

**ALTERNATIVE DISPUTE RESOLUTION  
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The time has come for Alternative Dispute Resolution, more commonly known as ADR. ADR involves a series of procedures as an alternative to the courts for purposes of resolving disputes.

The types of disputes which can be resolved by Alternative Dispute Resolution are endless. These can involve international commercial transactions, shareholder disputes, joint ventures, partnerships, disputes between franchisor and franchisee, customer and supplier and even breakdown in family business relations. There are a number of forms which an Alternative Dispute Resolution can take. Among these are principled negotiation, neutral case evaluation, mediation, arbitration, combined med-arb, and mini trials. This list is not exhaustive. There are other procedures available, and some of these procedures can even be combined or acted upon one after the other, if one does not work.

A number of the forms of ADR share common advantages. For example; imagine having a dispute with a major supplier. This might be a dispute which is based on a product or service, but it is definitely between your companies and maybe even between individual personalities in the companies. You would have been doing business with this company for some time and you would expect to continue doing business with them were it not for the dispute. Should you sue? You know how long lawsuits take. The delays in the court are infamous. Everyone complains that the cost of lawsuits is too high. And after a lot of frustration and expense, people become even more entrenched in their positions and less willing to work out a settlement. The case can go to a trial with a Judge who is not attuned to the industry problem. The trial is public. After the long struggle most of us have seen during the recession, most people are no longer interested in getting into another struggle with a lawsuit.

The alternative is one of the forms of ADR. These share in common the willingness of the parties to try to resolve their difference. The case can be scheduled quickly, and since it is the only case, for example, the mediator or arbitrator will deal with, it will proceed when scheduled. The parties pick the neutral person who will assist in their process. The parties share the cost. The parties agree in advance on the issues to be submitted and the terms of reference by which the

procedure will be governed. In other words, you make your own rules. You pick a facilitator, mediator or arbitrator who knows the field. The procedure is held in a confidential setting and the results are not published. There are no lengthy rules or court procedures to slow down the process.

Sometime ago, IBM and Fujitsu submitted for arbitration a case that had been in the courts for many years. The case was resolved in a number of months even though it involved hundreds of millions of dollars. The parties were able to get on with their business.

If all of this sounds too good to be true, it is not. Mediation, arbitration and other forms of ADR have been available and are available to everyone. It is simply a matter of knowing about their availability.

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