

Alternative Dispute Resolution (ADR)

For as long as people will be people, and our differences of character and opinion remain, we can and always will be assured of the certainty of conflict or dispute that will arise between two parties. Throughout history, mankind has dealt with conflict in various ways - ranging from the extreme and barbaric medieval slaughter of innocent by-standers caught in the conflict, to modern day warfare controlled by computers and sophisticated artillery. Whilst the image of warfare conjures thoughts of immense grief, in more modern-day times, businesses and their leaders *need not be sparked to extreme measures* when faced with conflict or a dispute.

A more sedate, and less painful route can be adopted between two parties where a dispute has arisen and such which can be resolved through open dialogue, where the parties genuinely want to resolve their differences. This form of dialogue and approach is known as 'Alternative Dispute Resolution' or ADR, and is far less invasive to resolving conflicts or disputes, than the typical civil litigation which is often the first form of action taken between warring parties. As an alternative to the time consuming and expensive civil litigation, ADR provides a good form of relief when the processes attached to ADR are correctly applied and followed by the aggrieved parties. If managed correctly, ADR can go a long way to save relationships, rather than to destroy them. ADR can be molded to suit almost any circumstance - its flexibility can provide better solutions for the aggrieved parties and such which the courts are most often not able to provide.

Business leaders and their legal aides are encouraged to investigate this relatively new field of study and practice - it's implementation within contracts is simple and will go a long way to assist (particularly in South Africa) de-congest our back-logged courts. By more companies adopting the practices of ADR, the courts will be able to concentrate on more serious crime issues, rather than 'business squabbles' that can be resolved outside the court system. Whilst the parties may agree to deploy the practice of ADR which includes mediation and arbitration, they may still however not reach a compromise which could then result in litigation as the final method to seek relief.