

MINITRIAL

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REVISION HISTORY

- 1989 CPR published a revised edition of the Model Minitrial Procedure.
- 1994 CPR incorporated the model into the Model ADR Procedures and Practices volume.
- 1998 Bibliography updated.

CPR ADVISORY COMMITTEE

These individuals advised CPR on the development of the CPR Arbitral Procedure in 1989. They are listed with their current affiliations.

HON. JAMES F. DAVIS

Howrey & Simon

PROF. ERIC D. GREEN

Boston University School of Law

THOMAS S. KILBANE

Squire, Sanders & Dempsey

THOMAS J. KNAPP

Paul, Hastings and Janofsky & Walker

ROBERT W. LOEWEN

Gibson, Dunn & Crutcher

DOUGLAS M. PARKER

W. STUART PARSONS

Quarles & Brady

JAMES W. QUINN

Weil, Gotshal & Manges

CPR Staff Director

PETER H. KASKELL

Vice President

**CPR Advisory
Committee**

INTRODUCTION

Most bona fide disagreements or disputes between reputable companies are best regarded as business problems to be resolved promptly through business-oriented negotiations. If such negotiations become deadlocked, the parties should consider a non-adjudicative dispute resolution process designed to facilitate settlement.

The informal procedure, known as a minitrial, consisting of an adversarial "information exchange" followed by management negotiations, has become a highly successful form of private business dispute resolution.

The Minitrial Procedure ("the procedure") set forth here reflects the experience of a committee of leading minitrial practitioners and neutral advisers convened by the CPR Institute for Dispute Resolution. The procedure is private, informal, expeditious and far less expensive or disruptive of business relationships than litigation or arbitration. The procedure does not result in an adjudication. The parties fashion their own solution. Experience shows that the chances of arriving at a solution are very high. The procedure serves to penetrate impasses caused by good faith disagreements on the merits of each party's position. Administrative involvement of an institution is not required.

Business executives, who have the best understanding of their underlying interests and have settlement options not available to adjudicators or attorneys, play a central role in the process. The solution they develop is likely to be more creative and business-oriented than a tribunal's win-lose decision.

The procedure is particularly suitable when difficulties arise out of complex, long-term undertakings, such as take-or-pay contracts, joint ventures, major construction projects or technology arrangements. Such difficulties are best resolved amicably and rapidly, with the least damage to the business relationship. Minitrials also have been successful in one-shot situations in which no business relationship exists, such as securities fraud, wrongful termination, partnership dissolution, antitrust and product liability disputes.

The success of minitrials has been due in large part to the voluntary nature and flexibility of the process and to the cooperation, flexibility and creativity of disputants' counsel in developing and implementing procedures best suited for their particular situations. CPR encourages parties to modify this model. For example, they may provide for a minitrial without a neutral adviser or may alter the role of the neutral adviser. The model is readily adaptable to a dispute among more than two parties.

The minitrial can be used in a variety of circumstances. Parties to an existing dispute can use the model procedure whether or not the dispute is in litigation. The model procedure can be adapted for disputes between U.S. companies and for disputes involving foreign companies and, with minor modifications, for disputes between a government entity and a private company. The model procedure may be incorporated by reference in business agreement clauses providing for private dispute resolution.

The model procedure is not self-executing, but is to be invoked through execution of an "initiating agreement" (See Appendix A). A party may withdraw from the process at any time before its conclusion. The procedure is without prejudice to the rights and remedies of the parties should the settlement efforts fail.

A commentary follows the model procedure. Also provided is a sample minitrial schedule (See Appendix B). The schedule is illustrative of the time typically required for the various phases of the proceeding.

Mediation is another highly effective and widely used form of collaborative dispute resolution. Features of mediation and the minitrial can be combined. The minitrial neutral adviser can play a mediating role in the executives' negotiations, and a mediator conducting a mediation proceeding may find it advantageous to stage a meeting resembling the minitrial information exchange.

The CPR European Minitrial Procedure represents an adaptation of the minitrial procedure for disputes involving foreign companies.

CPR has established the CPR Panels of Distinguished Neutrals, consisting of eminent former judges, legal academics and other leaders of the bar, who may assist in structuring a minitrial and may serve as a neutral adviser in a minitrial. In conjunction with its panel services, attorneys in the CPR Panels Management Group are available, at the request of a party to a dispute, to interest the other party or parties in entering into a minitrial or other form of private dispute resolution. The CPR rosters and information about the CPR Panels Management Group may be found on the CPR Web Site, www.cpradr.org (click on [Neutrals](#)).

CPR MINITRIAL PROCEDURE (Rev. 1989)

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1. INSTITUTION OF PROCEEDING

The parties will commence the proceeding by entering into a written agreement (the "initiating agreement"), substantially in the form attached hereto as Appendix A. The date of the initiating agreement is called the "commencement date."

2. THE MINITRIAL PANEL

- 2.1. The minitrial panel shall consist of one member of management from each party (the "management representative"), who shall have authority to negotiate a settlement on behalf of the party represented, and a neutral adviser (the "Neutral Adviser").
- 2.2. If the management representatives are not designated in the initiating agreement, each party shall name its management representative within thirty days from the commencement date by written notice to the other party and the Neutral Adviser. Each party thereafter may designate a different management representative by written notice to the other party and the Neutral Adviser.

3. THE NEUTRAL ADVISER

- 3.1. The Neutral Adviser, who shall be independent and impartial, will perform the functions stated in this procedure and any additional functions on which the parties may hereafter agree.
- 3.2. If the Neutral Adviser is not named in the initiating agreement, the parties will attempt to select a Neutral Adviser by mutual agreement.
- 3.3. If the parties have not agreed on a Neutral Adviser within 15 days from the commencement date, either party may request CPR in writing, with copy to the other party, to assist in the selection of a Neutral Adviser. A copy of the initiating agreement shall be attached to such request.

CPR shall then proceed as follows:

- (a) Promptly following receipt by it of the request, CPR shall convene the parties in person or by telephone one or more times to attempt to select the Neutral Adviser by agreement of the parties.
- (b) If the procedure provided for in (a) does not result in the selection of the Neutral Adviser, CPR shall submit to the parties a list of not less than three candidates. Such list shall include a brief statement of each candidate's qualifications. Each party shall strike from the list any candidate it finds unacceptable, shall number the remaining candidates in order of preference, and shall deliver the list so marked to CPR. CPR shall designate as Neutral Adviser the nominee willing to serve for whom the parties collectively have indicated the highest

preference and who does not have a conflict of interest (see paragraph 3.4.). If a tie should result between two candidates, CPR may designate either candidate. If this procedure for any reason should fail to result in designation of the Neutral Adviser, the parties may request CPR to repeat the procedure, proposing a list of not less than three new candidates.

- 3.4. Each party shall promptly disclose to the other party any circumstances known to it which would cause justifiable doubt regarding the independence or impartiality of an individual under consideration or appointed as Neutral Adviser. Any such individual shall promptly disclose any such circumstances to the parties. If any such circumstances have been disclosed, the individual shall not serve as Neutral Adviser unless all parties agree.
- 3.5. No party, nor anyone acting on its behalf, shall unilaterally communicate with the Neutral Adviser on any matter of substance, except as specifically provided for herein or agreed between the parties.
- 3.6. The parties will promptly send to the Neutral Adviser such materials as they may agree upon for the purpose of familiarizing the Neutral Adviser with the facts and issues in the dispute. The parties shall comply promptly with any requests by the Neutral Adviser for additional documents or information relevant to the dispute.
- 3.7. The parties may jointly seek the advice and assistance of the Neutral Adviser or CPR in interpreting this procedure and on procedural matters.
- 3.8. The Neutral Adviser's per diem or hourly charge will be established at the time of appointment. Unless the parties otherwise agree, (a) the fees and expenses of the Neutral Adviser, CPR's time charges, and any other expenses of the proceeding will be borne equally by the parties; and (b) each party shall bear its own costs of the proceeding.

4. DISCOVERY

- 4.1. If either or both parties have a substantial need for discovery to prepare for the information exchange, the parties shall attempt in good faith to agree on a plan for strictly necessary, expeditious discovery. Should they fail to agree, either party may request a joint meeting with the Neutral Adviser, who shall assist the parties in formulating a discovery plan.
- 4.2. Should the minitrial not result in a settlement of the dispute, discovery taken in the proceeding may be used in any pending or future proceeding between the parties relating to the dispute unless the parties otherwise agree. Such discovery shall not restrict a party's ability to take additional discovery in any such proceeding.

5. BRIEFS AND EXHIBITS

Before the information exchange, the parties shall exchange, and submit to the Neutral Adviser, briefs, as well as all documents or other exhibits on which the parties intend to rely during the information exchange. The parties shall agree upon the length of such briefs, and on the date on which such briefs, documents and other exhibits are to be exchanged.

6. THE MINITRIAL INFORMATION EXCHANGE

- 6.1. The minitrial information exchange shall be held before the minitrial panel at a place and time stated in the initiating agreement or thereafter agreed to by the parties and the Neutral Adviser.
- 6.2. During the information exchange each party shall make a presentation of its best case, and each party shall be entitled to a rebuttal. The order and permissible length of presentations and rebuttals shall be determined by agreement between the parties, or failing such agreement, by the Neutral Adviser.
- 6.3. The Neutral Adviser will moderate the information exchange.
- 6.4. The presentations and rebuttals of each party may be made in any form, and by any individuals, as desired by such party. Presentations by fact witnesses and expert witnesses shall be permitted.
- 6.5. Presentations may not be interrupted, except that during each party's presentation, and following such presentation, any member of the panel may ask clarifying questions of counsel or other persons appearing on that party's behalf. No member of the panel may limit the scope or substance of a party's presentation. No rules of evidence, including rules of relevance, will apply at the information exchange, except that the rules pertaining to privileged communications and attorney work product will apply.
- 6.6. Members of the panel, and if the parties so agree, each party and counsel, may ask questions of opposing counsel and witnesses during scheduled, open question and answer exchanges and during that party's rebuttal time.
- 6.7. The information exchange shall not be recorded by any means. However, subject to Section 8, persons attending the information exchange may take notes of the proceedings.
- 6.8. In addition to counsel, each management representative may have advisers in attendance at the information exchange, provided that the other party and the Neutral Adviser shall have been notified of the identity of such advisers at least five days before commencement of the information

exchange.

7. NEGOTIATIONS BETWEEN MANAGEMENT REPRESENTATIVES

- 7.1. At the conclusion of the information exchange, the management representatives shall meet one or more times, as necessary, by themselves, and shall make all reasonable efforts to agree on a resolution of the dispute. By agreement, other members of their teams may be invited to participate in the meetings.
- 7.2. At the request of either management representative, the Neutral Adviser will meet with the management representatives jointly or separately at his or her discretion, and will give an oral opinion as to the issues raised during the information exchange and as to the likely outcome at trial of each issue. Thereupon, the management representatives will again attempt to resolve the dispute. If either management representative requests a written opinion on such matters, the Neutral Adviser shall promptly render such an opinion. Thereupon, the management representatives will again attempt to resolve the dispute. At the request of the management representatives, the Neutral Adviser may at any time mediate the negotiations and may propose settlement terms.
- 7.3. The terms of any settlement are to be set out in a written agreement which is to be signed by the management representatives as soon as possible after conclusion of the negotiations and will, once signed, be legally binding on the parties.

8. CONFIDENTIALITY

- 8.1. The entire process is a compromise negotiation. All offers, promises, conduct and statements, whether oral or written, made in the course of the proceeding by any of the parties, their agents, employees, experts and attorneys, and by the Neutral Adviser are confidential. Such offers, promises, conduct and statements are privileged under any applicable mediation privilege, and are subject to FRE 408 and any state counterpart rules or doctrine and are inadmissible and not discoverable for any purpose, including impeachment, in litigation between the parties to the minitrial or other litigation. However, evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its presentation or use at the minitrial. The Neutral Adviser is the parties' joint counsel, or agent if not an attorney.
- 8.2. The Neutral Adviser will be disqualified as a witness, consultant, or expert for any party, and as an arbitrator between the parties, and his or her oral and written opinions will be inadmissible for all purposes in this or any other dispute involving the parties hereto.

9. COURT PROCEEDINGS

- 9.1. If on the commencement date no litigation is pending between the parties

with respect to the subject matter of the minitrial, no party shall commence such litigation until the minitrial proceedings have terminated in accordance with Section 10 hereof. Execution of the initiating agreement shall toll all applicable statutes of limitation until the minitrial proceedings have terminated. The parties will take such other action, if any, required to effectuate such tolling.

- 9.2. If on the commencement date litigation is pending between the parties with respect to the subject matter of the minitrial, the parties may promptly (a) present a joint motion to the court to request a stay of all proceedings pending conclusion of the minitrial proceedings; and (b) request the court to enter an order protecting the confidentiality of the minitrial and barring any collateral use by the parties of any aspect of the minitrial in any pending or future litigation. The grant of such stay and protective order shall not be a condition to the continuation of the minitrial proceeding.

10. TERMINATION OF PROCEEDING

The proceeding shall be deemed terminated if and when (a) the parties have not executed a written settlement of their dispute on or before the thirtieth day following conclusion of the information exchange (which deadline may be extended by mutual agreement), or (b) either party serves on the other party and on the Neutral Adviser a written notice of withdrawal from the proceeding.

11. ACTIONS AGAINST THE NEUTRAL ADVISER OR CPR

Neither the Neutral Adviser nor CPR shall be liable to any party for any act or omission in connection with the minitrial proceeding.

COMMENTARY

Length of Proceeding. The simplicity of the procedure permits rapid completion. The period from signing the initiating agreement to settlement might be about 90 days. Of course, the length of the process will vary from case to case. The information exchange frequently can be completed in one day. A sample time schedule is attached.

Discovery. Discovery, if any, should be limited to that for which each party has a substantial need for purposes of the minitrial information exchange. As a rule, such discovery would be far less extensive and less formal than discovery conducted in preparation for a trial. The objective is to enable the parties, through limited discovery on the merits, in a short period to define the issues and to learn the principal strengths and weaknesses of their cases. If litigation between the parties is pending, any prior discovery in that litigation should be taken into account in determining the need for additional discovery. The principal form of discovery normally should be the production of relevant documents. Interrogatories generally are not appropriate. Depositions, if any, should be taken only of one or a few key witnesses, and should be confined in scope to the minimum necessary to prepare for the information exchange.

The Information Exchange. A key feature of this procedure is the information exchange. Why hold such an exchange? Executives often lack a thorough understanding of the adversary's side of a dispute and each party is best able to present its own position in a persuasive manner. The information exchange leads each party to focus on the most important issues in presenting its case to the management representative of the other party. Such a presentation usually gives each executive a much better understanding of the dispute and leads to a more realistic position in the settlement negotiations which follow. Participation in the process also tends to defuse hostility and to strengthen the resolve of both management representatives to find a solution. The tone of the minitrial should be one of businesslike problem-solving. Nevertheless, counsel are expected to vigorously advocate their positions during the information exchange.

The Management Representatives. The negotiations are more likely to succeed if the negotiators have not been directly involved in the dispute and therefore do not feel a need to defend past actions. The settlement may well entail a new business deal in which neither party loses. The more senior the management representatives, the greater the range of options they are likely to perceive for a constructive solution. In some circumstances negotiations will be more productive if more than one representative of each party participates.

The prospects for success of the process are likely to be enhanced if the management representatives are evenly matched and command the respect of the other party. Therefore, the parties should consult on the selection of their management representatives.

The Neutral Adviser. A highly qualified Neutral Adviser, in whose impartiality and judgment the parties have confidence, can significantly enhance the prospects for success. It may well be desirable to select as the Neutral Adviser a respected former judge, senior lawyer or legal scholar with a thorough knowledge of the applicable law and the ability to facilitate the conduct of the process including, if necessary, mediation between the parties. Such a person can give the executives educated, objective views on the legal issues and on the likely outcome of a lawsuit or arbitration. The Neutral Adviser could also be a person experienced in the field to which the dispute relates.

With the concurrence of the executives, the Neutral Adviser can also play a mediating role in their negotiations and make settlement proposals. If need be, CPR can assist in the selection of a Neutral Adviser. The parties have the option of dispensing with a Neutral Adviser.

The parties should enter into an agreement with the Neutral Adviser by which the latter agrees to be bound by the provisions of Section 8 (Confidentiality) of the procedure, and covering the Neutral Adviser's fee or time charges and such other matters as the parties and the Neutral Adviser see fit.

Neutral Expert. If the parties need independent expert advice on critical technical or legal issues, and the Neutral Adviser does not possess the required expertise, they may agree on the selection of a neutral expert or empower the Neutral Adviser to select one.

Termination. Section 10 of the model procedure permits either party to withdraw from the proceeding at any time by notice to the other party and the Neutral Adviser. The parties may wish to modify this provision to call for a notice period or to impose a monetary sanction on a party that withdraws before the proceeding has run its course.

Business Agreement Clauses. Persons drafting a business agreement are urged to incorporate the model procedure by reference. The following contract clause is suggested:

The parties will attempt in good faith to resolve any controversy or claim arising out of or relating to this agreement in accordance with the CPR Mediation Procedure and will enter into an initiating agreement in the form annexed to such Procedure.

The above clause may not be legally enforceable. Moreover, the minitrial procedure is terminable at will. However, between reputable companies an expression of intent, enforceable or not, carries considerable weight. If a dispute arises, the above contract clause would substantially increase the likelihood that the parties will make a serious effort to arrive at a compromise through this process, rather than seeking an adjudicative solution.

The business agreement could provide that if a controversy arises, negotiations between executives would be the first step in attempting resolution; this procedure, the second step. The agreement also could provide that if the minitrial should not result in a settlement, the dispute will be settled by arbitration in accordance with the CPR Rules for Non-Administered Arbitration.

For information on how to file a matter with CPR, see <https://www.cpradr.org/dispute-resolution-services/file-a-case>.

APPENDIX A

INITIATING AGREEMENT

AGREEMENT TO INITIATE MINITRIAL PROCEEDING BETWEEN

_____ [Name]. ("Party A")
_____ [address].

_____ [Name]. ("Party B")
_____ [address].

MATTER

[Title/subject matter, parties, and date of contract to which dispute relates] ("the Contract").

DISPUTE

[Identify briefly nature of dispute, including reference to relevant provision in the Contract.] ("the dispute")

TERMS OF AGREEMENT

1. CPR PROCEDURE

By this agreement we agree to seek to resolve the dispute by adopting and using the CPR Minitrial Procedure ("the CPR Procedure") as modified by the provisions of this agreement and as attached hereto.

2. MANAGEMENT REPRESENTATIVES

[Name of Management Representative of Party A and corporate title.]

[Name of Management Representative of Party B and corporate title.]

Each of the above persons ("the Management Representatives") will represent their respective companies at the information exchange and will have full authority to negotiate a settlement of the dispute.

3. PLACE AND TIME OF INFORMATION EXCHANGE

The information exchange will take place in the manner set out in Section 6 of the CPR Procedure at:

_____ [address].
on _____ at _____ [date and time].

4. NEUTRAL ADVISER

The Neutral Adviser will be [name]. [Delete if no Neutral Adviser is to be appointed]

[OR]

The Neutral Adviser will be selected in accordance with Section 3 of the CPR Procedure.

SIGNED: _____
_____ [NAME]
For and on behalf of Party A

SIGNED: _____
_____ [NAME]
For and on behalf of Party A

APPENDIX B

SAMPLE MINITRIAL SCHEDULE

Before the Information Exchange

- Commencement Date (CD): Parties sign initiating agreement (Sec. 1).
- CD + 10: Parties agree on Neutral Adviser [NA], if not named in the initiating agreement (para 3.2.).
- CD + 10: If litigation is pending, parties' attorneys move to stay proceedings (para. 9.2.).
- CD + 15: Parties' attorneys agree on discovery plan including a 30 day discovery schedule (para. 4.1.).
- CD + 20: Parties' attorneys send material on dispute to NA (para. 3.6.).
- CD + 30: Parties' attorneys agree on place and date for minitrial (if not agreed in initiating agreement) and on length of presentations, rebuttals and responses (para. 6.1.).
- CD + 30: Parties determine form of briefs and date for submission of briefs and exhibits (Sec. 5.).
- CD + 45: Discovery is completed.
- CD + 60: Parties exchange briefs and exhibits (para. 5.).
- CD + 65: Parties give notice of advisers who will attend information exchange (para. 6.8.).
- CD + 70: Information exchange begins (para. 6.2.).

At the Information Exchange

- CD + 70 - 9:00 - 12:00 Plaintiff's case-in-chief
- 1:00 - 2:00 Defendant's rebuttal
- 2:00 - 3:00 Open question and answer exchange
- CD + 71 - 9:00 - 12:00 Defendant's case-in-chief
- 1:00 - 2:00 Plaintiff's rebuttal
- 2:00 - 3:00 Open question and answer exchange

Management Negotiations

- CD + 71: 3:00 - 5:00 Negotiations
- CD + 72 - 85: Negotiation period (para. 7.1.).
- CD + 85: Parties agree on settlement terms.
- CD + 90: A written settlement agreement is signed.

SELECTED BIBLIOGRAPHY

GENERAL COMMENTARY

Hancock, W.A., ed. "Alternative Dispute Resolution Techniques." (Business Laws Inc. 1994).

Raven, Robert. "The Use of Principals in Minitrials." World Arbitration and Mediation Report 47 (Transnational Juris Publications, Inc. February 1993).

Fox, Lawrence J. "Mini-Trials." 19 Litigation 36 (Summer 1993). (Evaluates cases best suited to minitrials and discusses minitrial stages.)

"Minitrials: When, Where & How to Use Them." World Arbitration and Mediation Report 73 (BNA Inc., March 1991).

Allison, John R. "Five Ways to Keep Disputes Out of Court." Harvard Business Review 4 (January-February 1990).

Henry, James F. and J. Lieberman. "Deterrents to the Mini-Trial." The Manager's Guide to Resolving Legal Disputes (Harper & Row, 1985). (Obtainable from CPR.)

CONSTRUCTION

Stipanowich, Thomas J. "What's Hot and What's Not: Emerging Results From the First Comprehensive Survey on Dispute Avoidance and Resolution in the Construction Industry." (October 16-19, 1994) (Obtainable from CPR).

Stipanowich, Thomas and Douglas Henderson. "Settling Construction by Mediation, Minitrial and Other Processes: The ABA Forum Survey." 12 Construction Lawyer 6 (April 1992). (Results of the 1991 ABA Forum survey on the construction industry.)

Cushman, Robert F., Christian Hedermann and Avram Tucker. "Alternative Dispute Resolution in the Construction Industry." (John Wiley & Sons, 1991).

GOVERNMENT MINITRIALS

Carr, Frank and Lester Edelman. "The U.S. Army Corps of Engineers Prospective on ADR and Partnering in the Construction Industry." 1994 Wiley Construction Law Update 1 (Overton A. Currie and Neal J. Sweeney, eds.)(John Wiley & Sons 1994).

"General Roofing Co." U.S. Army Corps of Engineers, IWR Case Study 89-ADR-CS-5 (January 1992).

"Bechtel National, Inc." U.S. Army Corps of Engineers, IWR Case Study 89-ADR-CS-4 (August 1989).

"Goodyear Tire and Rubber Co." U.S. Army Corps of Engineers, IWR Case Study 89-ADR-CS-5 (August 1989).

"Tenn.Tom Constructors, Inc." U.S. Army Corps of Engineers, IWR Case Study 89-ADR-CS-1 (August 1989).

INTELLECTUAL PROPERTY

Finklestein, William. "ADR in Trademark & Unfair Competition Disputes: A Practitioners Guide." (CPR Institute for Dispute Resolution and International Trademark Association 1994).

INTERNATIONAL

McClaren & Associates. "Innovative Dispute Resolution: The Alternative." (Carswell Thomson Professional Publishing (Canada) (1994).

"Civil Litigation: The Judicial Mini-Trial," Dispute Resolution-Special Series, Discussion paper No. 1, Alberta Law Reform Institute, Edmonton, Alberta, Canada (1993).

Calvert, Mark. "Out With the Old, In With the New: The Minitrial Is the New Wave for Resolving International Disputes." 1 Journal of Dispute Resolution 111 (1991).

Kanowitz, Leo. "Using the Mini-Trial in U.S.-Japan Business Disputes." 39 Mercer Law Review Rev. 641 (1988).

PERSONAL INJURY

Freund, James C. and George P. Haldeman. "Alternative Dispute Resolution in Personal Injury Cases." (Clark Boardman Callaghan 1993).

VARIANTS OF THE MINITRIAL

"Los Angeles Metro Dispute Settled for \$25.7 Million Through Mediation." World Arbitration and Mediation Report 91 (BNA, Inc., April 1992).

"Parties Call Time Out In Stadium Controversy." 1 Consensus 7 (November 1988).

VIDEO

"Out of Court: The Minitrial." (CPR, 1987, 30 or 60 minute versions) (Obtainable from CPR).

SELECTED ARTICLES FROM *ALTERNATIVES*

Alternatives is a national ADR newsletter published by the CPR Institute for Dispute Resolution. It focuses on cutting-edge trends and information and acts as a practice guide for companies, firms and the courts. The articles listed below are available on WESTLAW® and LEXIS-NEXIS®. From the WESTLAW directory screen, enter <db ALTHCL>. On LEXIS, select the <ADR> library, then enter <altern>. Contact CPR for subscription information at (212) 949-6490 or by E-mail at Alternatives@cpradr.org.

GENERAL COMMERCIAL

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Minitrial Resolves a \$30 Million Antitrust Case, 10 *Alternatives* 71 (May 1992)

Minitrial Yields \$130M Result in Utility Case, 10 *Alternatives* 129 (September 1992)

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CONSTRUCTION

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Army Engineers Use Mini-Trials in Settling Major Construction and Superfund Disputes, 6 *Alternatives* 109 (July 1988)

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Parties Resolve Major Fuel Dispute In Two-Step ADR With a CPR Neutral, 8 *Alternatives* 145 (September 1990)

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