

- **WHAT IS THE BERKS COUNTY BAR ASSOCIATION ALTERNATIVE DISPUTE RESOLUTION PROGRAM?**

The program is administered by the Berks County Bar Association and intended to offer mediation and arbitration services as a more efficient means of resolving certain disputes without costly and time consuming litigation.

- **WHAT KIND OF CASES ARE ELIGIBLE?**

All civil actions except cases involving divorce, equitable distribution, custody, child or spousal support, alimony, alimony pendent lite or paternity are eligible.

- **WHAT IS THE DIFFERENCE BETWEEN ARBITRATION AND MEDIATION?**

Mediation is essentially a settlement discussion involving the parties, their counsel, and a neutral third party who is trained in the facilitation of and assistance with settlement negotiations. The mediator does not make any decision for the parties or value the case unless the parties agree otherwise. All information revealed in the course of mediation is held in confidence by the mediator.

Mediation offers a less structured way for the parties to explore and negotiate multiple settlement options with the assistance of a specially trained mediator. With mediation there is no binding decision. Any resolutions reached through mediation must be agreed to by the parties and their counsel.

Arbitration involves a more structured format, leading to a binding decision by the arbitrator. Arbitration is conducted in accordance with the common law arbitration provisions set forth in 42 Pa.C.S.A. §7341 et. seq. However, there are numerous options available to the parties concerning limits on any awards entered by the arbitrator. In fact, the parties are free to set any mutually agreeable limits.

- **WHAT ARE THE BENEFITS OF THE BERKS COUNTY BAR ASSOCIATION CIVIL DISPUTE RESOLUTION PROGRAM OVER MANDATORY ARBITRATION IN THE COURT OF COMMON PLEAS?**

Because of the automatic right of appeal in mandatory court arbitration, statistics show that up to 60% of the decisions rendered in mandatory arbitration are appealed.

In contrast, the Bar Association Arbitration Program Rules track the common law arbitration rules in accordance with 42 Pa.C.S.A. §7342 et. seq., which limit appeals to very specific instances such as fraud and failure to be fairly heard. Unlike court arbitration, this program can arbitrate cases involving any amount of money in controversy.

- **DO THE PARTIES PARTICIPATE IN SELECTION OF THE ARBITRATOR/ MEDIATOR?**

Absolutely. The Berks County Bar Association has a list of approved arbitrators/mediators. The parties may, within 20 days from the date they submit the arbitration/mediation agreement, select the name of a mutually agreeable arbitrator/mediator and provide that name to the Bar Association. If the parties are unable or unwilling to select an arbitrator/mediator within 20 days, the Association will make a random rolling assignment of one of the arbitrators/mediators from the approved list. A list of the arbitrators and mediators who are certified and approved by the Berks County Bar Association is available from the Bar Association.

- **WHERE IS THE ARBITRATION/MEDIATION CONDUCTED?**

It can be conducted at the Bar Association, at the arbitrator/mediator's office, or at any location which is agreeable to the parties and the arbitrator/mediator.

- **IS THE BERKS COUNTY ALTERNATIVE DISPUTE RESOLUTION PROGRAM SUPPORTED BY THE BERKS COUNTY BENCH?**

Yes. The Berks County Bench has endorsed the program's mission to offer services designed to assist litigants and potential litigants with resolution of disputes.

- **MUST A CASE BE PENDING IN THE COURT IN ORDER TO BE ELIGIBLE FOR MEDIATION OR ARBITRATION?**

No. In fact, in many instances, mediation and/or arbitration can assist parties in resolving a dispute before a complaint is even filed.

- **HOW IS A REQUEST TO ARBITRATE/MEDIATE PROCESSED?**

The parties seeking to submit a dispute for arbitration/mediation need to complete a Request form and submit it to the Berks County Bar Association, along with a fee in the amount of \$950.00. A request to arbitrate/mediate must represent that

all parties to the action view the arbitration/mediation as a potential aid to the resolution of their dispute.

- **HOW MUCH DOES MEDIATION/ARBITRATION COST?**

The initial cost is \$950.00. An initial \$200.00 Administrative Fee paid to the Bar Association is non-refundable. The \$750.00 initial mediator/arbitrator fee is only refundable up to the point in time when a mediator/arbitrator has been appointed. Thus, if a case is successfully mediated, or if an arbitration is concluded at the initial session, each side would only have a fee of \$475.00, by sharing the total fee of \$950.00.

The initial \$750.00 covers the first three (3) hours of the mediator's/arbitrator's time. In the event the three (3) hours are exceeded, the parties agree to bear equally an hourly fee for the mediation/arbitration in the amount of \$250.00 per hour.

Absent a written agreement to the contrary, the parties will be responsible for an equal share of the fees and expenses of the mediator/arbitrator.

- **WHOM CAN I SPEAK TO ABOUT MEDIATION OR ARBITRATION IF I HAVE SPECIFIC QUESTIONS OR JUST WANT TO LEARN MORE ABOUT THE PROGRAM?**

Contact the Berks County Bar Association at (610) 375-4591 and you will be promptly provided with a complete packet of information and forms. If this information does not answer all of your questions, please do not hesitate to call or contact the Bar Association office and let them know of your need for additional information and someone will call or contact you.

The Berks County Bar Association's Alternative Dispute Resolution Program was the first of its kind in Pennsylvania. Similar programs have now been adopted throughout the Commonwealth by local Bar Associations utilizing the Berks County Program as a model.

The Berks County Bar Association's Alternative Dispute Resolution Program has been endorsed by the Berks County Court of Common Pleas Board of Judges:

"The Bench of the Berks County Court of Common Pleas strives to aid all litigants in the quick resolution of Civil complaints filed in the Court. We recognize that there are many disputes that can be resolved outside the judicial process.

We have personally requested parties to utilize the Berks County Bar Association's Alternative Dispute Resolution Program, and have found it to result in quick, efficient and less costly settlements of disputes. We strongly urge all eligible parties to consider utilizing this program."

The Honorable Jeffrey L. Schmehl
Berks County Court of Common Pleas
President Judge
Administrative Head – Civil Division

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FREQUENTLY ASKED QUESTIONS

