



Mini-Trials

©2009 eNotes.com, Inc. or its Licensors. Please see [copyright information](#) at the end of this document.

- [Background](#)
- [Mini-Trials Distinguished From Other Forms of ADR](#)
- [Mini-trials in Federal Courts](#)
- [State Provisions](#)
- [Additional Resources](#)
- [Organizations](#)

Background

A mini-trial is an alternative method for resolving a legal dispute from a formal court trial. Mini-trials, like mediations and arbitrations, constitute unique forms of "alternative dispute resolution" (ADR) favored by courts and litigants alike. There has been a general increase in all forms of ADR in recent years because of the advantages offered: reduced cost, fast resolution, privacy, and less adversity in effect.

A mini-trial is really not a trial at all. Rather, it is a [SETTLEMENT](#) process in which the parties present highly summarized versions of their respective cases to a panel of officials who represent each party (plus a "neutral" official) and who have authority to settle the dispute. The presentation generally takes place outside of the courtroom, in a private forum. After the parties have presented their best case, the panel convenes and tries to settle the matter.

Mini-Trials Distinguished From Other Forms of ADR

A mini-trial most resembles a [MEDIATION HEARING](#), in that there is a presentation by each party of a summarized version of his or her case to a panel of persons for the purpose of resolving or settling the dispute. Also like mediation, the parties are generally not bound to an outcome, and may end the process at an impasse.

However, there is one important difference between a mediation and a mini-trial. In mediation, the mediator is a neutral third party who does not take the side of either party, but instead tries to facilitate open communication between the parties themselves in order to achieve compromise and settlement. Even in court-ordered mediations conducted by a panel of mediators, the focus is still on the parties: the mediators merely issue a recommendation to the parties for settlement consideration.

Conversely, in a mini-trial, the mediators themselves are agents and advocates for the parties, and they, rather than the parties, work out a settlement after hearing opposing sides to the controversy (each goes into the mini-trial with advance authorization to settle the matter for a certain dollar amount or under other conditions or criteria). The parties present their cases (usually through their attorneys) but do not take active roles in the settlement negotiations nor generally do their attorneys. The decisionmakers in a mini-trial are the actual members of the panel (excepting any neutral member, who may play the role of expert, advisor on substantive law, etc.).

Encyclopedia of Everyday Law: Mini-Trials

One might ask why the parties themselves do not facilitate the settlement directly in a mini-trial. The answer is two-fold. First, parties involved in a controversy tend to approach and/or perceive the matter subjectively rather than objectively. Parties also tend to inject emotion or [BIAS](#) into their negotiations and will seldom compromise unless they have been introduced to damaging information that tends to diminish their claim or defense. Therefore, officials who are one step removed from the controversy, even if they serve as advocates for their respective parties, tend to approach the dispute more objectively. Secondly, the officials at a mini-trial tend to be well-seasoned and experienced in similar matters. For example, they may be representatives of the insurance carrier for the party, or top-level management of a business that is party to a dispute or they may be privately-retained consultants with technical expertise in the subject matter. For these reasons, they may be better equipped to dissect and sort out opposing [EVIDENCE](#) and arguments.

Mini-trials also differ from another ADR technique, the "summary trial" or "summary jury trial." Both mini-trials and summary jury trials involve the presentation of each side's case, usually without live [TESTIMONY](#), but with opening and closing statements and an outline of evidence they intend to produce at trial. However, summary trials are actually presented before mock juries, who issue advisory "verdicts." Following a jury determination, the parties and their attorneys will attempt settlement.

Finally, a mini-trial differs from other forms of ADR in that it is usually conducted after formal [LITIGATION](#) has already been undertaken. Parties to a lawsuit generally stipulate to "stay" pending litigation (put a hold on further advancement of the litigation) until the mini-trial is concluded. Thus, mini-trial does not, in and of itself, represent an alternative forum for the resolution of a dispute (such as [ARBITRATION](#)), but rather it represents a pre-trial alternate attempt to settle the matter before lengthy trial begins. The outcome of the mini-trial is generally confidential and advisory only, and the parties may proceed to trial if settlement negotiations fail.

Mini-trials in Federal Courts

The Alternative Dispute Resolution Act of 1998 (ADRA) (28 USC 651 et seq.) mandates that courts authorize, establish, and promote the use of ADR, including mediation, arbitration, mini-trial and summary jury trial, in all civil actions. Federal district courts maintain their individual discretion to decide at what stage in the litigation process a court may offer ADR to the parties. Local rules establish ADR procedure in the federal courts.

The federal government also encourages the use of ADR in general within its own ranks. The Administrative Dispute Resolution Act of 1996 provides a forum for handling disputes within agencies or between citizens and agencies (claims against the government). Federal agencies are free to set up their own procedural ADR programs for the handling of both internal and external disputes. For example, the U. S. CODE OF FEDERAL REGULATIONS (CFR) contains several ADR program provisions for federal agencies that contemplate mini-trials (as one of several alternatives); examples include the Federal Aviation Administration (FAA) (14 CFR 17.45), the Department of Energy (10 CFR 1023.8), and the Department of Housing and Urban Development (24 CFR 7.2).

State Provisions

Generally speaking, state provisions for mini-trials are contained in comprehensive statutes or rules addressing ADR programs in their entirety. It is fair to say that if a court system has a formal ADR program, it will be receptive to the request for a mini-trial. The following state laws provide for ADR of certain types of disputes. Within those provisions, or at the request of the parties, mini-trials may be substituted for other

Encyclopedia of Everyday Law: Mini-Trials

forms of ADR (with the exception of [STATUTORY](#) mandatory arbitration):

ALABAMA: Alabama Code, Title 6, Chapter 6 covers ADR, including mini-trials.

ALASKA: Family disputes are governed by Alaska Statutes 25.20.080 and 25.24.080. Disputes involving automobile warranties are governed by 45.45.355.

ARIZONA: Statutory provisions for arbitration/mediation of family disputes are covered under 25-381.01 to 25-381.24. Automobile warranties are covered under 44-1265.

ARKANSAS: Title 16, Subtitle 1-17 of the Arkansas Statutes covers ADR, including mini-trials.

CALIFORNIA: California's Code contains extensive provisions for ADR of many types of disputes. Title 2, Division 3, Part 1, Chapter 4.5, Article 5 addresses ADR in general. Family disputes are covered in statutory Sections 5180 to 5183. Education matters are covered by 48260.6, 48263, 48263.5 (truancy), and 56503 (special education). There is a special provision for the arbitration of cable TV franchise disputes under 53066.1(n)(1). Environmental regulatory disputes, including issues involving pesticides, are covered under 13127(c)(1). Water rights disputes are handled under 1219. Community disputes of a business or professional nature are covered under 465 to 471.5.

COLORADO: Colorado's statutes provide ADR for family matters under 14-10129.5. Agricultural debts are governed by 6-9-101 to 6-9-106. A special statutory provision exists for ADR of disputes involving mobile homes under 38-12-216. Dispute resolution in general is covered by 13-22-301 to 13-22-310.

CONNECTICUT: Chapter 909 of the Connecticut Statutes cover ADR in general. Family disputes are resolved under 46b-59a. Public Act 87-316 Section 8 (1987) is codified under 42-182.

DELAWARE: Delaware's Code, Title 10, Chapter 57 addresses ADR in general. Automobile warranties are covered under Title 6 Section 5007.

FLORIDA: Florida Statutes Annotated cover ADR of family disputes under 44.101, 61.183, 39.42, 39.427 to 39.429, 39.436, 39.44, and 39.442. Automobile [WARRANTY](#) disputes are provided for under 681.108 and 681.111. Mobile home disputes fall under 723.037 and 723.038. The state maintains "citizen dispute settlement centers" for ADR assistance under 44.201.

GEORGIA: Title 15, Chapter 23 under the Georgia Code addresses ADR.

HAWAII: Division 4, Title 32, Chapter 613 covers ADR in general. Automobile warranty disputes are covered under Hawaii Revised Statutes 490-2 and 313-1. Medical [CONCILIATION](#) is addressed by 671-11 to 671-20. There is a special statutory provision for ADR of geothermal resources disputes under 205-5.1. International disputes are covered by 1988 Haw. Sess. Laws, Ch. 186, Sections 1-9.

IDAHO: Idaho Code Section 44-106 governs labor disputes.

ILLINOIS: Illinois Compiled Statutes address ADR of family disputes in Ch. 40, paragraph 602.1 and 607.1. Automobile warranty disputes are covered by Ch.121.5, paragraph 1204(4). Disputes involving [PUBLIC UTILITIES](#) fall under Ch. 11, paragraph 702.12a. Illinois operates several nonprofit community dispute resolution centers under the auspices of Ch. 37, paragraph 851.1 to 856.

INDIANA: Family disputes are covered under Indiana Code 31-1-24-1 to 31-1-24-9, 31-1-23-5 to 31-1-23-9. Automobile warranties are handled under 24-5-13-19. **CIVIL RIGHTS** disputes are covered under 22-9-1-6.

Encyclopedia of Everyday Law: Mini-Trials

CONSUMER PROTECTION disputes are covered under 4-6-9-4(a)(4). There is a special Code provision for water rights disputes under 13-2-1-6(2).

IOWA: Subtitle 5, Chapter 679 to 679.14 addresses ADR. Family disputes are covered under Iowa Code 598.16 and 598.41(2). Agricultural debts are handled under 654a1 to 654a14. Civil Rights disputes are covered under 601A.15(3)(c).

KANSAS: Kansas Statutes Chapter 60, Article 2 addresses ADR in general. The ADR provisions for family disputes are covered under 23-601 to 23-607 and 23-701. Automobile warranties are handled under 50-645(e). Civil Rights disputes are covered under 44-1001 to 44-1005. There is a special ADR provision for barbershop business disputes under 65-1824(4).

KENTUCKY: Kentucky has extensive ADR provisions in its Kentucky Revised Statutes (KRS). Family disputes are covered under KRS 403.140(b) and 403.170. Automobile warranties are handled under KRS 367.860 to 367.880. Civil Rights disputes are covered under KRS 344.190 to 344.290 and 337.425. Education matters are covered under KRS 165A.350 and 360. Disputes involving the production and distribution of agricultural products are covered under KRS 260.020.030(e) and 260.020.040(l) There is a special provision for community agency funding at KRS 273.451.

LOUISIANA: Family disputes are covered under Louisiana Statutes Title 9, Sections 351 to 356. Automobile warranties are handled under Title 23, Section 1944. Housing civil rights matters are addressed under Title 40, Section 597. Barbershop disputes are covered under Title 37, Section 381. There is a special provision for a Medical Review Panel at Title 40, Section 1299-47.

MAINE: Maine's statutes provide ADR for the following areas of dispute: family disputes are covered under Title 4, Section 18 (1 to 5), Title 19, Section 214 (1,4), Title 19, Section 518 (1,2, and 4), Title 19, Section 656,665, and Title 19, Section 752(4). Automobile warranties are handled under Title 10, Section 1165. There is a special ADR provision for professional [NEGLIGENCE](#) claims ([MALPRACTICE](#)) under Title 24, Sections 2851 to 2859.) Disputes involving the production and distribution of agricultural products are covered under Title 13, Sections 1956 to 1959.

MARYLAND: Maryland has an employment agency dispute ADR provision under Article 56, Section 169.

MASSACHUSETTS: There is an ADR provision for cable television disputes under Chapter 166A, Section 16. A Community Mediation provision is at Chapter 218, Section 43E.

MICHIGAN: MCR 2.403 (Michigan Court Rules) covers court-ordered ADR (mediations) of civil actions involving money damages or division of property. Domestic relations ADR is governed by MCR 3.211. ADR of health care matters is covered under Michigan statutes, MCL 600.4901 to 600.4923. Disputes involving the production and distribution of agricultural products are covered under 290-714. A small claims conciliation [STATUTE](#) is contained under MCL 730.147 to 730.155.

MINNESOTA: Chapter 486.76 of the Minnesota Statutes addresses ADR. Family disputes are covered under 518.167 and 518.619. Automobile warranties are handled under 325F.665. Civil Rights disputes are covered under 63.01, and 63.04 to 63.06. Conciliation Courts are provided for under 487.30. Civil Mediation is outlined under 572.31 to 572.40. Civil litigation ADR is covered separately under 484.74. There is also a statutory ADR provision for community dispute resolution programs under 494.01 to 494.04. A special provision for debtor-creditor mediation is found under 572.41, and worker's compensation disputes under 176.351(2a). Disputes involving the production and distribution of agricultural products are covered under 17.692, 17.695, 17.697 to 17.701. Environmental issues are covered under 40.22, 40.23(3), 40.242, 40.244, 221.035F, 221.036(9), 116.072(1), and 116.072(6) to 116.072(8). Environmental waste management issues

Encyclopedia of Everyday Law: Mini-Trials

are covered separately under 115A.29(2)(a) and 115A.38(2).

MISSISSIPPI: Title 11, Chapter 15 of the Mississippi Code addresses ADR in general. Automobile warranties disputes are handled under Code provisions, 63-17-159 and 63-17-163. Agricultural debt is addressed under 69-2-43 to 69-43-51.

MISSOURI: ADR of civil rights disputes is covered under Statutes 213.010(1), 213.020, and 213.075.

MONTANA: Title 25, Chapter 21, Part 5 of the Montana Code addresses ADR generally. Family disputes are covered under 26-1-81 and 40-3-111 to 40-3-127. Agricultural debt ADR is handled under 80-13-191 and 80-13-201 to 80-13-214. Civil Rights disputes are covered under 49-2-501(1), 49-2-504 to 49-2-506, and 49-2-601. Worker's compensation disputes are covered under 39-71-2401 to 39-71-2411. There is a special Code provision for special education matters under 20-7-462(4). **MEDICAL MALPRACTICE** panels are covered under 27-6-101 to 27-6-704. Disputes involving the production and distribution of agricultural products are covered under 80-1-101 and 80-11-103(9).

NEBRASKA: Family disputes are covered under 42-801 to 42-823, and 42-360. Agricultural debt is covered under 2-4801 to 2-4816. Civil rights disputes are covered under 20-113.01, 20-114(1)(2).

NEVADA: Chapter 232.548 covers general ADR provisions in its statutes. Automobile warranties are handled under 598.761. Civil Rights disputes are covered under 233.020 to 233.210, and 244.161. Consumer credit and civil rights disputes are covered under 598B.150. Educational dispute ADR is found under 394.11, and mobile home disputes are handled under 118B.024, 118B.025, and 118B.260.

NEW HAMPSHIRE: New Hampshire Statutes cover ADR of automobile warranties under 357.0:4.

NEW JERSEY: Title 2A, Chapter 23A provides for ADR in general. Civil rights disputes are covered under 52:27E-40, 52:27E-41. A general ADR provision is found at 2A:23A-1 to 2A:23A-19. Disputes involving the developmentally disabled are covered under 52:27E-40 and 41. Home warranties are covered under 46:3 B-9. Radioactive waste issues are handled under 32:31-5.

NEW MEXICO: Chapter 34, Article 6-44 addresses ADR in general. Family disputes are covered under 40-12-1 to 40-12-6, and 40-4-9.1(B) and (J)(5). Automobile warranties are handled under 57-16A-6. Small claims are handled under 34-8A-10.

NEW YORK: Article 75 of the Civil Practice and Law Rules address ADR. Additionally, family disputes are covered under Sections 911-926. Automobile warranties are handled under Section 198-a (general business) Tax matters fall under Section 170(3a). Community Dispute Resolution Programs are governed by Sections 849-a to 849-g (judicial law).

NORTH CAROLINA: Chapter 1, Article 45A covers ADR. Automobile warranties are handled under Statutes 20-351.7. Civil Rights disputes are covered under 143-422.3 (unemployment) or 41A-6(6), 41A-7(a), 41A-8 (housing).

NORTH DAKOTA: Title 32, Chapter 32-42 covers ADR generally. Family disputes are covered under Code Sections 14-09.1-01 to 14-09.1-08, and 27-05.1-01 to 27-05.1-18. Automobile warranties are handled under 51-07-18(3). A provision for ADR of agricultural debt can be found at 6.09.10-01 to 10-09. Debtor-creditor disputes are covered under 11-26-01 to 11-26-08.

OHIO: Article 2711 of the Ohio Code addresses ADR generally. Family disputes are covered under 3117.01 to 08. Automobile warranties are handled under 1345.75 and 77. Civil rights disputes (housing matters) are

Encyclopedia of Everyday Law: Mini-Trials

covered under 1901.331.

OKLAHOMA: Title 12, Chapter 37, 1809 provides generally for ADR. Automobile warranties are handled under Statute Title 15, Section 901(f). Civil Rights disputes are covered under Title 25, Sections 1505, 1704, and 1705. 22-9-1-6. General dispute resolution programs are covered under Title 12, Sections 1801 to 1813.

OREGON: Most ADR provisions are generally discussed in Oregon's statutes Chapter 36. Family disputes are covered under 107.510 to 107.615, 107.755 to 107.795, and 107.179(4).

PENNSYLVANIA: Pennsylvania Statutes address ADR of disputes involving automobile warranties under Title 73, Section 1959. Civil Rights disputes are covered under Title 43, Section 957(i) (unemployment) or Title 43, Section 959(a) to (c) (employment). Eminent domain issues are covered under Title 52, Section 1406.15.

RHODE ISLAND: ADR for consumer issues is found at 42-42-5 to 42-42-7.

SOUTH CAROLINA: Codified laws in South Carolina include ADR provisions for civil rights disputes under 1-13-70 and 1-13-90 (employment). Consumer disputes are covered under 37-6-117. Employment grievances are covered under 8-17-360 and 8-17-370.

SOUTH DAKOTA: South Dakota has statutory ADR for labor disputes under 60-10-1 to 60-10-3.

TENNESSEE: Title 29, Chapter 5 of the Tennessee Code addresses ADR. Bank patrons may resolve their disputes under Tennessee's Code 45-1-301 to 45-1-309.

TEXAS: Government Code, Title 10, Subtitle A, 2008 provides for ADR in general. ADR procedures are also addressed Texas Code Article 4590f-1, title 7, 154.001 to 154.073 Section 3.07(d).

UTAH: Family disputes are covered under 30-3-16.2 to 30-3-17.1, 30-3-4.1, and 30-3-4.3. Automobile warranties are handled under 30-20-7. Medical malpractice resolution is provided for under 78-14-1, 78-14-2, and 78-14-12 to 16.

VERMONT: Chapter 192 of the Vermont Code generally addresses ADR. Special education matters are covered by Title 16, Section 2941, 2959.

VIRGINIA: Title 11-71.1 of the Virginia's Code addresses ADR in general. Family disputes are covered under 16.1-69.35 and 16.1-289.1. Automobile warranties are handled under 59.1-207.15. Civil mediation programs are found under 16.1-69.35(d) There is a special Code provision for local government dispute mediation at 15.1-945.1 et seq.

WASHINGTON: Titles 7.04 and 7.75 address ADR. Family disputes are covered under 26.09.015. Automobile warranties are handled under 19.118.150. Civil Rights disputes are covered under 49.60.130. Dispute resolution centers are found at 7.75.010 to 7.75.100

WEST VIRGINIA: Chapter 55, Article 15 of the West Virginia Code addresses ADR generally. There is also an ADR provision for automobile warranty disputes at 46A-6A-8 and 46A-6A-9.

WISCONSIN: Wisconsin Statutes, Chapter 802-12 covers ADR generally. Family disputes are covered under 753.016 (conciliation), 767.081-82, 767.001(3) and (4), 767.11, and 767.327(1) and (2). Automobile warranties are handled under 218.015(3) to (7). Civil Rights disputes are covered under 118.20 (employment), 230.85 (employment), and (esoterically) 1419.

Encyclopedia of Everyday Law: Mini-Trials

WYOMING: Automobile warranties are handled under Statute 40-17-101(a) and (f). Agricultural debt is covered under 11-41-101 to 110. Environmental issues are handled under 35-11-701(a) to (c).

Additional Resources

"A Brief Overview of the American Arbitration Association." Available at <http://gov.news/press/2001pres/01fsprivacy.html>.

Civil Justice Reform Act of 1990. 28 U.S.C. Section 471 et seq.

How and When to Be Your Own Lawyer. Schachner, Robert W., Avery Publishing Group, Inc., 1995.

Law for Dummies Ventura, John, IDG Books Worldwide, Inc., 1996.

"Mini-Trials." Available at <http://gov.news/press/2001pres/01fsprivacy.html>

"Mini-Trials and Summary Jury Trials." Bennett., Nancy J., Available at <http://gov.news/press/2001pres/01fsprivacy.html>.

"State Statutes by Topic: Alternative Dispute Resolution." Available at <http://gov.news/press/2001pres/01fsprivacy.html>.

"Title 10-Energy", Chapter X-Department of Energy (General Provisions), Part 1023—Contract Appeals, Section 1023.8(b) *United States Code*, 10 CFR 1023.8.

"Title 14-Aeronautics and Space, Chapter I-Federal Aviation Administration, Part 17-Procedures for Protests and Contracts Disputes, Subpart F-Finality and Review, Section 17.45, Appendix A to Part 17-Alternative Dispute Resolution (ADR),(B)(3). *United States Code*, 14 CFR 17.45.

Organizations

American Arbitration Association (AAA)

335 Madison Avenue, Tenth Floor

New York, NY 10017-4605 USA

Phone: (212) 716-5800

Fax: (212) 716-5905

URL: <http://www.adr.org>

American Bar Association (ADR Section)

740 15th Street NW

Washington, DC 20005 USA

Phone: (202) 992-1000

Copyright Notice

©2009 eNotes.com, Inc.

Encyclopedia of Everyday Law: Mini-Trials

ALL RIGHTS RESERVED.

No part of this work covered by the copyright hereon may be reproduced or used in any form or by any means graphic, electronic, or mechanical, including photocopying, recording, taping, Web distribution or information storage retrieval systems without the written permission of the publisher.

For complete copyright information, please see the online version of this work:
<http://www.enotes.com/everyday-law-encyclopedia>