



AMC 2025

Session 1

Survey of Wisconsin Dispute Resolution

Presented by:

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Peter G. Herman, U.S. Department of Labor/OSHA, Madison
Lisa F. Kinney, State of Wisconsin, Division of Hearings and Appeals, Madison

About the Presenters...

Sue Bauman is a mediator and arbitrator based in Madison, Wisconsin. Prior to becoming a labor neutral, Ms. Bauman had a varied career. She received her bachelor's degree in chemistry from the University of Wisconsin-Madison in 1965 and a master's degree in chemistry from the University of Chicago in 1966. She worked for a short time as a research chemist at the Forest Products Laboratory in Madison before returning to the University there. She completed all the credits for a master's degree in mathematics and obtained a teaching certificate in Mathematics K-12. She taught 8th grade math for the Madison Metropolitan School District for eight years during which time she became very active in Madison Teachers, Inc. (MTI), the bargaining agent for the district's teaching staff. This experience led Sue to pursue a career in labor relations. She attended the University of Wisconsin Law School and the Institute for Industrial Relations and obtained a J.D. in law and a M.S. in labor relations in three years. For the next 16 years, Sue practiced labor and employment law in a variety of settings – solo practitioner, partner in a two-person law firm, and partner in a larger firm. For 12 of those years, she also served as a member of the Madison City Council. In 1997, Ms. Bauman was elected Mayor of Madison, a position she held for 6 years. She was then appointed by the Governor to serve as a Commissioner on the Wisconsin Employment Relations Commission (WERC). She was at the WERC for 8 years, mediating, arbitrating, and serving as part of an appellate body for prohibited practice and representation cases. Ms. Bauman left the WERC after Act 10 effectively destroyed public sector bargaining in the State of Wisconsin, in 2011. Since then she has served as an ad hoc arbitrator on many public and private sector cases. She is on the rosters of the American Arbitration Association, Federal Mediation and Conciliation Service, and numerous state agencies including Wisconsin, Iowa, Michigan, Minnesota, Oregon and Washington and the Office of Collective Bargaining for New York City. She also on the State of Washington Law Enforcement Arbitration panel, is a sitting arbitrator for the Northwest Grievance panel of UPS and the Teamsters, and a permanent umpire for SEIU and the State of Oregon as well as Dane County, Wisconsin and AFSCME District Council 32.

Peter G. Herman is an Alternative Dispute Resolution Coordinator (ADRC) – for OSHA Chicago Region covering Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin. He holds a B.A from University of Iowa in American Studies/English and his J.D. from Gonzaga University School of Law. He served as a USAF Judge Advocate, worked for Wisconsin Bureau of Justice Information Services, and the Legislative Reference Bureau before joining DOL/OSHA. He is the current chair of the Labor and Employment Section of the State Bar of Wisconsin.

Five years ago, **Attorney Kinney** joined the State of Wisconsin, Division of Hearings and Appeals as an Administrative Law Judge for Workers Compensation cases. As part of the duties as an ALJ, Attorney Kinney divides her time holding Hearings and also acts as Mediator at the request of parties. Prior to working for the State, Attorney Kinney was a practicing attorney and shareholder for more than 25 years handling litigation on workers compensation claims. Ms. Kinney is a graduate of UW Madison (1985) and Hamline University School of Law (1989). In her leisure time, Ms. Kinney enjoys camping with her family, bicycling and car shows.

Survey of Wisconsin ADR: Outline

Peter Herman OSHA Mediator, Susan Bauman, Mediator/Arbitrator, Lisa F. Kinney ALJ Mediator

What is it

Passage of section 802.12 **Alternative dispute resolution**, enshrined in law numerous opportunities for resolving complaints within the Wisconsin Court System under the rubric of ADR. The new rule permitted judges to refer cases and litigants to neutral third parties using one of several enumerated settlement alternatives. Areas in which ADR is utilized: consumer law, labor law, tort law, employment law, contract law, landlord-tenant, almost anything people want to litigate outside of the courts.

Definitions reproduced here in their entirety identify a variety of methods recognized in Wisconsin for resolving disputes:

(1) Definitions. In this section:

(a) “**Binding arbitration**” means a dispute resolution process that meets all of the following conditions:

1. A neutral 3rd person is given the authority to render a decision that is legally binding.
2. It is used only with the consent of all parties.
3. The parties present evidence and examine witnesses.
4. A contract or the neutral 3rd person determines the applicability of the rules of evidence.
5. The award is subject to judicial review under ss. 788.10 and 788.11.

(b) “**Direct negotiation**” means a dispute resolution process that involves an exchange of offers and counteroffers by the parties or a discussion of the strengths and weaknesses or the merits of the parties’ positions, without the use of a 3rd person.

(c) “**Early neutral evaluation**” means a dispute resolution process in which a neutral 3rd person evaluates brief written and oral presentations early in the litigation and provides an initial appraisal of the merits of the case with suggestions for conducting discovery and obtaining legal rulings to resolve the case as efficiently as possible. If all of the parties agree, the neutral 3rd person may assist in settlement negotiations.

(d) “**Focus group**” means a dispute resolution process in which a panel of citizens selected in a manner agreed upon by all parties receives abbreviated presentations from the parties, deliberates, renders an advisory opinion about how the dispute should be

resolved and discusses the opinion with the parties.

(e) “**Mediation**” means a dispute resolution process in which a neutral 3rd person, who has no power to impose a decision if all parties do not agree to settle the case, helps the parties reach an agreement by focusing on the key issues in a case, exchanging information between the parties and exploring options for settlement.

(f) “**Mini-trial**” means a dispute resolution process that consists of presentations by the parties to a panel of persons selected and authorized by all parties to negotiate a settlement of the dispute that, after the presentations, considers the legal and factual issues and attempts to negotiate a settlement. Mini-trials may include a neutral advisor with relevant expertise to facilitate the process, who may express opinions on the issues.

(g) “**Moderated settlement conference**” means a dispute resolution process in which settlement conferences are conducted by one or more neutral 3rd persons who receive brief presentations by the parties to facilitate settlement negotiations and who may render an advisory opinion in aid of negotiation.

(h) “**Nonbinding arbitration**” means a dispute resolution process in which a neutral 3rd person is given the authority to render a nonbinding decision as a basis for subsequent negotiation between the parties after the parties present evidence and examine witnesses under the rules of evidence agreed to by the parties or determined by the neutral 3rd person.

(i) “**Settlement alternative**” means any of the following: binding arbitration, direct negotiation, early neutral evaluation, focus group, mediation, mini-trial, moderated settlement conference, nonbinding arbitration, summary jury trial.

(j) “**Summary jury trial**” means a dispute resolution process that meets all of the following conditions:

1. Attorneys make abbreviated presentations to a small jury selected from the regular jury list.
2. A judge presides over the summary jury trial and determines the applicability of the rules of evidence.
3. The parties may discuss the jury’s advisory verdict with the jury.
4. The jury’s assessment of the case may be used in subsequent negotiations

904.08 Compromise and offers to compromise. Evidence of furnishing or offering or promising to furnish, or accepting or offering or promising to accept, a valuable consideration in compromising or attempting to compromise a claim which was disputed as to either validity or amount, is not admissible to prove liability for or invalidity of the claim or its amount. Evidence

of conduct or statements made in compromise negotiations is likewise not admissible. This section does not require exclusion when the evidence is offered for another purpose, such as proving bias or prejudice of a witness, negating a contention of undue delay, proving accord and satisfaction, novation or release, or proving an effort to compromise or obstruct a criminal investigation or prosecution.

904.085 Communications in mediation.

(1) Purpose. The purpose of this section is to encourage the candor and cooperation of disputing parties, to the end that disputes may be quickly, fairly and voluntarily settled.

(2) Definitions. In this section:

(a) “Mediation” means mediation under s. [93.50 \(3\)](#), (*A farmer or a person having a dispute with a farmer who wishes to resolve a dispute between them*) conciliation under s. [111.54](#), (*labor dispute between a public utility employer and its employees, the collective bargaining process reaches an impasse*) mediation under s. [111.11](#), (*commission may appoint any competent, impartial, disinterested person to act as mediator in any labor dispute*) s. [111.70 \(4\) \(cg\)](#) (*To advise the commission of the commencement of contract negotiations involving a collective bargaining unit containing transit employees*) or [\(cm\) 3.](#) (*labor disputes involving general municipal employees*) or s. [111.87](#), (*commission may appoint any competent, impartial, disinterested person to act as mediator in any labor dispute*) mediation under s. [115.797](#), (*concerning the proposal or refusal to initiate or change the evaluation, individualized education program or educational placement of a child with a disability or the provision of a free appropriate public education to such a child*) negotiation under s. [289.33 \(9\)](#), (*Negotiation between the applicant and the local committee*) mediation under ch. [655](#) (*Health Care Liability And Injured Patients And Families Compensation*) or s. [767.405](#), (*Family Court Services*) or any similar statutory, contractual or court-referred process facilitating the voluntary resolution of disputes. “Mediation” does not include binding arbitration or appraisal.

(b) “Mediator” means the neutral facilitator in mediation, its agents and employees.

(c) “Party” means a participant in mediation, personally or by an attorney, guardian, guardian ad litem or other representative, regardless of whether such person is a party to an action or proceeding whose resolution is attempted through mediation.

Arbitration

A successful arbitration begins with drafting a clear and comprehensive arbitration clause or agreement for inclusion into the parties’ contract in anticipation of potential disputes which might arise. Many disputes arise due to defective arbitration clauses which leads to unnecessary delays and expense for the parties when threshold issues such as jurisdiction or arbitrability of the dispute are challenged by a party.

Generally, it is advisable to include the following elements in the agreement:

- a. The type of arbitration, whether ad-hoc or under institutional rules
- b. If an ad-hoc arbitration the manner in which the Procedural Rules will be created to govern the arbitration
- c. Composition of the arbitral tribunal - the number and expertise of arbitrator(s)
- d. Governing law of the agreement
- e. The scope of the disputes covered under the arbitration agreement
- f. The type of award (This can be decided later when parties confer with the arbitrator at the Pre-hearing conference)
- g. Any other conditions which might limit costs such as the number of depositions, number of expert witnesses. (This can be decided later at the Pre-hearing conference).

The ability to select an arbitrator of choice is often cited as one of the advantages of arbitration. The ADR provider organization (AAA, FMCS, WERC, etc.) will supply a list of names from the roster of neutrals. Since there are few if any published awards, counsel may have to rely primarily on referrals from other lawyers regarding the reputation, expertise and experience of the potential arbitrator.

In non-labor cases, the preliminary conference is an important step whether the arbitration is conducted under institutional rules or under an ad-hoc procedure. The parties meet and confer with the arbitral panel to determine how the arbitration hearing will be conducted, bearing in mind that the arbitrator has a duty to ensure that the hearing process is managed in a cost effective and expeditious manner without compromising the due process rights of the parties. The agreement is memorialized in a Procedural Order by the Arbitrator covering the topics such as witness lists, number of depositions, limits to essential limited discovery, documents and managing exhibits, post-hearing activity, the manner of raising objections, the conduct of the hearing in person or virtual and the type of final award desired by the parties and the form of the award.

In labor cases, there is often no preliminary conference and the parties and arbitrator only agree on the date and place for the hearing to occur. Exchange of exhibits and witness lists are governed by the terms of the collective bargaining agreement, often only provided to the arbitrator and opposing party at the time of the hearing, (If the hearing is virtual, the exhibits are usually provided the day before the hearing.)

The Rules of Evidence do not strictly apply in arbitration. Arbitrators have discretion to admit hearsay evidence based upon certain considerations. Hearsay evidence may play an important role in a hearing and should be allowed since it provides an arbitrator with a complete picture of the case. Hearsay, however, cannot be used to establish the essential facts of a case.

While the final award made by an arbitrator is enforceable in a court of law, there are very narrow grounds under which the decision can be overturned. Wisconsin Statutes § 788 and the Federal Arbitration Act 9 USC § 10 govern the grounds for challenging an award and obtaining a vacatur depending on the nature of the case.

There are four grounds for challenging an award:

- a. where the award was procured by corruption, fraud, or undue means
- b. where there was evident partiality or corruption in the arbitrators, or either of them
- c. where the arbitrators were guilty of misconduct in refusing to postpone the hearing, upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy or any other misbehavior by which the rights of any party have been prejudiced
- d. where the arbitrators exceeded their powers or imperfectly executed them.

Who does it

Family Court Mediation 767.405

Mediation shall be provided in every county in this state by any of the following means. Every mediator assigned under sub. (6) (a) shall have not less than 25 hours of mediation training or not less than 3 years of professional experience in dispute resolution. Every mediator assigned under sub. (6) (a) shall have training on the dynamics of domestic violence and the effects of domestic violence on victims of domestic violence and on children.

Whenever a court refers a party to the director of family court services for possible mediation, the director shall assign a mediator to the case. The mediator shall provide mediation if he or she determines that it is appropriate. If the mediator determines that mediation is not appropriate, he or she shall so notify the court.

Wisconsin Division of Hearings and Appeals - Office of Worker's Compensation Hearings:

Parties with pending worker's compensation applications for hearing may request mediation. Parties may request a specific mediator or assignment to "any" mediator available. This process involves participation by counsel prepared to mediate all aspects of the case. Occasionally, after a prehearing with an Administrative Law Judge to narrow the issues and ensure that all documents needed for mediation have been filed, a pro se applicant will be allowed to mediate. This is generally more difficult, but we do allow this on a case-by-case basis. We have two ALJs who only conduct mediations and several ALJs who hold hearings and conduct mediations as their hearing calendars allow.

All our mediators are certified mediators. When a request for mediation is received, the file is obtained for review for appropriateness of mediation and put into our queue in order of request,

also considering the age of the case. Our mediators have a wealth of knowledge of worker's compensation, having been long-time practitioners and judges. Inquiries about the process are welcome and requests for mediation are made via email to DHAWCMAIL@wisconsin.gov.

WISBAR Fee Arbitration Program

If you and your client disagree about the amount charged for legal representation, including costs or expenses, your dispute may be eligible for the Fee Arbitration Program.

Fee arbitration is a private hearing between a lawyer and the client before a panel of one to three arbitrators in an informal setting. Trained volunteer arbitrators (lawyer and nonlawyer members of the public) hear the arguments on both sides before making a decision. While it is not required, you may choose to be represented by a lawyer for the hearing, making you responsible for their legal fee. The decision made by the arbitration panel is final and binding, subject only to the appeal rights under Chapter 788, Wisconsin Statute
Contact feearb@wisbar.org.

Farm Mediation: Reference Statutes 93.50 (3)

WI Farm Center

The Wisconsin Farm Center provides information and support to farmers and their families in order to help grow Wisconsin's agricultural economy. The Center partners with industry groups, government and educational entities, and other stakeholders in the agriculture sector. Phone: 1-800-942-2474

Agricultural Economic Development: Consultants help Wisconsin farmers deal with the critical economic, business and social needs of farm families. Services include financial and business consultation, farm succession planning, conflict mediation and production challenges.

Whether you are struggling with a disagreement on the farm, faced with having a tough conversation with your lender or just need help resolving a farm-related issue, mediation through the Farm Mediation and Arbitration Program can help resolve those issues in a manner fair to all parties.

- [Chapter 93.50 – Farm Mediation and Arbitration Program](#)
- [Administrative Rules Chapter ATCP 162 – Farm Mediation and Arbitration Program](#)
- [Chapter 904.085 – Communications in Mediations](#)
- [USDA-FSA – Certified Mediation Programs](#)
- [Coalition of Agricultural Mediation Programs](#)

Mediation is: * Provided at no cost to program participants * A way for participants to avoid litigation, saving time and money * Flexible and impartial Mediation is available for issues involving: * Appealable adverse decisions by USDA agencies » FSA loans » FSA farm support programs » NRCS determinations » Rural development business and home loan programs *

Commercial agriculture creditors * Family farm transitions * Land and equipment leases * Farm-neighbor disputes * Organic programs * Other agriculture-related issues.

OSHA Compliance Informal Conference

If your client has been cited by OSHA, you may take either of the following courses of action: If you agree to the Citation and Notification of Penalty, you must correct the condition by the date set in the citation and pay the penalty, if one is proposed. If you do not agree, you have 15 working days from the date you receive the citation to contest in writing any or all of the following: – Citation– Proposed penalty – Abatement date.

Before deciding to contest the citation, you may request an informal conference with the OSHA area director within the 15-working-day period to discuss any issues related to the Citation and Notification of Penalty.

You may use this opportunity to do any of the following:

- Obtain a better explanation of the violations cited.
- Obtain a more complete understanding of the specific standards that apply.
- Negotiate and enter into an informal settlement agreement.
- Discuss ways to correct violations.
- Discuss issues concerning proposed penalties.
- Discuss proposed abatement dates.
- Resolve disputed citations and penalties, (thereby eliminating the need for the more formal procedures associated with litigation before the Occupational Safety and Health Review Commission).
- Obtain answers to any other questions you may have.

OSHA Whistleblower ADR Program

If both parties agree to participate in ADR, an OSHA representative who is not involved in the investigation of the complaint will be assigned to facilitate ADR. The OSHA representative will work with the parties to find a mutually acceptable resolution to the whistleblower complaint and may help the parties to draft a written settlement agreement.

Once a settlement agreement is reached, it must be reviewed and approved by OSHA following the policies and procedures outlined in the [Whistleblower Investigations Manual](#) and other applicable guidance.

While ADR is ongoing, OSHA's investigation of the whistleblower complaint will be put on hold. If the parties fail to reach a settlement during ADR, OSHA will proceed with its investigation. However, parties may reach a settlement at any time during the investigation.

Whistleblower complaints can be resolved through settlement through the assigned Investigator as well. OSHA Administers 25 separate statutes that provide different burdens of proof, different filing deadlines, different potential remedies, different provisions for potentially removing the matter to district court and differing routes of appeal. Some agencies such as the ERA have a separate mediation process that OSHA may coordinate with and defer to their finding.

ADR settlements can involve (and usually contain) a general release of all claims and may contain as a condition precedent that the Complainant achieve an approved withdrawal of any pending claims, either administrative or filed in court.

ADR settlements may creatively address resolutions bounded only by the agreement of the parties and those matters “repugnant to the purposes of the Act”. Areas that draw scrutiny are overly broad releases beyond the Complainant’s employment, shifting fees, overly onerous breach clauses and inclusion of liquidated damages not negotiated by the parties at arm’s length or too significant portion of the award.

[Alternative Dispute Resolution Program | Whistleblower Protection Program \(whistleblowers.gov\)](#)

[CPL 02-03-011](#) OSHA Whistleblower Investigations Manual (published April 29, 2022)
See, Chapter 7 VI. (E) Criteria for Reviewing Employer-Employee Settlement Agreements

National Mediation Board

The National Mediation Board helps to maintain the flow of interstate commerce in the airline and railway industries through representation, mediation and arbitration services. The NMB provides mediators to assist parties in resolving contract disputes and maintains a list of arbitrators to hear grievances between the parties.

Wisconsin Civil Rights Mediation Program

ERD-17095-P (Revised: 08/2024)

The Equal Rights Division offers mediation at all stages of the civil rights complaint process. The Early Referral Mediation program offers the parties the opportunity for earlier, quicker, and less costly resolution of a case.

If your early referral mediation is unsuccessful, your case returns to the Equal Rights Officer (ERO) assigned to you for investigation. You may try mediation again at any point in the process, however you will be assigned a different mediator.

Unlike the OSHA ADR process, this mediation process is limited to matters before it.

How do I get involved as a Mediator

Eau Claire County: TRY Mediation Inc.

Established in 1985, TRY Mediation is the designated provider of all court ordered mediation and child custody/placement evaluations in Eau Claire County. TRY's relationship to Eau Claire County is that of independent contractor.

TRY Mediation, Inc. provides cost effective dispute resolution (mediation) services for: 1) family matters - cases involving disputed child custody or physical placement issues and 2) community matters - cases involving disputes that would otherwise be heard in small claims court. TRY Mediation is also responsible for all court ordered child custody/placement evaluations.

TRY also serves Buffalo, Chippewa, Dunn, Pepin, and Rusk Counties.

Judicare:

The State Bar of Wisconsin organized Wisconsin Judicare in 1966 as a program funded by the Office of Economic Opportunity to provide legal services to low-income persons. In 1972, the program moved its central office to Wausau where it remains today. From its inception, Wisconsin Judicare emphasized utilization of the private bar to represent low-income persons and provide eligible clients the freedom to choose their attorneys.

The area served by the program has expanded so that Wisconsin Judicare now serves 33 northern counties and Wisconsin's 11 federally recognized Indian tribes.

You can join Judicare's efforts to ensure fairness in the court system for those in need in Wisconsin's Northern 33 counties and to Native Americans statewide. Judicare Legal Aid has many low-bono and pro-bono opportunities tailored to fit you and the needs of our clients.

Private Attorney Partnership

Judicare Legal Aid invites attorneys, and tribal court lay advocates to join us in our efforts to ensure fairness in the justice system for all Northern Wisconsin residents and Native Americans statewide, regardless of how much money they have. Judicare Legal Aid has many "low-bono" and pro bono opportunities for lawyers and advocates.

Get Involved

- [Private Attorney Involvement Program](#)
- [Other Opportunities](#)
- [Involvement Forms](#)

Private Attorney Partnership

Our "low-bono" participating attorneys are paid \$75.00 per hour, lay advocates are paid \$40.00 per hour, and paralegals are paid \$25.00 per hour, for cases approved by our program. Of course, if you prefer, these opportunities are also available to do pro bono!

Judicare covers a wide variety of civil cases, including but not limited to consumer, education, family, health, housing, income maintenance, and individual rights.

Ho-Chunk has a relationship with Judicare as does Great Lakes Inter-Tribal Council, Inc. and Menominee Tribal Family Services

[Mediation Center of Greater Green Bay – Better Solutions Happen Here](#) (mediation-center-gb.com)

The Mediation Center of Greater Green Bay is a non-profit organization that provides dispute resolution services with professionally trained volunteer mediators. They mediate a variety of

issues such as small claims, evictions, and family issues involving minor children. The Center was established in 1998 as a community initiative of the League of Women Voters.

Mediation Success Rates: Among the Best in the U.S.

More than 14,000 mediations have been conducted since 1998. 86% of property owner/tenant disputes have resulted in legally binding agreements that have avoided tenants having an eviction on their records.

Family mediations have an 88% success rate in establishing positive placement arrangements for minor children while also ensuring that both parents have an ongoing role and relationship in the lives of their minor children.

(920) 438-7067

Oneida Nation: Peacemaking

[Oneida Nation | Peacemaking and Mediation \(oneida-nsn.gov\)](http://oneida-nsn.gov)

Peacemaking

This form of conflict resolution is a process whereby a trained facilitator or co-facilitators assist parties in reaching a mutually agreeable resolution through respectful dialogue. Native American customs and traditions may be integrated into the process. The peacemaking process consists of defining the problem, discussing potential solutions, and agreeing to a solution. An agreement is not announced to the community. The peacemaking process is voluntary and is available at all stages of litigation, including appeals. The court may offer the service, or either party can request it.

How do I learn Mediation

Training –

Wisconsin based – plenty of virtual resources out there.

Association for Conflict Resolution – Wisconsin Chapter [Basic Mediator Training | ACR Wisconsin](#)

The Task Force approached training with three major assumptions:

- 1) That emphasis is on fundamentals and attainment of skills so that trainees can acquire sufficient familiarity with the process and substance of mediation;
- 2) That this core model is compatible with skill enhancement and specialty training programs which require more substantive subject matter; and
- 3) That continuing education is an expected extension of training and not a substitute for training.

The minimum training should be not less than 40 hours composed of the following 10 Components with emphasis on Component 3: Ethics and Standards of Practice, Component 4:

Mediation Process and Techniques, and Component 5: Coached Role Play. And it is strongly recommended that there be an additional 15 hours of practicum.

[Wisconsin Academy of Mediators & Arbitrators](#)

[A Chapter of the National Academy of Distinguished Neutrals](#)

Held every 2 years, the NADN Advanced Training Retreat has become the most anticipated professional and social event on the calendar for experienced mediators across America. Over 3 days, the Retreat brings together renowned thought-leaders and some of the finest ADR trainers in the world to share their knowledge and experience with Academy Members. Spouses & family guests are very welcome to attend social events.

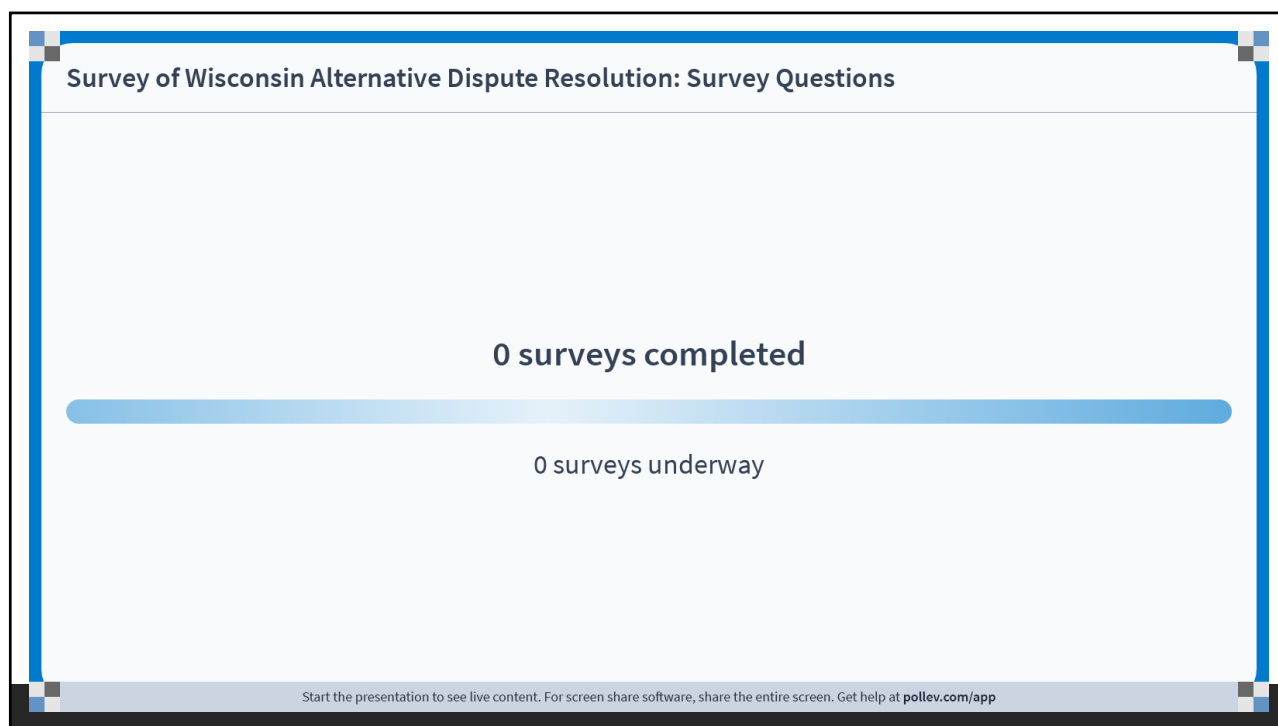
Organizations:

[Mediate.com](#)

Offers articles, newsletters, certification, training and job postings.

How do I get involved as an Arbitrator

The Federal Mediation and Conciliation Service (FMCS) used to provide training for new arbitrators. Recent staffing cuts have ended that program. The American Arbitration Association (AAA) has indicated that it will be stepping up to provide training to people who want to become arbitrators. One of the best ways to learn about arbitration is to shadow an arbitrator. Names of Wisconsin arbitrators are available on the Wisconsin Employment Relations Commission (WERC) website as well as the FMCS and AAA websites. Many nearby states also have governmental agencies that maintain lists of arbitrators who may be willing to provide mentorships to people interested in getting into the field.



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Agenda

- Introductions
- What is it
- Who Does it
- How Do I Get Involved
- How Do I Get Trained
- Questions throughout

3



4

802.12 Alternative dispute resolution: Opportunities to resolve complaints within Wisconsin Court System 1 (a) – (j)

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(e) Mediation	Neutral 3 rd helps parties reach an agreement, exchanging information and exploring options for settlement.
(f) Mini-trial	Presentations to a selected authorized panel to negotiate a settlement – may include a neutral advisor with relevant expertise who may express opinions on the issues.
(g) Moderated settlement conference	One or more neutral 3 rd receive presentations – to facilitate negotiations - may render advisory opinion.
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5

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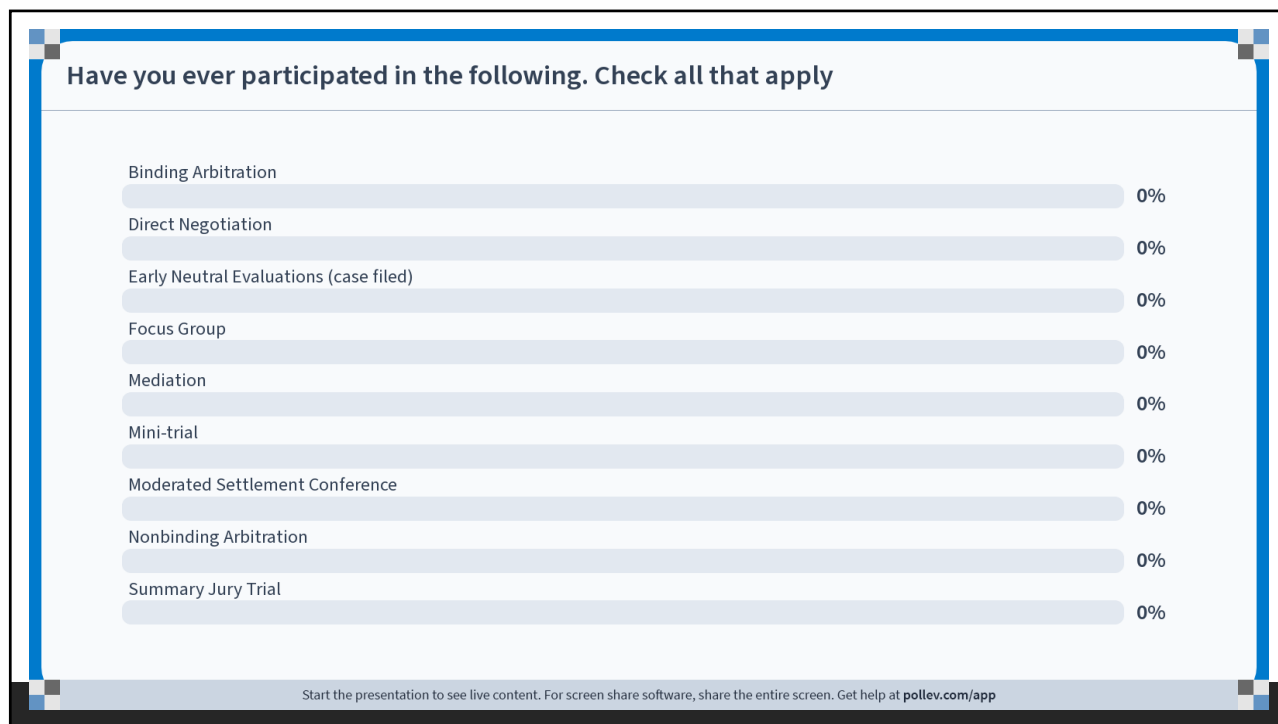
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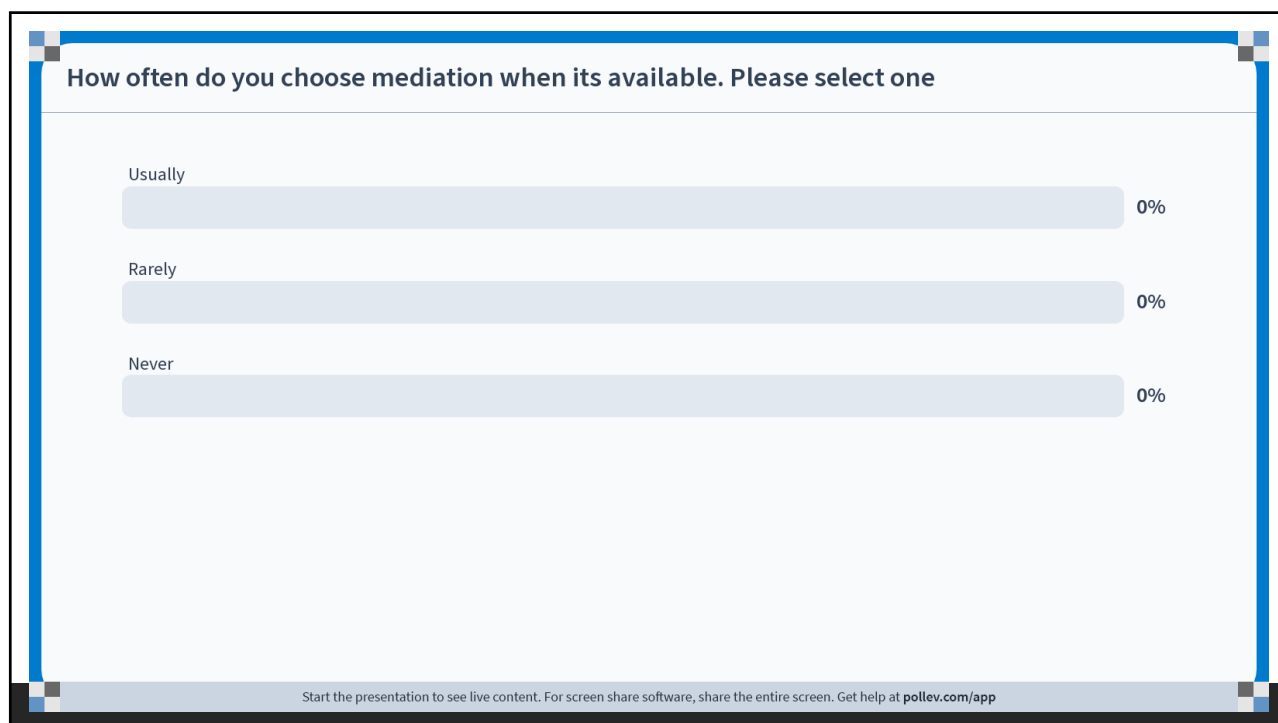
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Survey of You

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10

What quality do you think is most important for a mediator/arbitrator? What stance do think is most important for a successful mediation? What approach do you think is most important for a successful arbitration?

Nobody has responded yet.
Hang tight! Responses are coming in.

Start the presentation to see live content. For screen share software, share the entire screen. Get help at pollev.com/app

11

What do you consider to be the most important benefits of ADR

Time savings

Money savings

Partities having equal input

Avoiding uncertainty of litigation

Clients are more engaged in the process

Opportunity for creative solutions

Start the presentation to see live content. For screen share software, share the entire screen. Get help at pollev.com/app

12

What are obstacles to participating in ADR?

Clients being unfamiliar with the process

Uncertainty about mediator

No chance to win/vindication

Attorney being unfamiliar with the process

Matter doesn't seem suitable

Less likely to sway mediator versus jury

Start the presentation to see live content. For screen share software, share the entire screen. Get help at pollev.com/app

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Mediation and Arbitration

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Worker's Compensation Mediation

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Who Does It

Family Court Mediation 767.405 Assigned Mediators require 25 hours training - 3 years experience in dispute resolution, dynamics and effects of domestic violence

Wisconsin Workman's Compensation Mediation

WISBAR Fee Arbitration Program If you and your client disagree about the amount charged for legal representation, including costs or expenses, your dispute may be eligible for the Fee Arbitration Program.

Farm Mediation: Reference Statutes 93.50 (3) Handles disagreement on the farm, tough conversation with lenders or need help resolving a farm-related issue, mediation through the Farm Mediation and Arbitration Program.

OSHA Compliance Informal Conference Before deciding to contest the citation, you may request an informal conference with the OSHA area director within the 15-working-day period to discuss any issues related to the Citation and Notification of Penalty.

National Mediation Board Airline and railway industries through representation, mediation and arbitration services

Wisconsin Civil Rights Mediation Program The Equal Rights Division offers mediation at all stages of the civil rights complaint process. The Early Referral Mediation program offers the parties the opportunity for earlier, quicker, and less costly resolution of a case.

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Getting Involved

Eau Claire County: TRY Mediation Inc.

Designated provider of all court ordered mediation and child custody/placement evaluations in Eau Claire County.

Dispute resolution for:

- 1) family matters (custody and placement)
- 2) community matters (small claims court)

Volunteer Mediators receive a minimum of 20 hours of training in interest-based negotiation skills and strategies.

TRY also serves Buffalo, Chippewa, Dunn, Pepin, and Rusk Counties.

Trymediation@eauclairecounty.gov

Judicare Legal Aid: judicare.org

Organized by State Bar in 1966 to provide legal service for low-income.

Private Attorneys: "low bono" pay of \$75.00/hr. pro bono too

Free access to biannual CLE events

Judicare Legal Aid legal research support

Secondary malpractice insurance provided

Gain experience and develop clientele

Consumer, education, family, health, housing, income maintenance, and individual rights

Judicare now serves 33 northern counties and Wisconsin's 11 federally recognized Indian tribes.

probono@judicare.org

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Getting Involved

Mediation Center of Greater Green Bay

Est, 1998 Non-profit organization that provides dispute resolution services with professionally trained volunteer mediators.

Dispute resolution for:

Small claims, evictions, and family issues involving minor children, property owner/tenant.

95% of mediations ordered by the Brown and Manitowoc County Court Systems.

40-hr training (24 hours classroom) meets/exceeds national mediator training standard and 25 hr. Ch 767 WI Stat requirement

mediation@mediation.org

Oneida Nation: Peacemaking

A trained facilitator or co-facilitators assist parties in reaching a mutually agreeable resolution through respectful dialogue. Native American customs and traditions may be integrated into the process.

Peacemaking process - defining the problem, discussing potential solutions, and agreeing to a solution.

Peacemaking process is voluntary and available at all stages of litigation, including appeals. The court may offer the service, or either party can request it.

oneida-nsn.gov

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Getting Trained

Association for Conflict Resolution – Wisconsin Chapter [Basic Mediator Training](#) | [ACR Wisconsin](#)

Certificate in Family Mediation - University of Wisconsin–Whitewater

Family Mediation Certificate: University of Wisconsin Milwaukee

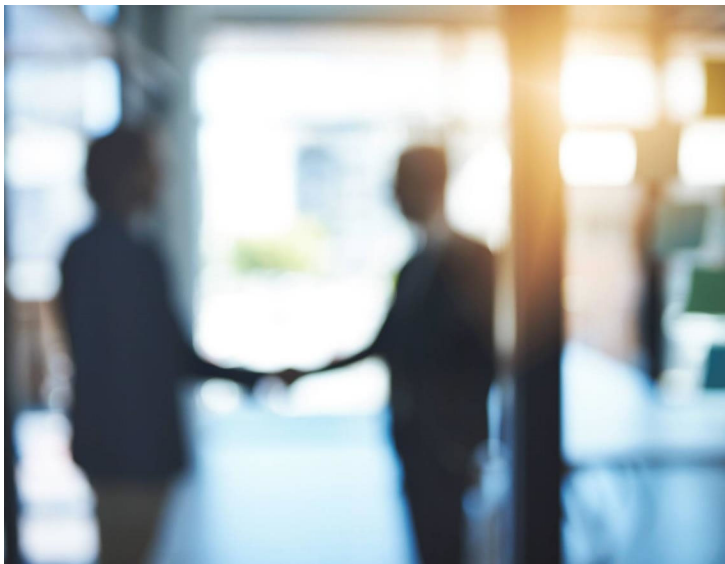
Mediation and Conflict Resolution through coursera.org

Wisconsin Academy of Mediators & Arbitrators

A Chapter of the National Academy of Distinguished Neutrals

Mediate.com

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Discussion

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