

CPR Corporate Policy Statement on Alternatives to Litigation

More than 4,000 operating companies have committed to the CPR Corporate Policy Statement on Alternatives to Litigation[®]. The CPR Corporate Pledge, which was initiated in 1984, obliges subscribing companies to seriously explore negotiation, mediation or other ADR processes in conflicts arising with other signatories before pursuing full-scale litigation. The list of companies subscribing on behalf of themselves and their major operating subsidiaries is available on the CPR Website at www.cpradr.org.

CPR CORPORATE POLICY STATEMENT on ALTERNATIVES TO LITIGATION[®]

COMPANY

We recognize that for many disputes there is a less expensive, more effective method of resolution than the traditional lawsuit. Alternative dispute resolution (ADR) procedures involve collaborative techniques which can often spare businesses the high costs of litigation.

In recognition of the foregoing, we subscribe to the following statements of principle on behalf of our company and its domestic subsidiaries:*

In the event of a business dispute between our company and another company which has made or will then make a similar statement, we are prepared to explore with that other party resolution of the dispute through negotiation or ADR techniques before pursuing full-scale litigation. If either party believes that the dispute is not suitable for ADR techniques, or if such techniques do not produce results satisfactory to the disputants, either party may proceed with litigation.

CHIEF EXECUTIVE OFFICER (Signature), Print Name

CHIEF LEGAL OFFICER (Signature), Print Name

DATE

*Our major operating subsidiaries are:

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CPR

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WHY A CORPORATE POLICY STATEMENT ON ALTERNATIVES TO LITIGATION?

By James F. Henry, Former President
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(formerly the CPR Institute for Dispute Resolution)

"Too much . . . and too expensive."

That is the consensus about litigation in the business community. Even when lawsuits are settled out of court, which happens over 90% of the time, settlement usually occurs only as the trial date approaches and after most of the costs have been incurred. And all too often, the settlement is based strictly on the dispute's perceived monetary value without adequate investigation of mutually-advantageous business solutions.

The purpose of the Corporate Policy Statement on Alternatives to Litigation is to encourage the early resolution of business disputes with creative, businesslike settlements achieved through mediation or other alternative dispute resolution (ADR) procedures. Once a dispute has erupted, emotions are at a high pitch and parties quickly assume an adversary stance. Each is likely to be concerned that suggesting private resolution will be viewed by the other as a sign of weakness. This danger is minimized when parties have adopted a corporate policy calling for exploration of ADR options before resorting to full-scale litigation in disputes with other companies subscribing to the same policy.

The Policy Statement helps subscribers get over the most important strategic hurdle to quick settlement: it lets them make the first move. Negotiations can begin early — before litigation takes on a life of its own.

That is the essence of the CPR Policy Statement. Those who adopt it can choose from the full spectrum of ADR techniques. These include but are not limited to the minitrial, mediation and neutral fact-finding — each has proven its value in helping executives and counsel arrive at economical, expeditious, mutually-acceptable results.

Both the nonbinding minitrial and mediation have been used successfully to resolve complex multimillion-dollar disputes involving, for example, commercial contracts, patents, construction contracts, joint ventures and transnational issues. Most mediations and minitrials have resulted in prompt settlements and dramatic reductions in legal costs and delay. Borden, Control Data, Eaton, Gillette, ITT, Motorola, Shell Oil, Standard Oil of Indiana, Texaco, TRW, Union Carbide and Wisconsin Electric are just some of the companies reporting economical, satisfying results with these ADR procedures.

It should be noted:

- The CPR Policy Statement is not a binding commitment to engage in negotiations or ADR, but is an expression of corporate policy. Subscribers undertake to act in good faith and to genuinely consider ADR. It is not intended, however, to create legally enforceable rights.
- The CPR Policy Statement does not preclude a subscriber from taking those preliminary actions advisable to protect its access to the courts — for example, filing a complaint for statute of limitations or venue purposes. Even when such actions have been taken, negotiation or ADR techniques can still be used.
- Vigorous advocacy is compatible with negotiation and ADR.
- Not every dispute is suitable for resolution through ADR techniques. If either party concludes that ADR would be inappropriate in a particular case — for example, if judicial determination of a critical legal issue is deemed essential — that party is not bound to explore ADR.
- The CPR Policy Statement raises the consciousness of executives and counsel regarding the use of ADR and encourages the systematic review of business disputes for their ADR potential.
- Subscribers may choose to modify the wording of the CPR Policy Statement in ways that do not change its spirit or intent.

Even if ADR does not lead directly to a resolution, the effort increases chances of later settlement by establishing a channel of communications between parties and by giving each a better understanding of the other's position.

The CPR Corporate Pledge has been actively supported by the Business Roundtable, the National Association of Manufacturers, the American Corporate Counsel Association and leading industrial organizations. More than 4,000 operating companies have committed to the CPR Corporate Pledge, including most of the largest corporations — a broad cross-section of American business that accounts for about one half of the aggregate of the gross national product. Companies are not just signing the CPR Pledge; they are using it to resolve significant disputes swiftly, privately and with dramatic cost savings. Efforts to avoid litigation are in the public interest and should reflect favorably on companies making such attempts.

Please note: This Commentary should not be construed as a part of the CPR Corporate Policy Statement. In signing the Policy Statement, a company is subscribing only to the terms of the Statement itself.