

1 **Rule 103. Confidentiality in nonbinding ADR proceedings.**

2 ADR proceedings shall be conducted in a manner that encourages an informal and
3 confidential exchange among counsel, the parties, and the ADR provider to facilitate
4 resolution of disputes. Unless otherwise directed by the court or by stipulation of all
5 parties, ADR proceedings shall be conducted in private.

6 (a) Confidentiality in ADR communications. ~~Motions, memoranda, exhibits, affidavits,~~
7 ~~and other written, oral or other communication submitted by counsel or the parties to the~~
8 ~~ADR provider pursuant to the requirements of these rules or at the direction, if any, of~~
9 ~~the ADR provider.~~ADR communications under this rule include conduct or a statement,
10 whether oral, in a record, verbal, or nonverbal, that occurs during a mediation and is
11 made for purposes of considering, conducting, participating in, initiating, continuing, or
12 reconvening a mediation, or retaining a mediator. All ADR communications shall be
13 confidential and shall not be made a part of the record or filed with the clerk of the court.
14 Neither shall any such communication be transmitted to the judge to whom the case is
15 assigned, except as required elsewhere in these rules.

16 (b) ADR provider confidentiality. All ADR providers shall preserve and maintain the
17 confidentiality of all ADR proceedings in which they officiate. They shall not disclose to
18 or discuss with anyone, including the assigned judge, any information about or related
19 to the proceedings, unless specifically required elsewhere in these rules. ADR providers
20 shall secure and ensure the confidentiality of ADR proceeding records and shall return
21 them to the submitting parties at the conclusion of the proceeding.

22 (c) A mediator may not make a report, assessment, evaluation, recommendation,
23 finding, or other communication regarding a mediation to a court, administrative agency,
24 or other authority that may make a ruling on the dispute that is the subject of the
25 mediation, other than to inform the authority whether the mediation occurred or has
26 terminated, whether a settlement was reached, and attendance.

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