



## How to File Your ICDR® Mediation Case

### What is Mediation?

Mediation is a very effective alternative dispute resolution process that may be used in the international business environment. It is a non-binding & voluntary process where parties can actively seek to settle their disputes with the assistance of a mediator who will facilitate the process. Parties often prefer mediation prior to arbitration/litigation (or even while in the midst of one) because it offers various advantages in terms of time, cost, and confidentiality. But most importantly, most matters mediated settle to the satisfaction of the parties.

In order to encourage all international parties to take an advantage of mediation, the ICDR does not charge a filing fee to initiate a mediation or a fee to request the ICDR to invite other parties to mediate. Since a mediator serves as an independent, impartial facilitator, a mediator generally will not issue an award or opinion. If you are seeking a binding award (or judgment), which can be enforced in various courts, please see "*How to File an ICDR Arbitration Case.*"

For more information on mediation, please see the article *The ICDR Mediation Practice*, available on the ICDR Dispute Resolution page. For any other enquiry regarding mediation, you may contact the ICDR at any time.

### Mediation

#### Step 1. Confirming Jurisdiction

Not all international contracts contain a dispute clause enabling mediation. However, there are various ways for the parties to request mediation. In order to proceed with mediation administered by the ICDR, we must verify whether all parties have agreed to mediation either in writing or verbally. One way to verify agreement is to determine whether your contract or agreement has a mediation clause which refers to either the AAA® (American Arbitration Association®) or the ICDR (International Centre for Dispute Resolution®) as the administrative body for mediation. Typically, a mediation clause or Dispute Clause is located towards the end of a contract. If the contract contains the mediation clause and it refers to mediation administered by the AAA or the ICDR in case of dispute, you may proceed to step 2.

Even if you do not have a written agreement, you may still be able to mediate by following the step below (1a).

**Step 1a. You do not have a contract (or agreement) with the other side to mediate; the contract or dispute resolution clause does not contain a mediation clause; or the contract contains a mediation clause but does not refer to AAA or ICDR.**

In these situations, the ICDR can proceed if the other side agrees to mediation. You may contact the other side(s) and jointly execute a Submission agreement, or you may ask the ICDR to reach out to the other side(s) to determine if they will participate in mediation. Once you have the executed Submission agreement, or the ICDR was able to obtain a verbal agreement from all parties to mediate, you may proceed to Step 2.



## Step 2. Documents Necessary to Provide

Once you confirm the ICDR's jurisdiction, you may begin the mediation process by getting together the following documents:

- Reference to an agreement to mediate, such as a contract with a mediation clause that refers to the AAA or ICDR or Submission agreement signed by all parties, or a verbal agreement
- Request for Mediation Form

## Step 3. Filing Your Mediation

When you have the above documents ready, you can file your mediation in any one of the following ways:

- **Online:** <https://apps.adr.org/webfile>
- **Email:** [casefiling@adr.org](mailto:casefiling@adr.org)
- **Facsimile:** +1 (877) 304-8457 or +1 (212) 484-4178 (fax number outside the US)
- **Mail:** American Arbitration Association, Case Filing Services, 1101 Laurel Oak Road, Suite 100, Voorhees, NJ 08043, USA

**Important Note:** You must also send a copy of all the documents (Request for Mediation and any supporting documents) to the other side and keep a copy for your records. Additional information about filing by mail can be found on our website.

## Step 3. What happens next?

*Initiation Letter:* Within a few days of submitting all the necessary documents, you will receive an Initiation letter acknowledging the receipt of your filing. The Initiation letter contains important information including the date, time, and agenda for an administrative conference call.

*Administrative Conference Call:* During this call, administrative matters will be discussed, such as the mediator selection; the date and time for the mediation session; and allocation of the cost for the mediator.

**Important Note:** While ICDR staff cannot offer parties or their counsel legal advice, they can assist the parties in facilitating procedural solutions. Please do not hesitate to call or email us if you have any procedural or administrative question.