Name of Student

Name of Professor

Name of Class

Day Month Year

Assignment 1

**Q1**

**Types of ADR**

ADR is a method of resolution of conflicts of legal nature. There are several different types of Alternative Dispute Resolution. These are as follows

**Negotiation**

This type of ADR involves informal meeting between two parties either with or without their legal representations, with the inclusion of a judge as a neutral third party. In this autonomy is maintained at the highest level (Kubasek, et al, 75-93). Even in some courts negotiation is requirement before the case is liable to go to trial. Before negotiations start each party decide their goals and the level of information they are ready to give out to the other party.

**Mediation**

The extension of a negotiation is considered to be mediation. Under this method, parties choose the third neutral party which provides a solution to the conflict between two parties (Kubasek, et al, 75-93). The major difference between negotiations and mediation is that the parties by their own consent choose the third neutral party. The third party mostly chosen has wide experience of the field in which the dispute lies in.

**Arbitration**

Arbitration is one of the most useful type of ADR and involves the resolution of a conflict through the help of a third party. This type of ADR is outside the judicial setting (Kubasek, et al, 75-93). Out of all the above types, arbitration is the one which is voluntary but most importantly there is a contractual agreement between the two parties that they need to arbitrate the dispute. This contract further dictates who is going to be the arbitrator and when the hearing can be conducted.

**Alternatives to ADR**

There are several different alternatives to Alternative Dispute Resolution. These are as follows

**Mediation-Arbitration (med-arb)**

In this dispute resolution technique the parties are in agreement to initiate the process of mediation. If under any circumstance the mediation is unsuccessful in resolving the conflict the parties move onto arbitration (Kubasek, et al, 75-93). It is rare that the same neutral third party would be the mediator in mediation as well as in arbitration. There are conflicting statements on the use of the same neutral third party as a mediator.

**Summary jury trial**

This process started in 1983 and was due to the actions of the Cleveland court. The summary jury trial can be defined as a trial that is abbreviated and whose decision is not binding on both parties (Kubasek, et al, 75-93). This is advantageous because it consumes less time (usually around a day) and also because a decision given in this can help both parties reflect on their situation before the case goes in front of a jury

**Mini trial**

The mini trial is similar in process to arbitration and mediation. This is because it involves the use of a neutral third party. This is mostly used by businesses that are in some sort of dispute. Representatives of both businesses appear in this and have the authority to settle (Kubasek, et al, 75-93). It is more preferable to arbitration because it is less costly, the representatives have a better understanding of the situation than an outside neutral third party and its procedure is prone to modification in response to what the parties need.

**Early neutral evaluation**

This alternative is also known as the early neutral case evaluation. This is used by parties to present their positions to a neutral third party (Kubasek, et al, 75-93). The strengths and weaknesses of the arguments are measured and the evaluation received is used to come to a settlement.

**Private trials**

In ADR alternative method, parties select a referee to listen and evaluate the arguments regarding their dispute and give a judgment that is legally binding in nature (Kubasek, et al, 75-93). The referees do not usually have to be qualified individuals but in most of the cases judges who are retired become referees in this type or arbitration.

**Q2**

**Mediation vs. Arbitration**

The main difference between arbitration method and mediation method is that in one the decision is made by an arbitrator after reviewing the evidence. It is more like a court proceeding. This is because both parties do still provide evidence but there is less formality in this situation. Whereas, negotiation is more dominant in mediation, which is further assisted by a neutral third party. This process only finishes when there is an agreement between all the parties. Furthermore, the job of a mediator is not to look for faults but rather more focus is put on assisting the negotiation process through communication. Whereas, there is more formality on an arbitration as the arbitrator can also be retired judge.

Work Cited

Kubasek, Nancy K et al. *Dynamic Business Law*. 5th ed. New York: McGrawhill Education. Print.