

CADRe Shows Measurable Results!

by Lee Jay Berman

The early returns are in, and they are looking great! Judges, attorneys and neutrals are all raving at the statistics achieved by the CADRe program within the first nine months.

The early reception of the CADRe program by all of the stakeholders has been incredible. The Judges have been sending increasingly more cases into the program, attorneys have been opting in at a higher rate than ever, and mediators are more satisfied with how smoothly the process is working. This is evident in two aspects of the statistics: satisfaction rates and resolution rates. It is widely held that in measuring the statistical success of an ADR program, one index should not be considered without the other.

CADRe officially launched on Monday, July 12, 1999. These statistics track all of the cases referred to the CADRe program from that day through April 14, 2000. Here is the breakdown of the feedback on CADRe's first nine months:

- 339 cases were referred to the CADRe Program
- 319 cases appeared for a CADRe Informational Conference
- 182 cases stipulated to a CADRe Process (172 of these to mediation)
- 126 cases completed their CADRe Process (123 of them mediations)
- 82 cases have been resolved through CADRe (65% resolution rate)

To better interpret these numbers, it is important to understand that many cases come for a CADRe Informational Conference, but aren't ready to stipulate to an ADR process until more discovery has been completed. It has been our experience that somewhere around 67% of the cases that appear for a conference eventually stipulate into a CADRe process.

Additionally, our experience shows that even though 82 of the 126 cases resolved, as many as 10 more will probably resolve within 60 days following a mediation. Since the Judicial Council counts those to be included in resolution rates, their policy being that the mediation likely was a cause of this early settlement, our true resolution rate will end up near 73%. This is what it has been on cases actually cycling through the entire 60 day period. The problem is that this program is so new that we haven't had a large enough number of cases complete this cycle to reflect in our statistics.

By way of comparison, the mediation programs in Los Angeles and Ventura Counties, while designed somewhat differently, and involving more mandatory participation, have reported overall resolution rates of 36% and 28% respectively. By comparison, the Santa Barbara CADRe program is showing itself to be a huge success.

Most of you know by now that CADRe offers two different mediation programs - Limited Mediation and CADRe Mediation. The Limited program is for cases where the amount

in controversy is \$50,000 and under. The court offers it free of charge to litigants, and the CADRe office assigns the mediator to each case. The CADRe Mediation program is for cases over \$50,000, and the attorneys have the opportunity to investigate and select their mediator from our market rate CADRe Mediation Panel. The breakdown between these programs is very interesting.

The Limited Mediation program looks like this:

- 77 cases have opted in (or were judicially ordered in rare cases)
- 62 cases have been mediated (to date)
- 37 cases resolved (yielding a 60% resolution rate)

The CADRe Mediation program looks like this:

- 81 cases have opted in by stipulation of the parties
- 56 cases have been mediated (to date)
- 39 cases resolved (yielding a 70% resolution rate)

One strong hypothesis for the higher resolution rate among the larger cases is that when the parties agree to pay for a mediator's time, those parties tend to take the process more seriously and prepare better. Some say that when a process costs them nothing, some participants won't feel as invested in it and may not make preparing for it a priority. Other variables between the programs include the ability to choose a familiar and trusted mediator in the CADRe program, and the fact that while many of the CADRe mediators make themselves available for Limited Mediations, the fact is that the qualifications to become a CADRe mediator are higher than those for the Limited Mediation panel. In several cases that were under \$50,000, the parties still opted to move up into the CADRe program and select their own mediator and agreed to pay that mediator's fees, in order to have more control over the process.

While these statistics tell us much about one measurable index of the CADRe program, there is much more to the success of such a program than simply asking, "Did it resolve the case". The Court believes, as do many mediators, that the satisfaction level of those who participate in the process is as important as the end result. For example, one can participate in a mediation and reach agreement, but if that agreement was made reluctantly because that participant felt there was no other way out or was pressured or coerced into agreeing to it, that mediation may have done more harm than good. On the other hand, there have been many cases where the mediator has done such a great job that the attorneys for both sides have called the CADRe office to report on what a fantastic mediator they had, even though the case did not resolve.

It is for this reason that the CADRe program asks all participants at the table to fill out an evaluation at the conclusion of their process. These are critical to determining the success of the CADRe program. In tabulating these evaluations, here are the early returns on CADRe's satisfaction rates in both mediation panels:

- On a scale of 1-10, 10 being best, 80% of those responding rated their overall satisfaction with the mediation process an 8 or higher ("Very

Good or Excellent")

- 98% of all responding would recommend the mediation process to a friend or colleague.
- On a scale of 1-10, 83% of those responding rated their overall satisfaction with their mediator a 9 or 10 ("Excellent" on the scale)
- 95% of all responding would use their mediator again.

Finally, many of you already know that my last day with the Superior Court and as Director of the CADRe Program was April 14. In fact, it's now 8:30 Friday night on the 14th of April and writing this article is my last task before turning my keys over to CADRe's Interim Director, Chris Profio (and yes, he's in the next room at this hour, with my fiancée, tabulating the final evaluations). She is, after all, the reason for my leaving Santa Barbara and returning to Los Angeles.

I just want to take a moment to say, "Thank You" to each of you. These numbers we are reporting are incredible numbers, but they are really a reflection on our neutrals and on you, the litigating attorneys. We have been fortunate in attracting the finest neutrals from both our local talent pool and from outside of the county. The CADRe program has attracted excellent neutrals from as far as the San Francisco Bay area and Orange County. And you all, our practicing attorneys, are the ones who are actually reaching these agreements and should be commended. You are preparing your clients and your cases for these processes, and for that, you deserve the credit.

With my reluctant departure, I want to take this moment to say that working with the Santa Barbara Superior Court and the CADRe Program has been the greatest experience of my life. Since my arrival here I have enjoyed the tremendous guidance and support of Judge Frank Ochoa and the ADR Programs Committee. The rest of the judges and the attorneys with whom I've had the opportunity to work have also been very supportive. You have all made this a wonderful environment in which to work, allowing me to do what I do best in helping to build this program. I'm gong to miss living in Santa Barbara, but I hope that I'll have the opportunity to come back up and mediate for some of you in the future. For this opportunity and for your support, I thank you.