

ADR Program Report - Fiscal Year 2012

Overall Caseload:

- Filings – During FY 2012, 4996 cases were subject to the ADR Multi-Option Program. This is an increase of 725 cases over FY 2011, and is more than would be expected based on the overall increase in civil filings.
- ADR Phone Conferences – ADR Legal Staff conducted 872 phone conferences in FY 2012. These calls assist the parties in choosing an ADR process or in resolving problems in cases referred to an ADR process.
- ADR Case Referrals – Referrals to a specific ADR process are not tracked to the fiscal year because of the lead time involved in getting cases referred to a process. The attached charts show the distribution of referrals to the various ADR processes, which have remained remarkably stable over the last five calendar years.

ADA Access Cases:

The ADR Program continues to handle the bulk of ADA Access filings under General Order 56. During FY 2012, 152 ADA Access cases were filed. Mediation sessions were conducted in 72 cases during FY 2012; 37 cases were handled by ADR Legal Staff and 35 by ADR Program Mediators. 72% of these cases were settled in full or in part, and 15% are still in progress.

In March 2012, we conducted a special training for 25 specially selected ADR Program Mediators in order to enhance our ability to send these cases to our volunteers. In addition, General Order 56 was amended during FY 2012, and we are already seeing improvements in practice as a result of the amendments.

Mortgage Foreclosure Cases:

Beginning in 2011, several judges adopted a practice of sending mortgage foreclosure cases to the ADR Program for early assessment as to whether ADR might assist the parties in resolving the dispute prior to motions practice or other litigation. From January 2011 through September 2012, we have handled 52 such referrals.

Incorporating New Mediators and Continuing Education:

Early in calendar year 2011, we added 62 new mediators to the Court's panel. Significant staff resources have been used during FY 2012 incorporating these new mediators into the program. These efforts included observation of many of their first cases, setting up mentor relationships with more experienced mediators, and expanding our Mediation Practice Groups (described more fully below). In addition, in November 2011, we offered a program for all neutrals on Implicit Bias, which was attended by 55 neutrals.

Mediation Practice Groups:

Since 2004, ADR Program Legal Staff has facilitated ongoing, monthly Practice Groups for those mediators willing to commit to regular attendance. In these small group meetings, the mediators present issues and problems that actually arise in their case for group reflection and discussion, while carefully protecting confidentiality of the mediation process. We now operate 10 groups, attended by a total of 117 mediators. In addition, Howard Herman facilitates a similar group every other month for the Magistrate Judges focusing on their settlement conference work.

ADR Funding Issues:

During FY 2012, in response to the overall budget crisis, the Judicial Resources Committee adopted a new funding formula for ADR in the district courts nationally that reduces dedicated ADR funding for district courts generally, and will have a particularly negative impact on our court. Historically, our court has had the largest and most robust ADR program in the country, and along with several other courts, received enhanced funding to support this function. With the new formula, ADR programs in all district courts are treated the same, with no extra credit being given for robust programs like ours. At least for the time being, the Clerk's Office budget has absorbed this cut in funding, but the long term outlook is unclear. The Judicial Resources Committee and the Committee on Court Administration and Case Management have asked the FJC to study the effectiveness of ADR in the district courts in order to guide further funding decisions. Howard Herman has been invited to serve on the FJC's advisory group for the study.

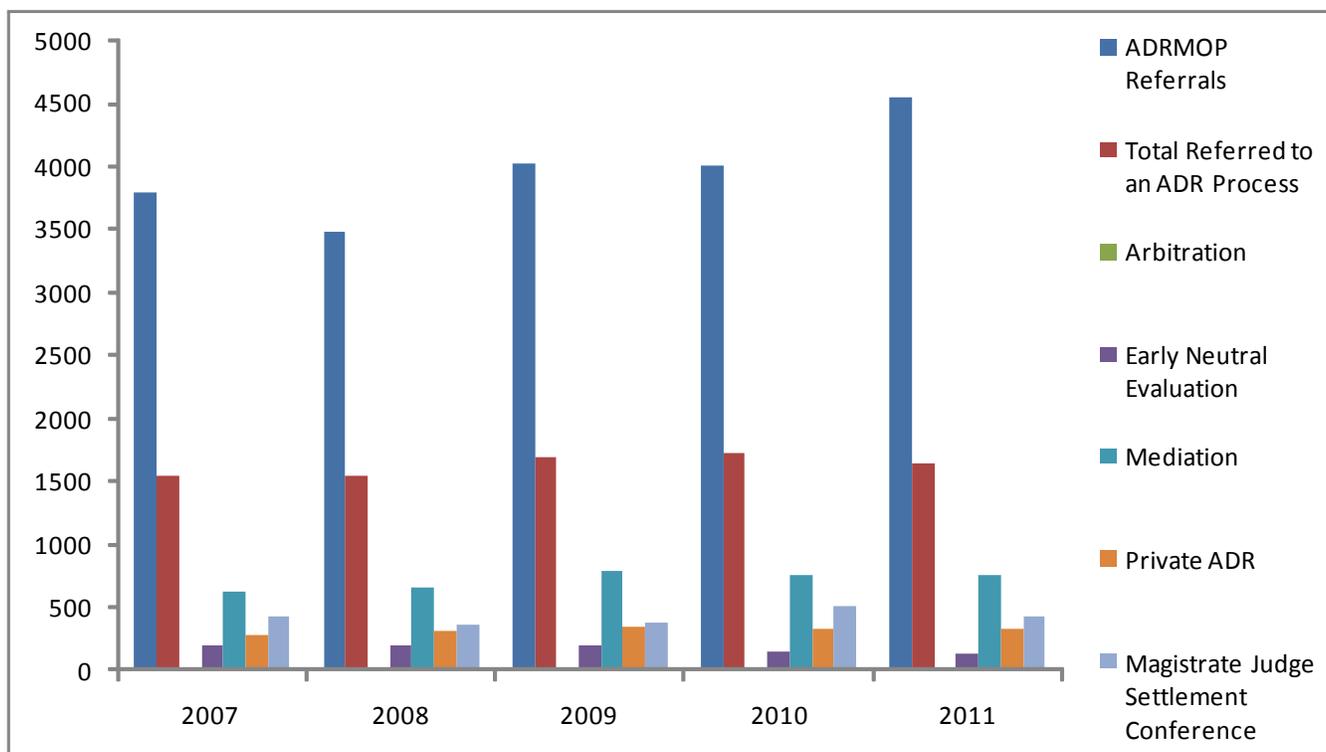
Robin Siefkin's Retirement:

Long time ADR Staff Attorney Robin Siefkin retired effective November 18, 2012. Given the funding situation, her position will remain unfilled, at least at this time.

Additional ADR Unit Activities, Outreach, and Awards:

During FY 2012, Howard Herman served on the ADR Committee of the Ninth Circuit and on the Executive Committee of the ABA Section of Dispute Resolution. He occasionally assisted with mediation trainings for other courts – most notably a week-long training for the District Court in Guam. Howard also served on the faculty for the FJC's Mediation Training for Magistrate Judges. He received the Mediation Society of San Francisco's Annual Award for Outstanding Contribution to the Field of Mediation. Daniel Bowling represented the ADR Program and the Court by making presentations at various bar organizations and mediation groups – most notably leading a session regarding our Advanced Mediator Practice Groups at the ABA Section of Dispute Resolution annual conference. Daniel also currently serves on the Board of Directors for the Mediation Society of San Francisco and as Chair of the Publications Board for the ABA Section of Dispute Resolution.

United States District Court, N.D. California - ADR Program



This chart sets forth the ADR referrals for cases filed in the calendar years shown:

	2005	2006	2007	2008	2009	2010	2011
Total Referred to ADRMOP	3350	4451	3765	3445	4011	4016	4551
Total Referred to an ADR Process	1469	1494	1532	1519	1638	1549	1469
Arbitration	21 (1%)	11 (>1%)	15 (>1%)	7 (>1%)	2 (>1%)	3 (>1%)	2 (>1%)
Early Neutral Evaluation	236 (16%)	173 (12%)	188 (12%)	193 (13%)	201 (12%)	138 (9%)	133 (9%)
Mediation	494 (34%)	566 (38%)	630 (41%)	661 (44%)	779 (48%)	716 (46%)	756 (51%)
Private ADR	241 (16%)	306 (20%)	285 (19%)	311 (20%)	330 (20%)	296 (19%)	334 (23%)
Magistrate Judge Settlement Conference	477 (32%)	438 (29%)	414 (27%)	347 (23%)	326 (20%)	396 (26%)	436 (30%)

Notes:

1. These statistics were compiled from the court's ECF system as of November 6, 2012.

2. Most cases are not referred until at least 90-120 days after filing, and some cases are referred much later. Accordingly, additional referrals for cases filed in 2010 are still expected, particularly with respect to settlement conferences.

3. Multiple ADR sessions may be held in any given case, and this is particularly true of settlement conferences and mediations.