ALTERNATIVE DISPUTE RESOLUTION (ADR)
STATEMENT TO THE COURT

Procedures: When and How to Use the ADR Statement to the Court

On December 1, 2001, a change in the Arizona Rules of Civil Procedure (A.R.C.P. 16(g) imposed a duty on parties in any dispute before the courts to talk to each other (by telephone or in person) about the possibility of settlement and about whether some type of ***ADR* (Alternative Dispute Resolution)** process might help them to reach settlement. The Rule requires the parties to report to the court that they have discussed settlement or ADR, to inform the court about which ADR process (if any) they prefer, and when they expect to complete the process. Some of the various forms of ADR are explained on the following pages.

After a response is filed…

(1) The Respondent must then immediately mail or deliver a blank copy of the ADR statement (and these instructions) to the Petitioner along with a copy of the response that was filed. (If either party is represented by an attorney, all communication should be sent directly to the attorney.)

(2) The parties must meet (in person or by telephone), within 90 days of the filing of the response with the court (not the date the response is delivered to the petitioner). **If you have not discussed these matters with the other party as required, be prepared to explain to the court the reasons.** ("Inconvenience" is not an acceptable reason.)

(3) Within 30 days AFTER you meet, and **NOT LATER THAN 120 DAYS AFTER THE DATE THE RESPONSE WAS ORIGINALLY FILED WITH THE CLERK OF THE COURT** you must file the "**Alternative Dispute Resolution Statement to the Court.**

You may file earlier, but not later than thirty (30) days after discussing your ADR options with the other party. If you cannot agree to file together on one form (jointly), then you must both file your own forms separately. If you have not discussed these matters as required, you must *file your separate forms w*ithin 120 days after the date the Response was filed. There is no charge for this filing. Keep a copy of the completed from for your records.

GO TO THE COURT TO FILE YOUR PAPERS: Check below for the courts normal business hours. You should go to the court at least **two hours** before it closes. You may file your court papers at the following Superior Court locations:

Clerk of Superior Court
Gila County Superior Court
1400 E. Ash Street
Globe, AZ 85501
(928) 425-8866
Monday-Friday
8:00a-5:00p

Clerk of Superior Court
Gila County Superior Court
714 S. Beeline Hwy, Ste. 104
Payson, AZ 85541
(928) 474-3978
Monday-Friday
8:30a-12:00p, 1:30p-4:30p

INFORMATION ABOUT ADR (ALTERNATIVE DISPUTE RESOLUTION) PROCESSES

ADR is any peaceful alternative to the courtroom process that helps parties in court disputes reach settlement without having the judge decide the issues. Court sponsored ADR programs are currently available at no extra cost, or you may choose to hire a private ADR provided at your own expense. There are differed types of ADR processes, several of which, including mediation, arbitration, and settlement conferences, are explained below.

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The purpose of ADR is to encourage settlement of family court cases.
Benefits of ADR include, but are not limited to:

- ADR provides parties opportunity to resolve disputes more quickly and less expensively than a full trial.
- ADR provides parties more control over the outcome in a negotiated settlement.
- ADR provides parties greater satisfaction with results than litigation.
- ADR provides parties a greater chance of establishing or maintaining a working relationship.

COURT SPONSORED ADR OPTIONS

MEDIATION OR OPEN NEGOTIATION through CONCILIATION SERVICES regarding legal decision making or parenting time (formerly "visitation"), are court-sponsored ADR alternatives where parties work with a neutral third party (the "mediator" or "negotiator") to reach mutual agreement on future parenting responsibilities. Parents choosing to mediate or negotiate through Conciliation Services are **required** to attend a minimum number of mediation sessions.

Mediation offers parents an opportunity to make their own decisions about their child(ren)'s future care. The mediator, a neutral counselor, works with parties to reach agreement regarding legal decision making and/or parenting time. Mediation conferences are private and confidential. Nothing said or written during mediation may be disclosed unless all parties to the mediation give their consent. The mediator helps parents identify their (child)ren's needs and each parent's ability to meet those needs, by restructuring family relationships. Together, they generate options and consider choices to develop a workable parenting plan that meet the child(ren)'s best interests. Parties who reach agreement in mediation have a 14 day "objection period" to raise any concerns or points of confusion contained in the agreement. If no objections are raised, the Parenting Plan is adopted as an order of the court, which makes it binding on the parties.

Open negotiation is a process similar to mediation, in that the negotiator helps parties identify their child(ren)'s needs, and how they will meet those needs in the future. However, open negotiation is NOT confidential. Parties meet with the negotiator to try to resolve their differences. If they are unable to agree, the negotiator may give feedback to the court on areas of agreement and disagreement. In addition, attorneys are entitled to be present in open negotiation sessions, if they so choose.

There is currently no extra charge for these services *pre-decree.* If however you return to court to mediate legal decision making or parenting time (visitation) issues *post-decree,* after a court order has been signed, "post-decree mediation fees" may apply.

SETTLEMENT CONFERENCE are pre-trial meetings between the parties, their attorneys (if represented) and the conference officer, where they attempt to settle all issues in dispute before going to trial. The judicial officer helps parties evaluate the strengths and weaknesses of their case and may also suggest ways to resolve disputed matters, but they will not decide the case or make recommendations to the court. There is currently no extra charge for this service.

PRIVATE PROVIDER OPTIONS (You are responsible for all costs.)

In Private Mediation, parties work with a neutral third party (the mediator), who helps them identify their needs and explore viable options to settle all issues surrounding their Family Court case, including legal decision making, parenting time, child support, property division, etc. With the aid of the mediator, the parties can determine the outcome of their case.

In Private Settlement Conference, the ADR neutral helps parties reach settlement by taking a more directive approach than in mediation. The neutral will focus on the conflict's legal issues, realistically evaluating case strengths and weaknesses, and actively suggesting and weighing options for the parties to consider, as they attempt to resolve their case.

In Private Arbitration your case is submitted to one or more neutral individuals, who after receiving evidence and hearing arguments have the power to make a decision resolving the dispute (unlike

mediation, where the mediator does not make a decision for the parties). In arbitration, parties may limit the range of issues to be decided or the scope of relief to be awarded and arbitration may be binding or non-binding. When parties agree to binding-arbitration, the arbitrator's decision is final; it can be enforced by the court and may both be appealable. When arbitration is non-binding, the arbitrator's decision is advisory and will be final only if parties agree to adopt it.

Be aware that there are differences among private providers. While some are trained specialist, counselors, and attorneys, others are not. There are no licensing or minimal educational requirements to advertise as a mediator, arbitrator, or alternative dispute resolution provider.

As with hiring any private business for service, we recommend asking friends and relatives for referrals for any of the services mentioned above. You are responsible for all costs involved in using private providers.