

NORTH DAKOTA

CIVIL RULE 16.2

ALTERNATIVE DISPUTE RESOLUTION (“ADR”)

(A) AUTHORIZATION

(1) The court authorizes the use of ADR in civil cases, including adversary proceedings in bankruptcy, pursuant to [28 U.S.C. § 651](#).

(2) The primary form of ADR offered by the court is mediation in the form of court sponsored settlement conferences held by judicial officers. The court will not offer arbitration as a court-sponsored ADR process, but in appropriate cases, with the consent of the parties, the court will facilitate other forms of ADR, such as early neutral evaluation. The court also encourages, but does not require, private ADR as an alternative to court-sponsored ADR.

(B) DESIGNATION OF CASES

The court strongly encourages participation in ADR at an early stage of the case and requires that the parties, in all civil cases not excluded from application of this rule, discuss early ADR participation and the appropriate timing of such effort. The parties must include in their [Fed. R. Civ.P. 26\(f\)](#) Report a recitation of their discussion about participating in early ADR and must indicate in their [Fed. R. Civ. P. 16\(b\)](#) Scheduling/Discovery Plan the ADR option they choose and the appropriate timing. In addition, upon request by any party or upon the court’s own initiative, the court may schedule a settlement conference at any stage of the proceedings if the nature of the case, the amount in controversy, and the status of the case indicate that the conference may be beneficial.

(C) CONFIDENTIALITY

(1) The settlement judge will not inform the trial judge of any positions taken by parties during the ADR process and will only advise whether or not the case settled. The trial judge will not ordinarily serve as the settlement judge, unless the parties jointly agree otherwise in an appropriate jury case.

(2) The ADR process is confidential and not open to the public. In addition, all written and oral communications by parties or their representatives in relation to court sponsored ADR proceedings are deemed confidential. Disclosure of confidential ADR communications is prohibited, except as authorized by the court or agreed to by the parties.

(3) The judicial officer conducting an ADR proceeding may not be called to testify in connection with any dispute relating to the ADR proceeding or its result except upon written agreement of the parties and concurrence of the court, or when otherwise required by law.

(D) ADMINISTRATION

The court will designate by order of appointment a judicial officer to serve as program administrator to implement, oversee, and evaluate the court's ADR program.

(E) DISQUALIFICATION

(1) A judicial officer conducting an ADR proceeding may be disqualified for bias or prejudice or for conflict of interest as specified in [28 U.S.C. §§ 144](#) and [455](#).

(2) Any party who believes that a judicial officer conducting an ADR proceeding has a conflict of interest must serve and file a motion for recusal at the earliest opportunity.

(3) Upon disqualification of a judicial officer from conducting an ADR proceeding, the ADR program administrator will assign another judicial officer to conduct further ADR proceedings. If the ADR program administrator has been disqualified, the chief judge will assign another judicial officer to conduct further ADR proceedings.