

DISTRICT COURT OF MARYLAND
ALTERNATIVE DISPUTE RESOLUTION (ADR) OFFICE

MEDIATOR OPENING STATEMENT*

Introduction: Your Name. Volunteer Mediator with the District Court.

Distribute a *laminated* Agreement to Participate in ADR form to each person in the room.
Remind the participants that we will sign only one carbonless original.
Everyone will get a copy of the signed form.

Participant Introductions and Opening the Session:

- Names. Ask participants (and attorneys, if present) how they would like to be addressed.
- Identify each person's role in the dispute.
- Confirm all have authority to settle.
- Find out if there are any missing participants. (It may be okay to proceed if a party is missing, however an absent party may not be obligated to do something in any agreement reached.)
- Do not proceed if an interpreter was requested and is not present. (Friends or family members may not serve as interpreters.)

Reviewing the Agreement to Participate in Alternative Dispute Resolution Form:

1. Definition of Alternative Dispute Resolution

“Mediation is a form of alternative dispute resolution. ADR means trying to resolve your case without having the judge make the decision.”

2. Voluntary

“Mediation is a voluntary process. After I go through this explanation, anybody who doesn't want to participate may go back into the courtroom, and anyone at any time, after we start may end this process at anytime, even me, the mediator.”

3. Role of the ADR Practitioner

“The goal for this process is to assist the parties in having a conversation. It might include identifying issues and possible solutions. I won't decide who's right or wrong. I won't make decisions or suggestions, and I won't give legal advice. Ultimately, you will decide if you're going to reach an agreement and what that agreement is going to be. My role is to make sure this process is conducted in a fair and neutral way. Participating in this session does not affect your right to a fair trial if we don't reach agreement.”

- I (the mediator) will not take one side or the other.

4. Confidentiality

“This is a confidential process. What that really means is that I won't go in and tell the judge anything that's happened here, and you won't ask me to. (same thing for the observers in the room.) There are three exceptions to confidentiality. If there's any evidence of child or elder abuse, I may be required to report it. If there is an act or credible threat of violence, I may report that. Or, if you allege that I did something wrong in conducting this process, then I'm allowed to defend myself. Any questions about confidentiality and what it means to this process?”

- Other professions may require additional disclosures. It is critical that you inform the participants of all of your required disclosures during your opening.*

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5. Conflict of Interest

“What that means is does anybody think that they know me, or have any reason to believe I know the other side?”

- If potential or actual conflicts exist, disclose and asking the participants to waive the conflict is permissible.

6. Legal Advice

“As I mentioned before, I’m neutral in this process and I don’t represent anybody, and I won’t provide any legal advice. If you have an attorney, we can take a break so that you can talk to your attorney.”

7. Role of the Parties

“Your role is to try to have the conversation in a way that you think will be helpful to reaching an agreement that meets your needs. And, again I just want to make sure that all of you have authority to settle.

- Invite participants to take their own notes.

8. Agreement

“If we reach an agreement, I will write up the agreement using your words and you will each get a copy. If we reach an agreement, the judge may confirm that this is what you want, and read the agreement into the record. If you reach an agreement, that agreement is not confidential unless there is a reason for it to be.”

9. Waiver

“You all agree to hold me and the District Court harmless, but that really shouldn’t be an issue since everything that happens here is completely voluntary.”

Feedback Form:

- Inform the participants that they will be invited to complete a participant feedback form at the end of the session.

“Lastly, you see these yellow sheets? These are our feedback forms and at the end of the session, whether or not you reach agreement, I’m going to ask that each of you complete these forms. I’m going to ask you to be completely honest. You’re not going to hurt my feelings if you write anything bad about me. Collecting this information helps us make the program better going forward. It will only take a few minutes, and I thank you in advance.”

ASK IF ANY QUESTIONS AND ADDRESS CONCERNS.

EVERYONE PRESENT (including the mediator) MUST SIGN THE AGREEMENT TO PARTICIPATE.

Return the white copy to the courtroom. Distribute the pink and yellow copies between the plaintiff and defendant.

**Your opening statement may vary slightly depending on your mediation framework: facilitative, inclusive (community mediation), or transformative.*