

The background of the entire page is a photograph of a courtroom. In the foreground, there are several wide, light-colored stone steps leading up to a platform. On the platform, three people are silhouetted against the bright light coming from the right. They appear to be in conversation; a woman on the left is facing two men. Behind them are several large, fluted columns of a classical building. The overall lighting is warm and dramatic, with strong shadows and highlights.

From Case Filed
to Case **Closed**

ADR
Alternative Dispute Resolution

U.S. DISTRICT COURT WESTERN DISTRICT OF PENNSYLVANIA



Unsettled?

With courts experiencing an ever-increasing number of caseloads, formal litigation can delay the resolution of disputes for considerable time periods. It can also impose large economic burdens on the parties involved. For many parties, it can be unsettling.

A quicker resolution, especially one designed by the parties, is more important and satisfying than any ruling a court might order.

Nationally, the number of cases the average district court judge contends with each year is

400

April 2008,
uscourts.gov/faq

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ake a better resolution.

Alternative Dispute Resolution (ADR) can provide quicker, less expensive, and potentially more satisfying alternatives to litigation, without impairing the quality of justice or the right to trial. That is why the U.S. District Court for the Western District of Pennsylvania adopted new Local Rule 16.2, to shift litigation away from the courtroom and into the hands of the involved parties.

Local Rule 16.2 mandates the use of ADR in most civil cases, to give parties more flexibility to shape the dispute resolution process and outcome. It also supports the Court's mission to enhance the rule of law while providing a forum for the just, timely and economical resolution of legal proceedings.



The Court rules for ADR.

New Local Rule 16.2 was put into place after an 18-month pilot program in which most civil cases were referred to ADR. However, the Court's quest to offer better alternatives to litigation had begun more than 18 years earlier.

The Civil Justice Reform Act of 1990 required all Federal Courts to explore using ADR, so the Western District of Pennsylvania developed an arbitration program and court-annexed mediation. Following the ADR Act of 1998, the Court formed a sub-committee to research ADR programs locally and nationally.

The sub-committee proposed a revised ADR plan—subsequently adopted by the Court as a Local Rule with supporting Policies and Procedures—that provided litigants with three ADR options: mediation, early neutral evaluation, and arbitration.

In June 2006, following extensive training and education of the Bench, bar, and court staff, four District Judges piloted a modified ADR program, which was continuously reviewed and amended. As a result of the pilot's success, the ADR program was implemented Court-wide on January 1, 2008.

ADR Pilot Program: June 2006– December 2007

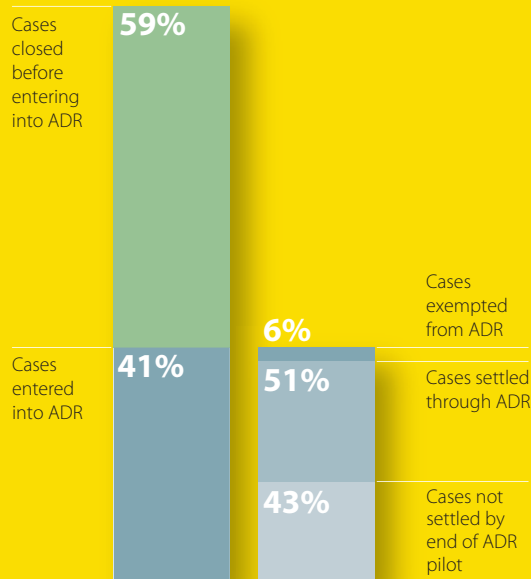
Of the 898 cases eligible, 59% were closed before entering the Court's ADR pilot program. It is suspected that the parties found resolution on their own, in anticipation of the program.

Participating Judges

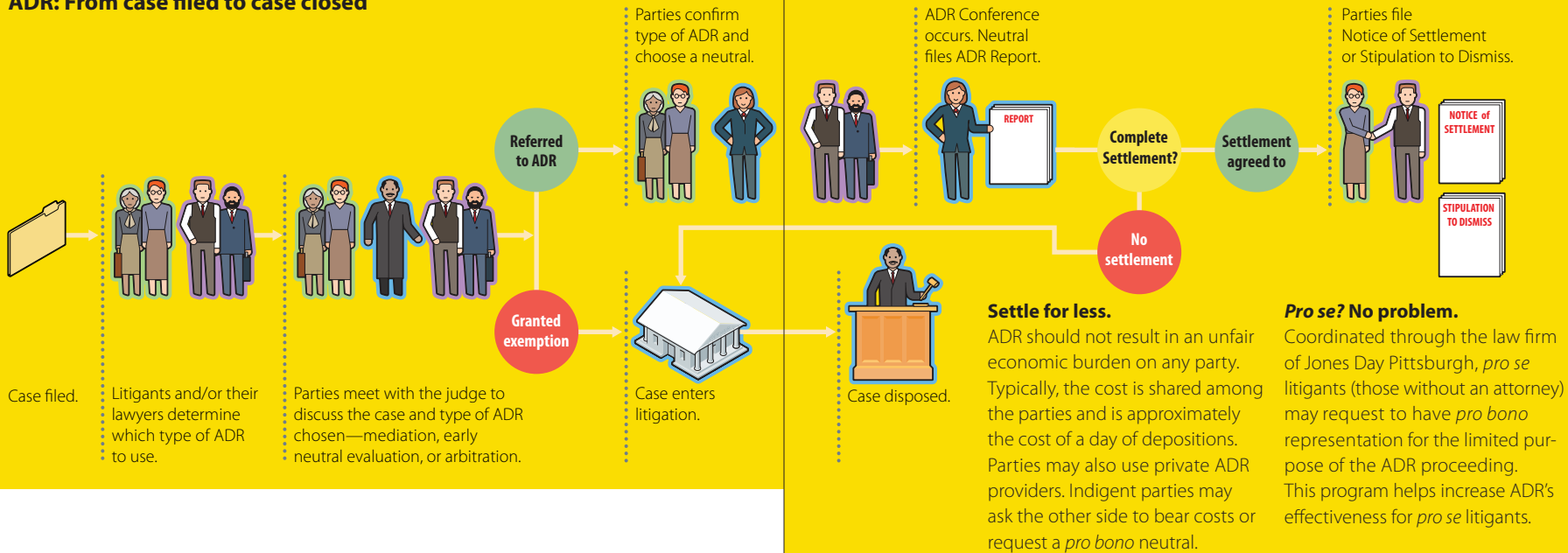
Chief Judge Donetta Ambrose
Judge David Cercone
Judge Thomas Hardiman*
Judge Nora Barry Fischer*
Judge Arthur Schwab

Karen Engro, ADR Coordinator

*During the pilot, Judge Hardiman went to the Court of Appeals/3rd Circuit. Judge Barry Fischer took up his caseload.

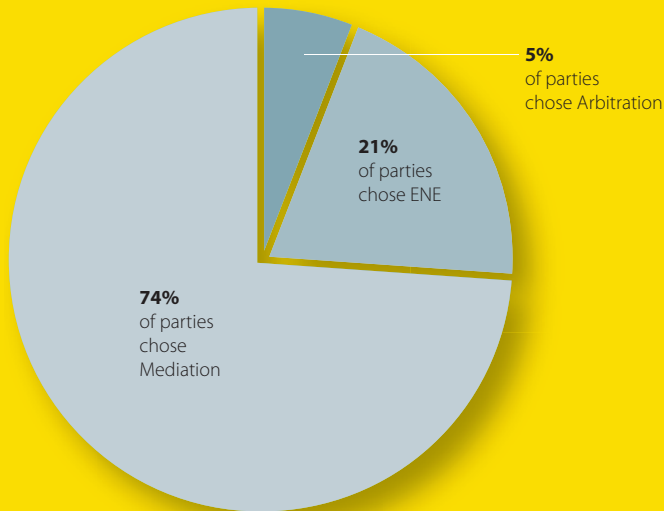


ADR: From case filed to case closed



Types of ADR Chosen During the Pilot Program

The U.S. District Court for the Western District of Pennsylvania lets parties choose from mediation, early neutral evaluation, and arbitration. However, parties may choose other methods as well (e.g., summary jury trial) to achieve the greatest benefit. Here are the ADR methods that parties selected during the 18-month pilot.



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ediation

is a flexible, non-binding, and confidential process in which the mediator—a neutral person chosen by the parties—facilitates settlement negotiations. Mediators generally do not give an overall evaluation of the case. Instead, they help parties articulate their interests and understand those of their opponent, probe the weaknesses and strengths of each party’s legal positions, and help generate options for a mutually agreeable resolution to the dispute. Because mediation helps to expand traditional settlement discussion, it often helps litigants broaden their resolution options.

Mediation works best when:

- Parties are capable of working together
- Parties can develop solutions with assistance
- The mediator’s primary function is to enhance communication among parties

Early Neutral Evaluation

helps litigants gain a better understanding of their case. In this method of dispute resolution, parties and their counsel make compact presentations of their claims and defenses, including key evidence as developed to date. They receive a non-binding evaluation by an experienced neutral lawyer, selected by the parties, with subject matter expertise. The evaluator also helps identify areas of agreement and offers case-planning suggestions and settlement assistance if requested by the parties.

ENE works best when:

- Parties want guidance or direction towards settlement based on law, industry practice, and technology
- The evaluator has requisite qualifications, training, experience, and/or objectivity

Arbitration

is a formal process in which an arbitrator (or a panel of three arbitrators) selected by the parties, is presented with evidence and arguments, and then makes a non-binding judgment on the claims. Either party may reject the non-binding award and request a trial *de novo*. Arbitration occurs earlier in the life of a case than a trial, and because testimony is taken under oath and is subject to cross-examination, arbitration can be especially useful in cases that turn on credibility of witnesses. Arbitrators do not facilitate settlement discussions.

The cost of arbitrating under the Court’s program is paid by the Court.

Arbitration works best when:

- Parties are unlikely to work together to find resolution
- Evidence or witness testimony is a key component of the case



The Western District of Pennsylvania is pioneering this ADR program to better serve those who use our Court. Although litigation, with its formal rules and procedural protections, may be the best process for some civil disputes, many do not fall into this category.

Our ADR program gives parties more flexibility to shape the dispute resolution process and more control over the outcome. It also helps the Court operate more efficiently by streamlining the number of cases that require full-scale litigation.

Donetta F. Ambrose

Chief Judge Donetta W. Ambrose





Pittsburgh Division
United States Courthouse
700 Grant Street
Pittsburgh, PA 15219

Erie Division
17 South Park Row
Erie, PA 16501

Johnstown Division
Penn Traffic Building
319 Washington Street
Johnstown, PA 15901

The United States District Court for the Western District of Pennsylvania

OUR MISSION

Our mission is to preserve and enhance the rule of law while providing an impartial and accessible forum for the just, timely, and economical resolution of legal proceedings within the court's jurisdiction, so as to protect individual rights and liberties, promote public trust and confidence in the judicial system, and to maintain judicial independence.

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