

**UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF MISSOURI**

**FACT SHEET #3**

**RESPONSIBILITIES OF THE PARTIES IN ALTERNATIVE DISPUTE RESOLUTION (ADR)**

**WHAT ARE THE RESPONSIBILITIES OF THE PARTIES IN ADR.** The Court on its own motion, or the motion of any party, may enter an Order Referring Case to Alternative Dispute Resolution. Not later than ten days prior to the initial ADR conference, each party must provide the neutral with a memorandum presenting a summary of disputed facts and a narrative discussion of its position relative to both liability and damages. Also, each party will provide to the opposing party, and to the neutral, a list of all persons who will participate in the ADR Conference on behalf of the party making the disclosure. This list shall state the names of the individuals attending and their general job titles.

**SHOULD I CONDUCT DISCOVERY BEFORE ADR.** Conducting full-blown discovery before an ADR session may negate potential cost savings. If using ADR for settlement purposes, counsel/parties should know enough about the case to assess its value and identify its major strengths and weaknesses.

**WHAT IF THE PARTIES BELIEVE THERE IS NO REASONABLE CHANCE ADR WILL WORK.** If the parties agree that the referral to ADR has no reasonable chance of being productive, the parties may jointly move the court for an order vacating the ADR referral prior to the selection of a neutral.

**SHOULD I TRY TO PRESERVE MY TRIAL STRATEGY.** Most civil cases are resolved without a trial. If counsel/parties do not raise their best arguments in settlement discussions they risk failing to achieve the best results. Although it is not necessary to reveal sensitive information related to trial strategy, it may be useful to raise it in a confidential separate session with the neutral. Counsel/parties will learn the neutral's views of the significance of the information and his/her opinion as to whether or when sharing it with the other side may be of benefit in the negotiations.

**WILL ADR ADD ANOTHER LAYER TO THE ALREADY COMPLEX LEGAL SYSTEM.** No. The ADR program is built into the Court's Differentiated Case Management System. The ADR component of a civil case is designed to work in conjunction with the Court's case management plan.

**WILL ADR SAVE THE PARTIES MONEY.** ADR saves time and money if parties actively explore settlement early in the pre-trial period because of efficient use of private resources and delay of extensive pre-trial preparation.

**CAN A PARTY BE EXCUSED FROM ADR.** A person required to attend an ADR conference may be excused from attending in person or by video conference (provided all parties and the neutral agree to video conferencing) only after a showing that personal attendance would impose an extraordinary or otherwise unjustifiable hardship. A person seeking to be excused must submit a motion to the judge no fewer than 14 days before the date set for the conference and simultaneously send copies to all counsel and the neutral. The motion must set forth all considerations that support the request, identify an appropriate substitute, indicating whether the other party or parties join in or object to the request, and it must be accompanied by a proposed order.