

COMMON QUESTIONS

Does CCBA's ADR program replace mandatory arbitration as required by the Cumberland County Court?

No. Mandatory arbitration under local and state rules is based on the amount sued for and remains in effect. The CCBA arbitration program provides a court approved and bar monitored program for situations where there is a private agreement or contract for ADR and it does not require that a lawsuit have been filed.

Is this program a better way to resolve disputes?

Not necessarily. Not every dispute can or should go to ADR. For example, the ADR committee has determined that in cases where there are allegations of physical abuse or domestic violence, the parties should not be asked to try and resolve their problems through mediation or arbitration. This program is simply meant to provide an alternative to traditional litigation to those who choose it.

Can parties in a lawsuit agree to use the ADR program even if litigation has started?

Yes. The mediation and arbitration program can be accessed at any time during the litigation process.

This brochure provides information and is not intended to provide legal advice. You should contact a lawyer or the CCBA to obtain more information or guidance.

All parties participating in mediation or arbitration in the CCBA Alternative Dispute Resolution (ADR) program are required to read the Agreement to Mediate or Agreement to Arbitrate forms and indicate their willingness to abide by the timelines, rules and behavior they describe.

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CUMBERLAND COUNTY BAR ASSOCIATION



Stuart Bar Center

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Bar Association*

*Cumberland County
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Cumberland Law Journal

*Cumberland County
American Inn of Court*

ALTERNATIVE DISPUTE RESOLUTION PROGRAM

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INTRODUCTION

The Cumberland County Bar Association (CCBA) offers a new Alternative Dispute Resolution (ADR) program to attorneys, businesses and other members of the community. The program was developed over the last two years by the ADR committee with the participation and support of the judiciary. The ADR program offers two alternatives, mediation and arbitration. The Cumberland County Court, CCBA and the ADR committee welcome your participation in the program described below.

MEDIATION

Mediation is a process in which a neutral or an impartial third person acts to encourage and facilitate the resolution of a dispute without prescribing what it should be. It is an informal and non-adversarial process intended to help people with disputes reach a mutually acceptable agreement. The mediator's role is to reduce obstacles to communication, assist in the identification of issues and exploration of alternatives, and otherwise facilitate a voluntary agreement resolving the dispute. The ultimate decision-making, however, rests solely with the parties.

ARBITRATION

Arbitration is an evaluative process that is similar to litigation in many respects but with less formality. The outcome of arbitration is a binding decision by the arbitrator, usually referred to as an award. Normally, arbitration is conducted under the rules established by law. The arbitrator's role is similar to that of a judge in traditional litigation, except that the rules of procedure are less formal and the grounds for appeal are much narrower.

HOW THE PROGRAM WORKS

The ADR program operates by establishing a list of Cumberland County attorneys who are qualified and willing to serve as mediators and arbitrators.

Those listed have met the qualifications established by the CCBA ADR committee and have agreed to abide by the ADR program's rules.

Anyone interested in using mediation or arbitration should contact CCBA for information:

- The profiles of the attorneys who are available to serve as mediators and arbitrators. The profile includes a description of the attorney's training, the ADR techniques used by the attorney, and the areas of the attorney's specialization. A resume is also attached to the profile.
- Instructions on how to select a mediator or arbitrator.
- Agreement to Mediate and Agreement to Arbitrate forms.

WHY MEDIATE?

Mediation is different from other dispute resolution processes offered through the court system. In determining whether your dispute is appropriate for mediation, consider the following characteristics of the process:

- The mediation process is informal and confidential.
- In mediation, parties have the opportunity to talk about all of their concerns.
- Mediated agreements can address all issues that are important to the disputants.
- Agreements are as flexible and creative as the parties wish them to be.
- Mediation is often faster, less expensive and less adversarial than traditional litigation.
- Mediation is especially suitable when there is an ongoing relationship between the parties.

WHY ARBITRATE?

Arbitration is a private judicial process that has been in use for over 100 years. It is different from the court system in the following ways:

- Arbitration is usually based on a contractual agreement. For example, employers and employees in a union may agree to submit to arbitration to resolve disputes.
- The goal of arbitration is the prompt and final resolution of disputes in the business world.
- Arbitration is designed to minimize procedural and trial preparation costs.
- Arbitration allows the parties to select a neutral with expertise in the subject-matter of the dispute.
- Arbitration awards are subject to appeal on only the narrowest of grounds.

FEES

Mediators and arbitrators have agreed to the following fees:

- The initial cost to the people involved in the dispute is \$600.00. This fee, which is paid to CCBA, includes a \$100 administrative fee and \$500 fee to be paid to the mediator or arbitrator.
- For its fee, CCBA agrees to facilitate the selection, scheduling and evaluation of the mediation or arbitration process.
- The fee for the mediator or arbitrator covers preparation time and up to two hours of a mediation or arbitration session.
- All mediators and arbitrators shall provide the disputants with information on their fees and any additional costs that may be incurred if more than two hours is needed to resolve the matter.
- CCBA facilities are available for ADR sessions and may be arranged through the CCBA office. There is no charge for the first session. The charge for CCBA facilities after the first session is \$25 per half day (four hours) for CCBA members.