

12/3

Reread Galanter for final

understand adversarial system and players in it- abstract and realistic

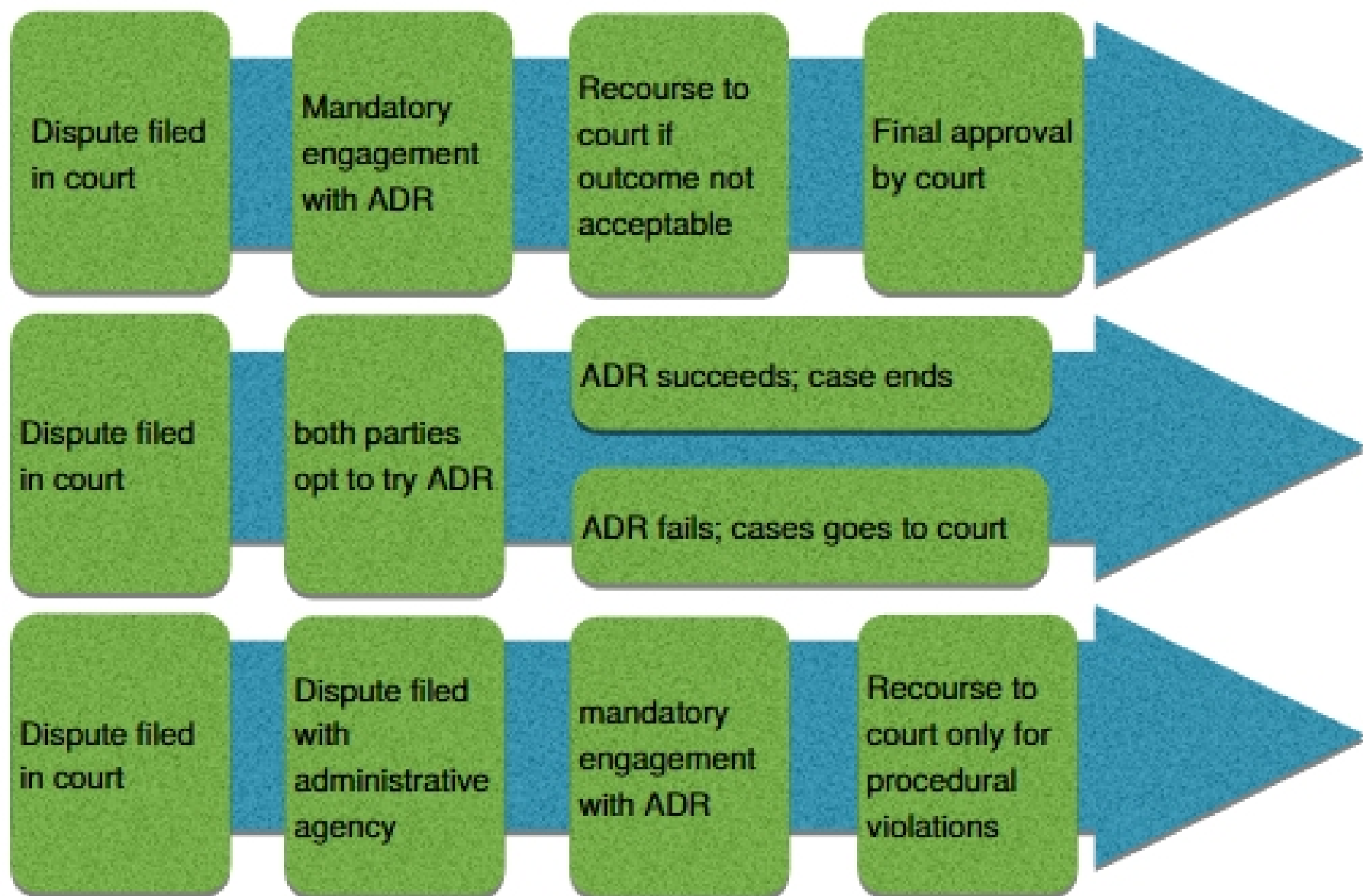
Reading:

Merry; informal Community Justice

- courts cannot resolve minor issues and certainly don't make disputing parties satisfied
- maybe the reason is formality
- in small-scale societies
 - mediation is prompt
 - negotiations are in a public forum
 - mediators are of higher social standing than the parties involved and that is why his 'ruling' stands
- in America
 - more delayed (less likely to be resolved as a result since parties are usually more head strong then)
 - less concrete
 - private, community members cannot participate
 - not many are interested in mediation in urban society because they don't care about the relationship with the other party
 - mediator is a stranger
 - value systems differ
 - court is enforcer

Alternative Dispute Resolution

- means of resolving disputes outside of or alongside traditional legal system
- what kinds of cases are appropriate?
- when does/doesn't it work?
- example: National Labor Relations Board; Court Appointed Special Advocates for children; peer mediation



3 Paths into and

out of ADR :

Types of ADR

- Arbitration (usually mandatory)
 - usually binding, unless procedural violation
- Formal Mediation
 - mediator has a lot of power and authority- can impose solutions
 - custody disputes
 - often overseen by a court
- Community Mediation
 - members of the community

Ackerman; Public disputes

- many disputes have public implications so it makes sense to think of the community as a whole when resolving them
- Victim-Offender Mediation

- controversial
- new
- sometimes more community-based
- sometimes come out of probation agreements
- 'restorative justice'

Umbreit; Victim-offender mediation

- retributive justice- victims have little participation if any; state is violated
- restorative justice- focus is placed on problem solving for the future rather than establishing blame for the past; person rather than state is violated by another person
- 4 models:
 - church related programs
 - community-based criminal justice private agencies
 - probation-based agencies
 - dispute settlement centers
- truth and reconciliation
 - when there are a lot of people accused of wrong doing
 - example: South Africa
 - tried to find out everything that happened during the apartheid

Justice in Transition Booklet

- about the South African Apartheid and the Truth and Reconciliation Council
- search for truth so that the victims could receive closure

Kolbert; Kenneth Feinberg/Calculator

- Feinberg- deals with disasters and funds- determines how much an injury is worth
- settled the Agent Orange case
- from that point on he was settling cases for the wrong side
- in charge of the 9/11 victims fund- the more economic damage you sustained, the more you get. Someone who is poor will receive less than someone who is rich because they did not lose as much.
- whole point of this is to give up your right to sue the airlines and the Port Authority

12/5

Bhopal Gas Leak Incident-

- more ADR
- chemical created like DDT but less toxic [sevin]
- Carbide was manufacturer (mostly car battery manufacturer compared to pesticide)