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## Meet the Panelists

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## Agenda

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**Meet the Panelists**  
**What is ADR now?**  
**Navigating ADR in State Courts in NY**  
**Questions**


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## What are the benefits of ADR?




**Party Experience**

Procedural Justice  
Self-Determination



**Time**

Issues Narrowed  
Positions Explored



**Cost**

Cost to Litigants  
Cost to Justice System

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## What is Presumptive ADR?

**Parties are referred to mediation or another form of ADR as early in the court process as possible, before costs rise and positions harden.**

**Referrals include a provision for parties to opt out; case intake and screening further support party safety and assessment of the appropriateness of the case for ADR/mediation.**

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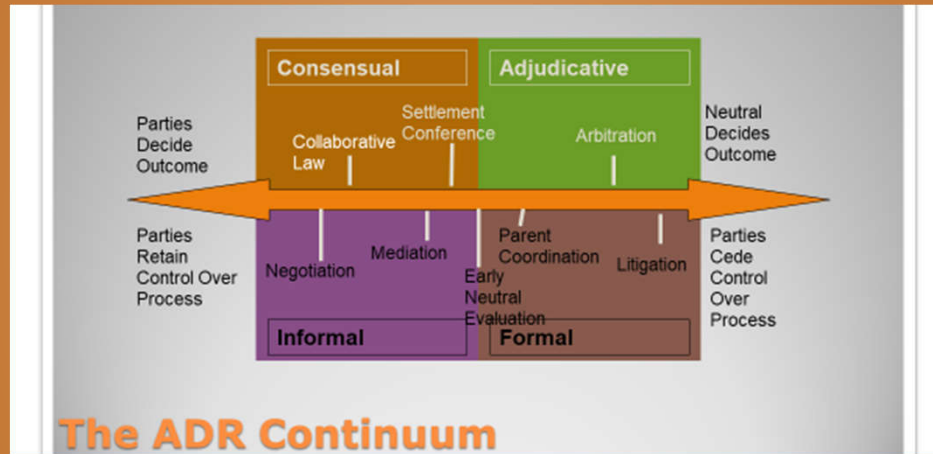
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## Types of ADR

- Mediation
- Neutral Evaluation
- Arbitration
- Settlement Conferencing



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## What is Mediation?

- Mediation is an efficient user-friendly means for resolving conflicts, creating plans, fostering discussions and organizing disputes. It is confidential and the resolution is voluntary.
- Parties meet with a trained mediator who helps them communicate with one another and if possible, build a solution that satisfies everyone.

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## Benefits of Mediation

- Opportunities for creative customized resolutions that can better meet party needs
- Can expand the conversation beyond the legal issues
- Can include necessary parties not party to the lawsuit
- Forestalls unnecessary litigation expenses
- Can improve compliance with agreed upon terms
- Can preserve business or personal relationships

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## New Developments



Rules



Staffing



Stakeholders



Technology



Programs



Training

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## **RULES**

- Proposed Part 60 & Part 160
- Section 202.11 of the Uniform Civil Rules For The Supreme Court & The County Court
- 202.29/202.70

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## **ACCESSING ADR**



Presumptive



Volunteer



Court Referral

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## University at Buffalo School of Law Commitment to ADR

- Clinic Program
- Class Offerings
- Representation in Mediation Competition



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## Advocacy in ADR

### Know the Process

Familiarity with the Process  
Planning with the Neutral

### Prepare your Client

The Role of the Attorney in Each  
Role of Advisor (Rule 2.1)  
Attorneys as Third-Party Neutrals (2.4)

### Prepare your Case

Realities of Discovery  
Desired Language  
Identifying BATNA/WATNA

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## Advocacy in ADR

- Preparing your Client
  - Consult and Recommend (1.2;1.4)
  - Review the Process
  - Let them know the role of the neutral
  - Discuss the clients needs and goals
  - Review which type of discussions are helpful and which are not...
  - Remember to share that unlike court, this process is driven by the parties and their ideas
  - Review the documents you will submit in advance or bring to the session
- Preparing Yourself
  - Act in good faith.
  - Be as respectful and pleasant as possible
  - Let the other attorney or the other party "save face" where possible
  - Encourage the parties to speak to one another...in some case types, think about the many conversations most of these parties have ahead of them...give them a chance to practice use of appropriate, productive dialogue.
  - Help your clients remember why you chose to take part in the mediation
  - Give the process time

Based on Materials first Created by the Center for Resolution and Justice

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# QUESTIONS

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