

Chapter 13

Alternative Dispute Resolution (ADR)



Alternative Dispute Resolution (328)

- Read the case file on page 328
 - Tonight ask your parents if they can help you locate a copy of the policy contract for your family or your automobile insurance. Many times the contract will be available electronically on the insurer's website once logged into the policy. Your parents may also have a paper copy. If you can not locate a copy, please e-mail me.
 - Use the table of contents in the policy contract and look for any indication of "legal action against us" or "arbitration" or "mediation" or any similar wording
 - Read the appropriate sections of your automobile policy contract
 - Is arbitration required in any circumstances? – nearly all will have a required arbitration for some reason. Utilize a quote from your contract to verify.
 - Does the contract limit the ability of the insurance company to be held liable in any civil lawsuit? Utilize a quote from your contract to verify.
 - Attempt to explain in your own words the limitations and requirements imposed by this contract.
 - Did your parents know about these limitations? Are they surprised by these limitations?

ADR Types (329-336)

- Why have alternative dispute resolution methods evolved? What is the reasoning behind avoiding courtroom litigation?
 - Do courts generally favor and support arbitration and mediation? Explain.
- What are the two types of ADR? What key difference exists between the two of them if parties are unhappy about the outcome?
 - Which one of these is often ordered by the court to avoid a trial?
 - Why do you think a court would only order this version of ADR?
- Discuss the difference between Negotiation and formal ADR such as Arbitration or Mediation?
- In reference to Arbitration
 - Who is generally the arbitrator?
 - Can parties appeal the decision? Under what circumstances?
 - What is involved in an arbitration proceeding? Discuss the process.
- In reference to Mediation
 - What are some of the key differences between mediation and arbitration?
- Vocabulary

Case Study (334-335)

- Read Application 13.2
 - What do you think of the court's decision in this matter? Explain the reasoning behind the courts decision and discuss your agreement / disagreement with their findings. Explain your reasoning.
 - What do you think of the arguments of both sides? Give your reaction.
- Read the Case on page 334 and 335
 - Answer Case Analysis Questions
 - Note "Infant" in law means a person who has not attained legal majority (not an adult) – (Clarification) In January 1974 the legal age of an adult in New York was 21 by October the law had been changed to 18. This was in part due to the 26th Amendment to the Constitution which was passed in 1971 which lowered the voting age from 21 to 18

Other Types of ADR (336-339)

- Complete the following table:

ADR	Formal / Informal	Binding / Nonbinding	Deciding Person / Group	Used to solve this type of problem	Other Notes
Mini Trial		Generally nonbinding		Business Disputes	Not a court process / private proceeding

- Why can a court not require binding arbitration? Explain
- What is a private judge? Although legal, what are some of the issues you could see potentially occurring with this type of ADR? Why? Is this fair to the public?
- Under what circumstances can ADR be used in a criminal case? Why is this a very limited utilization of ADR?

Other Types of ADR

- Mini Trial
 - Often used to end business disputes between companies
 - Similar to a trial but it is a private endeavor in which the courts do not participate
 - Jury of company executives from both sides decide the outcome based on evidence presented by attorneys
- Summary Trial
 - Short and Quick version of a trial
 - Takes place in a court room but without many of the legal technicalities of formal courts
 - Can help parties realize or can help encourage settlements
- Early Neutral evaluation
 - Third party evaluates both side's cases and gives an opinion as to the outcome – gives recommendation of settlement
- Private Judges
 - Parties in a lawsuit pay a retired judge to hear their case and avoid the waiting in a traditional trial process due to backlog
 - Expensive

Case Study (340-341)

- Read the case study on 340-341
 - Complete Case analysis questions
 - Once you complete your reading summarize the outcome of this case in regards to the decisions of arbitrators answering the following: If an arbitrator makes a determination that is questionable and even perhaps “irrational” what recourse does a party involved in the lawsuit have?
- Complete Application and Analysis problems 1 and 3