

## Avoiding Lawsuits: Alternative Dispute Resolution

J. Michael Nelson

November 26, 2011



With the Michigan court system bogged down with cases, it is surprising that most disputes don't actually end up in court. In Alternative Dispute Resolution (ADR), trained, impartial persons known as "neutrals" decide disputes or help parties decide disputes themselves.

In mediation, a neutral mediator assists the parties in reaching a mutually acceptable resolution to their dispute. The mediator does not decide how the dispute is to be resolved, the parties do. Mediation is a cooperative process, in which the parties work together toward a resolution that tries to meet everyone's interests, instead of working against each other. It is quite common for courts to order cases that have been filed and prepared for trial into mediation whether the parties like it or not. The parties (not the court) have to pay the cost of the mediator and, if it is successful, it saves that court the trial time. Since the court may force the parties to mediation anyway – after much has been spent on litigation, it may be wise to consider an early mediation in the right case.

In arbitration, a neutral arbitrator reviews evidence, hears arguments, and makes the decision to resolve the dispute. This is very different from mediation where the mediator helps the parties reach their own resolution. Arbitration is normally much speedier and less expensive than a lawsuit. Because of the large number of cases awaiting trial in Michigan courts, a dispute normally can be heard much more quickly by an arbitrator than by a judge. Often a case that may take a week to try in court can be heard by an arbitrator in a matter of hours.

In case evaluation, a neutral evaluator gives an opinion on the strengths and weaknesses of each party's evidence and arguments, and makes an evaluation of the case. Each party gets a chance to present the case and hear the other side. This may lead to a settlement, or at least help the parties prepare to resolve the dispute later on. Case evaluation, like mediation, can come early in the dispute and save time and money.

For more information on Alternative Dispute Resolution in the Farmington Hills area or within Michigan, contact [Seikaly & Stewart, P.C.](http://Seikaly & Stewart, P.C.) at (248) 785-0102, or email them at [info@seikalystewart.com](mailto:info@seikalystewart.com).