



DELIVERING STRATEGIC SOLUTIONS ACCA'S 2000 ANNUAL MEETING

STRADLEY RONON STEVENS & YOUNG, LLP

ADR SUITABILITY SCREEN

This ADR Suitability Screen is designed for use by firm lawyers in advising clients as to whether a business dispute is suitable for resolution through ADR. While a "yes" answer tends to support an ADR alternative and a "no" answer suggests the opposite, the Suitability Screen is intended to be predictive, not determinative. In addition, answers to some questions may carry more weight than others, in a particular case. Further, a "no" answer to certain questions, marked with an asterisk, may not necessarily argue against ADR. Finally, consideration should also be given to how the views of opposing counsel (and not just the opposing party) will affect suitability for resolution by ADR.

The ADR Practice Group stands ready to assist firm lawyers in any evaluation.

	Yes	No
I. The Parties and Their Relationships		
1. The parties involved are signatories to the CPR pledge or an industry-based ADR pact, or are otherwise committed to exploring ADR alternatives.		
2. Apart from the dispute, the actual or potential business relationships among the parties are significant, and are likely to stay that way.		*
3. The people with authority to resolve the dispute on both sides either are or can be involved in its resolution.		

<p>4. The other side's view of its case has been colored by an unrealistic appraisal by its counsel; a direct approach to the other side will be helpful.</p>		
<p>5. A presentation by counsel might promote a better understanding of the issues or a more realistic case assessment.</p>		
<p>6. The parties' decision-makers lack familiarity with the facts or merits of the dispute.</p>		
<p>7. At least one side is genuinely interested in compromise.</p>		
<p>8. At this point, the general attitude of each side toward the other is relatively objective.</p>		
<p>9. A non-binding evaluation from a skilled neutral would help produce a more realistic assessment from either side.</p>		*
<p>10. A mediator or neutral facilitator would help diffuse hostility between lawyers or parties.</p>		
<p>11. There are multiple parties involved, escalating the time and costs of litigation.</p>		*
<p>12. In terms of financial resources, business sophistication and</p>		

litigation experience, the sides are substantially comparable.		
II. Interests That the Parties Are Advancing		
13. The jurisdiction in which the dispute is pending requires some form of non-binding ADR in this type of case.		
14. A speedy and inexpensive resolution of the dispute is important to both parties.		
15. The parties want to avoid publicity.		
16. The transaction costs of pursuing litigation, compared to what either side can realistically expect to recover or save, are disproportionately large.		*
17. Confidentiality is an important concern for at least one party.		
18. The dispute presents risks for either side of damage to reputation, public rejection of a product, potentially greater governmental regulation or some comparable risk.		*
19. The parties want to reach a business solution rather than an outcome resulting in money damages only.		

20. Both sides wish to avoid burdensome or intrusive full-blown discovery.		
III. Issues Involved and Outcomes Sought		
21. The issues involved in the dispute are sensitive, involving senior management, disclosure of trade secrets or production of sensitive documents.		*
22. The issues involved in the dispute are highly technical or complex.		*
23. The central issues in this dispute are factual, but do not turn on the credibility of key witnesses.		*
24. One or more sides seeks a resolution that a court could not grant, such as a modification of the relationship between or among the parties.		
25. Either side has something significant left to put on the table to induce settlement.		
26. The parties wish to control the outcome of the dispute by avoiding binding adjudication and the attendant risk of loss.		
27. Inflicting significant damage on the other side or securing public		

vindication is of no interest to either side.		
28. The parties need a speedy resolution.		*
29. The dispute is ripe for resolution.		
30. There are business issues collateral to the dispute that may also be resolved.		*
31. There is at least some merit to both sides; the claim is not frivolous.		
32. A public victory will not deter future claims.		
33. The dispute is one of a substantial number of pending or potential claims stemming from the same fact pattern or event, and a lower profile, confidential ADR process will reduce the incidence of claims.		
34. There is no need for a decisive legal precedent.		
35. There is no need for injunctive relief.		
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36. The likelihood that this case can be disposed of by a prompt dispositive motion is speculative.		