

## ADR Program Report - Fiscal Year 2013

### Overall Caseload:

- Filings – During FY 2013, 4000 cases were subject to the ADR Multi-Option Program. This is a decrease of 996 cases from FY 2012 which is consistent with the overall decrease in civil filings. In addition to the ADR Multi-Option Program cases, 269 ADA access cases were filed during FY 2013. These cases are subject to General Order 56 and are not counted as Multi-Option Program referrals.
- ADR Phone Conferences – ADR Legal Staff conducted 792 phone conferences in FY 2013. 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 over the last five calendar years. The distribution has remained remarkably stable.

### ADA Access Cases:

The ADR Program continues to handle the bulk of ADA Access filings under General Order 56. Mediation sessions were conducted in 61 ADA access cases during FY 2013; 27 cases were handled by ADR Legal Staff and 34 cases by ADR Program Mediators. 59% of these cases settled fully or partially, and 11% are still in progress. As noted in the FY 2012 Annual Report, after training additional volunteers to handle these ADA access matters, we began assigning more cases to our volunteer panelists. While the settlement rate remains high, it has fallen from 72% to 59%. During FY 2013, we also saw a substantial increase in ADA access filings, rising to 269 as compared to 152 in FY 2012. It is too early to tell how these cases will progress.

### 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. In FY 2013, under Chief Judge Wilken's leadership, the ADR Program began running weekly reports to screen for newly-filed mortgage foreclosure cases, and then sending emails to the assigned judge with a copy of Chief Judge Wilken's guidelines for assessing the cases' suitability for early intervention and a sample order referred the case to us for a phone conference. In FY 2013, we have handled 146 cases through this program as compared to 52 cases in FY 2012. Most cases resulted in a series of ADR phone conferences monitoring the parties' efforts at loan modification; 14 cases were referred to mediation.

### ADR Funding and Staffing Issues:

During FY 2013, our court began to experience the effects of decreased in funding due to the new funding formula for ADR in the district courts adopted nationally, combined with the effects of decreases in overall Clerk's Office funding and sequestration. We have not replaced ADR Staff Attorney Robin Siefkin, who retired in November 2012, and we laid off ADR Administrative Assistant Sheila Devereaux in September 2013. In addition, ADR Staff Attorney Daniel Bowling worked only part-time for approximately 2/3 of the year due to medical issues. Fortunately, Daniel is almost completely recovered and we expect he will be able return to full time status in FY 2014.

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 is serving on the FJC's advisory group for the study, and our court has been designated one of 10 courts that will be studied in depth. The FJC's work began late in the summer of 2013 and is ongoing.

#### Mediation Practice Groups and Continuing Education:

Since 2004, ADR Program Legal Staff have 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 cases for group reflection and discussion, while carefully protecting confidentiality of the mediation process. In FY 2013, we continued to operate 10 groups, attended by a total of 118 mediators. In addition, Howard Herman facilitates a similar group every other month for the Magistrate Judges focusing on their settlement conference work. Due to staffing issues, we were unable to offer additional continuing education opportunities in FY 2013.

#### ADR Facilities

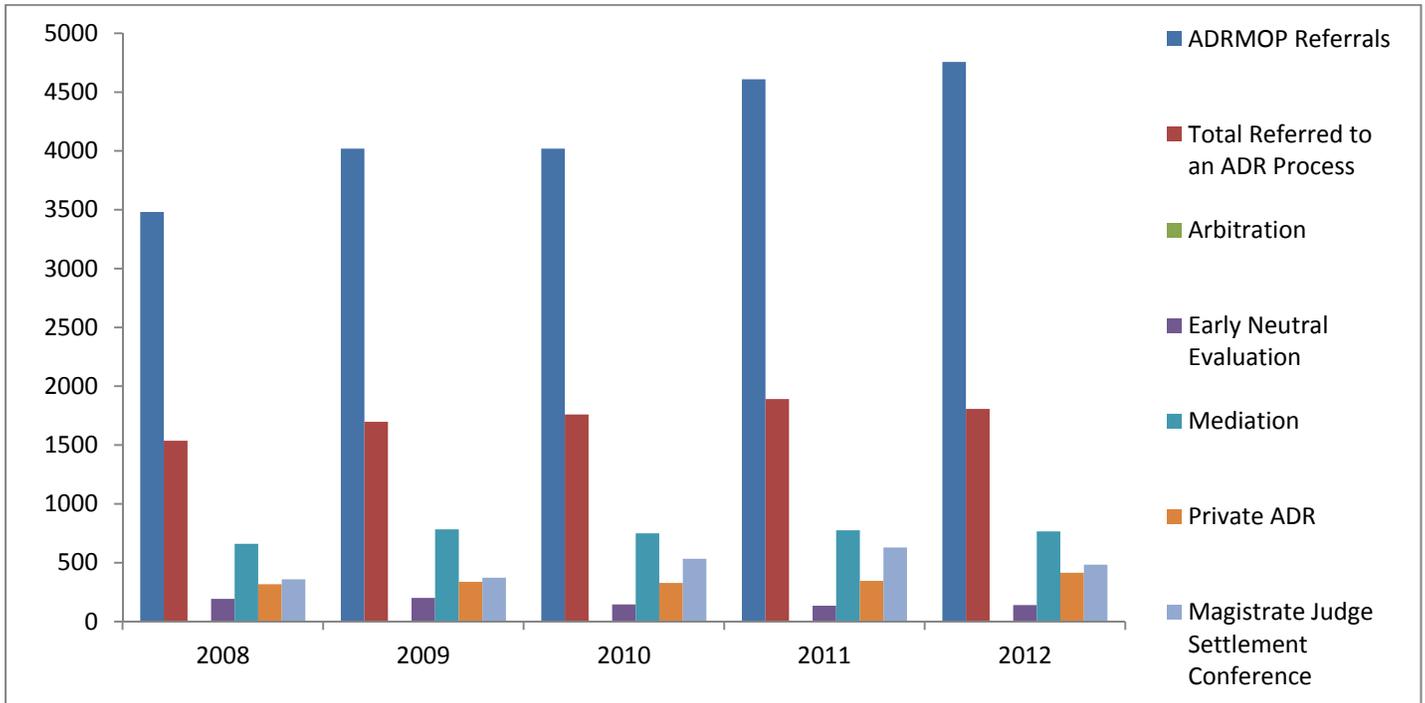
For the last 10 years, one of the unassigned courtrooms on the 16th Floor has been designated as the ADR Courtroom, and has been available to our staff attorneys and our many volunteer neutrals to conduct ADR sessions. Historically, this courtroom has been in use three to four days per week. The availability of this facility in the courthouse has been quite valuable to the volunteers, many of whom do not have appropriate facilities in their offices for conducting ADR sessions. This courtroom is one of the courtrooms that is slated to be taken over by the Bankruptcy Court in FY 2014. In preparation for this transition, at the end of FY 2013, the ADR case administrators were moved from the ADR Reception Office to cubicles located near the ADR attorneys, and the reception area has been converted into a conference room in which ADR proceedings may be conducted.

#### Additional ADR Unit Activities, Outreach, and Awards:

During FY 2013, 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 other courts with mediation trainings, most notably a one day mediation training for the Central District of California. He continued his longstanding work as an Adjunct Assistant Professor at UC Hastings College of the Law, where this year he was the inaugural recipient of the Center for Negotiation and Dispute Resolution's Director's Award for Exceptional Service. Daniel Bowling represented the ADR Program and the Court by making presentations to various bar organizations and mediation groups. Daniel continues to serve on the Board of Directors of The Mediation Society of San Francisco and as Chair of the Publications Board for the ABA Section of Dispute Resolution.

The ADR Program also presented programs to the court's law clerks and to the civil division of the US Attorney's Office during FY 2013.

### ADR Case Referrals



	2008	2009	2010	2011	2012
<b>ADRMOP Referrals</b>	3482	4020	4016	4609	4757
<b>Total Referred to an ADR Process</b>	1537	1698	1760	1891	1807
<b>Arbitration</b>	7 (>1%)	2 (>1%)	3 (>1%)	5 (>1%)	4 (>1%)
<b>Early Neutral Evaluation</b>	193 (13%)	201 (12%)	145 (8%)	135 (7%)	140 (8%)
<b>Mediation</b>	661 (44%)	784 (46%)	750 (43%)	776 (42%)	766 (42%)
<b>Private ADR</b>	317 (21%)	338 (20%)	328 (19%)	345 (23%)	414 (23%)
<b>Magistrate Judge Settlement Conference</b>	359 (23%)	373 (22%)	534 (30%)	630 (27%)	483 (27%)