

Why Not?



The alternative dispute resolution (ADR) process is an opportunity for all parties to exchange meaningful information, come to a workable and lasting agreement and to restore relationships. A goal of ADR is to reduce the emotional and financial burden of an estate conflict on the parties involved.

IT'S A WIN-WIN SCENARIO!

The ADR process can be initiated at anytime during the conflict. Typically, the earlier the decision to participate in the program the greater the benefit for all. The ADR sessions are scheduled for either one two-hour or one four-hour session at an agreed upon location. Often one or two sessions is all that is necessary to reach an agreement.

“Estates and Probate courts are second only to family law courts where emotions of families run high and often drive litigation, which can result in the filing of multiple appeals, criminal charges, peace orders, declaratory and injunctive relief and other collateral proceedings.”

Chief Judge Wendy A. Cartwright

For more information about mediation or collaborative practice contact:

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For more resources about alternative dispute resolution:

*Maryland Judiciary's Mediation and Conflict Resolution Office (MACRO)
www.courts.state.md.us/macro*

*Maryland Collaborative Practice Council (MCPC)
<http://marylandcollaborativepractice.com/>*

For more information about the administration of estates:

*Register of Wills
<http://registers.maryland.gov/main/publications.html>*

Alternative Dispute Resolution Program



**Offering Out-of-Court,
Prompt, Private
Solutions for
Estate Disputes**



Examples of Estate Disputes

- ◆ You want to keep the house and others want it sold.
- ◆ The family can't agree on how to handle the personal property.
- ◆ There is a concern the personal representative is handling the estate improperly.

These are only some examples of conflict.

How Can You Resolve Your Conflict Out of Court?

Participate in the Orphans' Court's **ADR Program** where a court-appointed trained professional assist **participants** in resolving the conflict.

The process is:

- ◆ prompt
- ◆ confidential
- ◆ cost-effective, and
- ◆ legally binding.

**Unless both sides win,
no agreement can be permanent.**

—Jimmy Carter

Two Options towards Finding a Solution

Unlike the litigious process where a judge makes the decisions, the alternative dispute resolution process allows the parties to make decisions based upon their needs and interest:

- ◆ **Mediation**— Uses a neutral trained person to facilitate a conversation towards finding a realistic solution. A mediator does not provide legal advice. All mediators have at least met the states' minimum requirements.
- ◆ **Collaborative Practice**—Uses specially trained attorneys to counsel each party as they cooperatively seek the best possible outcome for all. Financial analysts or mental health professionals may assist in this ADR process.

Nationwide, courts, including family and criminal, are successfully utilizing alternative dispute resolutions to settle conflicts. When all of the parties involved work towards the solution, the agreement is more likely to be a lasting solution.



How Does the ADR Process Work?

After receiving a petition from an interested party, the Orphans' Court may refer your estate for an ADR process or an interested party may contact the ADR Coordinator directly to request review of a pleading. A good faith effort to resolve the dispute in a manner that takes into consideration everyone's concerns is imperative to reaching a resolution.

Parties without legal representation can participate. However, legal representation is encouraged. Once a court approved mediator or collaborative attorney is assigned, a conference is scheduled at a convenient time for everyone in the dispute. With cooperation from all, it is possible that an agreement may be reached within months as opposed to years as in litigation.

If an agreement is reached a signed, enforceable agreement is filed with the court. If no settlement is reached then the dispute returns to court.

Are There Costs Involved?

Mediation — The mediator fee is no more than \$200 per hour and is equally shared amongst the participants or with full agreement paid from the estate proceeds.

Collaborative practice — With more professionals involved a cap protects the estate from incurring great expense. Participants of collaborative practice pay half of the costs incurred and the estate the remaining half.