

ADR in the Federal District Courts: An Initial Report

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ADR in the Federal District Courts: An Initial Report

This report provides a brief history of alternative dispute resolution, or ADR, in the federal district courts, touching on the statutes that have prompted ADR developments and noting policy guidance and support to assist courts in establishing ADR programs. The report then provides a summary of ADR procedures authorized in the district courts as of late 2011.

History of ADR Development in the Federal District Courts

Although the federal district courts started designing and testing ADR procedures as long ago as the 1970s, the biggest growth in ADR came in response to the Civil Justice Reform Act of 1990. Below is a short chronology of ADR developments.

During the late 1970s and the 1980s, several district courts experimented with mediation, one district court created a new procedure called the summary jury trial, and another district court created a new procedure called early neutral evaluation. Three district courts, selected by the Judicial Conference, experimented in the early 1980s with mandatory court-annexed arbitration, which resulted in a 1988 statute authorizing ten district courts to mandate arbitration for a specified subset of civil cases and ten district courts to offer voluntary use of arbitration (see Title IX of the Judicial Improvements and Access to Justice Act (Public Law 100-702, as amended by section 1 of Public Law 105-53)).

In December 1990, Congress passed the Civil Justice Reform Act of 1990, which required the federal district courts to develop cost and delay reduction plans. The statute directed the courts to consider adoption of six case management principles, the sixth of which was alternative dispute resolution. Many of the ninety-four district courts developed ADR procedures in response to this statute (the CJRA; see 28 U.S.C. §§ 471-482). The CJRA offered monetary incentives for implementation of the Act's requirements, and during the CJRA period a number of courts hired professional staff to manage their ADR programs.

As required by the CJRA, when the Act sunset, the Court Administration and Case Management Committee (CACM) prepared a report summarizing the district courts' implementation of the Act and made recommendations regarding a number of practices. The Judicial Conference submitted this report to Congress in 1997. As to ADR, the Conference

recognized that “[m]any courts have shown the ability and commitment to administering court-annexed ADR programs . . .” and recommended “. . . that local districts continue to develop suitable ADR programs” See Appendix One for the full recommendation.

As the seven-year CJRA came to an end and the CACM committee completed the judiciary’s report to Congress, the committee prepared a set of guidelines to assist the courts in developing and sustaining sound ADR programs. The guidelines, prepared in 1997, were not submitted to the Judicial Conference to be adopted as policy, nor have they been officially distributed (although they were included as an appendix to a Federal Judicial Center publication, *Guide to Judicial Management of Cases in ADR* (2001)). See Appendix Two for a summary of the committee’s guidance on attributes of a well-functioning court ADR program and ethical principles for ADR neutrals. The CACM committee also prepared guidance regarding fees paid to ADR neutrals, which the Judicial Conference issued as policy. See Appendix Three for this guidance.

The CACM Committee initially recommended that all targeted funding for ADR programs be discontinued, including funds that had supported the statutory arbitration programs and had paid arbitrators’ fees. There was considerable resistance to this recommendation, and the committee subsequently recommended that funding for the arbitration programs continue and that a formula be developed to support other ADR staff. The Judicial Resources Committee developed that formula, which is based on the number of cases referred to ADR and is used annually to allocate funding for ADR staff. The formula is currently being revised.

A year after the CJRA sunset, Congress passed another act regarding ADR in the federal district courts. Whereas the CJRA simply encouraged the district courts to adopt ADR, the ADR Act of 1998 mandated that these courts provide ADR services to civil litigants. This act remains in effect (see 28 U.S.C. §§ 651-658); Appendix Four provides a summary of its requirements. Because many districts had adopted ADR programs under the CJRA, there was less development of ADR in response to the 1998 ADR Act. Some districts added additional ADR programs to their offerings, and a number of districts that had decided not to adopt ADR programs under the CJRA added language to their local rules providing a general authorization for ADR without setting up ADR programs.

To support the district courts in their implementation of the CJRA and the 1998 ADR Act, the Federal Judicial Center offered a variety of programs during the 1990s and early 2000s. To support implementation of the CJRA Act, the Center held a number of workshops to help judges and court managers understand what ADR was and to consider how such procedures might be incorporated into a court's or judge's practices. Following the ADR Act of 1998, the Center offered a Program for Consultations in Dispute Resolution, which provided expert, on-site ADR consultations for district and bankruptcy courts that requested advice on developing new ADR programs or examining existing programs. The consultants were judges, clerks of court, and ADR administrators from district and bankruptcy courts with well-established ADR programs. During the five years that the program was in effect, on-site consultations were provided to fourteen district courts and four bankruptcy courts.

The Center has also offered periodic training in mediation skills to district, magistrate, and bankruptcy judges. This program, which began in 1997, offers training to approximately thirty judges each time it is offered. The most recent program was held in October 2011; the next program is scheduled for June 2012.

The most recent development in ADR in the federal district courts is the emergence of mediation programs for pro se litigants. This type of case has traditionally been exempt from court ADR programs because the needs of pro se litigants can put ADR neutrals at risk of appearing biased in the pro se's favor. As will be shown below, a number of districts are experimenting with programs to serve these litigants.

Some thirty years after the first experiments with ADR and twenty years since the major statutory push to develop these procedures, ADR is now an established part of many districts', or many judges', regular case management practices. Even so, of course, ADR use varies from district to district, as we will see below.

ADR in the Federal District Courts Today

The tables in this section summarize various features of the ADR programs currently authorized by the district courts. The information in the tables is based on my review of local rules, general orders, CJRA plans, internal operating procedures, web sites, and any other

written source I could find that describes a district's ADR procedures. I have not spoken with the courts, but plan to have them review the information I have collected and correct it or add to it as needed. The information below, and much more, resides in an ADR database we are creating and plan to post on line at the Center's web site. The subset of information used for this report is provided in Appendix Five.

Written sources tell us what the districts authorize but do not necessarily tell us what the districts do. A district may, for example, authorize both mediation and early neutral evaluation, but may actively use only mediation. Or a district may describe in writing the qualifications of a panel of ADR neutrals but may not have set up the panel. The tables below reflect what districts authorize, not necessarily what they do.

In summarizing the courts' ADR procedures, I use the names the courts have given their procedures. Similar names do not necessarily signify similar processes. I also include settlement conferences in the tables when a court has included that settlement procedure in its ADR rule, plan, or order, recognizing that there are differences of opinion about whether settlement conferences are a form of ADR. Some districts do not provide information in their written documents about some features of their ADR programs—for example, the types of neutrals used or the nature of the fees for neutrals—and thus some information is missing for some districts.

The tables below provide information about the types of ADR programs adopted by the district courts, the procedures by which cases are referred to ADR, the providers of ADR services (i.e., the neutrals), the fees paid to ADR neutrals, and the number of cases referred to ADR. The information is based on a preliminary review of court documents and is subject to revision upon further review of the documents and, as noted, review by the courts. This information is, therefore, preliminary and should be used accordingly.

Types of ADR Programs Authorized by the Federal District Courts

Table 1 shows the types of ADR programs adopted by the district courts. Each district is counted only once—for example, a district that is counted as authorizing multiple forms of ADR is not counted as authorizing mediation only. Table 1 shows that the greatest number

of districts—thirty-four, or a little more than a third of the district courts—offer multiple forms of ADR. Typically, such a district authorizes mediation and arbitration, or mediation and early neutral evaluation, or perhaps all three. Of these thirty-four districts, fourteen authorize three or more distinct forms of ADR. Another third of the districts offer only one form of ADR, the most common being mediation, which twenty-five districts, or more than a quarter of the districts, authorize as their sole form of ADR.

Table 1
Number of District Courts By Types of ADR Procedures They Have Authorized

Type of ADR Procedures Authorized	Number and Percent of District Courts	
	Number	Percent
Multiple Forms of ADR ^a	34	36.2
Mediation Only ^b	27	28.7
General Authorization Only	12	12.8
Settlement Conference Only	10	10.6
General Authorization ^c and Settlement Conference Only	3	3.2
Early Neutral Evaluation (ENE) Only	3	3.2
Summary Jury Trial Only	1	1.1
Case Evaluation ^d Only	1	1.1
Other ^e	3	3.2
Total	94	100.1

- a. A district is counted in this category only if it authorizes two or more types of distinct ADR procedures—e.g., mediation, arbitration, early neutral evaluation, summary jury or bench trials. If a district authorizes one distinct type of ADR, plus settlement conferences or ADR generally, it is counted in one of the “only” categories (e.g., ENE only). That said, some of the districts authorizing multiple types of distinct ADR may also include settlement conferences and/or a general authorization for ADR in their ADR rule; in fact, fifteen of the thirty-four districts do.
- b. Where the word “only” is used in this table it means a district’s written ADR documents mention only that one distinct form of ADR. Some of the districts that authorize only one of the distinct forms of ADR—e.g., mediation or early neutral evaluation—also include settlement conferences and/or a general authorization for ADR in their ADR documents.
- c. “General authorization” means the district authorizes use of ADR or authorizes an “open track” or “general track” for ADR. These districts may mention specific forms of ADR, such as mediation and early neutral evaluation, but their written documents do not provide details that suggest authorization of a court-administered ADR program.
- d. This arbitration-like process is authorized for certain types of cases arising under state law and uses a state tribunal.
- e. Three districts authorize a combination of ADR types that could not be classified elsewhere.

Twenty-five districts—or a little more than a quarter of the district courts—provide only general authorization to use ADR, authorize settlement conferences only, or authorize both of these approaches. The districts that authorize ADR generally may mention a number of specific procedures, such as mediation, arbitration, and early neutral evaluation, but the districts’ written documents do not include the details that suggest authorization of a court-administered program.

Note that no district court authorizes only arbitration. Although for a short period in the mid-1980s to mid-1990s arbitration was the most visible ADR procedure in the federal district courts, with thousands of cases referred to the process, today it plays a much smaller role.

Table 2 (next page) offers a different way to look at the types of ADR authorized by the district courts. The table reports the total number of ADR procedures authorized across all the district courts. Of the ninety-four district courts, for example, the greatest number—sixty-three, or a little more than two-thirds of the district courts—authorize referral to mediation.

The second-largest group of districts—thirty-six, or more than a third—mention settlement conferences in their ADR provisions (including the ten districts that authorize only settlement conferences). We can be certain that a greater number of districts use settlement conferences, but many very likely do not mention this procedure in their ADR provisions.

Although Table 1 showed that no district courts authorize only arbitration, Table 2 shows that twenty-three districts, or nearly a quarter, include it among other forms of authorized ADR. Among these twenty-three districts are seven of the ten that were authorized in 1988 to mandate use of arbitration and seven of the ten that were authorized to offer voluntary use of arbitration; nine additional courts authorize use of this procedure. Today only three of the ten mandatory arbitration districts continue to require use of arbitration for the full portion of their caseload that meets the statutory requirements; four others have made arbitration an ADR option, and three no longer authorize this procedure.

Table 2 also shows greater authorization for early neutral evaluation than Table 1 suggested. While only three districts authorize ENE as their sole procedure, twenty-three districts, or nearly a quarter, authorize it as one among two or more ADR options.

Table 2
Number of District Courts in Which Each Type of ADR Procedure Is Authorized

Type of ADR Procedure Authorized	Number and Percent of District Courts That Have Authorized the ADR Procedure ^a	
	Number	Percent ^b
Mediation	63	67.0
Settlement Conferences	36	38.3
General Authorization	27	28.7
Arbitration	23	24.5
Early Neutral Evaluation	23	24.5
Pro Se Mediation Program ^c		
Non-Prisoner Pro Se Litigants	18	19.2
Prisoner Pro Se Litigants	11	11.7
Summary Jury or Bench Trial	14	14.9
Mini-Trial	5	5.3
Case Evaluation ^d	3	3.2
Settlement Week ^e	2	2.1
Med/Arb ^f	1	1.1

a. A district is counted as authorizing a procedure if that procedure is mentioned as a distinct ADR procedure and not as one among several included in a general authorization to use ADR.

b. As a percentage of ninety-four district courts.

c. Many of the pro se mediation programs are new and experimental and not yet recorded in court local rules or other ADR documents. The information in this table comes from a survey of pro se services conducted by the Federal Judicial Center for the CACM Committee. Twenty-one districts have such programs, with eight districts offering both.

d. This arbitration-like process is authorized for certain types of cases arising under state law and uses a state tribunal.

e. During settlement week, the court's facilities are devoted to mediation of a roster of trial-ready cases. Attorneys from the district's bar serve as mediators.

f. In this procedure, a case first uses mediation and, if it does not settle, proceeds to arbitration.

Although few of the district court ADR documents available at court web sites reflect the newly emerging mediation programs for pro se litigants, at least twenty-one districts have set up such programs. Eighteen of these twenty-one districts offer mediation to non-prisoner pro se litigants, and eleven offer it to prisoner pro se litigants. A 2010 survey of the district

courts, conducted on behalf of the CACM Committee, identified these programs. At this time, we have no details about how they are administered or which pro se litigants they are serving.

Other distinct forms of ADR authorized by some district courts are summary trials (fourteen districts), mini-trials (five districts), case evaluation (three districts), settlement week (two districts), and med/arb (one district).

In the final section of this report, we will look at the number of cases referred to each type of ADR, which will provide some help in putting the above information into perspective.

Referral Methods Authorized by the Federal District Courts

Most district courts include information about referral to ADR in their ADR rules, orders, or other documents. The methods authorized can generally be grouped into three categories. Some districts authorize mandatory referral of cases to ADR, some permit use of ADR only if all parties consent, and the great majority leave the referral decision to the judge. The referral information in the third group of districts typically authorizes the judge to order referral to ADR at the judge's initiative without party consent or at the request of one party. To cover the cases in which a judge does not order referral to ADR sua sponte or at a party's request, the rules in these districts typically also include authorization for parties to use ADR at their own discretion if all parties consent.

Table 3 (next page) shows the number of districts authorizing each type of referral by the type of ADR process authorized in the district. Keep in mind when reading the table that districts may authorize different referral methods for different types of cases—for example, mandatory ENE for employment cases and voluntary ENE for other civil cases—and thus the number of districts authorizing the referral processes may be greater than the number of districts authorizing the ADR procedure.

For each of the three distinct types of ADR—mediation, arbitration, and ENE—the majority of districts authorize some degree of required use, either by giving judges the authority to refer cases on their own initiative without party consent or by mandating referral for some or all civil cases. This approach is especially apparent for mediation, where fifty-eight districts

authorize required use of mediation, including twelve districts that mandate use (that is, referral is automatic for all or a specified set of cases). Judges have authority to order ADR in half the districts that authorize ENE as well, and in half of those that provide general authorization to use ADR.

Table 3
Number of Districts That Authorize Each Type of Referral Process
By Type of ADR Procedure Authorized

ADR Procedure (Number of Districts That Authorize)	Number of Districts That Authorize Each Type of Referral Process ^a			
	Consent by All Parties Needed	Judge May Order Without Party Consent	District Mandates Referral for All or Specified Cases	No Information
Mediation (63)	11	46	12	0
Arbitration (23)	11	9	4 ^b	0
ENE (23)	7	13	5	1
General Authorization (27)	13	13	0	2

- a. The total number of districts authorizing referral processes may be greater than the number of districts authorizing each type of ADR procedure because some districts authorize more than one type of referral process (for example, a district may authorize mandatory referral for some types of cases and voluntary referral for other types of cases).
- b. Three of the original ten mandatory arbitration districts continue to require use of arbitration for all eligible cases; one includes it as an option in a program where use of some form of ADR is presumed.

For arbitration, the picture is somewhat different, with more districts authorizing voluntary use, rather than authorizing required use. Voluntary use is in compliance with the 1998 ADR Act, which authorizes only the original ten mandatory arbitration districts to require use of arbitration. Three of the original ten continue to do so for all eligible cases, and one includes it as an option in a program where use of some form of ADR is presumed. Although the 1998 ADR Act expressly requires consent (see 28 U.S.C. § 654), a number of other districts authorize their judges to refer cases to arbitration without party consent.

Types of Neutrals Authorized by the Federal District Courts

In their written ADR documents, many district courts provide information that tells litigants about the neutrals authorized by the district. Among the kinds of information commonly

provided are the types of persons who serve as neutrals, the requirements for being listed on a district's panel of neutrals, and the fees, if any, that litigants are expected to pay neutrals.

Table 4 shows the number of districts that authorize several different types of neutrals for the principal types of ADR authorized in the district courts. The table does not include settlement conferences because district and magistrate judges are always the neutrals.

The principal story in Table 4 is that most districts authorize creation of a panel of neutrals to provide ADR services. Among the sixty-three districts that authorize mediation, for example, forty-two of them, or more than two-thirds, authorize creation of a panel of neutrals who can serve as mediators. The great majority of districts that authorize arbitration and ENE procedures also rely on panels of neutrals. District court ADR documents typically set out the qualifications that must be met by applicants to the panel, such as years of bar membership and hours of mediation training.

Table 4
Number of Districts That Authorize Each Type of ADR Neutral
By Type of ADR Procedure Authorized

ADR Procedure (Number of Districts That Authorize)	Number of Districts That Authorize Each Type of Neutral ^a				
	Judges	Court Staff Neutral	Panel of Neutrals	Outside Neutral	No Information
Mediation (63)	4	9	42 ^b	12	8
Arbitration (23)	—	—	21	2	1
ENE (23)	4	—	15	2	3
General Authorization (27)	8	2	3 ^c	13	7

a. The total number of districts authorizing neutrals may be greater than the number of districts authorizing each type of ADR procedure because some districts authorize more than one type of neutral, depending on the type of ADR procedure authorized (for example, a district may authorize both a staff mediator and a panel of neutrals to provide mediation services).

b. Includes eight districts where the panel includes judges (in addition to attorneys and, in some districts, non-attorneys.)

c. Includes one district where the panel includes judges (in addition to attorneys and, in some instances, non-attorneys.)

A number of districts authorize outside neutrals for their ADR procedures. For mediation, arbitration, and ENE, these outside neutrals may be a panel authorized by the state courts or

any neutral the parties wish to select. For districts that provide a general authorization to use ADR, the outside neutrals are typically as unspecified as the type of ADR authorized.

Although most districts rely primarily on panels of neutrals, a handful authorize judges to serve as ADR neutrals, and a similarly small number have staff who can serve as ADR neutrals. Of the eleven districts that have staff neutrals, two authorize the clerk of court to serve as a generalized ADR neutral and nine have professional staff mediators. A small number of districts provide no information at all about the types of persons who are authorized to serve as neutrals in their ADR programs.

Types of Fees Authorized by the Federal District Courts

When the district courts first developed ADR procedures, most provided ADR services pro bono. This arrangement worked because ADR was a new and untested procedure, one for which neither courts nor neutrals could claim particular expertise. In the formative years, ADR neutrals were generally satisfied with the honor of being listed on a federal district court panel and the opportunity to gain experience.

The picture is quite different today, as Table 5 shows (next page). Most district courts now authorize payment of ADR neutrals and place responsibility for neutrals' fees on the parties. Of the sixty-three districts that authorize mediation, for example, only six provide non-court mediators at no cost to the parties. In nine districts, court staff also provide no-cost mediation. Far more common are districts that require parties to pay the mediator; fifty districts, or 85% of those that authorize mediation, do so. Thirty-nine of these fifty districts require parties to pay the mediator's market rate fee or a fee set by the court. Eleven of these districts have set up a tiered scheme, under which parties receive some pro bono service, typically between four and six hours, after which they must pay the mediator's market rate fee or a fee set by the court.

The fee provisions for arbitration reflect, to some extent, practices established when the arbitration programs were first authorized. At that time, the arbitration districts used court funds to pay arbitrators. The courts paid a set amount to each arbitrator, depending on whether the arbitrator served alone or as a member of a three-person arbitration panel. This

practice continues today in twelve districts. In nine others, however, the parties must pay the arbitrator's fees.

Table 5
Number of Districts by Type of Compensation Authorized for ADR Neutrals
And Type of ADR Procedure Authorized

ADR Procedure (Number of Districts That Authorize)	Number of Districts That Authorize Each Type of Compensation Arrangement ^a						
	Judges Serve As Neutrals	Court Staff Serve as Neutrals	Party Pays the Fee	Non- Court Neutral Serves Pro Bono	Court Pays the Fee	Tiered Scheme ^b	No Informa- tion
Mediation (63)	3	9	39 ^c	6	–	11	5
Arbitration (23)	–	–	8	1	12	1	1
ENE (23)	3	–	11 ^d	2	–	3	4
General Authorization (27)	8	2	11	–	–	–	15

a. The total number of districts authorizing a fee arrangement may be greater than the number of districts authorizing each type of ADR procedure because some districts authorize more than one type of fee arrangement, depending on the type of neutral used.

b. In a tiered scheme, the parties receive a small number of hours, typically between four and six, as a pro bono service. After this, the parties may continue the ADR process but must pay a fee to the neutral unless the neutral waives the fee. Some districts permit the neutrals to charge their market rates; others place limits on the fees that may be charged.

c. Includes seven districts that have set an upper limit on mediator fees.

d. Includes one district that has set an upper limit on neutral evaluator fees.

A number of district courts recognize that some litigants may not be able to pay the neutrals' fees. These twenty-eight districts provide for reduced fees or waiver of fees for such litigants. Some of these districts state that pro bono service is expected of neutrals in exchange for being listed on the district's panel of neutrals.

ADR Referral Methods and Compensation for ADR Neutrals

As we saw in Table 3, many district courts authorize some degree of required use of ADR, particularly for mediation and early neutral evaluation. We also saw, in Table 5, that many district courts authorize compensation of ADR neutrals, usually through a fee paid by the parties, although some arbitration programs continue to use judiciary funding to pay

arbitrators. Table 6 brings these two pieces of information together and shows how referral processes and compensation schemes are combined in the district courts' ADR rules and plans.

Table 6
Number of Districts by Type of Compensation Authorized for ADR Neutrals
And Type of ADR Referral Process Authorized^a

ADR Referral Process (Number of Districts That Authorize)	Number of Districts That Authorize Each Type of Compensation Arrangement ^b						
	Judges Serve As Neutrals	Court Staff Serve As Neutrals	Party Pays the Fee	Neutral Serves Pro Bono	Court Pays the Fee	Tiered Scheme ^c	No Fee Informa- tion
Consent by All Parties Needed							
Mediation (11)	2	1	7	1	—	1	2
Arbitration (11)	—	—	4	1	3	1	2
ENE (7)	1	—	2	1	—	1	2
General Auth. (13)	3	—	6	—	—	—	7
Judge May Order Without Party Consent							
Mediation (46)	—	5	30	6	—	8	2
Arbitration (9)	—	—	4	1	4	—	—
ENE (13)	—	—	10	1	—	1	1
General Auth. (13)	7	1	3	—	—	—	9
District Mandates Referral for All or Specified Cases							
Mediation (12)	1	3	8	—	—	3	—
Arbitration (4)	—	—	—	—	4	—	—
ENE (5)	1	—	1	—	—	1	2
General Auth. (0)	—	—	—	—	—	—	—

- a. The table does not include two districts that provide neither referral nor fee information in their ADR rules, plans, or procedures.
- b. The total number of districts authorizing a fee arrangement may be greater than the number of districts authorizing each type of referral process because some districts authorize more than one type of fee arrangement (for example, both judges and outside neutrals may be authorized to serve as neutrals in a district that provides general authorization for ADR).
- c. In a tiered scheme, the parties receive a small number of hours, typically between four and six, as a pro bono service. After this, the parties may continue the ADR process but must pay a fee to the neutral unless the neutral waives the fee. Some districts permit the neutrals to charge their market rates; others place limits on the fees that may be charged.

The majority of districts, as we would expect from preceding discussions, authorize both party compensation of ADR neutrals and required use of ADR—for example, by giving judges discretion to order ADR without party consent and requiring parties to pay the neutral’s market rate. This approach is especially common for mediation procedures, where thirty-eight districts authorize judges to order parties to mediation without party consent and also require parties to compensate the mediator. Another eleven districts mandate use of mediation and require parties to compensate the mediators. A dozen districts also authorize required use of ENE and party payment of the neutrals. We do not know how often judges exercise their discretion to refer cases without full consent of the parties, or how many cases are mandated to mediation or ENE, and therefore we do not know how often parties face fees they would otherwise not incur.

Note that a surprising number of districts do not provide fee information in their ADR rules or plans, which may make it difficult for parties to estimate what their monetary obligation will be. The absence of this information is also at odds with Judicial Conference policy to “establish a local rule or policy regarding the compensation, if any, of neutrals . . .” (see Guide to Judiciary Policy, Ch. 5, § 520.40).

Number of Cases Referred to ADR

The federal courts are not required to report the number of cases referred to ADR or the number disposed of by ADR, and therefore we do not have a full picture of ADR activity in the district courts. The districts are, however, invited each year to submit their number of referred cases to the Administrative Office in application for an ADR staffing supplement. These applications provide a count of referrals for the subset of districts that seek funding.

Table 7 (next page) shows the number of ADR referrals for the twelve-month period ending June 30, 2011 (from applications for 2012 funding). If courts with little ADR activity do not submit applications—and we do not know whether this is the case—the numbers in Table 7 may represent the greater portion of referrals to ADR in the district courts. We know of at least a few district courts with active ADR programs, however, whose cases are not counted in the table. And, of course, a great deal of settlement activity, which takes place in judicially hosted settlement conferences, is also not included.

For the forty-nine districts for which we do have information, it is clear that mediation is the most commonly used ADR procedure, with many times more referrals than other forms of ADR. Arbitration also has a noticeable number of referrals, due largely to the three districts that continue to mandate referral for all cases meeting the statutory criteria (cases not alleging violation of a constitutional or civil right and not claiming damages greater than \$150,000). Early neutral evaluation has clearly taken root in more districts than the one where it originated.

Table 7
Number of Cases Referred to ADR in Forty-Nine Federal District Courts^a
(Twelve-Month Period Ending June 30, 2011)

ADR Process	No. of Cases
Mediation	17,833
Arbitration	2,799
CA-N multi-option program ^b	4,222
Early neutral evaluation	1,320
Settlement week	522
Summary jury trials	0
Mini-trials	0
Other ^c	1,571
Total	28,267

- a. Source: Applications to the Administrative Office of the U.S. Courts for supplemental funding for ADR staff.
- b. In the submission from the Northern District of California, the number of referrals is reported as a total for the Multi-Option Program and is not broken down into the several different types of ADR offered under this program.
- c. "Other" includes primarily judicially hosted settlement conferences.

Over the ten years of the funding program, the total number of cases referred to ADR in the applicant districts has ranged from the mid-to-high 20,000s. Of all civil cases filed in these forty-nine districts in the twelve-month period ending June 30, 2011, the ADR referrals represent fifteen percent of the filed cases. Many civil cases are not, however, either by

definition or by early termination, eligible for ADR. Thus, the true rate of referral is higher, by an unknown amount, than the fifteen percent suggested by the referral numbers.

The table in Appendix Five provides more detail about the number of cases referred to ADR. In the table we can see the number of cases referred by each of the forty-nine district courts to each of their authorized ADR procedures. The table could give rise to many observations and questions about ADR in the district courts. Following are three observations based on the number of cases referred to the various ADR procedures.

First, among the subset of districts for which we have referral numbers (which may or may not differ systematically from other districts), more forms of ADR are authorized than are used; see, for example, the Districts of Florida Middle, Massachusetts, and Texas Southern. Second, we can see that neighboring districts may have quite different ADR cultures, at least as shown by the number of cases referred to ADR; see, for example, the Western and Eastern Districts of Washington and the Northern and Western Districts of New York. There also appear to be differences by circuit—again, as surmised from the submissions for funding; in the Fifth and Seventh Circuits, for example, few districts requested funding to support ADR, whereas in the Third Circuit all did, and in the Second Circuit all but one did.

With current information about ADR, it is difficult to know just what the state of ADR is in the federal district courts today. We know that three-quarters of the districts have authorized a specific ADR procedure, while the remainder have provided only a general authorization or authorization for settlement conferences only. We know that some ADR programs are actively used and others are not, as reflected in the referral numbers submitted by forty-nine districts. We know that these referrals represent a fairly small, but not insignificant, portion of the civil cases filed in these districts. We do not know, however, whether this referral rate is representative of the district courts generally or might be lower if referrals in the other forty-five districts were counted. Nor do we know the number of cases disposed of by ADR, and therefore we cannot calculate a settlement rate or get a sense of the impact of ADR on court caseloads or judicial workloads. All that said, the referral numbers and the profile of authorized procedures provide a great deal of information in themselves and may help give direction to future questions.

Appendix One

ADR Recommendations

Judicial Conference CJRA Report to Congress

1997

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Judicial Conference Recommendations Regarding ADR (1997)

The Conference supports continued use of appropriate forms of ADR. . . . Many courts have shown the ability and commitment to administering court-annexed ADR programs under judicial supervision that yield increased satisfaction with the court's fairness and responsiveness while not increasing cost or delay. Therefore, the Judicial Conference recommends that local districts continue to develop suitable ADR programs, including nonbinding arbitration. The Conference also recommends that the Committee on Rules of Practice and Procedure review the courts' experience with F.R.Civ.P. 16 regarding ADR and consider whether any changes in the civil rules are needed to enhance the role of ADR.

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Appendix Two

Attributes of a Well-Functioning Court ADR Program and Ethical Principles for ADR Neutrals

Court Administration and Case Management Committee

1997

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Attributes of a Well-Functioning Court ADR Program

1. Define program goals and characteristics and promulgate in written rules.
2. Provide administration for the program.
3. Require specific levels of training and experience for neutrals.
4. Adopt written ethical principles for neutrals.
5. Make the method and limitations on compensation explicit. Excuse indigents from paying.
6. Adopt a mechanism for receiving complaints and enforcing rules.
7. Define the scope of confidentiality.
8. Evaluate and measure program success.

Ethical Principles for ADR Neutrals

1. Neutral must act fairly, honestly, competently, and impartially.
2. Neutral should disqualify himself or herself if there is a conflict of interest arising from a past or current relationship.
3. Neutral should avoid future conflicts.
4. Neutral should disclose any facts or circumstances that may give rise to bias or an appearance of bias.
5. Neutral should refrain from soliciting legal business from an ADR participant.
6. Neutral should protect confidential information obtained during the ADR process.
7. Neutral should refrain from communicating with the assigned judge.
8. Neutral should timely disclose all fee and expense requirements.

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Appendix Three

Judicial Conference Guidance Regarding Fees for ADR Neutrals

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Judicial Conference Guidance Regarding Fees for ADR Neutrals

In response to one of the requirements of the ADR Act of 1998 (28 U.S.C. § 658(a)), the Judicial Conference approved regulations regarding compensation of neutrals:

All district courts must establish a local rule or policy regarding the compensation, if any, of neutrals under Chapter 44 of title 28, United States Code, §§ 651-658. Discretion remains with the court as to whether that rule or policy should provide that neutrals serve *pro bono* or for a fee. As long as funding is not provided pursuant to the Act, the Judicial Conference does not encourage courts to institute rules or policies providing for court-funded, non-staff alternative dispute resolution neutrals. (See Guide to Judiciary Policy, Ch. 5, § 520.40.)

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Appendix Four

Requirements of the ADR Act of 1998

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Requirements of the ADR Act of 1998

Each district court must by local rule authorize use of ADR

Each court must by local rule create its own program

Each court must provide at least one type of ADR

By local rule, each court must require litigants to consider using ADR

Courts may require litigants to use mediation and ENE

Arbitration referrals require party consent

Districts may exempt cases or categories of cases

Courts must adopt processes for making neutrals available

Neutrals must be trained

Courts must adopt a local rule on confidentiality

Courts must adopt a local rule on conflicts of interest

Courts with programs must examine their effectiveness

A program administrator must be designated

Funding authorized

Other Characteristics of the Act

Leaves type and scope of ADR to each district

No appropriation of funds

No reporting or enforcement requirements

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Appendix Five

ADR Procedures, ADR Neutrals, and ADR Fees

Federal District Courts

November 2011

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Federal District Court ADR: Authorized Procedures and Related Provisions¹
Donna Stienstra, Federal Judicial Center
Initial Summary²
November 10, 2011

District (Number of Referrals) ³	Types of ADR Authorized (Number of Referrals)	Referral Procedures Authorized	Types of Neutrals and Fee Requirements Authorized
AL-M (48)	Early Neutral Evaluation (ENE)	Voluntary, based on consent of all parties.	Judges (type not specified) serve as neutrals.
	Mediation (48)	Voluntary, based on consent of all parties. All civil cases are eligible.	Magistrate judges serve as neutrals if district judge is presiding judge; mediators selected by clerk of court serve as neutrals if magistrate judge is presiding judge.
AL-N	Med/Arb	Voluntary, based on consent of all parties. There is no referral if a party objects.	Parties select a neutral from the court's Federal Court Panel of Neutrals, which includes district judges, magistrate judges, and neutrals appointed by the chief judge. The fee is agreed to by the parties or set by the court. Pro bono service is provided for low-income litigants.
	Mediation	Judge may order on case-by-case basis or at request of one party. Referral may also be voluntary, based on consent of all parties. Judge decides which case types to exempt. A party may object to referral by the judge by filing a written request within 10 days of the referral order for reconsideration for good cause.	Same as preceding.
	Open ADR ⁴ (any form of ADR agreed upon by the parties)	Voluntary, based on consent of all parties and approval of the assigned judge.	The parties select a private ADR provider.
AL-S	Mediation	Judge may order on case-by-case basis or at request of one party. Referral may also be voluntary, based on consent of all parties. Judge decides which case types to exempt. A party may object to referral by the judge by filing a written request within 10 days of the referral order for reconsideration for good cause.	Parties select a neutral from the court's Federal Court Panel of Neutrals, which includes former district, magistrate, and bankruptcy judges from Alabama, former state court trial judges, and members of the bar with seven years of mediation experience, or the parties select any other neutral they wish. Unless the parties agree otherwise, the neutral's fee is \$150 per hour.

District (Number of Referrals) ³	Types of ADR Authorized (Number of Referrals)	Referral Procedures Authorized	Types of Neutrals and Fee Requirements Authorized
	General Authorization (mentions arbitration, mediation/arbitration, summary jury trial (SJT), and mini-trial)	Voluntary, based on consent of all parties and approval of the assigned judge.	Same as preceding, except no information is provided about fees.
AK	Mediation	Judge may order on case-by-case basis or at request of one party. Referral may also be voluntary, based on consent of all parties. Judge decides which case types to exempt.	Fee is set by the neutral and agreed to by the parties. Fee is set by the court if issues arise.
	Open ADR (mentions ENE, arbitration, settlement conference, SJT, and mini-trial; parties may use, but the court will not make personnel, facilities, or jurors available for SJT or mini-trial)	Voluntary, based on consent of all parties.	Same as preceding.
AZ	General Authorization (mentions settlement conference, mini-trial, SJT, ENE, and mediation)	Judge may order mediation and ENE on case-by-case basis. Referral may also be voluntary, based on consent of all parties.	Magistrate judges serve as neutrals.
AR-E	Settlement Conference	Voluntary, based on consent of all parties. Rule lists several exempt case types. ⁵	Magistrate judges serve as neutrals.
AR-W (100) ⁶	Settlement Conference	Judge may order on case-by-case basis or at request of one party. Referral may also be voluntary, based on consent of all parties. Rule lists several exempt case types.	Magistrate judges serve as neutrals.
CA-C (1,096)	Court-Directed ADR Program (mediation) (1,072)	For judges participating in the district's Court-Directed ADR Program, all eligible civil cases are automatically referred to the court's mediation program or to private mediation. The judge will consider parties' written wishes in deciding whether to refer to the court's program or private mediation. Judges not participating in the Court-Directed ADR Program may refer cases to the court program sua sponte. For cases assigned to these judges, referral may also be voluntary, based on consent of all parties. Rule lists a small number of exempt case types.	Parties select an attorney or judge from the court's mediation panel. If they cannot agree, the ADR program director randomly assigns a panel member. Neutrals volunteer their preparation time and first three hours of ADR session time. After three hours, the neutral may continue to volunteer his or her time or receive a fee agreed to by all parties and the neutral.

District (Number of Referrals) ³	Types of ADR Authorized (Number of Referrals)	Referral Procedures Authorized	Types of Neutrals and Fee Requirements Authorized
	Settlement Conference	Unless exempted by the trial judge, each civil case that is not assigned to a judge in the Court-Directed ADR Program must participate in a settlement procedure.	District or magistrate judge assigned to the case serves as neutral, or any attorney on the court's mediation panel. If an individual from the panel is used, he or she volunteers preparation time and first three hours of ADR session time. After three hours, the neutral may continue to volunteer his or her time or receive a fee agreed to by all parties and the neutral.
	Private Mediation	See preceding entry.	No information provided.
	Settlement Conference	Unless exempted by the trial judge, each civil case that is not assigned to a judge in the Court-Directed ADR Program must participate in a settlement procedure.	District or magistrate judge assigned to the case serves as neutral, or any attorney on the court's mediation panel. If an individual from the panel is used, he or she volunteers preparation time and first three hours of ADR session time. After three hours, the neutral may continue to volunteer his or her time or receive a fee agreed to by all parties and the neutral.
	Prisoner Mediation (24)	Judge may order on case-by-case basis or at the request of one party. Civil rights and Bivens cases are eligible.	Attorneys from the court's Pro Bono Panel are randomly assigned to serve as neutrals. If the plaintiff obtains a judgment in his favor, the law firm may seek attorneys' fees from the defendants. The maximum reimbursement of covered expenses should not exceed \$10,000 for a case.
CA-E (115) ⁷	Prisoner Settlement Conference	No information provided.	Magistrate and district judges serve as neutrals. Attorney neutrals may be used as well.
	Voluntary Dispute Resolution Program (mentions mediation, negotiation, ENE, and settlement facilitation) (55: mediation)	Judge may order on a case-by-case basis or referral may be voluntary, based on consent of all parties. In general, referral may not be made over party objections. Rule lists several exempt case types, but judges are not precluded from ordering ADR in these case types, nor are parties precluded from agreeing to participate in ADR.	The court maintains a panel of court-approved neutrals. Upon referral, the assigned judge may assign a neutral, or the VDRP administrator may give the parties a list of neutrals from which they may select. If authorized by the judge, the parties may select a neutral who is not on the court's panel. The VDRP administrator randomly assigns a neutral from the panel when the parties cannot agree.
	Settlement Conference (54)	A settlement conference is held in all actions unless otherwise ordered by the court on objection of a party or for other good cause.	District or magistrate judges serve as neutrals, typically not the assigned judge unless all parties affirmatively request it.

District (Number of Referrals) ³	Types of ADR Authorized (Number of Referrals)	Referral Procedures Authorized	Types of Neutrals and Fee Requirements Authorized
CA-N (4,277)	ADR Multi-Option Program (4,222)	The court offers multiple forms of ADR. Some cases are referred to these options through the ADR Multi-Option Program. Others are referred directly. Appropriate civil cases assigned to designated judges are automatically assigned to the ADR Multi-Option Program when the complaint or notice of removal is filed. Cases not assigned at filing may be referred based on voluntary consent by all parties, on motion by a party, or on the judge's initiative. Once assigned, the parties meet to confer and attempt to agree on an ADR process.	Fee requirements are specific to each ADR process. See entries below.
	Arbitration ⁸	Cases may be referred to arbitration through the ADR Multi-Option Program, as described above. Cases not referred through this program may be referred based on voluntary consent of all parties, on motion by one party, or on the judge's initiative. Exempt cases include those alleging violations of the U.S. Constitution and those seeking money damages greater than \$150,000.	Attorneys from the court's arbitrator panel serve as neutrals. The court pays the arbitrators \$250/day if serving singly and \$150/day if serving on a panel of three.
	Early Neutral Evaluation	Cases may be referred to ENE through the ADR Multi-Option Program, as described above. For cases not referred through this program, referral is mandatory in all even-numbered cases for specified case types and specified judges. Referral may also be made at the request of one party or by consent by all parties.	Attorneys from the court's ENE panel serve as neutrals. Parties select the neutral. After four free hours in session, the neutral may continue to volunteer, the parties may withdraw, or they may continue at a rate of \$300 per hour.
	Mediation (48)	Cases may be referred to mediation through the ADR Multi-Option Program, as described above. For cases not referred through this program, judges may order referral sua sponte or at the request of one party. Referral may also be voluntary, based on consent by all parties.	Attorneys and non-attorneys serve on the court's mediation panel. The court's ADR office selects the mediator. Non-attorneys are selected only with consent of the parties. Mediators volunteer preparation time and four hours in session. After four hours, the mediator may continue to volunteer, the parties may withdraw, or they may continue at a rate of \$300 per hour. Court ADR staff also serve as mediators.
	Settlement Conference (7)	A case may be referred to a settlement conference only by order of the assigned judge, which may be made on the judge's own initiative, at the request of one party, or upon stipulation of the parties.	Magistrate judges, and in some instances district judges, serve as neutrals. The court tries to accommodate party requests for specific magistrate judges.

District (Number of Referrals) ³	Types of ADR Authorized (Number of Referrals)	Referral Procedures Authorized	Types of Neutrals and Fee Requirements Authorized
	Private ADR	Cases may be referred to private ADR through the ADR Multi-Option Program, as described above. Cases not referred through this program may be referred if the parties stipulate and the assigned judge approves. The court does not ordinarily refer cases to private providers except on stipulation of the parties.	Private neutrals may be lawyers, law professors, retired judges, or other professionals with expertise in dispute resolution techniques. Nearly all private neutrals charge fees for their services. The assigned judge will take appropriate steps to ensure that a referral to private ADR does not result in an imposition on any party of an unfair or unreasonable economic burden.
	Special Masters	Judge may order on case-by-case basis or at request of one party. Referral may also be voluntary, based on consent of all parties.	Special masters are persons screened and trained by the court's ADR office.
	Summary Jury or Bench Trial	No information provided about how cases are referred. The procedure is best suited to complex, trial-ready cases headed for protracted trials.	Judges (type not specified) serve as neutrals.
CA-S (1,093)	Early Neutral Evaluation (1,088)	The court uses this early conference to screen cases for suitability for the court's case disposition procedures. Referral is mandatory for most civil cases. Referral may also be at the request of one party. Rule lists several exempt case types and also exempts cases in which a substantial number of defendants have not answered.	District and magistrate judges serve as neutrals.
	Arbitration	At the ENE session, in each case eligible for mandatory arbitration, the judge may announce to the parties, and thereafter the clerk may enter, an initial order referring the case for arbitration. Alternatively, referral may be voluntary based on the consent of all parties. Mandatory referral is authorized when the judge believes arbitration might result in a cost-effective resolution. Rule lists several exempt case types.	Attorneys serve as neutrals. There is no compensation. The parties may select a neutral from the list maintained by the court, or they may select any other person, whether or not an attorney, on the basis of that person's expertise or experience.
	Mediation (5)	At the ENE session, in each case eligible for mediation, the judge may announce to the parties, and thereafter the clerk may enter, an initial order referring the case for mediation. Alternatively, referral may be voluntary based on the consent of all parties. Consensual referrals are preferred. Rule lists several exempt case types and also exempts cases in which a substantial number of defendants have not answered.	See preceding entry.

District (Number of Referrals) ³	Types of ADR Authorized (Number of Referrals)	Referral Procedures Authorized	Types of Neutrals and Fee Requirements Authorized
	Early Settlement Conference	Mandatory for all cases.	Magistrate judges serve as neutrals.
	Summary Jury Trial	Judge may order referral sua sponte or at the request of one party. Referral may also be voluntary, based on consent of all parties. Eligible cases are those where the potential judgment does not exceed \$250,000 and the use of this process will likely resolve the case. The judge must weigh costs and benefits in deciding whether to refer cases to a non-binding trial.	No information provided.
	Mini-Trial	See preceding entry.	No information provided.
CO	Settlement Conference	Mandatory if the case meets certain criteria. Judge may also order sua sponte or at the request of one party. Rules lists many exempt case types but leaves most general civil litigation eligible.	Judges (type not specified) serve as neutrals.
	Open ADR (any other ADR process)	Judge may order referral sua sponte or at the request of one party.	No information provided.
CT	General ADR	Referral is voluntary, based on consent of all parties.	Neutrals are individuals selected by the parties.
	Parajudicial Settlement Program	Referral is mandatory if case meets specified criteria. Rules lists several exempt case types.	The parajudges are attorneys with considerable trial experience, who are either nearly or fully retired.
	Special Masters Settlement Program	Judge may order referral, or referral may be voluntary and based on consent of all parties.	Compensation is set by the court unless the parties agree to an alternative rate or the master consents to serve without compensation.
DE (292) ⁹	Magistrate Judge Settlement (mentions settlement conference, mediation, ENE, and arbitration) (208)	Judge may order referral sua sponte or at the request of one party. Referral may also be voluntary, based on consent of all parties. Prisoner and habeas corpus cases are exempt.	Magistrate judges serve as neutrals.
DC	Mediation	Judge may order referral, or referral may be voluntary and based on consent of all parties. All cases except pro se cases are eligible, but most referred cases are contract, personal injury, employment discrimination, or government cases.	Court ADR staff appoint a mediator from the district's panel of neutrals, who must be a member of the bar and must have at least ten years' experience and strong mediation skills. Mediators serve pro bono. Court ADR staff also serve as mediators.

District (Number of Referrals) ³	Types of ADR Authorized (Number of Referrals)	Referral Procedures Authorized	Types of Neutrals and Fee Requirements Authorized
FL-M (2,646) ¹⁰	Arbitration	Judge may order sua sponte or at the request of one party. Referral may also be voluntary, based on consent of all parties. Exempt cases include claims involving constitutional rights and money damages greater than \$150,000.	Attorneys from the court's panel of neutrals serve as arbitrators. They must be members of the Florida bar for at least five years and be deemed competent by the chief judge to serve as arbitrators. When funds are available, the court pays the arbitrators. Parties do not pay a fee.
	Mediation (2,554)	Judge may order sua sponte or at the request of one party. Referral may also be voluntary, based on consent of all parties. The rule lists a small number of exempt case types.	Parties pay the mediator the court-set fee of \$150 per hour.
FL-N	Mediation	Judge may order sua sponte. Referral may also be voluntary, based on consent of all parties. The rule lists a number of exempt case types, including prisoner pro se cases.	Parties may select a mediator from a panel of attorney and non-attorney mediators certified to be circuit court mediators under rules adopted by the Florida Supreme Court. By party agreement and approval of the judge, parties may select any other person as mediator. If the parties and mediator do not agree on a fee, mediators are compensated and reimbursed for expenses at a rate set by the court.
FL-S (3,736)	Mediation (3,736)	Referral is mandatory by case type or track. Rule lists several exempt case types; all others are eligible. The presiding judge may withdraw a case from mediation at any time at the request of a party or because the judge thinks the case is not suitable for mediation.	Attorneys certified as mediators or individuals selected by the parties serve as mediators. If the court appoints the mediator without input from or at the request of the parties, the court sets the compensation rate. If the parties select the mediator, the mediator is paid a fee agreed to by the parties in writing.
GA-M (60)	Arbitration (60)	Referral to arbitration is mandatory for all civil cases except a small number of exempt case types. Cases may be put into the program if they have not already been pre-tried and if the presiding judge directs. Any party is permitted to opt out for any reason within 21 days after notice of referral.	Attorneys on the court's panel serve as arbitrators. They must be members of the Georgia bar for ten years, admitted to practice in a federal court, and determined by the chief judge to be competent as an arbitrator. The clerk selects three names from the court's panel, and the parties each strike one name. The court pays the arbitrator.
	Mediation	Referral is voluntary, based on consent of all parties.	No information provided about the neutrals, except that the court will assist parties in selecting a mediator. The parties are responsible for the mediator's fee.

District (Number of Referrals) ³	Types of ADR Authorized (Number of Referrals)	Referral Procedures Authorized	Types of Neutrals and Fee Requirements Authorized
GA-N	Arbitration	For non-binding arbitration, judge may refer sua sponte on a case-by-case basis. Referral may also be voluntary, based on consent of all parties. For binding arbitration, judge may refer only with consent of all parties. A small number of case types, including pro se cases, are exempt.	No information provided about the court's neutrals, except that the judge selects the neutral. If the parties can agree on a neutral, the judge may consider their recommendations. The parties are responsible for the neutral's compensation and are encouraged to agree on a fee at or before the first ADR session. Neutrals in the court-annexed ADR program are required to list their fee schedules as part of their applications. The court will review fee schedules for reasonableness. Daily rather than hourly rates are encouraged.
	Early Neutral Evaluation	Judge may refer sua sponte on a case-by-case basis. Referral may also be voluntary, based on consent of all parties. Referrals may be made to non-binding ENE only. A small number of case types, including pro se cases, are exempt.	See preceding entry.
	Mediation	Judge may refer sua sponte on a case-by-case basis. Referral may also be voluntary, based on consent of all parties. Referrals may be made to non-binding mediation only. A small number of case types are exempt.	See preceding entry.
GA-S	Mediation	Referral is voluntary, based on consent of all parties. The rule lists a number of exempt case types.	Judge selects an attorney mediator for the case. Parties may jointly request a particular individual and petition the court to name that person. The parties pay the mediator.
GU	Settlement Conference	Referral is voluntary, based on consent of all parties. All civil cases are eligible.	District and magistrate judges serve as neutrals. If the conference is held before the trial judge, all parties must sign a written stipulation consenting to the trial judge's settlement role.
HI	Mediation	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties. Judge may refer cases to non-binding mediation only. All civil cases are eligible.	When the court orders appointment of a compensated mediator, or in any other situation, the parties have a right to select the mediator by agreement. If the parties cannot agree, the court appoints a mediator from its panel.

District (Number of Referrals) ³	Types of ADR Authorized (Number of Referrals)	Referral Procedures Authorized	Types of Neutrals and Fee Requirements Authorized
	Settlement Conference	Referral is mandatory by case type or track. All civil cases are eligible.	Magistrate and district judges serve as neutrals. In a non-jury case, written stipulation is required of all parties before the conference may be held before the assigned trial judge.
	Settlement Masters	No information provided.	Retired or senior litigators serve as neutrals. They serve pro bono.
ID (567)	Arbitration	Referral is voluntary, based on consent of all parties. Exempt cases include those alleging a violation of the U.S. Constitution, those seeking money damages greater than \$150,000, cases in which the objectives of arbitration would not be realized, and prisoner pro se cases.	Attorneys on the court's panel of neutrals serve as arbitrators. The parties select from the panel. Only with approval of the assigned judge may they select someone who is not on the panel. When the parties cannot agree, the ADR administrator selects the arbitrator. Arbitrators are paid by the parties at a rate of \$100 per hour. In large, complex cases the parties and arbitrator are free to negotiate a fee arrangement acceptable to everyone. Arbitrators are encouraged to serve pro bono on at least one case during the time in which they are on the court authorized list. Assigned judges shall take appropriate steps to ensure that no referral to ADR results in an imposition on any party of an unfair or unreasonable economic burden.
	Mediation (50)	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties. A party may move to withdraw from mediation upon showing that it would not be productive; the judge to whom the case is assigned makes the final determination. Rule lists a number of exempt case types.	Attorneys on the court's panel of mediators serve as mediators. The parties may select from the panel, or they may select someone who is not on the panel. When the parties cannot agree, the ADR administrator selects the mediator. Mediators are compensated at their regular fees and expenses, which must be clearly set forth in the information and materials provided to the parties at the time of notification of case assignment to mediation. In the absence of such rates, mediators are compensated at the rate of \$100 per hour. The parties are wholly responsible for the payment of the mediator's fees and expenses. The court's ADR administrator also mediates cases. Assigned judges shall take appropriate steps to ensure that no referral to ADR results in an imposition on any party of an unfair or unreasonable economic burden.

District (Number of Referrals) ³	Types of ADR Authorized (Number of Referrals)	Referral Procedures Authorized	Types of Neutrals and Fee Requirements Authorized
	Settlement Conference (69)	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties.	Magistrate judges serve as neutrals and are assigned randomly.
	General Authorization (any other ADR procedure) ¹¹	Referral is voluntary, based on consent of all parties. Parties who select this option are not supported by court staff or resources.	The parties may choose any neutral they wish.
IL-C (51) ¹²	Mediation	Referral is voluntary, based on consent of all parties. Rule exempts many administrative-type cases, as well as cases where defendants have not been served within 120 days of filing and cases where the burden would exceed the administrative efficiency to be gained. All other civil cases are eligible.	Magistrate judges typically serve as mediators. If a non-judge serves as mediator, court staff select the mediator.
	Summary Jury and Bench Trial	Referral is voluntary, based on consent of all parties. Rule exempts many administrative-type cases, as well as cases where defendants have not been served within 120 days of filing and cases where the burden would exceed the administrative efficiency to be gained. All other civil case types are eligible.	A judge other than the assigned judge presides at the summary jury or bench trial. The ADR administrator assigns cases to judges for ADR purposes.
IL-N	Mediation for Lanham Act Cases	Referral is mandatory for all cases filed under the Federal Trademark Act of 1946, except those under seal shall not be referred while under seal.	The court maintains a list of Lanham Act organizations and neutrals from which the parties may select a neutral. If they cannot agree on a neutral, they may contact the organizations on the list for assistance. Parties pay the mediator's normal hourly rate, split equally, unless they agree to a different arrangement.
	Mediation, Western Division	Judges in the Western Division may order referral on a case-by-case basis. Referral may also be voluntary, based on consent of all parties. Rule lists a small number of exempt case types, including pro se cases.	Attorneys and non-attorneys who meet the court's criteria are appointed to the court's panel. Parties select the neutral or may seek the court's assistance in selecting a neutral. Parties pay the mediator's customary rates or other rates as agreed upon. Mediators may charge for preparation time.
IL-S	Settlement Conference	Referral is mandatory by case type or track. Rule lists a number of exempt case types. Referral may also be voluntary, based on consent of all parties.	Judges serve as neutrals.

District (Number of Referrals) ³	Types of ADR Authorized (Number of Referrals)	Referral Procedures Authorized	Types of Neutrals and Fee Requirements Authorized
IN-N	Arbitration	Referral is voluntary, based on consent of all parties.	Arbitration hearings are presided over by one neutral, or a three-member panel of neutrals, chosen by the parties or by an arbitration organization.
	Mediation	Referral is mandatory by case type or track. Rule lists a number of exempt case types, including pro se cases. All other civil case types are eligible.	Attorneys and non-attorneys on the court's panel serve as mediators. Parties select the mediator. If the parties cannot agree, the court selects a mediator from the panel. Parties pay a fee agreed upon between them and the mediator. Indigent parties may petition the court to modify the fee. To be on the court's panel, mediators must agree to accept at least two pro bono appointments annually.
	Early Neutral Evaluation	Referral is mandatory by case type or track. Rule lists a number of exempt case types, including pro se cases. All other civil case types are eligible.	Attorneys and non-attorneys on the court's panel serve as mediators. Parties select the neutral.
	Mini-Trial	Referral is voluntary, based on consent of all parties.	A judge or a private moderator presides.
	Special Master	Referral is voluntary, based on consent of all parties.	The court can appoint a master selected by either the court or the parties. Compensation for masters is determined by the judge, and the parties may be ordered to share the fee.
	Summary Jury Trial	Referral is voluntary, based on consent of all parties.	The district judge, a magistrate judge, or a private substitute may preside. If a district judge or magistrate judge presides, it may not be the judge or magistrate judge to whom the case is assigned.
	Settlement Conference	Referral is voluntary, based on consent of all parties.	District or magistrate judges serve as neutrals.
	General Authorization (any other ADR procedure)	Referral is voluntary, based on consent of all parties.	No information provided in the rule.
IN-S	Mediation	Referral is voluntary, based on consent of all parties. Rule lists a small number of exempt case types. All other civil case types are eligible.	Attorneys who are on the Indiana Supreme Court's certified list serve as mediators. Parties compensate the mediator at a rate agreed upon by them and the mediator.
IA-N	Settlement Conference	Judge may order referral on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties. Rule lists a small number of exempt case types.	Magistrate judges serve as neutrals.

District (Number of Referrals) ³	Types of ADR Authorized (Number of Referrals)	Referral Procedures Authorized	Types of Neutrals and Fee Requirements Authorized
IA-S	Settlement Conference	Judge may order referral on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties. Rule lists a small number of exempt case types.	Magistrate and district judges serve as neutrals.
KS (532)	Mediation (532)	Judge may order referral on a case-by-case basis.	Parties pay neutrals their market rate. Pro bono service can be had for indigent litigants.
KY-E	General ADR (mentions mediation, ENE, mini-trial, arbitration)	Judge may order referral on case-by-case basis or at request of one party. Referral may also be voluntary, based on consent of all parties. All civil cases are eligible; judges select on case-by-case basis.	Judicial officer or private neutrals.
KY-W	General ADR (mentions mediation, ENE, mini-trial, arbitration)	Judge may order referral on case-by-case basis or at request of one party. Referral may also be voluntary, based on consent of all parties. All civil cases are eligible; judges select on case-by-case basis.	Judicial officer or private neutrals.
LA-E	Settlement Conference	Judge may order referral on request of one party. Referral may also be voluntary, based on consent of all parties.	Judges serve as neutrals.
	General ADR (includes any other ADR process endorsed by the district)	Judge may order referral on case-by-case basis but only to mini-trial or SJT. Otherwise, judge may order on request of one party or parties may refer case voluntarily, based on consent of all parties. The court expects case-by-case use of ADR, initiated by the parties or the assigned judge.	No information provided.
LA-M	Early Neutral Evaluation	Judge may order referral on case-by-case basis or at request of one party. Referral may also be voluntary, based on consent of all parties. Rule lists a small number of exempt cases. A party opposed to referral must file written objections with the assigned judge making the referral within 7 days of the order of referral and must give reasons for the opposition.	Attorneys and non-attorneys, who are on a panel maintained by the court, serve as neutrals. Parties select from the panel; if they cannot agree, the ADR clerk selects the neutral. The parties pay the neutral's fee unless the assigned judge has approved the case or litigant as pro bono or for a reduced fee. The neutral's hourly rate is approved by the court when the neutral is appointed to the court's panel and remains in effect for one year.
	Mediation	See preceding entry.	See preceding entry.

District (Number of Referrals) ³	Types of ADR Authorized (Number of Referrals)	Referral Procedures Authorized	Types of Neutrals and Fee Requirements Authorized
	Settlement Conference	Judge may order referral at request of one party. Referral may also be voluntary, based on consent of all parties. A party opposed to referral must file written objections with the assigned judge making the referral within 7 days of the order of referral and must give reasons for the opposition.	District or magistrate judges serve as neutrals.
	Summary Jury or Bench Trial	See preceding entry.	Judicial officers serve as neutrals.
LA-W	General ADR (mentions mediation, mini-trial, SJT)	Referral is voluntary, based on consent of all parties.	Individuals on a panel certified by the Louisiana Supreme Court serve as neutrals. Either the judge or parties select the neutral, who is paid by the parties at a rate agreed upon by the parties and neutral. Mediators must be willing to accept two annual pro bono appointments.
ME	General ADR (mentions ENE, settlement conference, mediation, SJT, corporate mini-trial, arbitration)	Referral is voluntary, based on consent of all parties. Parties are authorized and encouraged to employ, at their own expense, any available ADR process on which they can agree.	District and magistrate judges serve as neutrals for ENE and settlement conferences. Parties select the neutral.
MD	General ADR (includes any ADR process)	Referral is voluntary, based on consent of all parties.	Magistrate judges serve as neutrals, or parties may select a private neutral.
MA (292)	Early Neutral Evaluation	Referral is voluntary, based on consent of all parties.	An individual from the court's panel of neutrals, or a judicial officer other than the one to whom the case is assigned, serves as the neutral. Parties or the ADR administrator select the neutral. There is no fee.
	Mediation (292)	See preceding entry.	See preceding entry.
	Mini-Trial	See preceding entry.	A judicial officer serves as the neutral.
	Summary Jury or Bench Trial	See preceding entry.	The neutral is an advisory panel selected by the court or a judge other than the one assigned to the case. There is no fee.
	Settlement Conference	See preceding entry.	Magistrate or district judges, other than the one assigned to the case, serve as neutrals.

District (Number of Referrals) ³	Types of ADR Authorized (Number of Referrals)	Referral Procedures Authorized	Types of Neutrals and Fee Requirements Authorized
	Special Masters	See preceding entry.	No information provided about the neutral or the process for selecting one. Parties bear the cost.
	Private ADR	See preceding entry.	Parties may select any organization or individual they wish. Parties bear the cost.
	State Court Multi-Door Courthouse	See preceding entry.	No information provided about the neutrals or the process for selecting them. Parties equally pay the state court's administrative fee and the per hour neutral fee. Fee reductions and waivers are offered when appropriate.
MI-E	Case Evaluation (Michigan Mediation) ¹³	Judge may order referral on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties. All civil cases are eligible if they do not have the U.S. as a party and the primary relief sought is monetary.	Cases are mediated by the Wayne County Mediation Tribunal or another Michigan state trial court mediation system unless the court orders otherwise. Providers should give parties sufficient information about fees at the outset so parties can determine whether to go forward.
MI-W (497) ¹⁴	Arbitration (1)	Judge may order referral on a case-by-case basis. Referral may also be voluntary, based on consent of all parties. Cases involving an alleged violation of the Constitution or seeking damages greater than \$150,000 may not be referred without consent of all parties.	The court provides a panel of court-certified attorneys who serve as arbitrators. Parties select the arbitrator. If they cannot agree, the ADR administrator selects the arbitrator. The court pays the arbitrator \$250, plus reasonable expenses.
	Case Evaluation (Michigan Mediation) (29)	Judge may order referral on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties. Certain tort cases where the rule of decision is supplied by Michigan law are mandatorily referred unless the parties have agreed to use the court's mediation program. All civil cases in which damages are sought are eligible except for Social Security cases.	The court maintains a panel of attorneys to serve as case evaluators. Under the Standard Track, these certified case evaluators are used and they are selected by the ADR administrator. Under the Blue Ribbon Track, case evaluators not certified by the court are used and the parties select the case evaluators. Under the Standard Track, each party pays each of the three case evaluators \$100. Under the Blue Ribbon Track, evaluators are paid their normal hourly rate, split equally between the parties or as otherwise agreed by the parties. If a party cannot pay the fees, the court may request the neutral to serve pro bono or may reduce the fee for the indigent party.

District (Number of Referrals) ³	Types of ADR Authorized (Number of Referrals)	Referral Procedures Authorized	Types of Neutrals and Fee Requirements Authorized
	Early Neutral Evaluation	Referral is voluntary, based on consent of all parties. All civil cases are eligible except habeas corpus and Social Security cases.	The court does not maintain a special panel of ENE neutrals. Parties may select any attorney qualified for the court's other ADR panels. Parties pay the neutral's normal hourly rate.
	Voluntary Facilitative Mediation (194)	Referral is voluntary, based on consent of all parties. All civil cases are eligible except for a small number of case types listed in the rule.	Attorneys on the court's panel of certified mediators serve as neutrals. Parties pay the mediator's normal hourly rate. The court also assesses a \$50 administrative fee for each case, paid equally by the parties, which is deposited to the mediation training fund. Mediators are expected to take one case pro bono each year, if requested. Further requests may be declined.
MN	Settlement Conference	Referral is mandatory by case type or track. Rule lists a number of exempt case types.	Magistrate judges serve as neutrals.
	General Authorization (mentions SJT, arbitration, mediation)	Judge may refer on a case-by-case basis. Referral may also be voluntary, based on consent of all parties.	Magistrate judges, district judges, and others serve as ADR neutrals. Parties, except those proceeding in forma pauperis, may be ordered to bear reasonable costs and expenses incurred by the ADR process.
MS-N	Mediation	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties. All civil cases are eligible except for a small number of case types listed in the rule, including prisoner pro se cases.	Attorneys on the list of mediators maintained by the Mississippi Supreme Court serve as neutrals. Parties select the neutral; if they cannot agree, the assigned judge selects the neutral. Parties pay reasonable fees and expenses. Neutrals must serve pro bono at least once per year if requested by the parties in an appropriate case or requested or ordered by the court.
	General Authorization (mentions arbitration, mediation, ENE, mini-trial)	Referral is voluntary, based on consent of the parties.	See preceding entry.
MS-S	Mediation	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties. All civil cases are eligible except for a small number of case types listed in the rule, including prisoner pro se cases.	Attorneys on the list of mediators maintained by the Mississippi Supreme Court serve as neutrals. Parties select the neutral; if they cannot agree, the assigned judge selects the neutral. Parties pay reasonable fees and expenses. Neutrals must serve pro bono at least once per year if requested by the parties in an appropriate case or requested or ordered by the court.

District (Number of Referrals) ³	Types of ADR Authorized (Number of Referrals)	Referral Procedures Authorized	Types of Neutrals and Fee Requirements Authorized
	General Authorization (mentions arbitration, mediation, ENE, mini-trial)	Referral is voluntary, based on consent of the parties.	See preceding entry.
MO-E (422)	Early Neutral Evaluation	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties. Any civil cases is eligible.	Attorneys on the court's panel of neutrals serve as neutrals. Parties select the neutral and equally pay the neutral's fee. The court may review the reasonableness of the fee and enter an order modifying it. Parties who cannot pay the fee may file a motion asking the court to appoint a neutral who will serve pro bono.
	Mediation (422)	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties. Any civil case is eligible except for a small number of case types listed in the rule.	See preceding entry.
MO-W (1,040)	Early Assessment Program (early mediation program) (1040)	Mandatory referral of all civil cases, except for several case types listed in the rule. Parties may ask for exemption in a written letter to the EAP administrator; appeals from the administrator's decision, while discouraged, may be made by motion to the assigned judge.	Cases are randomly assigned to the EAP administrator (a trained mediator), the court's magistrate and bankruptcy judges, and the court's panel of mediators. Parties equally pay the hourly rates of the panel mediators. The panel mediators must agree to serve pro bono periodically, as assigned by the EAP administrator.
MT	Early Neutral Evaluation	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties. Rule lists a number of exempt case types, including pro se cases.	Attorneys on the court's panel of neutrals serve as neutrals. Parties pay the neutrals at rates agreed upon by the parties and the neutral. Any neutral may voluntarily serve pro bono.
	Mediation	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties.	No information provided.
NE (49)	Mediation (49)	Judge may order on a case-by-case basis. Referral may also be voluntary, based on consent of all parties. The rule gives guidance on the kinds of cases the court considers particularly suited to mediation.	The court maintains a list of certified mediators who serve as neutrals. Parties select the neutrals. If parties wish to use a mediator or other neutral who has not been approved by the court, the parties are asked to proceed in good faith in accordance with that neutral's procedures. Mediation costs are borne equally by the parties at the rate negotiated with the neutral. Parties who cannot pay the fee may seek payment from the Federal Practice Fund.

District (Number of Referrals) ³	Types of ADR Authorized (Number of Referrals)	Referral Procedures Authorized	Types of Neutrals and Fee Requirements Authorized
NV	Early Neutral Evaluation	All employment discrimination cases must use ENE. Otherwise, the court may in its discretion refer any appropriate civil case to ADR.	No information provided.
	General Authorization (mentions settlement conference, SJT, or other ADR)	The court may in its discretion refer any appropriate civil case to ADR.	No information provided.
NH (15)	Mediation (15)	Judge may order on a case-by-case basis. Referral may also be voluntary, based on consent of all parties.	Parties may select a neutral from the court's panel or may select any other neutral they wish. Parties equally pay the mediator's hourly rate. The court may request mediators to serve six hours each year without compensation.
NJ (1,782)	Arbitration (1,668)	Referral is mandatory by case type or track. Exempt case types include those seeking relief greater than \$150,000 or based on an alleged violation of the Constitution.	The court maintains a panel of arbitrators, from which the parties may select their arbitrator. If the parties cannot agree, the ADR administrator selects the arbitrator. The court pays the arbitrator \$250.
	Mediation (114)	Judge may order on a case-by-case basis. Referral may also be voluntary, based on consent of all parties. Rule lists a number of case types that are exempt from referral.	Attorneys on the court's panel serve as mediators. Parties who consent to mediation select their neutral. For cases referred without consent, the ADR liaison judge selects the neutral. After six free hours, the parties equally pay the mediator's \$300 per hour fee. Parties who select a mediator not on the court's panel must agree in writing among themselves and with the mediator on the amount and terms of compensation.
NM	Settlement Conferences	Every civil case must participate in a settlement conference unless exempt. The rule lists a number of exempt case types.	Judges serve as neutrals.
NY-E (311)	Arbitration (228)	Referral is mandatory by case type or track. All civil cases are referred to arbitration except those alleging violation of a constitutional right, those claiming damages greater than \$150,000, prisoner cases, Social Security cases, and several other case types. Exempt cases may be referred at the discretion of the assigned judge and agreement of the parties. A judge may exempt any case from arbitration sua sponte or on motion by the parties if the objectives of arbitration would not be realized. Parties may request exemption in writing within 21 days after receiving notice of an arbitration hearing.	The court maintains a panel of attorneys who serve as arbitrators. The clerk's office randomly assigns arbitrators to cases. The court pays single arbitrators \$250 per day and panels of three \$100 each per day. If a hearing is protracted, the assigned judge will consider petitions for additional compensation.

District (Number of Referrals) ³	Types of ADR Authorized (Number of Referrals)	Referral Procedures Authorized	Types of Neutrals and Fee Requirements Authorized
	Mediation (83)	Judge may order on a case-by-case basis. Referral may also be voluntary, based on consent of all parties.	The court maintains a panel of attorneys who serve as mediators. If parties opt to use a mediator from the court's panel, the clerk's office assigns the mediator. Otherwise, parties may select any mediator they wish. Parties pay the mediator \$600 for the first four hours of mediation (or less) and \$250 per hour thereafter. Parties who cannot pay may apply to the referring judge for waiver of the fee. Each mediator on the panel is required to serve pro bono on two cases per year if requested by the court.
NY-N (270) ¹⁵	Arbitration	Referral is voluntary, based on consent of all parties. Rule lists a small number of exempt case types, including pro se cases.	The court maintains a panel of attorneys who serve as arbitrators. The parties select their arbitrator. The court pays \$250 per day to single arbitrators or \$100 per day to each arbitrator on a panel of three.
	Early Neutral Evaluation (27)	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties. Parties may withdraw any case from the process by application to the assigned judge at least 10 days before the session.	The court maintains a list of attorney and non-attorney neutrals to serve in cases referred to ENE and mediation. The parties select the neutrals, who are not compensated.
	Mediation (177)	See preceding entry.	See preceding entry.
NY-S (368)	Mediation (368)	Judge may order on a case-by-case basis. Referral may also be voluntary, based on consent of all parties. Rule lists a small number of exempt case types, including pro se cases.	The court maintains a panel of attorneys who serve as mediators. The mediation supervisor selects the mediator for each case. Parties may request a mediator with specialized expertise. Mediators serve without compensation but may receive pro bono credit.
NY-W (695)	Mediation (695)	The court expects that most cases that are referred to ADR will go to mediation, but makes a number of other ADR procedures available. Referral to ADR is mandatory, based on case type or track. Judges may also refer cases sua sponte, or referral may be voluntary, based on consent of all parties. Referral to an ADR process other than mediation is upon stipulation of all parties.	The court maintains a panel of neutrals composed of attorneys and non-attorneys with relevant experience. Parties may select a neutral from the panel or off the panel. Requirements for panel membership are specific to each of the court's ADR procedures. Parties pay the court-set rate of \$150 for the first two hours of the mediation session and the mediator's court-approved hourly rate thereafter. Parties who cannot pay may request a waiver of the fees. For every four fully compensated cases, the panel mediators must mediate one pro bono case or two reduced compensation cases.

District (Number of Referrals) ³	Types of ADR Authorized (Number of Referrals)	Referral Procedures Authorized	Types of Neutrals and Fee Requirements Authorized
	Arbitration	See preceding entry.	The court maintains a panel of neutrals composed of attorneys and non-attorneys with relevant experience. Parties may select a neutral from the panel or off the panel. Requirements for panel membership are specific to each of the court's ADR procedures. No information provided about fees.
	Neutral Evaluation	See preceding entry.	See preceding entry.
	Mini Summary Trial	See preceding entry.	See preceding entry.
	Case Valuation	See preceding entry.	See preceding entry.
	Settlement Week (Mediation)	See preceding entry.	See preceding entry.
NC-E (394)	Mediation (394)	Referral is mandatory based on case type or track for specified case types (e.g., contract, tort, civil rights). Referral may also be voluntary, based on consent of all parties.	The court maintains a panel of attorneys and retired judges who serve as mediators. The parties select the mediator and compensate the mediator at a rate agreed to by the parties and mediator. Absent an agreement, the mediator is compensated at a rate set by the clerk of court. Preparation time is also compensated. Parties unable to pay may file a motion with the court to be exempt from fees.
	Settlement Conference	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties.	District or magistrate judges serve as neutrals.
	Summary Jury Trial	Judge may order at the request of one party. Referral may also be voluntary, based on consent of all parties. Judge will not require a party to participate against its will.	See preceding entry.
NC-M (338)	Mediation (388)	Referral is mandatory by case type or track for specified cases (e.g., contract, tort, civil rights). Judge may order on a case-by-case basis. Referral may also be voluntary, based on consent of all parties.	The court maintains a panel of attorneys who serve as mediators. The parties select their mediator. Parties pay the mediator at a rate set by the chief judge or at a greater rate if the parties are in agreement. A party who cannot pay may file a motion requesting waiver or reduction of the fee. Reduced-fee cases are credited to the attorney's pro bono obligation.

District (Number of Referrals) ³	Types of ADR Authorized (Number of Referrals)	Referral Procedures Authorized	Types of Neutrals and Fee Requirements Authorized
NC-W	Mediated Settlement Conference (Mediation)	All civil cases must attend a mediated settlement conference unless otherwise ordered by the court. Parties may select another form of ADR, but if they do not they will be required to attend a mediated settlement conference. Rule lists a small number of exempt case types.	The court maintains a non-exclusive list of attorneys and non-attorneys who serve as mediators. Parties select the mediator and compensate the mediator at a court-set rate. Mediators must serve pro bono if the court determines that a party is indigent.
	Judicial Settlement Conference	The judge to whom the case is assigned may refer on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties.	Any judge other than the one to whom the case is assigned may serve as the neutral.
	General Authorization	If parties wish to use a form of ADR other than the court's mandated mediated settlement conference, they may indicate their opinion regarding the usefulness of ADR, the preferred method of ADR, and the most advantageous time at which to commence ADR. If they fail to submit, or cannot agree on, a proposed ADR method, a mediated settlement conference is selected by default.	The neutral is selected by the parties and approved by the judge on a case-by-case basis.
ND (41)	Early Neutral Evaluation	Referral is voluntary, based on consent of all parties. A small number of case types, including pro se cases, are exempt except upon specific designation of the assigned judge.	No information provided.
	Settlement Conference (41)	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties. Rule lists a small number of exempt case types.	Judges serve as neutrals.
NMI	Summary Jury Trials	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties. Any case type triable to a jury is eligible.	The judge to whom the case is assigned or referred conducts the SJT.
OH-N (290) ¹⁶	Arbitration (1)	Referral is voluntary, based on consent of all parties. Any civil case authorized by statute (28 U.S.C. §§ 651, et seq.) is eligible. A judge, acting sua sponte or on motion by any party, may exempt any case if the objectives of arbitration would not be realized.	The court maintains a panel of attorneys who serve as neutrals for the court's ADR programs. Parties select their neutral, whose fee is set by the court at a maximum of \$275 per hour, split equally between the parties. Preparation time is not paid. If a party cannot pay the neutral's fee, the court may assign a neutral who will provide 4.5 free hours (the maximum number of free hours any neutral must provide each year).

District (Number of Referrals) ³	Types of ADR Authorized (Number of Referrals)	Referral Procedures Authorized	Types of Neutrals and Fee Requirements Authorized
	Early Neutral Evaluation (1)	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties. Any civil case may be referred to ENE.	See preceding entry.
	Mediation (187)	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties. Any civil case may be referred to mediation.	See preceding entry.
	Summary Jury and Bench Trial (2)	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties. Any civil case triable to a jury may be referred to a SJT. Any case not triable to a jury may be referred to a SBT.	Judges serve as neutrals in summary trials. A judge other than the one who will preside at the binding trial is assigned.
OH-S (664)	Mediation (299)	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties.	The court maintains a panel of attorney and judge neutrals to serve as mediators. Parties may select their mediator; court staff will do so if the parties cannot agree. The court also employs a mediator on staff who handles a portion of the caseload. Non-court mediators are compensated at a rate agreed to by the parties and the mediator. Mediators are required to provide some pro bono service.
	Settlement Week (Mediation) (365)	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties. Rule lists a small number of exempt case types, including prisoner pro se cases.	The court maintains a panel of attorney and judge neutrals to serve as neutrals. Parties may select their neutral; court staff will do so if the parties cannot agree. Non-court neutrals are compensated at a rate agreed to by the parties and the mediator. Neutrals are required to provide some pro bono service.
OK-E (93)	Settlement Conference (93) ¹⁷	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties. Rule lists a small number of exempt case types, including prisoner pro se cases.	Judges are neutrals.

District (Number of Referrals) ³	Types of ADR Authorized (Number of Referrals)	Referral Procedures Authorized	Types of Neutrals and Fee Requirements Authorized
OK-N (307) ¹⁸	Settlement Conference	All civil cases set on a trial docket are automatically set for settlement conference with the settlement judge. Also, the court may, on its own motion or at the request of any party, set a settlement conference at any practicable time.	A district judge other than the judge assigned to the case, a magistrate judge, or an adjunct settlement judge designated by the court normally presides at a settlement conference. Adjunct settlement judges are members of the bar invited by the court to serve without compensation and commit to conduct a minimum of six settlement conferences per year. Where settlement efforts are expected to be extensive, the court may appoint an adjunct settlement judge as a special project settlement judge and order the parties to pay a reasonable hourly rate.
OK-W (216)	Arbitration	Referral is voluntary, based on consent of all parties. Eligible cases are those where the relief sought is under \$150,000. Certain cases in which the U.S. is a party are also eligible. Rule lists a small number of exempt case types.	The court maintains a panel of attorneys who serve as arbitrators. The court pays arbitrators \$150 per day when serving as a single arbitrator or \$100 day as a member of a panel of three. The court's neutrals are encouraged, but not required, to serve pro bono in at least one case per year.
	Early Neutral Evaluation	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties. All civil cases are eligible.	The court maintains a panel of neutrals. Parties select the neutral and equally pay the neutral's reasonable rate. The court's neutrals are encouraged, but not required, to serve pro bono in at least one case per year.
	Mediation (88)	Judge may order at the request of one party. Referral may also be voluntary, based on consent of all parties. All civil cases are eligible.	The court maintains a panel of attorney and non-attorney neutrals who serve as mediators. The parties select the mediator. Mediators may set reasonable rates as determined by the mediator and the parties, who share the cost equally unless counsel agree otherwise. The court encourages discussion between counsel and mediator in cases where pro bono service may be needed. The court's neutrals are encouraged, but not required, to serve pro bono in at least one case per year.
	Mini-Trial	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties.	The court's magistrate judges typically conduct such trials, but parties may use an outside neutral. If they do, they must bear the cost.

District (Number of Referrals) ³	Types of ADR Authorized (Number of Referrals)	Referral Procedures Authorized	Types of Neutrals and Fee Requirements Authorized
	Settlement Conference (128)	Judge may order on a case-by-case basis or at the request of one party. Referral is mandatory for cases on certain tracks. Every civil case is eligible and is generally set for a settlement conference.	Judges serve as neutrals.
	Special Masters	Referral is voluntary, based on consent of all parties.	Magistrate judges and attorneys may serve as special masters. Parties pay the master's fee.
	Summary Jury and Bench Trial	Judge may order on a case-by-case basis or at the request of one party. Any civil case triable to a jury may be referred to a SJT, but generally complex trial-ready cases are referred. Any case not triable to a jury may be referred to a SBT.	Judges preside over summary trials.
OR (216)	Mediation (88)	Judge may order on a case-by-case basis or at the request of one party. Rule lists a small number of exempt case types.	The court maintains a panel of attorneys and judges who serve as mediators. Parties may select the mediator. Mediators on the court-sponsored panel give four free hours, exclusive of preparation and travel time Any decision to continue beyond four hours, with or without compensation, must be agreed to by the mediator and the parties before the mediation begins.
	Settlement Conference (128)	Judge may order on a case-by-case basis or at the request of one party. Rule lists a small number of exempt case types.	Judges serve as neutrals. Parties may request a specific judge, who will serve if available.
	General Authorization (mentions non-binding summary jury trial, mini-trial, advisory jury proceeding, arbitration hearing, and private ADR)	For all but private ADR, the assigned judge may sua sponte refer a case to ADR. A case may also be referred at the request of a party. Rule lists a small number of exempt case types.	For private ADR, parties must select and compensate the mediator. No information is provided for other types of ADR.
PA-E (827)	Arbitration (826)	Referral is mandatory by case type or track. Rule lists exempt case types, which include claims in excess of \$150,000 and those alleging violation of constitutional rights.	The court maintains a panel of attorneys who serve as arbitrators. The arbitrator is selected at random by the clerk of court. The court pays the arbitrators \$150 per hour whether serving singly or on a panel of three. If the arbitration hearing is protracted, the arbitrator may petition the court for additional compensation.
	Mediation (1)	Judge may order on a case-by-case basis. Referral may also be voluntary, based on consent of all parties. Social Security appeals, prisoner pro se cases, and petitions for habeas corpus are exempt.	The court maintains a panel of neutrals who serve as mediators. They serve without compensation.

District (Number of Referrals) ³	Types of ADR Authorized (Number of Referrals)	Referral Procedures Authorized	Types of Neutrals and Fee Requirements Authorized
PA-M (283)	Mediation (208)	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties. Most referrals occur at parties' request or consent. Every civil case is eligible except cases in which the judge decides, after application by a party or the mediator, that mediation would not be suitable.	The court maintains a panel of attorneys who serve as mediators. The judge assigned to the case selects the mediator. The mediator provides preparation time and the first six hours in session pro bono. After that, the parties and mediator may agree to end the mediation, continue pro bono, continue at the mediator's standard hourly rate, or, absent an hourly rate, continue at \$200 per hour. The agreement regarding compensation must be set forth in writing. The court's ADR administrator also mediates cases.
	Settlement Conference (75)	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties.	District and magistrate judges serve as neutrals. Neutral evaluators may also be appointed. The parties may, with court approval, select the settlement officer, but the court retains the right to select the settlement officer and to make the referral. If a neutral evaluator is appointed, the neutral's service is pro bono unless the parties and the assigned judge have approved other arrangements prior to appointment of the neutral.
	Summary Jury Trial	No information provided.	Judges preside over SJT.
PA-W (642)	Arbitration (14)	The assigned judge may order a case to arbitration.	The court maintains a panel of attorneys who serve as mediators. The parties select an arbitrator from this panel. Arbitrators are paid by the court: \$250 per day when serving as a single arbitrator or \$100 per day as a member of a panel of three. There is no compensation for preparation time.
	Early Neutral Evaluation (100)	The assigned judge may order appropriate civil cases to ENE, subject to availability of an evaluator with subject matter expertise.	The court maintains a panel of attorney neutrals, from which the parties select their neutral. Parties equally split the neutral's fee. The court may review the reasonableness of the fee and modify it. Parties who cannot pay may request that the court appoint a neutral who will serve pro bono with regard to that party.
	Mediation (528)	The assigned judge may order appropriate cases to mediation.	The court maintains a panel of attorney neutrals from which the parties select their mediator. Parties equally split the mediator's fee. The court may review the reasonableness of the fee and modify it. Parties who cannot pay may request that the court appoint a mediator who will serve pro bono with regard to that party.

District (Number of Referrals) ³	Types of ADR Authorized (Number of Referrals)	Referral Procedures Authorized	Types of Neutrals and Fee Requirements Authorized
PR	Mediation	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties. Any civil case is eligible.	The court maintains a panel of attorneys, judges, and retired judges who serve as mediators. The parties select their neutral. Parties equally pay a reasonable fee, taking into account the qualifications of the mediator and the complexity of the case. The compensation rate must be agreed to in writing when the parties select the mediator. If the parties cannot agree on a fee, the court will set the fee.
RI (213)	Settlement Conference (169)	All civil cases must go to a settlement conference with a magistrate judge unless the parties use one of the court's other ADR procedures. If another process is not used, participation in a magistrate judge settlement conference is required.	Magistrate judges serve as neutrals.
	Arbitration	Referral is voluntary, based on consent of all parties. Rule lists exempt case types, which include claims in excess of \$150,000 and those alleging violation of constitutional rights.	The court maintains a panel of attorney and non-attorney neutrals for the court's ADR procedures. Parties select their neutral. Neutrals are not compensated for the first hour and are compensated thereafter at a rate agreed to by the parties but not to exceed \$200 per hour, split equally by the parties.
	Early Neutral Evaluation	Referral is voluntary, based on consent of all parties. All civil cases are eligible except bankruptcy appeals, prisoner matters, and Social Security appeals.	See preceding entry.
	Mediation (44)	Referral is voluntary, based on consent of all parties. All civil cases are eligible except bankruptcy appeals, prisoner matters, and Social Security appeals.	The court maintains a panel of attorney and non-attorney neutrals for the court's ADR procedures. Parties select their neutral. Neutrals are not compensated for the first hour and are compensated thereafter at a rate agreed to by the parties but not to exceed \$200 per hour, split equally by the parties. The court's ADR administrator also mediates cases.
	Summary Jury and Bench Trial	Referral is voluntary, based on consent of all parties. All civil cases are eligible except bankruptcy appeals, prisoner matters, and Social Security appeals.	District and magistrate judges preside over summary trials.

District (Number of Referrals) ³	Types of ADR Authorized (Number of Referrals)	Referral Procedures Authorized	Types of Neutrals and Fee Requirements Authorized
SC (1,129)	Mediation (1,129)	All civil cases are subject to mediation. Parties may, however, decline to participate by notifying the court.	The court maintains a panel of attorneys and judges who serve as mediators. The parties select their mediator; the court may also select the mediator. When the parties select the mediator, compensation is agreed upon between the parties and mediator. When the court selects the mediator, the parties and mediator may agree on compensation or the court may set the rate. Indigent parties may, prior to mediation, move to be exempt from fees. The court's ADR administrator also mediates cases.
SD	General Authorization	No information provided.	Magistrate judges serve as neutrals.
TN-E (110)	Arbitration (1)	Referral is voluntary, based on consent of all parties. All civil cases are eligible except those listed in the rule, which include claims for damages greater than \$150,000, cases alleging violation of a constitutional right, and prisoner pro se cases. The presiding judge may withdraw a referral if the matter is not suitable for arbitration.	The court maintains a panel of attorney and non-attorney arbitrators. Parties select their arbitrator and equally pay the fee unless they agree to other arrangements. Arbitrators must agree to arbitrate one case per year pro bono.
	Mediation (109)	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties. All civil cases are eligible except a small number listed in the rule, including prisoner pro se cases. Once an order of referral is entered, parties must participate in mediation unless the presiding judge determines that the matter is not suitable for mediation.	The court maintains a list of attorney mediators. Parties select their mediator and equally pay the fee unless they agree to other arrangements. Mediators must agree to mediate one case per year pro bono.
	Settlement Conference	Referral is voluntary, based on consent of all parties.	Judges (type not specified) serve as neutrals.
TN-M (87)	Arbitration	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties. Exempt cases include claims for damages greater than \$150,000 and cases alleging violation of a constitutional right.	The court maintains a list of court-approved neutrals. The parties select their neutral and compensate them at rates agreed upon by the parties and the neutral or as set by the court. Parties pay equally unless other arrangements are agreed to or are set by the court. Neutrals must agree to serve pro bono in at least one case each year.

District (Number of Referrals) ³	Types of ADR Authorized (Number of Referrals)	Referral Procedures Authorized	Types of Neutrals and Fee Requirements Authorized
	Early Neutral Evaluation	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties.	See preceding entry.
	Mediation (73)	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties.	See preceding entry.
	Settlement Conference (14)	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties.	District and magistrate judges serve as neutrals.
	Summary Jury Trial	Referral is voluntary, based on consent of all parties.	Magistrate judges preside over SJT.
TN-W (497)	Mediation (497)	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties.	The court maintains a list of court-approved neutrals. The parties select their neutral. Mediators receive \$350 for the first four hours of mediation and \$150 per hour thereafter, chargeable in half hour increments, plus \$200 for time and expenses if serving in a different division from their residence. If the case is litigated to verdict, the prevailing party may request payment of the fees and expenses of the mediator as costs. If the court determines that one or more of the parties are indigent, a panel mediator may be asked to provide mediation services pro bono.
TX-E (535)	Mediation (535)	Judge may order on a case-by-case basis. Referral may also be voluntary, based on consent of all parties. Administrative appeals, habeas corpus cases, and bankruptcy appeals are exempt.	The court does not maintain a panel of neutrals. The judge appoints a mediator when the case is referred to mediation. Parties must compensate the mediator at reasonable rates. Absent agreement otherwise, the parties split the fee equally. The court has the right to review the reasonableness and apportionment of the fee.
TX-N	Mediation	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties. Rule lists a number of exempt case types, including pro se cases.	The presiding judge selects the mediator, and the parties pay the mediator's market rate.
	Early Neutral Evaluation	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties. Rule lists a number of exempt case types, including pro se cases.	The presiding judge selects the neutral, and the parties pay the neutral's market rate.

District (Number of Referrals) ³	Types of ADR Authorized (Number of Referrals)	Referral Procedures Authorized	Types of Neutrals and Fee Requirements Authorized
TX-S (143)	Arbitration	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties. A judge may refer any civil case to ADR on motion of any party, on agreement of the parties, or on its own motion. If the parties agree on an ADR process, the judge will respect that agreement unless the judge believes another ADR method is better suited to the case and the parties. The authority to refer a case to ADR does not preclude the judge from suggesting or requiring other settlement initiatives.	The court maintains a panel of neutrals. The parties select their neutral. The neutral and parties generally determine the fee for each ADR proceeding, but the presiding judge has the right to review the reasonableness of the fee and to adjust it as appropriate. A judge may also at any time request a neutral from the panel or any other neutral to conduct an ADR proceeding pro bono or for a reduced fee.
	Early Neutral Evaluation	See preceding entry.	See preceding entry.
	Mediation (143)	See preceding entry.	See preceding entry.
	Mini-Trial	See preceding entry.	See preceding entry.
	Summary Jury Trial	See preceding entry.	See preceding entry.
TX-W	General ADR (mentions ENE, mediation, mini-trial, moderated settlement conference, SJT, arbitration)	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties. Cases may be referred to arbitration only with consent of all parties.	The court maintains a panel of neutrals. The parties select their neutral. The neutral and parties will determine the fees for each ADR process. The court reserves the right to review the reasonableness of the fees. If the neutral and parties are unable to agree, the court will determine an appropriate fee.
UT (46)	Arbitration	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties. Rule lists a small number of exempt case types. Parties may request in writing, within 20 days of entry of the referral order, to opt out of participation in the program. Where all parties opt out, the case will be withdrawn. If at least one plaintiff and one defendant do not withdraw, the ADR process will proceed with those parties. A judge may withdraw a case from the ADR program sua sponte or on motion of a party.	The court maintains a panel of attorney neutrals. Parties select their neutral. Court-appointed neutrals are paid \$100 per hour and are compensated for reasonable preparation time and time in the proceeding. Parties unable to pay their portion may file a motion with the court prior to the ADR conference. If the court grants the motion, the other parties remain responsible for their portion of the fee. If the court waives the fee for all parties, the neutral must serve pro bono.
	Mediation (46)	See preceding entry.	See preceding entry.

District (Number of Referrals) ³	Types of ADR Authorized (Number of Referrals)	Referral Procedures Authorized	Types of Neutrals and Fee Requirements Authorized
	Settlement Conference	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties. All civil cases are eligible.	District and magistrate judges serve as neutrals. The judge to whom the case is assigned refers it to another district judge or a magistrate judge for settlement.
VT (100)	Early Neutral Evaluation (100)	Referral is mandatory by case type or track. Referral may also be voluntary, based on consent of all parties. Rule sets out a large number of specific case types that are subject to ENE unless exempted by the court.	The court maintains a panel of attorney and non-attorney neutral evaluators. Parties select their neutral. The parties equally pay the neutral \$500 per case. The fee assumes an ENE session of approximately a half day, related preparation, and submission of an evaluator's report. If the ENE requires significantly more time, an additional session is required, or the parties request a formal evaluation, the parties and evaluator may agree on any additional compensation.
VI (149)	Mediation (149)	Judge may order on a case-by-case basis. Referral may also be voluntary, based on consent of all parties. Rule lists a small number of case types that are exempt. A party may move to dispense with mediation if the issue has previously been mediated, the issue is one of law only, or for other good cause.	The court maintains a panel of attorney and non-attorney mediators. Parties select their mediator. Parties pay the mediator a fee agreed to by the parties and mediator. The court may determine the reasonableness of the fee. In the absence of agreement between the parties and mediator, the court may set an hourly rate. Each party pays equally or as agreed upon with each other and the mediator, unless the mediator and/or the court determines that a party has not mediated in good faith.
VA-E	Mediation	Referral is voluntary, based on consent of all parties.	All district, magistrate, and bankruptcy judges are authorized (a) to act as mediators or neutrals and (b) to appoint as mediators or neutrals any appropriately trained non-judicial person. Parties may select and compensate any mutually acceptable mediator or neutral. The appointing order sets the compensation. No mediator or neutral may be compensated by contingent fee. Any participant who can establish inability to pay a pro rata share of the proposed compensation may petition the court for appointment of a judicial neutral.
VA-W	General Authorization (includes all forms of ADR)	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties.	Magistrate judges, among others, may serve as neutrals.

District (Number of Referrals) ³	Types of ADR Authorized (Number of Referrals)	Referral Procedures Authorized	Types of Neutrals and Fee Requirements Authorized
WA-E (35)	Arbitration	Referral is voluntary, based on consent of all parties. Exempt cases include claims for damages greater than \$150,000 and cases alleging violation of a constitutional right.	The court maintains a panel of attorney neutrals. Parties select their neutral. Neutrals are generally not paid, but under appropriate circumstances it may be necessary for the parties to provide payment, which is at the usual and customary levels as determined by the court.
	Mediation (35)	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties.	See preceding entry.
	Special Master	Referral is voluntary, based on consent of all parties.	See preceding entry.
WA-W (950)	Arbitration	Referral is voluntary, based on consent of all parties. Exempt cases include claims for damages greater than \$150,000 and cases alleging violation of a constitutional right. The court may decline to refer to arbitration any case in which the objectives of arbitration would not be realized.	The court maintains a panel of attorney neutrals. Parties select their neutral. Neutrals are eligible to receive compensation for services and reimbursement for expenses, within limits set by the court. Notwithstanding the foregoing, parties may agree in writing to provide additional compensation to neutrals.
	Mediation (950)	Judge may order on a case-by-case basis. Referral may also be voluntary, based on consent of all parties. The court may designate any civil case for mediation under this rule and may schedule the required steps so as to maximize the prospects of early settlement.	See preceding entry.
WV-N (76)	Mediation (76)	Judge may order on a case-by-case basis or at the request of any party. Referral may also be voluntary, based on consent of all parties. Cases are generally selected for the program by the assigned judge.	Attorneys or judges serve as neutrals. Parties are expected to agree on a mediator, the amount of the non-judge mediator's fee, and responsibility for payment.
WV-S	Early Neutral Evaluation	No information provided.	Judges (type unspecified) serve as neutrals.
	Mediation	Judge may order on a case-by-case basis. Referral may also be voluntary, based on consent of all parties. Cases are generally selected for the program by the assigned judge.	The court maintains a panel of attorney mediators. Parties select their mediator and pay a rate established when the mediator was selected, either agreed upon by the parties or set by the presiding judge.
	Settlement Conference	Unless otherwise ordered, a final settlement conference is held in each case.	Judges serve as neutrals.

WI-E	General ADR	Judge may order on a case-by-case basis. Referral may also be voluntary, based on consent of all parties. Rule lists a number of case types that are exempt, including prisoner pro se cases.	If the judge determines that a case is appropriate for ADR, the judge may encourage the parties to participate before a magistrate judge or an appropriate neutral evaluator. If the parties cannot agree on an evaluator, the trial judge will appoint an available neutral evaluator. The trial judge may, but is not required to, appoint one of the magistrate judges of the district as the neutral evaluator.
WI-W	General ADR	No information provided about referral practices. Rule lists a number of case types that are exempt, including prisoner pro se cases.	The court provides the services of its clerk to act as ADR neutral in civil cases without compensation.
WY	General ADR (mentions settlement conference, SJT, arbitration, ENE, other dispute resolution techniques)	Judge may order on a case-by-case basis or at the request of one party. Referral may also be voluntary, based on consent of all parties. Exempt cases include claims for damages greater than \$150,000, cases alleging violation of a constitutional right, and pro se cases.	The court maintains a panel of attorneys and judges to serve as ADR neutrals. Parties select their neutral. The parties and neutral determine the fees to be paid. The court reserves the right to review the reasonableness of the fee.

¹ This table includes ADR processes authorized by court local rule, general order, CJRA plan, or internal operating procedures. Authorization of an ADR process does not necessarily mean that the process is actively used by the court. The table uses the names the courts have given their ADR processes. Similar names do not necessarily signify similar processes. Although there are differences of opinion about whether settlement conferences are a form of ADR, they are included in the table if the court includes them in the ADR local rule, order, procedures, or plan. If information is missing from the table—for example, about fees paid to the neutral—it is because the information is missing in the court documents.

² The information in this table is based on a preliminary review of court documents and is subject to revision upon further review (in particular, review by the courts). The table is therefore a draft and should be used accordingly.

³ The number of cases referred is based on district court submissions to the Administrative Office of the U.S. Courts. Districts seeking supplemental funding for ADR staff submit a request that includes the number of cases referred to ADR the previous year. The numbers in this table are for cases referred during the twelve-month period ending June 30, 2011. Forty-nine districts submitted applications for ADR staff funding.

⁴ In each instance where the phrases “Open ADR” or “General Authorization” are used, it means the district authorizes parties to use a process of their own choosing. Although these districts may name specific ADR processes in their general authorization (e.g., mediation, arbitration, and summary jury trial), typically these districts do not provide the processes themselves.

⁵ Although the specific types of cases exempt from ADR vary from district to district, typically the following types of cases are exempt: appeals from rulings of administrative agencies, Social Security appeals, bankruptcy appeals, habeas corpus and extraordinary writs, actions to enforce judgments, default proceedings, pro se cases, and prisoner civil rights cases (except in programs specifically set up for these cases).

⁶ The district’s submission reports that the 100 referrals were made to a settlement week procedure.

⁷ The district’s submission reports that six referrals were made to a settlement week procedure.

⁸ Ten district courts were statutorily authorized to require cases of certain types to go to non-binding arbitration. Another ten districts were authorized to offer arbitration on a voluntary basis; seven of these districts established arbitration procedures. Districts that authorize use of arbitration generally follow the statutory guidelines and exclude cases where “(1) the action is based on an alleged violation of a right secured by the Constitution of the United States; (2) jurisdiction is based in whole or in part

on section 1343 of this title [civil rights cases]; or (3) the relief sought consists of money damages in an amount greater than \$150,000” (28 U.S.C. § 654(a)). In this table, the text used to describe case eligibility is shorthand for the full specifications set out in the statute.

⁹ The district’s submission reports referrals for sixty mediation procedures and twenty-four special master proceedings.

¹⁰ The district’s submission reports ninety-two referrals for settlement conferences.

¹¹ The district’s submission reports four referrals to ENE, sixteen referrals for prisoner mediation, and 428 referrals for some form of ADR but pending completion.

¹² The district’s submission reports that the fifty-one referrals were made to a settlement week procedure.

¹³ This arbitration-like process is authorized for certain types of cases arising under state law and uses a state tribunal.

¹⁴ The district’s submission reports 273 referrals to settlement conferences.

¹⁵ The district’s submission reports eleven referrals to a pro se mediation program and fifty-five referrals to settlement conferences.

¹⁶ The district’s submission reports ninety-nine referrals to settlement conferences.

¹⁷ The district’s submission reports that some of these settlement conferences were conducted by non-judges.

¹⁸ The district’s submission reports that the 307 referrals were to a mediation procedure.