Chapter 5. Alternative Dispute Resolution

Rule 3.700. Use of alternative dispute resolution processes encouraged

The court finds that it is in the best interests of all parties that they participate in alternatives to traditional litigation, such as arbitration, mediation, neutral evaluation, and voluntary settlement conferences. Therefore, the court may refer cases to an appropriate form of alternative dispute resolution (ADR) before they are set for trial, unless there is good cause to dispense with an alternative dispute resolution process.

Rule 3.700 amended and renumbered effective July 1, 2007; adopted as rule 6.1 effective May 19, 1998; previously amended July 1, 1999 and July 1, 2003.

Rule 3.710. Rules for alternative dispute resolution processes other than judicial arbitration

(a) Selection of provider

The parties may choose any ADR provider they wish, whether or not that provider is on the list described in the following section of these rules.

(b) Good faith participation is required

All parties to an alternative dispute resolution process must participate in the process in good faith.

(c) Personal appearance required

In conducting a session, the ADR provider should require the attendance of persons with full authority to resolve the dispute. The provider should only permit telephone appearances if good cause to waive personal appearance was shown in a timely manner prior to the session.

(d) Cost of the alternative dispute resolution process

Unless the ADR provider's fees and expenses have been ordered by the court, the parties and the provider must agree on the fees and expenses. The fees and expenses of the provider will be borne by the parties equally, unless they agree otherwise.

Rule 3.710 amended and renumbered effective July 1, 2007; adopted as rule 6.2 effective May 19, 1998; previously amended effective July 1, 1999 and July 1, 2003.

Rule 3.720. Alternative dispute resolution provider list

The court maintains a list of alternative dispute resolution providers to assist parties and counsel in obtaining access to experienced and affordable alternative dispute resolution services. The list includes providers in the areas of mediation, neutral case evaluation, private arbitration, and judicial arbitration. The list, including names, qualifications, services provided and fees charged, will be posted on the court's website and will be available in the office of the ADR program administrator.

Rule 3.720 amended and renumbered effective July 1, 2007; adopted as rule 6.3 effective May 19, 1998; previously amended effective July 1, 1999, July 1, 2003, and January 1, 2007.

Rule 3.740. The ADR administration committee

(a) Members

In addition to the members required by the California Rules of Court, the court's ADR Administration Committee will also include three or more members chosen by the presiding judge as representatives of ADR providers serving on the court's ADR panels.

(b) Duties of the committee

In addition to the responsibilities provided in the California Rules of Court, the court's ADR Administration Committee has the following responsibilities:

(1) To establish criteria for ADR panel eligibility;

(2) To recruit and appoint ADR providers to the ADR panels;

(3) To deny applications for the ADR panel;

(4) To investigate any written complaints received regarding the conduct of ADR panelists and determine appropriate action, including but not limited to, issuing a reprimand, removing an individual from the ADR panel, and prohibiting future participation in the ADR panel;

(5) To develop informational and educational material concerning the court's ADR panels;

(6) To review the administration and operation of the ADR panel list and make recommendations to improve the program, promote the

ends of justice, and serve the needs of the community; and

(7) To gather statistical and other evaluation information concerning the court's ADR program to ensure that the reporting requirements to the Judicial Council are met.

Rule 3.740 amended and renumbered effective July 1, 2007; adopted as rule 6.5 effective May 19, 1998; previously amended effective July 1, 1999, July 1, 2003, and January 1, 2007.

Rule 3.750. Complaint procedure

The complaint procedure described in this section applies to all providers of alternative dispute resolution (ADR) services who are panel members of the court's ADR Program. The following local rules relating to the complaint procedure are intended to comply with applicable California Rules of Court and to ensure that all complaints are resolved through procedures consistent with California mediation confidentiality statutes. The court's ADR complaint brochure provides more detailed information about the process and procedure.

Rule 3.750 amended effective January 1, 2010; adopted as rule 6.7 effective July 1, 2003; previously amended and renumbered effective July 1, 2007.

Rule 3.760. Inquiries and complaints

(a) Designation of complaint coordinator

The ADR program administrator is the designated complaint coordinator unless otherwise ordered by the presiding judge.

(b) Acknowledgement of complaint

Within three court days of receipt of an inquiry or complaint, the complaint coordinator will send written acknowledgement of receipt.

(c) Preliminary review

Within 10 court days of receipt of an inquiry or complaint, the complaint coordinator will determine whether the complaint can be informally resolved or closed, or whether an investigation is warranted. If an investigation is warranted then the complainant may be asked to submit the complaint in writing.

(d) Investigation and recommendation

(1) Within three court days of a determination that the complaint

warrants an investigation, the panelist will be given written notice of the complaint. If the complaint was initiated as an unwritten communication and the complainant is asked to submit the complaint in writing, the panelist will be given written notice of the complaint within three court days of receipt of the written complaint.

(2) The panelist must submit any written response within 10 court days. This period may be extended by the presiding judge upon a showing of good cause.

(3) The investigation will be conducted by a complaint committee.

(4) Within 30 court days, the complaint committee will conclude the investigation and submit its recommendation concerning court action to the presiding judge. This period may be extended by the presiding judge upon a showing of good cause.

(e) Final decision

(1) Within 10 court days of receipt of the complaint committee's recommendation, the presiding judge will render a final decision.

(2) One or more of the following actions may be taken;

(A) no action;
(B) counsel, admonish or reprimand the panelist;
(C) impose additional training requirements as a condition of remaining a member of the court's panel;
(D) suspend the panelist from the panel; or
(E) remove the panelist from the panel.

(f) Notification of final action

Each complainant and affected panelist will be promptly notified in writing of the final decision.

Rule 3.760 adopted effective January 1, 2010.