

Rule 16(f)

warrant otherwise. Compare, *Golleher v. Horton*, 119 Ariz. 604, 583 P.2d 260 (App. 1978) and *Zakroff v. May*, 8 Ariz.App. 101, 443 P.2d 916 (1968). These sanctions are reviewable under the abuse-of-discretion standard. See, *Sears Roebuck and Co. v. Walker*, 127 Ariz. 432, 621 P.2d 938 (App. 1980).

Rule 16(g). Alternative Dispute Resolution

(1) Upon motion of any party, or upon its own initiative after consultation with the parties, the court may direct the parties in any action to submit the dispute which is the subject matter of the action to an alternative dispute resolution program created or authorized by appropriate local court rules.

(2) The Parties' Duty to Consider ADR, and to Confer and Report.

(A) No later than 90 days following the first appearance of a defendant, the parties shall confer, either in person or by telephone, about:

(1) the possibilities for a prompt settlement or resolution of the case; and

(2) whether they might benefit from participating in some alternative dispute resolution ("ADR") process, the type of process that would be most appropriate in their case, the selection of an ADR service provider and the scheduling of the proceedings.

(B) The attorneys of record and all unrepresented parties who have appeared in the case are jointly responsible for attempting in good faith to settle the case or agree on an ADR process and for reporting the outcome of their conference to the court. Within 30 days after their conference, the parties shall inform the court by means of a text prescribed in an official form promulgated pursuant to Rule 84 of the following:

(1) if the parties have agreed to use a specific ADR process, the type of ADR process to be used, the name and address of the ADR service provider they will use and the date by which the ADR proceedings will be completed;

(2) if the parties have not agreed to use a specific ADR process the position of each party as to the type of ADR process that is appropriate for their circumstances or, in the alternative, why ADR is not appropriate; and

(3) whether any party requests that the court conduct a conference to consider ADR.

(C) Unless the parties have agreed to use a specific ADR process, the court may direct the parties, the attorneys for the parties and, if appropriate,

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representatives of the parties having authority to settle, to discuss with a court-appointed ADR specialist, either in person or by telephone, whether ADR is appropriate and the types of ADR processes that might benefit their case.

Added July 16, 1991, effective Oct. 1, 1991. Amended Oct. 6, 1994, effective Dec. 1, 1994; Oct. 22, 2001, effective Dec. 1, 2001.

Comment [effective December 1, 1993]

Prior to any comprehensive pre-trial conference under this rule, counsel for each of the parties should confer regarding the feasibility of resolving the parties' dispute through alternative dispute resolution methods.

Comment to 2001 Amendment to Rule 16(g)

Parties are cautioned that the 2001 amendment to Rule 16(g) must be read in light of *Martinez v. Binsfield*, 196 Ariz. 466 (2000), which held that Uniform Rule V(e) [now Rule 38.1(d)] applies to cases assigned to mandatory arbitration, and repeated continuances granted by the arbitrator in connection with mandatory arbitration did not provide good cause for continuing the case on the Inactive Calendar.

Rule 16(h). Time Limitations

The court may impose reasonable time limits on the trial proceedings or portions thereof.

Added Oct. 24, 1995, effective Dec. 1, 1995. Amended Oct. 10, 2000, effective Dec. 1, 2000.

Rule 16.1. Settlement Conferences: Objectives

(a) **Mandatory Settlement Conferences.** Except as to lower court appeals, medical malpractice cases, and cases subject to compulsory arbitration under A.R.S. § 12-133, in any action in which a motion to set and certificate of readiness is filed, the court, at the request of any party, shall, except for good cause shown, direct the parties, the attorneys for the parties and, if appropriate, representatives of the parties having authority to settle, to participate either in person or, with leave of court, by telephone, in a conference or conferences before trial for the purpose of facilitating settlement. Unless otherwise ordered by the court, all requests for settlement conferences shall be made not later than 60 days prior to trial. The court may also schedule a settlement conference upon its own motion.

In medical malpractice cases, the court shall conduct a mandatory settlement conference no earlier than four (4) months after the conduct of the