



Alternative Dispute Resolution (ADR) Collaborative Divorce, Cooperative Divorce, Mediation, Facilitated Negotiation, Arbitration, Private Judging

Zashin & Rich attorneys regularly represent clients in the context of *traditional* litigation (that is, “in the courtroom”), but we also realize that the best results are sometimes had through the use of alternate dispute resolution (“ADR”) methods. Our attorneys are true thought leaders in ADR methods. Zashin & Rich attorneys helped to found the Center for Principled Family Advocacy in Cleveland, Ohio. Our attorneys regularly volunteer their time as neutral evaluative mediators for “Neutral Evaluation Days” in the Cuyahoga County Domestic Relations Court. In fact, Zashin & Rich attorneys have been using ADR methods since long before they were popular!

Alternative dispute resolution, or ADR, is a general term that encompasses a number of trial alternatives. From **collaborative divorce**, **facilitated negotiation**, to **private judges**, to **mediation** and **arbitration**, and any other private settlement agreement, we are prepared to evaluate your case and help you determine if an ADR method is going to be right for you.

Unfortunately, terms like “ADR”, “cooperative divorce”, and “collaborative divorce have become trendy buzzwords. Because resolving cases out of court sounds on its face like such a good idea, some firms try to use “ADR” methods, especially the “Collaborative Divorce model,” in every case. They use slogans like “divorce with dignity!” in an effort to make their one-trick pony approach make sense for everyone seeking to reorganize their life and family. The fact is that law practices focused solely on these methods have sprung up in Ohio and throughout the country.

It is absolutely true that many cases will benefit from an ADR model. But, unfortunately, some firms insist on using an ADR model even when, objectively, the facts and circumstances of that case do not support the use of any ADR model at all. The truth is that sometimes parties have opinions and expectations that are too far apart to allow for any resolution outside of the court process. In those cases, even though ADR methods sound good (after all, who doesn’t like the idea of saving money, saving time, and fighting less) such approaches only take more time, cost more money, create more drama, and unnecessarily line lawyers’ pockets. If one of the parties or attorneys is not motivated to resolve the case, a matter can languish for months or even years. Then, when the process doesn’t work, the client must start all over again with a new law firm. Many of our clients have come to us seeking representation after having wasted months or even years of time, spending considerable amounts of money, and getting nowhere using ADR methods they should have been counseled against from the beginning. This is especially true with the Collaborative Divorce model which mandates that the lawyers never go to trial (see more on this below).

When, however, the facts of the case are right, and the chemistry between the parties is right, including the lawyers involved, we attempt to use any of the methods, the “legal tools,” in our legal “tool box,” including but not limited to Collaborative Divorce. What sets Zashin & Rich apart is the care that we take to independently evaluate each and every case to determine the resolution method most likely to serve that case and our clients’ needs.

Some of the ADR tools in our legal tool box are:

Collaborative Divorce

Collaborative divorce is a formal negotiation process that is led by the parties' collaborative attorneys and may involve the hiring of one or many "neutrals" to evaluate and make recommendations on such issues as custody and parenting time or the value of a business. It requires a signed participation contract, formal agendas, plans, and meetings. By design, if the process does not work, the matter can still go to litigation, but each party will be required to start over again with new counsel.

Cooperative Divorce

Cooperative divorce is a less formal and more flexible process than collaborative divorce. It depends on the open exchange of information, and often involves the sharing of experts. It assumes the parties will behave cooperatively, but it leaves open the possibility of litigation if one or more terms cannot be cooperatively resolved.

Mediation

Mediation is a formalized process that involves a neutral third party whose role is to help parties meet somewhere in the middle. While they may offer some insight into issues, their role is not really to evaluate the merits of each side's argument, but, rather, to help the parties reach a compromise.

Facilitated Negotiation

"Facilitated negotiation" and "mediation" are often used interchangeably, but we most typically use the term "facilitation" to refer to a less formal mediation process in which a neutral facilitator – who will typically be an experienced Domestic Relations attorney – helps the opposing sides to understand the strengths and weaknesses of their respective positions and use that information to reach reasonable compromises.

Arbitration

The arbitration process gives decision making authority to a neutral person, the arbitrator, who will evaluate the evidence and issue a decision that the parties agree beforehand to be bound by. Although it is in some ways like the courtroom experience, arbitration can provide quicker scheduling, limited opportunity for appeal, more relaxed rules, the ability to hand-pick the individual – oftentimes with particular expertise as opposed to the random appointment of a judge – who will decide the case, and an additional level of privacy surrounding the parties' affairs. Sometimes, arbitration is used in addition to mediation and/or facilitation as a "fallback" to assure the clients that what they start will be finished; the case will get done.

Private Judging

A cross between arbitration and traditional litigation, a private judge is a former or retired judge who may be hired to preside over a specific matter. This method may be particularly useful if a case involves specialized knowledge, or to move a matter through the system more quickly.

At the end of the day, the lawyers at Zashin & Rich are committed to obtaining the best results for our clients, irrespective of the method. In the event an Alternative Dispute Resolution model makes sense for your case considering its facts and circumstances, our attorneys have the training and experience to help you find your best alternative to litigation.

Whether you are a client looking for an attorney well-versed and willing to represent you using an ADR method, or a professional looking for a skilled neutral, we can help you find the creative outcome you are looking for. Call Andrew Zashin, or any of our attorneys, to discuss how we can help you to find the best method to suit your needs.

