

# Alternative Dispute Resolution

RLI Design Professionals  
DPLE 313  
December 16, 2020

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# Course Description



The courts of this country  
should not be the places  
where resolution of disputes begin...



- Sandra Day O'Connor

The potential monetary and delay costs associated with litigating a claim can be astronomical. For this reason, there has been an emerging trend in the construction industry of turning to methods of alternative dispute resolution (ADR). ADR encompasses a number of different methods for resolving disputes, the most commonly known of which are mediation and arbitration. This course will walk participants through some of the key components of different ADR methods and discuss various considerations that can help a design professional decide which dispute resolution mechanism might be the preferred fit for a particular project type or client.

# Learning Objectives

## Participants in this session will:

- 1** Consider the different methods of alternative dispute resolution;
- 2** Study some of the key differences between these methods of dispute resolution;
- 3** Evaluate the relative pros and cons of each method by using real world case examples; and
- 4** Discuss how design professionals can incorporate the preferred dispute resolution mechanism into your Agreements.



# Presenter



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A close-up photograph of a hand holding a wooden gavel with a brass band, positioned over a wooden block. The gavel is the central focus, with the hand visible on the left side. The background is blurred, showing a person in a blue shirt. The image is overlaid with two teal-colored text boxes.

# Multi-Door Dispute Resolution

in D.C. Courts





Law School Professor

Teaching ADR and Mediation

# Starting a Business





# Rachel's Story



# Litigation







# Arbitration





# Adversarial and Competitive

## Negotiation

# An Alternative:



# Interest-Based Negotiation\*

A photograph of a business meeting. In the foreground, two hands are shaking in a firm grip, symbolizing agreement or a deal. The background is blurred, showing several people in business attire sitting around a table, engaged in a discussion. A teal horizontal bar is overlaid across the middle of the image, containing the word "Mediation" in white text.

# Mediation

# AIA B101-2017 § 8.2.1

Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Design Professional's services, the [Design Professional] may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

# RLI Policy

If any **Claim** made against the **Insured** and reported to the Insurer during the **Policy Period** is resolved, with the Insurer's consent and agreement, through the use of **Mediation**, the Insured's Deductible as respects the Claim shall be reduced by fifty percent (50%) subject to a maximum reduction of \$12,500.



# Collaborative Law





# Emotion



## Doug and Karen's Story

An overhead photograph of three business professionals in a meeting. A man in a dark suit is leaning forward, looking at a laptop held by a woman in a light-colored blazer. Another person is partially visible on the left. The background is a grey tiled floor.

# ADR and Business Disputes

A woman with brown hair tied back, wearing a blue turtleneck sweater, stands in an office. She is holding a folder and looking towards the camera with a slight smile. The background is a bright, modern office with a window and a desk with a computer monitor.

# How Rachel's Story Ends

# Take Away

“

Do not find fault,  
find a remedy.

”

- Henry Ford

Thank you for your time!

# QUESTIONS?

**This concludes The American Institute of Architects  
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