



CMADRESS PROGRAM OVERVIEW

SUMMER 2006

What is CMADRESS?

The CADRe Program's CMADRESS (Case Management ADR Early Settlement Session) component is a program designed to educate parties about appropriate dispute resolution alternatives and to promote early settlement of larger civil cases. The Superior Court received grant funding for this program from the Administrative Office of the Courts which has since expired. CMADRESS requires all persons with authority to settle on all sides, including parties, counsel and insurance representatives, to attend a 1.5 hour session with an experienced CADRe mediator. The mediator will act as the facilitator of the session. The facilitator will conduct a frank discussion about the nature of the case and the range of appropriate dispute resolution alternatives, and the costs attendant those alternatives in contrast to the cost of continued litigation. The facilitator will also address case preparation and discovery planning. If time permits and parties are willing, a settlement conference may then be conducted by the facilitator.

What are the goals of the program?

The goal of the program is to encourage early settlement of larger civil cases. Two strategies are employed: (1) thorough education of parties in litigation describing the appropriate dispute resolution methods which may be useful for resolution of the case, and how those methods may have an effect on the cost of case resolution; and (2) an early settlement conference conducted by a qualified ADR professional.

How does CMADRESS work procedurally?

At the initial Case Management Conference, the civil trial judge will usually assign MSC and Trial dates. The judge will also make a determination of whether the amount in controversy is more or less than \$50,000.00. While this value determination is nonbinding for trial purposes, it does have an effect on ADR in the case.

If the judge determines that the amount in controversy does not exceed \$50,000.00 and wishes to refer the case to CADRe, it will be ordered to Limited Mediation, where CADRe will assign a mediator to the case at court expense if the parties follow the Limited Mediation assignment procedure.

If the judge deems the amount in controversy in the case at more that \$50,000.00 and refers the case to the CADRe program, it will be ordered to a CMADRESS session. The CADRe Director will generate the assignment of a CMADRESS facilitator upon receipt of the CMC order from the judge. The parties will be notified of the assigned facilitator and will have 10 days in which to set up the session and report that date to the CADRe office. The session must take place within 90 days of the date of the CMC in which the CMADRESS was ordered. At the session, the parties may decide to continue ADR efforts with either the assigned facilitator or another ADR professional. When parties continue ADR efforts beyond the first 1.5 hour session with either the assigned

facilitator or another person, it will be their responsibility to pay the hourly rate of the ADR professional. If the additional ADR activity will affect the scheduled trial date, the parties may seek additional time by stipulation & order. If the parties do not elect further ADR activity, their trial timeline remains as assigned at the CMC.

Full participation by trial counsel in the CMC is critical, as is attendance at the CMADRESS session by parties, counsel and insurance representatives with full settlement authority. ***The court is fully enforcing this aspect of the program.*** Further, failure to contact the CADRe office as ordered by the court after the CMC or failure to complete the CMADRESS session within the given time frame have resulted in some cases being called to an OSC re Sanctions for non-compliance with the CMADRESS requirements.

After the CMADRESS session, the facilitator will serve and submit a CMADRESS report providing certain non-privileged information to the court. The report does not require disclosure of any sensitive information, such as the identity of the party or parties who decline further ADR activity.

What are the facilitator's duties?

CMADRESS facilitators must be members in good standing of the CADRe CMADRESS panel. They are also required to attend an orientation session to gain familiarity with the CMADRESS component of the CADRe program. Facilitators will receive assignments from the CADRe office in rotation. The parties are welcome to stop by the CADRe office immediately following the CMC to discuss and agree on a facilitator. Otherwise, the CADRe Director will select one for you. Upon receiving such an assignment, the parties are required to contact the facilitator to set up a date, time and place for the meeting, which must be completed no later than 90 days following the date of the CMADRESS order. The facilitator is required to discuss with the parties all of the items enumerated on the reporting form, and discuss settlement if possible. Following the session, the facilitator must return the completed form to the court.

How is the CMADRESS program performing?

Statistical information on the results of the CMADRESS program can be found on the CADRe website at www.sbcadre.org/cadre/docs/statscmadress.pdf, or from the CADRe office.

Particular concerns for attorneys?

The court will be making important decisions about management of the case at the CMC, as well as determining the necessary parties required to attend the early settlement session. Full, accurate and timely preparation of the CMC Statement is essential, as is full participation by trial counsel at the CMC. The CMC is not a “throw away” appearance to be made by a junior associate or anyone unfamiliar with the case. As stated before, attendance at the CMADRESS session by the persons required by the court is mandatory.

Where can we take questions or concerns, and get additional information?

Contact the CADRe office or Judge Colleen Sterne.