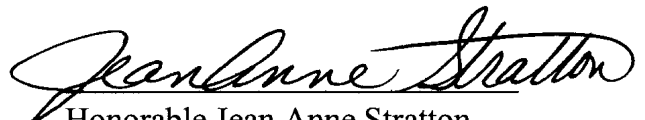
Any information, communication or activity related to or made during an ADR procedure or relayed to the DRC are confidential. That confidentiality begins with a party's first contact with the DRC. The only exceptions to confidentiality are those identified in the Texas ADR Procedures Act. Said confidentiality is continuous in nature and does not terminate upon the conclusion of an ADR procedure. In general, records, oral and written communications are not subject to disclosure and may not be used as evidence in any judicial or administrative proceeding. The DRC is authorized to seek reimbursement for expenses and attorneys fees in opposing any attempt to require a neutral to testify relating to or arising out of the matter.

Approved: August 7, 2007


Honorables Jim Hansen
Justice of the Peace, Precinct 1


Honorable Aurora Hernandez
Justice of the Peace, Precinct 3


Honorable Jim Dulin
Justice of the Peace, Precinct 2


Honorable Jean Anne Stratton
Justice of the Peace, Precinct 4

Effective: September 1, 2007