



Alternate Dispute Resolution Benefits & What to Expect Through the Process

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What is ADR?

Alternative Dispute Resolution includes:

(1) *Mediation*

(2) Settlement Conference

(3) Neutral Evaluation

(4) *Arbitration*





“Why would we want to mediate? We didn’t do anything wrong.”

Even where the employer is completely blameless, there are still valid reasons for participating in the mediation process.

Potential Benefits of Mediation



It's an opportunity for free discovery



Gives the employer the opportunity to show why the claim has little or no merit



EEOC Charges No Fee for This Process

Only investment is employer's lawyers must learn the facts of the case and attend a relatively brief mediation.



Participating in mediation may
prevent a lawsuit



Often Cited Reasons for NOT Going to Mediation



**"It Makes the Employer Look Weak
Because of Willingness to Negotiate"**



"It's a Waste of the Employer's Time"



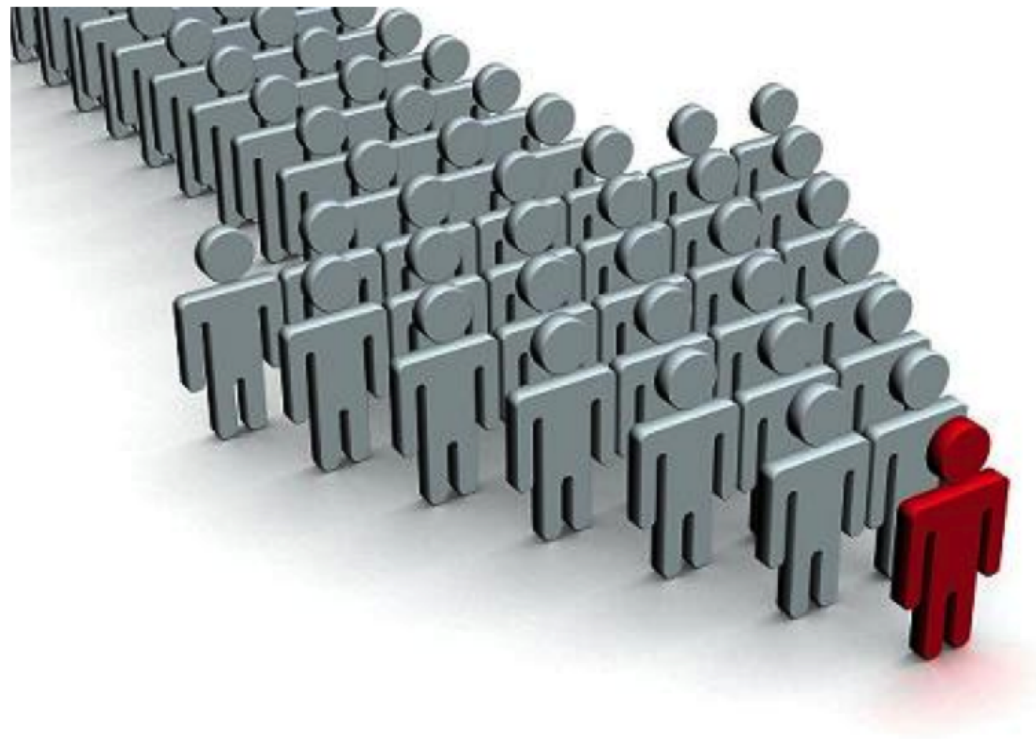
"It Costs Money"



"The mediator will be angry if no money is offered"



“The mediator/agency will be influenced by the refusal to offer a settlement”



Before you dismiss mediation out of hand, talk to your attorney about the options and determine whether the mediation process is your best choice, or if, in your case, it makes sense to bypass that alternative.



Declining Mediation



Weighing the Business Concerns

- Will a settlement encourage more claims?
- The Confidentiality Clause is not a “cure-all”
- The “EPLI” Quandary – deductibles, LAE expense, claims histories and premium hikes

What is Arbitration?

- Binding v. non-binding
- How do you arbitrate employment claims?
- Use of class action waivers



Potential Benefits of Arbitration



Potential Benefits of Arbitration

- Speed and informality of the process
- Hearings = private, not part of the public record
- Less expensive
- Control over selection of arbitration

Potential Drawbacks of Arbitration

- Lack of formal evidence process
- Lack of formal appeals process
- Employer bears the expense
- Arbitrator may be a judge (but not necessarily)

Preparing for ADR

