

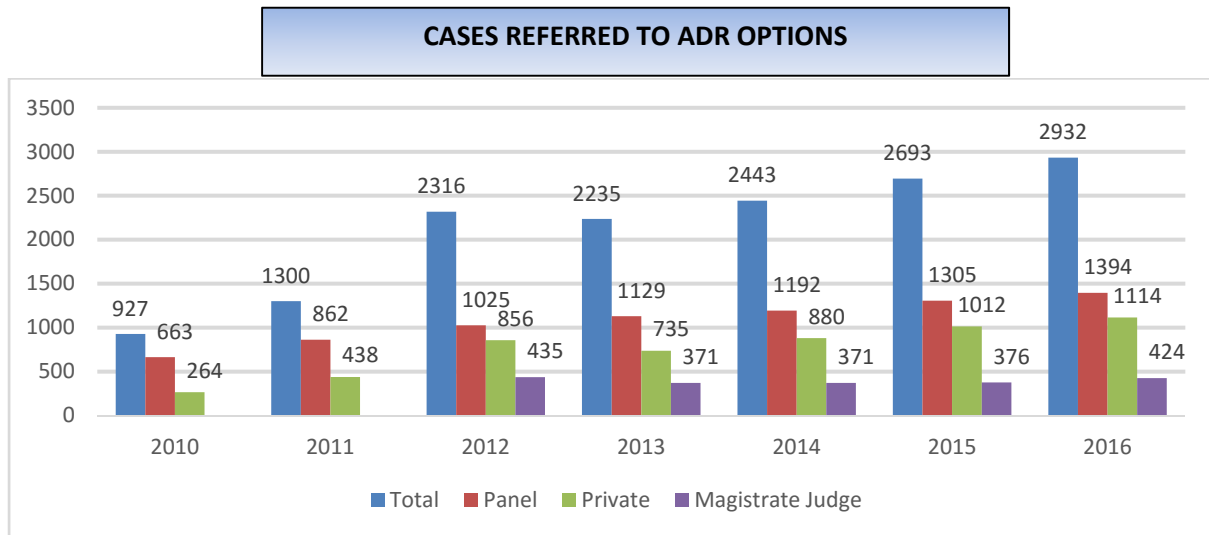


## 2016 ADR Program Report

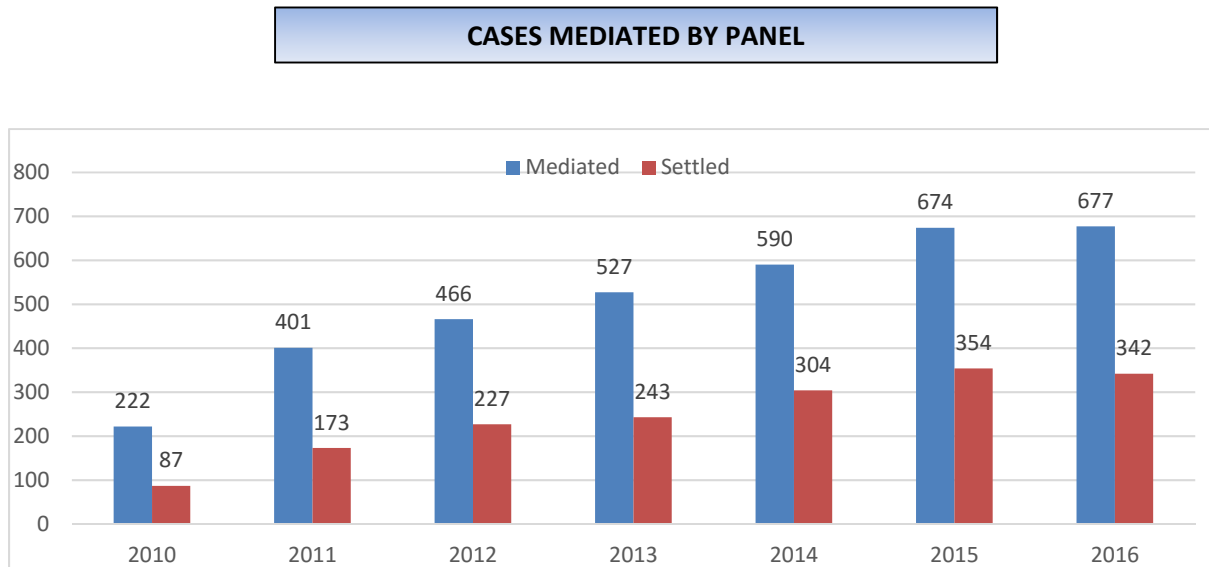
## ADR Program Report – Calendar Year 2016

### Caseload

During CY 2016, the Court referred 2,932 cases to one of the three ADR options: 424 cases were referred to a Magistrate Judge for a settlement conference; 1,394 cases were referred to the Court Mediation Panel; and 1,114 cases were referred to private mediation.

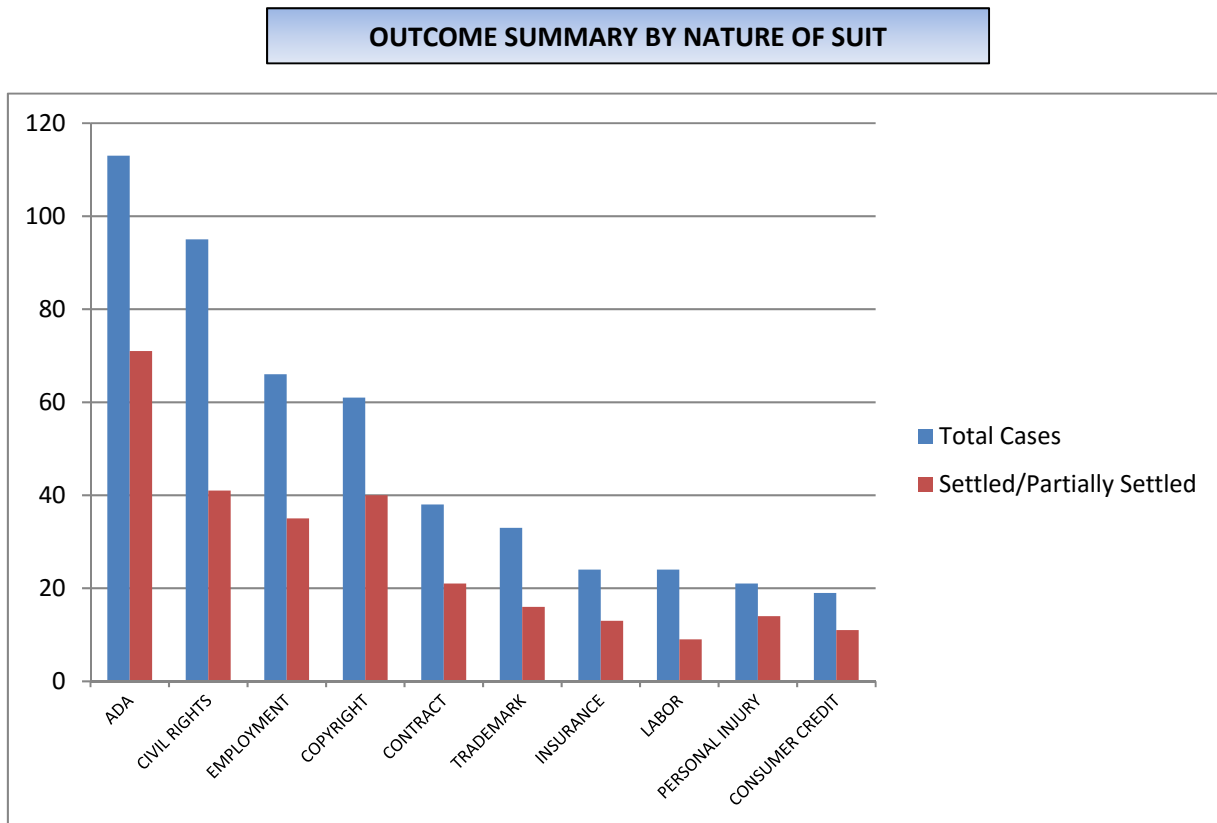


Of the 1,386 cases referred to the Mediation Panel, Panel Mediators conducted mediations in 677 cases and settled, or partially settled, 342 cases, for a settlement rate of 50.5%.



Of the 335 cases mediated by a Panel Mediator that did not settle at the mediation session, 43 cases settled within 60 days *after* the mediation session. These settlements increase the settlement rate of the Panel Mediators to 56.9%. In addition, 425 cases referred to the Mediation Panel settled before the mediation session took place.

The following graph shows the substantive areas most often mediated by Panel Mediators:



### **Evaluation of the Mediation Panel**

Surveys completed by 101 mediation participants in 2016 show that 89% of the responding participants were satisfied with the outcome of the mediation process conducted by Panel Mediators: 59% were “very satisfied,” 30% were “satisfied,” 6% were “dissatisfied,” and 5% were “very dissatisfied.”

Of 97 responses, nearly 89% found that the benefits of the mediation outweighed the costs, and approximately 11% found that the benefits did not outweigh the costs.

Of 99 responses, approximately 63% of the respondents found that the procedures used in the mediation process were “very fair,” 32% described the procedures as “fair,” 4% described the procedures as “unfair,” and 1% described the procedures as “very unfair.”

Of 99 responses, 67% of the respondents rated the mediator “excellent,” 17% rated the mediator “very good,” 11% rated the mediator “satisfactory,” 3% rated the mediator “unsatisfactory,” and 1% rated the mediator “terrible.”

### **Mediation Panel**

In the summer of 2016, the Court appointed 23 new Panel Mediators. With the new panel members and with attrition, the Mediation Panel consisted of approximately 230 attorney-mediators by the end of 2016. The Panel Mediators collectively possessed expertise in 24 areas of law.

### **Continuing Education for Panel Mediators**

The ADR Program hosted the following education programs for members of the Mediation Panel:

- **Santa Ana Program at noon on March 10, 2016:** Panel Mediators attended a brown bag lunch with Judge Staton to discuss all things ADR.
- **Riverside Program (with the Inland Empire FBA) at noon on March 16, 2016:** Panel Mediator Rick Copeland and ADR Program Director Gail Killefer discussed several ADR projects, such as early mediation for non-major civil rights cases, loan modification mediations, and streamlined procedures for ADA disability access cases.
- **Central District's Annual Advanced Mediation Training on May 2, 2016:** In a six hour presentation and discussion, titled *Making Money Talk: How to Mediate the Settlement of Monetary Disputes*, J. Anderson "Andy" Little addressed managing the positional bargaining that characterizes negotiations in many litigated cases. Andy Little's book, *Making Money Talk*, was written to help other mediators deal with the realities of positional bargaining. His premise is that mediators can add great value to the bargaining process by using traditional mediation techniques and that mediators can facilitate the negotiation of the inherently evaluative process known as positional bargaining.

- **"Counterintuitive Mediation"** presented by Panel Mediator Dan Ben-Zvi on June 29, 2016: Daniel Ben-Zvi, mediator and arbitrator with ADR Services, Inc. and AAA, offered insights into counterintuitive insights into successful mediations, duties of counsel, mediation advocacy, confidentiality, processes, settlement, and ethics.
- **Mediation Training and Orientation** (for new Panel Mediators), presented by Gail Killefer, ADR Program Director, on August 29, 2016.
- **Mediation Confidentiality: An Inappropriate Shield Against Legal Malpractice Claims or An Essential Element of Effective Dispute Resolution?**, presented by Panel Mediators Lee Blackman & Phyllis Pollack on September 15, 2016.
- **Locating the Trust Zone in Multicultural Conflicts – A Mediator’s Guide**, by Panel Mediator Lisa Fischer and Jacqueline Oliveira, on November 14, 2016.

#### ***Mediation Book Discussions:***

- January 28, 2016. The group discussed *The Conflict Paradox: Seven Dilemmas at the Core of Disputes*, by Bernard Meyer.
- April 21, 2016. Panel Mediator Jan Schau discussed her book, *View from the Middle of the Road: A Mediator’s Perspective on Life, Conflict and Human Interaction*. Jan talked about her reasons for writing the book and her writing/publishing process.
- August 3, 2016. The group discussed *Psychology of Conflict: Mediating in a Diverse World*, by Paul Randolph.
- December 1, 2016. The group read *Detroit Resurrected: To Bankruptcy & Back*. Bruce Babbitt of Jones Day, lead restructuring counsel for the City of Detroit during the “Grand Bargain” mediation, shared his thoughts about the Detroit mediation.

#### **Outreach Efforts**

During CY 2016, outreach efforts for the ADR Program included the following:

- ADR Program Director Gail Killefer and Magistrate Judge Jay C. Gandhi (CACD), with Robyn Weinstein, ADR Administrator for the U.S. District Court (EDNY), presented a panel, *From Interpersonal Conflict To Diplomacy: Where Does Court Connected Mediation Fit In?* (November 5, 2016).