

Bankruptcy Dispute Resolution Program Information Sheet

Important, please note: This Information Sheet should be used in complying with the requirements of Bankruptcy Local Rule ([B.L.R. 9040-3](#)) to discuss and consider alternative dispute resolution options with clients.

The United States Bankruptcy Court for the Northern District of California (the “Court”) has established an alternative dispute resolution program known as the Bankruptcy Dispute Resolution Program (“BDRP” or “Program”).

This BDRP Information Sheet is provided to you because you are, or may be, a debtor or creditor in a bankruptcy case, a party to an adversary proceeding, or counsel to a party involved in a bankruptcy case or an adversary proceeding, and may find the BDRP useful.

Pursuant to [B.L.R. 9040-3](#) in an adversary proceeding, or whenever ordered by the Court in other matters, counsel and client shall sign, serve and timely file a completed [ADR Certification](#) certifying that both have:

- 1) Read this Information Sheet, and
- 2) Discussed and considered whether their case might benefit from any of the available dispute resolution options.

The BDRP offers a means to resolve disputes quickly, at less cost and often without the stress and pressure of litigation. The Program utilizes the services of trained Resolution Advocates (an “RA”) to assist the parties in resolving their dispute. Participation in the BDRP is voluntary, and the parties choose the dispute resolution format that best suits their needs. Common dispute resolution formats include mediation, negotiation, early neutral evaluation and settlement facilitation, and are outlined below.

Matters That May Be Referred to the BDRP

Subject to a few exceptions (see, [B.L.R. 9041-1](#)), the BDRP is available to parties, whether or not represented by counsel, in all controversies arising in an adversary proceeding, contested matter or other dispute in a bankruptcy case.

Cost

There is a cost of \$100 per side payable directly to the RA. At the discretion of the RA, the fee may be waived in whole or in part (for example, if a party cannot afford the fee). The RA is expected to devote a reasonable amount of time assisting the parties in attempting to resolve the dispute. Prior to undertaking a BDRP referral, the RA will usually discuss with the parties the amount of time he or she expects to provide. Once that time has expired, however, the parties and the RA may agree for the RA to continue to provide services to the parties on terms, financial or otherwise, acceptable to the RA and the parties.

Procedure for Referring a Matter to the BDRP

The Bankruptcy Local Rules governing the BDRP are located at [B.L.R. 9040 et seq.](#) Copies of the BDRP Rules are available from the Clerk's Office or the Court website at www.canb.uscourts.gov > Court Info > Bankruptcy Dispute Resolution Program > [Rules and Procedures for BDRP](#).

The Court may, with the agreement of the parties, refer a matter to the BDRP at any time, but typically such a referral may be made at a Case Management Conference, a Status Conference or at a hearing. Additionally, the parties may, at any time, submit a stipulated order requesting that a matter be referred to the BDRP. The stipulated order shall state that all parties to the dispute agree to the BDRP referral.

The following steps shall be taken whether a matter is referred to the BDRP by the Court or by a request of the parties:

- 1) The parties to a dispute are to confer and select an RA and an Alternate RA who offer their services in the geographic area desired by the parties (e.g. Oakland, San Francisco, San Jose, Santa Rosa, McKinleyville/Eureka and Salinas/Monterey). A [biographical listing of all RAs](#), and a separate list showing the [availability of each RA by geographic area](#), are available for reference in the Clerk's Office and posted outside each courtroom, or may be obtained from the courtroom deputy or the Court website at www.canb.uscourts.gov > Court Info > Bankruptcy Dispute Resolution Program > Resolution Advocate Biographical Information and > BDRP Advocates Availability By Location. Selection of an RA and Alternate RA shall be made **only** from these lists.
- 2) Before submitting the order to the court assigning an RA, the parties should first contact the selected RA and Alternate RA to determine their availability to undertake a BDRP referral.
- 3) After selection of an RA and Alternate RA, the parties must file a completed [Stipulation to Appoint Resolution Advocate](#) and also complete and submit to the Court an [Order Appointing Resolution Advocate](#) for approval. If the submitting party is **not** a CM/ECF electronic filer with this Court, such party shall submit **two paper copies** of the Order to the Court, together with a postage-paid envelope addressed to the submitting party. The Clerk's Office will use the postage-paid envelope to mail the submitting party a copy of the signed Order.
- 4) Upon receipt of the signed Order referring the matter to BDRP, the submitting party **shall** immediately serve a copy of the Order on the RA, the Alternate RA and all parties to the dispute.

Upon receiving a copy of the signed Order, the appointed RA will contact the parties. The RA, in conjunction with the parties, will determine a time, place and format for a BDRP conference. Possible formats include:

Facilitation - A collaborative process in which the RA functions as a neutral providing information about the process. The RA does not make substantive contributions regarding the merits of the dispute or possible settlements. As a facilitator, the RA helps the parties define the issues and thereby increase the likelihood that the **parties** will reach a consensus.

Mediation - A flexible non-binding, confidential process in which the RA functions as a neutral mediator to facilitate negotiations among the parties to help them reach a settlement. The mediator's goals include improving communication across party lines, helping parties articulate their interests and understand those of their opponent, probing the strengths and weaknesses of each party's legal positions, helping identify areas of agreement and generating options for a mutually agreeable resolution to the dispute. The mediator generally does not give an overall evaluation of the case. A hallmark of mediation is its capacity to expand traditional settlement discussion and broaden resolution options often by going beyond the legal issues in the controversy.

Early Neutral Evaluation - The parties and their counsel, in a confidential session, present summaries of their dispute to and receive a non-binding assessment from the RA as an experienced neutral professional with subject-matter expertise. As an evaluator the RA also helps identify areas of agreement, provides case-planning guidance and, if requested by the parties, settlement assistance.

The formats described here are **non-binding, voluntary, and confidential**. Other formats, with the exception of arbitration, may be used by agreement and at the discretion of the parties and the RA.

All rules, instructions, certifications, forms, lists, orders and other documents and information necessary to comply with the BDRP requirements are available on the Court website at www.canb.uscourts.gov > Court Info > [Bankruptcy Dispute Resolution Program](#).

If you have questions, please contact BDRP Staff Administrator, Ron Mastroianni at (415) 268-2341 or ron_mastroianni@canb.uscourts.gov(link sends e-mail).