

1 **LR11-601. Alternative dispute resolution program, generally.**

2 [Related Statutes NMSA 1978, §§ 34-6-44 and -45]

3 **A. Civil ADR program established.**

4 (1) The court establishes and operates a civil ADR program in accordance with
5 Section 34-6-44 NMSA 1978 (District Court Alternative Dispute Resolution Fund;
6 Administration), Section 34-6-45 NMSA 1978 (District Court Alternative Dispute Resolution;
7 Fee), and Sections 44-7B-1 to -6 NMSA 1978 (Mediation Procedures Act).

8 (2) The civil ADR program does not include domestic relations cases which are
9 governed by LR11-402 NMRA. The program does not include arbitration.

10 (3) Nothing in this rule shall be construed to discourage or prohibit parties from
11 stipulating to private alternative dispute resolution or to prohibit the right to a trial by jury. The
12 failure of ADR to produce a settlement will not adversely affect the parties' treatment by the court.

13 **B. Definitions.** When used in this rule, unless the context otherwise provides,

14 (1) "ADR" means alternative dispute resolutions, including mediation and
15 settlement facilitation but not arbitration;

16 (2) "mediation" means a process pursuant to the Mediation Procedures Act in
17 which a mediator facilitates communication and negotiation between mediation parties to assist
18 them in reaching an agreement regarding their dispute; or promotes reconciliation, settlement or
19 understanding between and among parties.

20 (3) "settlement facilitation" means a process in which a neutral third party
21 meets with parties and their attorneys in a settlement conference seeking a negotiated settlement
22 agreement on all or some of the issues of the case.

1 C. **Program fund established.** The court establishes and maintains a civil ADR
2 program fund for the deposit of all fees collected under the program and for disbursement to offset
3 the costs of operations.

4 (1) Deposits into the civil ADR program fund shall include the following:

5 (a) the surcharge as authorized under Section 34-6-45(A) NMS 1978 on
6 all new and reopened civil cases; and

7 (b) fees paid by the parties for program services.

8 (2) Sliding fee scale. Parties shall pay for services provided by the program in
9 accordance with a sliding fee scale as approved by the Supreme Court. Any fees, including intake
10 fees, if any, collected from a party under the sliding fee scale will be paid to the district court clerk,
11 which will be deposited into the civil ADR program fund. The court will post the current sliding
12 fee scale approved by the Supreme Court on the court's web site and inside the courthouses.

13 (3) Judge's discretion. The court may, at the judge's discretion, waive any fees
14 related to the court's civil ADR program.

15 D. **Initiating Services.** The court may, upon request of any party or on the court's
16 own motion, order the parties to participate in the program. All referrals to the program require
17 the entry of a written court order.

18 E. **Conduct of mediation.** Mediation shall be conducted pursuant to the Mediation
19 Procedures Act. Rule 11-408 NMRA (Compromise offers and negotiations) shall also apply.

20 F. **Participation.** Any party ordered to participate in the civil ADR program shall
21 make their best efforts to cooperate with court staff, ADR professionals, and outside service
22 providers designated by the court to operate the program. Any party who fails to do so may be
23 sanctioned by the court.

1 G. **Implementation.** The court may enter any administrative order necessary for
2 effective implementation of the civil ADR program. Parties will be advised of an implementing
3 order and will be expected to abide by them.

4 H. **Immunity.** Any person appointed by the court to serve as a mediator, settlement
5 facilitator, or in other like role under the rules governing this district’s program is deemed to be an
6 arm of the court and is immune from liability for conduct within the scope of his or her appointment
7 as provided by law.

8 [Adopted by Supreme Court Order No. 19-8300-013, effective December 31, 2019.]