

**CONTINENTAL DIVIDE BAR
ASSOCIATION**

**Directory Of
Mediators, Arbitrators And Other
Alternative Dispute Resolution Providers**

The ADR Section of the Continental Divide Bar Association

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Introduction to ADR¹

There are a variety of problem-solving processes referred to as Alternative Dispute Resolution (ADR) which provide an alternative to having a trial where a judge makes the decisions for you.

- ADR can offer cost-effective, fast, and appropriate choices for your individual situation.
- These methods are less formal than Court hearings and allow you to have greater influence on the outcome of your dispute.
- You can participate in ADR with or without the assistance of attorneys.
- In Clear Creek, Eagle, Summit and Lake Counties, parties are required to participate in ADR prior to most contested Court hearings.

Options for Reaching Agreements

You can choose one or a combination of any of these options to resolve your dispute either prior to filing or after you start a Court case by filing your petition:

- Negotiation on your own
- Mediation
- Arbitration
- Mediation-Arbitration
- Settlement Conference
- Working with attorneys through representation or consultation

You can use these options to complete all or part of the documents necessary to finalize your settlement.

NOTE: If you are under a Protective Order or a “No Contact” provision in a bond, you need to ask the Court for an exception to allow ADR.

Negotiation on your Own

You and the other party(or parties) can discuss and try to settle your differences together. You can fill out all of the necessary paperwork for the Court yourselves. You have the option to consult with an attorney, accountant, therapist, or other professional. There is an on-line self- help center with instructions and forms at

¹ The information set forth in the first nine sections herein has been taken from the Boulder County Bar Association Alternative Dispute Resolution Booklet Updated January 2015.

Mediation

Both of you can hire a trained neutral mediator to assist you in reaching your own agreement in an informal and confidential setting. The mediator helps create a safe environment so that each person has a chance to be heard. Sometimes you and the other party(or parties) will be in separate rooms to ensure a productive and/or safe process. If you have attorneys, they may participate in the mediation. A mediator cannot give legal advice to any party.

The mediator does not decide the outcome – the agreements are up to you. The mediator helps you:

- Clarify issues
- Identify your needs and interests
- Create options that best meet the identified needs and interests

Some cases are resolved in one or two meetings, while others take longer. Even if the entire case is not settled, mediation can be helpful to reach agreements on some issues prior to going to trial.

The mediator may put your agreements in written form for your signature, or you or your attorney can write the agreement. If you are unable to reach a mutually satisfactory agreement on all or part of the issues through mediation, and if you are otherwise unable to resolve the issues on your own or with the assistance of attorneys, your case will be set for a Court trial.

Mediation is a good option when you want to work cooperatively and when you will have an ongoing business or other relationship with each other. Parties who reach their own agreements tend to be more satisfied than parties who go to a Court hearing.

Arbitration

Either of you can hire a trained neutral person to make all or some of the decisions upon which you cannot agree. Arbitration can be helpful when you want a quick resolution, as it can be faster and less formal than Court hearings. It is a more formal option than mediation as you, or your attorney, present your information under oath and provide supporting documents. The formality of the process can vary. You can choose an arbitrator with expertise in the issues to be arbitrated. There is only a limited right to a Court rehearing or Court review of a binding arbitration decision. The written arbitration award becomes part of the Court file and public record.

Mediation-Arbitration (Med-Arb)

You begin by mediating, but you agree that if you cannot resolve specified issues, then your mediator becomes an arbitrator and makes binding decisions on those unresolved issues. It provides an opportunity to work out your own solutions and to break any deadlocks. It ensures that a final decision is made. When you have an ongoing business or other relationship with the other party(or parties), mediation encourages voluntary communication and settlement, with arbitration being used to decide those issues upon which the two of you cannot reach an agreement.

Settlement Conference

Both of you hire an impartial legal professional to do an informal assessment and conduct a negotiation session. He or she will analyze the issues, evaluate the strengths and weaknesses of your positions, and suggest settlement options based on the law and precedent. He or she may assist you in writing an agreement. The parties may be in separate rooms.

Working with Attorneys

Representation: You may hire an attorney to represent you throughout the process. The attorney will prepare and file the legal documents. He or she will guide you through the legal process by providing the following services:

- a) Advising you of the law and current practices;
- b) Advising you about the use of appropriate experts;
- c) Negotiating with the other party or his/her attorney to achieve a settlement; and
- d) Representing you during any Court hearings or ADR sessions.

Consulting: You may choose to represent yourself, but consult with an attorney at one or more times throughout the process. This choice is especially beneficial for less complex cases. You will be responsible for preparing the necessary paperwork, complying with any Court-imposed deadlines, and negotiating with the other party(or parties) or his/her attorney. If you hire an attorney for consultation only, his or her advice will be based upon the information you provide instead of the more in-depth understanding of your specific situation that would be obtained by an attorney hired to represent you. People often consult with an attorney before mediation or before signing an agreement reached through mediation.

Note: Whenever you work with attorneys, the same attorney cannot work for more than one party.

Suggested Questions to Ask an ADR Provider

Here are some questions that you may wish to ask in evaluating the qualifications of a prospective ADR provider for your particular situation:

- What specific ADR training do you have?
- How much experience do you have handling this type of dispute?
- What other education, training & experience do you have which will help in mediating my situation?
- Do you know the other party or the other party's representative(s)? If so, what is the nature of the relationship?
- Do you participate in on-going supervision and/or consultation with other ADR providers?
- Are you a member of an professional organizations which have a Code of Professional Conduct?
- If I have an attorney or decide to work with an attorney, what will the attorney's role be in the process?
- If the Court orders ADR, what role do you take in legal proceedings?
- What documents, if any, do you prepare?
- What are the fees for the process and how are the fees allocated? What services are included? Are parties billed for phone and preparation time?
- Can you provide names of non-confidential references I can contact?

Conflict Resolution For Adults

Below are resources for adults including practitioners, college students, and any adult who is interested in learning more about conflict resolution:

WEBSITES:

- <http://www.acrnet.org> Association for Conflict Resolution, an international organization for mediators and other CR supporters.
- <http://www.iap2.org> International Association for Public Participation, an international organization offering training and tools for public processes.
- <http://www.coloradomediation.org> Mediation Association of Colorado, theMAC, the state's mediation membership organization.
- <http://www.mediate.com> A resource for mediators.
- <http://www.nafcm.org> National Association for Community Mediation, a membership organization.
- <http://www.restorativejustice.org> A resource for Restorative Justice.

- <http://www.ncdd.org> National Coalition for Dialogue & Deliberation, a membership organization.

BOOKS:

- Getting to Yes — Roger Fisher, William Ury, and Bruce Patton
- Isenhardt and Spangle's Collaborative Approaches to Resolving Conflict
- Lederach's Building Peace: sustainable reconciliation in divided societies
- Lederach's Moral Imagination
- Lederach's Preparing for Peace
- Barnett Rubin's Blood on the Doorstep, published by the Center for Preventive Action
- Howard Zehr's Little Book of Restorative Justice
- Peter Ackerman and Jack Duvall's A Force More Powerful (see also the PBS video by the same title)
- Mark Juergensmeyer's Gandhi's Way: a handbook of conflict resolution
- Sandy Tolan's The Lemon Tree
- Getting to Peace (AKA: The 3rd Side) — William Ury
- Forgiveness: How to make peace with your past and get on with your life — Dr. Sidney B. Simon
- The Magic of Conflict — Tom Crum
- Boal, A. (1985). *Theatre of the Oppressed* (McBride, C. A., & McBride, M.-O. L., Trans.). New York: Theatre Communications Group. (Original work published 1974).
- Bohm, D. (1996). *On Dialogue*. New York: Routledge.
- Buber, M. (1970). *I and Thou* (W. Kaufmann, Trans.). New York: Charles Scribner's Sons. (Translated from manuscript.)
- Bush, R.A.B., & Folger, J.P. (2005). *The Promise of Mediation: The transformative approach to conflict*. San Francisco: Jossey-Bass.
- Dukes, E. F. (1996). *Resolving Public Conflict: Transforming Community and Governance*. New York: Manchester University Press.
- Hicks, Donna (2012). *Dignity: Its Essential Role in Resolving Conflict*. Boston, MA: Harvard University Press.
- Kolb, D. M. (2001). *When talk works: Profiles of Mediators*. San Francisco: Jossey-Bass.
- Kriesberg, L. (2003). *Constructive Conflicts: From Escalation to Resolution*. Boulder, Colorado: Rowman & Littlefield.
- Lang, M.D., & Taylor, A. (2000). *The Making of a Mediator*. San Francisco: Jossey-Bass.
- Mayer, B. (2000). *The Dynamics of Conflict Resolution: A Practitioner's Guide*. San Francisco: Jossey-Bass.
- Moore, C. (2003). *The Mediation Process: Practical Strategies for Resolving Conflict*. San Francisco: Jossey-Bass.
- Schuman, S. (Ed.). (2005). *The IAF Handbook of Group Facilitation*. San Francisco: JosseyBass.
- Winslade, J., & Monk, G. (2000). *Narrative Mediation: A New Approach to Conflict Resolution*. San Francisco: Jossey-Bass.

VIDEOS/FILMS:

- Tough Guise — Katz & Earp
- Long Night's Journey into Day (a documentary on Restorative Justice in South Africa)
- Bully
- Kundun
- Invictus

COLLABORATIVE LAW- AN ALTERNATIVE TO STANDARD DIVORCE PRACTICE

ENDING YOUR MARRIAGE PEACEFULLY THROUGH THE USE OF COLLABORATIVE LAW

Your family does not belong in court. So, KEEP OUT.

Innovations in divorce law allow you to do just that. Through a method known as “collaborative law,” you and your spouse can work out your divorce using specially trained attorneys who promise in writing *not* to go to court for you. No expensive discovery, no embarrassing witnesses, no bitter public battles. Instead, you and your spouse decide your goals *as a family* and work with your trained specialists privately to meet those goals. You and your spouse, working together, remain in control of all decisions: who takes the house, which parents the children, who gets the family dog. Everything’s decided before a single piece of paper is filed with the Court.

Unlike pro se mediation, collaborative divorce allows settlement with the help of counsel. “Stressing cooperation over confrontation and resolution over revenge, the smart divorce is both highly strategic and beneficial in that it gives the couple greater control over the outcome of their divorce; resolution is generally less expensive and quicker than going to court; it benefits the children by keeping them out of the controversy; and it helps the couple to maintain a sense of integrity and respect... .”²

Research shows that children can be most injured by the hostility generated in a contested divorce. Collaborative law allows you to reduce that risk and protect your kids from avoidable harm. It has been used by thousands of Colorado families to end their marriages in a way that allows them to peacefully co-parent their children when the dust of divorce has settled. Don’t fail to consider this alternative approach to traditional divorce: your family will thank you for it.

² The Collaborative Way to Divorce, by Stuart G. Webb and Ronald D. Ousky.

COLLABORATIVE LAW PROVIDERS:

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For more information, see the following websites:

www.collaborativepractice.com

www.coloradocollaborativedivorceprofessionals.com

This Section relating to collaborative law was written and provided by Elizabeth Pierce-Durance
