



Types of Alternative Dispute Resolution

By Jodi Wyman

Alternative dispute resolution is basically defined as any way to resolve a case outside of a courtroom, in family law essentially letting the spouses or parents decide how to resolve the case instead of leaving it up to a Judge.

Family law is particularly well-suited to forms of alternative dispute resolution. The litigants at some point had a deep personal relationship with each other, and if they have children, will continue to be in each other's lives for years.

There are several types of alternative dispute resolution, from least formal to more formal.

- The “kitchen table” discussion is when the spouses discuss the case and settlement terms on their own, at home or in a public place. Many cases are settled this way. It is important to ensure both spouses have had some degree of legal advice to make sure they understand their rights and obligations,

although they can then depart from the law if they want.

- Four way meetings are also very common in family law. Each spouse hires a lawyer and the four parties then meet to discuss settlement. All discussions are off the record, and sometimes more than one meeting is needed. Meetings can happen before, during or after court proceedings.
- Collaborative family law is a growing trend in family law. It is meant to dramatically change the family law system by focusing on the family as a whole and what is best for the family, instead of having two battling litigants at war with each other. The spouses each hire a lawyer and everyone signs a contract that they will embark on a series of settlement meetings until they figure out a resolution that is best for the family. The contract specifies that

they will not go to court, and if one spouse wants to quit the process and go to court, they have to hire a different lawyer. Lawyers involved in collaborative family law participate in education and training in this area given that it is quite different from their usual work as an advocate in court.

- There are a number of types of mediation. Family Conciliation offers free mediation for parents wanting to work out a written parenting agreement. Spouses can also hire a private mediator to work out parenting issues and also their property and child and spousal support conflicts as well. The spouses still control their own settlement, but the mediator can help them work through impasses or conflicts.
- Any issue in family law can also be referred to arbitration, where a third

party can make a decision for the couple after hearing each case. Arbitration can be less costly and complicated than court.

- Within the court system there are Pre-Trial Conferences or Judicially Assisted Dispute Resolution. The spouses still need lawyers, they are attending court and are assisted by a Judge but the goal is settlement. A Judge can be a valuable asset to settlement discussions by offering opinions and suggestions, and bringing a professional tone to heated conflicts.

Separated spouses do not have to choose just one forum for settlement, they can try several. There are pros and cons to each. In general however any person in a family dispute must seriously consider trying one or more types of alternative dispute resolution, for their own best interests and that of their family.