

ADR LAW NOTES



Legal Developments, Issues and Other Matters of Interest Concerning Alternative Dispute Resolution

DLA ADR Homepage at: www.dla.mil/adr

Defense Logistics Agency ADR Practice Group

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ONLINE DISPUTE RESOLUTION

Online dispute resolution is now being utilized in some states. Mechanized processes are used to resolve Internet disputes as well as offline conflicts involving a wide variety of issues such as medical malpractice, property damage, personal injury claims, and roadway and traffic claims. Online systems can be fully automated or can involve human intervention.

One example of a double-blind fully automated online system involves parties submitting confidential offers and demands. Computer software compares the demand with the settlement offer. If an offer is more than the demand, the case settles. If the offer and demand are within a specified range of each other, the system splits the difference. If resolution is not reached, all offers and demands remain confidential and therefore, does not affect future negotiations. Examples of online systems with human assistance include video conferencing, neutral third-party facilitators, emails, and chat conference rooms.

Typically, fully automated processes address disputes in which the amount of a settlement is the only item at issue. On-line systems can be considered impersonal; however, if anonymity is valued, a mechanized process might be just the tool.

NATURAL DISASTERS AND ADR

ADR processes are, at times, used to resolve damage claims arising out of natural disasters. Parties on their own accord can use ADR processes or they can be ordered to do so. For example, insurance companies and policy holders use mediation conferences to try to settle claims, either at the initial stage or after reaching impasse during unassisted negotiations. Courts as well as state insurance departments have ordered insurance companies and policy holders to meet in mediation after lawsuits have been filed.

MEDIATION VIDEOS

In addition to the DLA mediation video “Mediation - It Works” which can be found on the DLA ADR Homepage at <http://www.dsccl.dla.mil/offices/legal/adr/dlapubs.html> the Equal Employment Opportunity Commission now has a video entitled “10 Reasons to Mediate.” The EEOC’s video can be found on their website at <http://www.eeoc.gov/mediate/10reasons/index.html>. Each short video provides a view of a mediation as well as benefits of mediation.

INTERNATIONAL MEDIATION TEAM

Reprinted from a UN News Centre press release:

“March 2008 – A mediation team with some of the world’s leading experts in ceasefires, transitional justice, power-sharing and constitutional arrangements is now on standby to help resolve crises around the world, the United Nations’ top political official announced today.

The new UN Mediation Standby Team is part of ongoing efforts to strengthen the ability of the UN’s Department of Political Affairs to help prevent conflict through assistance to diplomacy, according to B. Lynn Pascoe, the Under-Secretary-General for Political Affairs.

“What we are trying to do in this process is to make sure that not only do we carry out the Secretary-General’s efforts to be there fast in mediation and to be there very quickly on the ground when we’re asked by Member States or regional organizations, but also to make sure that we’ll be there with the very best expertise that’s available anywhere in the world,” Mr. Pascoe said as he launched the initiative at a Headquarters news conference.

Demand for mediation assistance has grown steadily in recent years, Mr. Pascoe said, noting the long list of

recent talks, in particular those that set up power-sharing arrangements to end the post-election violence in Kenya and attempts to end the armed activity of the Lord's Resistance Army (LRA) in northern Uganda.

And the situations are becoming increasingly complex. "These are not places where you can go out and begin a negotiation by the seat of your pants," the Under-Secretary-General noted. Even the most seasoned UN envoys usually need specialized advice.

For that reason, the Standby Team was chosen from a slate of hundreds of candidates, through a rigorous process that included nominations from UN Member States, tests and interviews....."