

ADR Tools

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This document is one of a number of Toolkit items designed to help courts in their planning to return to full capacity while continuing to mitigate risk to protect the public and staff. While every effort has been made by SCAO staff to compile as much helpful and accurate guidance as possible, we understand that during the months ahead courts will be responding to their individual situations with creativity and innovation. Moreover, we know that advice from outside authorities continues to change to reflect analysis of additional data. Anticipating occasional updates to these documents as new information becomes available, the SCAO welcomes ongoing input on these documents, and in particular, sharing insights and experiences that can be added so that other courts can benefit from each other's work. Comments can be sent to courtservices@courts.mi.gov

ALTERNATE DISPUTE RESOLUTION (ADR)

Several tools are immediately available to help parties resolve their conflict without adjudication. Some have been available for more than two decades; a few are becoming available right now. Some processes, like mediation, have a number of different implementation methods and can be used in virtually every case. Others, like settlement weeks, are typically used once or several times to address a clearly identified backlog of cases.

Additional information for most of the processes appears in the SCAO's Michigan Judges Guide to ADR Practices and Procedures.

Ideas	Tools	Guidance	Examples
Mediation	Community Dispute Resolution Centers	<p>CDRP centers are available to mediate a wide variety of case types from small claims and L/T, to parenting time, guardianship, and child protection cases. While many provide in-court, day-of-hearing mediation, all centers now provide mediation via Zoom. Parties can be ordered to try mediation under MCR 2.411.</p> <p>Visit courts.mi.gov/CDRP to find contact information for a center in your jurisdiction.</p>	<p>In district court general civil cases, parties mediate via Zoom; if agreement is not reached, the center texts the judge, and the judge immediately conducts a settlement conference.</p>
	MI-Resolve	<p>MI-Resolve is a free, online dispute resolution service currently available in 18 counties, and in all counties by mid-summer 2020. SCAO is alerting chief district court judges as the service becomes available in their jurisdiction.</p>	<p>Parties in small claims, SRL-general civil, L/T, and neighborhood disputes can negotiate between themselves, or have a mediator join them online. Appropriate court forms are generated to incorporate agreements.</p>

	Private Mediators	Refer cases to private mediators.	SCAO studies show that an approximately 75 percent of cases ordered to mediation will be disposed as a result of mediation. Parties can be ordered to try mediation in many case types: general civil (MCR 2.411); domestic relations (MCR 3.216); and probate (MCR 5.143).
	Day-of-Hearing Discovery Motion Mediation Program	Assemble a group of volunteer mediators to meet with parties on the morning of their hearing to resolve or reduce the number of issues requiring hearing. Similar to settlement week, however the sole focus is on resolving the discovery issues, not on reaching an omnibus settlement of the case. Consider also offering the service via Zoom.	
	Electronically Stored Information Conference	This conference can address issues arising from the scheduling order, the appropriateness of engaging a discovery mediator, and the timing of ADR processes. See MCR 2.401(J) and MCR 2.411(H)(4) .	
	Discovery Mediator	Courts may order discovery matters to mediation prior to their being heard. Parties may then select the mediator to work with them after discovery issues are resolved. MCR 2.411(H) .	
Settlement Week	Circuit Court	Settlement weeks have been successfully used to reduce backlogs of cases. Consider raising this process with parties when the cost of conducting a standard trial is disproportionate to the amount in controversy.	A settlement week conducted in the Macomb County Circuit Court during 2014 resulted in the resolution of approximately 30 percent of the cases ordered to go through the process and narrowing of the issues in many others.
	District Courts	While typically used in circuit court, settlement weeks could be piloted in district courts using a combination of pro bono lawyers where parties are represented, and CDRP centers where a SRL appears on at least one, or both sides.	

Summary Jury Trials	SCAO Online Resources	<p>A summary jury trial is an abbreviated trial in which parties voluntarily select a mutually agreeable hearing officer who presides over a jury drawn from the court’s standard jury pool. Typically, the jury will consist of no more than six people and each side is limited to two peremptory challenges. Voir dire is limited.</p> <p>The process is authorized by AO 2015-1. Consider conducting the process via Zoom.</p>	<p>Summary jury trials have not been frequently held in Michigan; however a number of other states, most notably New York, have used the process successfully in over 2,000 cases.</p>
Scheduling Conference	All ADR processes	<p>Raise the possibility and timing of various ADR processes as early as possible in the litigation.</p>	<p>Numerous ADR processes appear in the Michigan Judges Guide to ADR Practice and Procedure.</p>
Case Evaluation	Online case evaluation	<p>Consider conducting case evaluation panels via Zoom.</p>	

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