

## PRIVATE OPTIONS FOR DISPUTE RESOLUTION

While this manual primarily describes CDR programs that the court sponsors, there are other civil dispute resolution procedures that have been developed in the private sector and have proven effective in a wide range of cases. There are numerous dispute resolution providers in the private sector offering a variety of services, including mediation, arbitration, fact-finding, conciliation, negotiation, and private trials. The role of neutral may be played by experienced attorneys or other professional with specialized expertise in dispute resolution techniques, including retired judges, law professors and former government officials. Virtually all private sector providers charge fees for their services.

*Rule 1:40-11* allows any judge (with the approval of the Assignment Judge) to mandate parties to participate in mediation or any other non-binding ADR program before a skilled, private neutral. Such a mandatory referral may take place *sua sponte* or on any party's motion, at any time after joinder. In determining whether, when and to whom to refer cases, judges consider factors such as characteristics of cases that make them appropriate for ADR, skills and experience of professional neutrals, and simple cost-benefit analysis.