

UNITED STATES COURT OF FEDERAL CLAIMS

GENERAL ORDER No. 44

**NOTICE OF ADR AUTOMATIC REFERRAL PROGRAM
AND ADR AUTOMATIC REFERRAL PROCEDURES**

The United States Court of Federal Claims has been a leader in the promotion of alternative dispute resolution (ADR). Since the adoption of General Order No. 13 on April 15, 1987, the court has utilized such ADR methods as early neutral evaluation, mini-trials, settlement judges, and third-party neutrals. Procedures applicable in general to ADR are found at Appendix H of the court's Rules. This Order, superseding Second Amended General Order No. 40 (3/17/04) hereby establishes the ADR Automatic Referral Program, formerly known as the ADR *Pilot* Program.

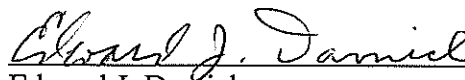
In the ADR Automatic Referral Program, all cases, except for bid protest cases, assigned to certain judges (hereinafter, the presiding judge) shall automatically and simultaneously be referred to certain other judges of the court (the ADR judge) for ADR consideration. (The presiding judges and ADR judges in the program shall be identified as such on the court's website under the ADR tab.) The goal of the ADR Automatic Referral Program is to provide for early meetings with a settlement judge to help the parties reach a better understanding of their differences and their prospects for settlement. The ADR Automatic Referral Program also allows the parties to meet with the ADR judge at any other time during litigation to assist the parties in settling the case or narrowing issues for resolution.

Attached to this Order are the ADR Automatic Referral Program Procedures and a sample ADR Confidentiality Agreement. The Procedures shall apply to each case in the ADR Automatic Referral Program. When the parties are notified that their case has been assigned to an ADR judge under this Program, they shall be and hereby are directed to review this Order and the attached Procedures.

IT IS THEREFORE ORDERED, effective this date, that the ADR Automatic Referral Program shall encompass all cases (with the exception noted above) filed after the date of this order that are assigned to the presiding judges in this Program. This Order, the Procedures, and the sample ADR Confidentiality Agreement shall be posted and available on the court's website at www.uscfc.uscourts.gov.

Date: June 21, 2007

BY THE COURT



Edward J. Damich
Chief Judge

In the United States Court of Federal Claims

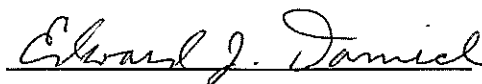
GENERAL ORDER NO. 44 ADR AUTOMATIC REFERRAL PROCEDURES

1. The parties shall comply with the following ADR Automatic Referral Procedures in all ADR Automatic Referral Program cases.
2. The ADR judge shall be appointed upon the filing of the complaint, in addition to assignment of a trial judge. The ADR judge shall be given a copy of the complaint by the Clerk of Court.
3. Involvement by the ADR judge is triggered by the filing of the notice of appearance. The Clerk of Court shall provide the ADR judge with a copy of the Notice of Appearance.
4. After receiving the notice of appearance, the ADR judge will be responsible for scheduling an early meeting with the parties to discuss the use of ADR to resolve the case, any threshold issues, including jurisdictional issues that are involved in the litigation and, when appropriate, the ADR judge may provide the parties with an early neutral evaluation.
5. The ADR judge may decide at any time that the case is not appropriate for ADR, and upon notice to the parties and the trial judge, may remove the case from the ADR Automatic Referral Program.
6. Upon issuance of the ADR judge's order scheduling the early meeting with the parties, the parties shall execute and submit to the ADR judge an ADR Confidentiality Agreement, a sample of which can be found in the Forms section of the court's Rules.
7. If after the early meeting of the parties, the parties agree to go forward with ADR, the ADR judge shall issue an order setting forth a schedule for continuing the ADR process.
8. All scheduling and procedural orders issued by the ADR judge shall be docketed.

9. The trial judge will copy the ADR judge on all orders either on paper or electronically in ECF cases. The ADR judge will copy the trial judge on all scheduling orders.
10. If the parties decide not to continue with ADR until after discovery, they shall file a notice with the ADR judge and the trial judge upon the close of discovery.
11. Upon the close of discovery, the ADR judge will again take responsibility for scheduling another meeting with the parties to discuss the value of using ADR to resolve the case. If after that meeting, the parties agree to use ADR, the ADR judge will issue an order establishing a schedule to conduct post-discovery ADR.
12. The parties may jointly propose to the ADR judge or the trial judge that they wish to pursue their own ADR process.
13. The ADR judge may require the submission of information or the attendance of persons necessary to conduct ADR.
14. The ADR judge may meet with the parties *ex parte* in separate caucuses.
15. All information and documents submitted to the ADR judge for purposes of ADR will be kept confidential by the ADR judge, will not be included in the court's official file in the case, and will not be disclosed to any person who is not participating in the ADR process. However, information and documents not specifically prepared for or revealed in confidence in ADR, and otherwise discoverable and/or admissible, are discoverable and admissible as determined by the trial judge.
16. The ADR judge's opinions, files, and observations regarding the case shall not be shared or discussed with the trial judge unless both parties agree to the disclosure in writing to both the ADR and the trial judges.

Date: June 21, 2007

BY THE COURT



EDWARD J. DAMICH
Chief Judge

In the United States Court of Federal Claims

NO. XX-XXX

XXXXXXXXXXXXXX,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

ADR CONFIDENTIALITY AGREEMENT

The parties */ agree that all ADR proceedings, including statements made and documents prepared by any party, attorney, or other participant, are privileged and shall not be disclosed in any subsequent proceeding or document or construed for any purpose as an admission against interest. However, information and documents not specifically prepared for or revealed in confidence in ADR, and otherwise discoverable and/or admissible, are discoverable and admissible as determined by the trial judge. The parties further agree not to subpoena or seek in any way the oral or written testimony of the ADR judge for any purpose in this or any other proceeding, or to subpoena or seek in any way any materials submitted to the ADR judge during the ADR process for use in this or any other proceeding.

*/ All parties, along with their attorneys, who participate in the ADR proceedings shall sign this agreement.

No party shall be bound by anything said or done during ADR proceedings unless a settlement is embodied in a written agreement signed by all parties.

Plaintiff

Defendant

Plaintiff's Attorney

Defendant's Attorney

Party

Party's Attorney

Date