

# Alternate Dispute Resolution

The vast majority of cases – nearly 98 percent – of both criminal and civil, never go to trial. Instead, the parties of the dispute arrive at an agreement resolving the dispute before trial. In criminal cases, the agreement is called a plea bargain. In a plea bargain, the defendant pleads guilty to a lesser charge in return for a lighter sentence. In civil cases the

agreement is called a settlement. In a settlement, the defendant makes a payment to the plaintiff for dropping the case. Unlike in a plea bargain, the defendant does not admit to any wrongdoing. In plea bargains and settlements, both parties to the agreement are trading uncertainty for certainty.

Other alternative dispute resolution processes include arbitration and mediation.

Arbitration refers to a decision made by a neutral person called an “arbitrator” who acts like a judge, hears arguments and evidence from each side and then makes a decision. Arbitration decisions can be “binding” – the parties agree beforehand that the judgment is final or “non-binding” – the parties may

still request a trial.

In mediation a neutral person called a “mediator” helps the parties involved communicate so they can try to settle the dispute themselves by arriving at a mutually agreed to resolution.

Alternative dispute resolution processes often save money and speed settlements. These processes are generally confidential, less formal, and less stressful than traditional court proceedings.

**Ar-bi-trate** - [ahr-bi-treyt] *verb* – to decide; determine

**Me-di-ate** [mee-dee-yet] *verb* – to bring about an agreement, accord, truce, or peace as an intermediary between parties by compromise, reconciliation, removal of misunderstanding

## **Newspaper Activity:**

Look through the newspaper (print or online) for a current conflict among individuals or groups of people. Be sure to identify all the individuals or groups involved. Divide the class to represent each party and research details about their point-of-view. What is at stake for each party? Why does each feel the way they do? With an understanding of all these details, as a class discuss the possible solutions and work on finding the best compromise.

## **Student Assessment:**

Complete this statement – I still have a question about...