

non-binding arbitration. **RCFC 16(a)(5)** lists “**facilitating settlement**” as a core purpose of pretrial management, and **RCFC 16(c)(2)(I)** authorizes “**settling the case and using special procedures to assist in resolving the dispute.**” Appendix H confirms that “**ADR is voluntary**” and may be invoked **at any point** upon agreement of the parties and the assigned judge, with referrals to either a **settlement judge** or a **private third-party neutral**.

Relief requested. Plaintiff respectfully asks the Court to: (1) grant referral to **mediation** under Appendix H; (2) assign an ADR judge or allow the parties 21 days to jointly propose a **qualified private mediator**; (3) set a brief ADR scheduling conference; (4) stay non-ADR deadlines pending mediation; and (5) require a short **post-mediation status report**. See **Appendix H § 3(b)(1), (d), (g)–(h)**.

II. LEGAL FRAMEWORK AND AUTHORITY

A. Rules of the Court of Federal Claims (RCFC)

- **RCFC 1** directs that the rules “be construed, administered, and employed” to secure the “**just, speedy, and inexpensive determination**” of every action—principles advanced by early ADR referral.
- **RCFC 16(a)(5)** (purpose: **facilitating settlement**) and **16(c)(2)(I)** (authorizing **special procedures to assist in resolving the dispute**); **16(d)** (pretrial orders), **16(f)** (sanctions for noncompliance).
- **RCFC 16(f)(2)** specifically authorizes sanctions if a party **improperly discloses ADR communications or materials**, reflecting the Court’s **robust confidentiality** policy for ADR.

B. Appendix H—COFC ADR Program

Appendix H codifies the Court's ADR program, including:

- **Goal** (aid parties in negotiating settlement of all or part of a dispute) and **techniques** (mediation most common; also early neutral evaluation, mini-trials, outcome prediction; parties may select a **private neutral**). § 1(a)–(b).
- **Terms—settlement judge** (a judge other than the assigned judge, acting as mediator/neutral evaluator), or **private third-party neutral**. § 2(b)–(c).
- **Procedures**—ADR is **voluntary**; upon **agreement** of the parties and assigned judge, the clerk **refers** the case either to an ADR judge or to an agreed private neutral; a short written **memorandum of understanding** is executed; **docketing** is limited to ADR orders/notices; **ADR communications and documents are confidential**; **sanctions** may issue for breaches; the matter remains on the assigned judge's docket with **periodic status reports**; a closing **ADR order** issues after the process. § 3(a)–(h).

The Court also provides a model “**Parties’ Agreement Regarding Confidentiality of Settlement Communications**” that treats ADR communications as **compromise negotiations** under **FRE 408** and details handling and limits on use/disclosure.

C. Federal Policy Favoring ADR and Settlement

- **ADR Act (28 U.S.C. § 651)**. Congress directs federal courts to **authorize and promote ADR** by local rule/program, underscoring the national policy favoring ADR's integration into federal civil practice.
- **FRE 408**. Settlement offers and statements **are inadmissible** to prove or disprove liability/amount (with narrow exceptions), protecting candid mediation communications.

D. Case Law Encouraging Mediation / ADR

- **Marek v. Chesny**, 473 U.S. 1, 5 (1985)—“The plain purpose of Rule 68 is to **encourage settlement and avoid litigation**,” prompting litigants to weigh risks/costs and settle when appropriate.
 - **Kothe v. Smith**, 771 F.2d 667, 669–70 (2d Cir. 1985)—Courts **favor voluntary settlement** but may not **coerce** it; Rule 16 is not a club to force compromise. The decision reinforces mediation’s voluntariness embedded in Appendix H.
 - **Hunt Building Co. v. United States**, No. 04-505C (Fed. Cl. Nov. 24, 2004) (Order)—COFC embraced settlement on remand, expressly invoking the “**strong policy favoring settlement**” in modifying relief consistent with the parties’ agreement.
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III. PROTECTION FROM UNAUTHORIZED DISCLOSURE

- **Procedural timing**: Mediation will permit a **frank, confidential** exchange of information that is geared toward a final resolution.
 - **Issue-focused dialogue**: Effective mediation will **narrow issues** and catalyze resolution. **Appendix H §§ 1(d), 3(c)–(e)**.
 - **Confidentiality safeguards**: **Appendix H § 3(d)–(e)** and the **standard confidentiality agreement** ensure that ADR communications remain protected (with **FRE 408** overlay), and **RCFC 16(f)(2)** deters misuse through sanctions.
 - **Judicial economy / policy**: As **Marek** and **Hunt Building** illustrate, **federal policy and this Court’s own practice** favor settlement where feasible.
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IV. ALTERNATIVE DISPUTE RESOLUTION PROCEDURE

Pursuant to the Court's ADR referral and **RCFC 16 / Appendix H**, the following procedure(s) shall govern mediation:

1. **ADR judge** assignment, designated by the Court.
 2. **Initial ADR Conference (within 30 days)**: The neutral convenes a conference to set **ground rules**, define **issues for mediation**, and finalize **timeline**. **Appendix H § 3(c)**.
 3. **Mediation Statements (14 days before session)**: Each party shall deliver a **confidential mediation statement** to the neutral (and exchange upon mutual consent) addressing: facts, claims/defenses, prior settlement history, and a good-faith settlement range/proposal. **(Consistent with Appendix H's confidentiality and limited docketing.)**
 4. **Mediation Session (within 90 days)**: Mediation shall occur **no later than 90 days** from this order, absent good cause for extension by the neutral or the Court. **Appendix H § 1(d), § 3(c)**.
 5. **Confidentiality**. All ADR communications and documents are **confidential** and **not filed** on the public docket; limited ADR orders/notices may be docketed. **Unauthorized disclosure may be sanctionable under RCFC 16(f)(2). Appendix H § 3(d)–(e); RCFC 16(f)(2); FRE 408.**
 6. **Stay of Non-ADR Deadlines**. All non-ADR deadlines are **STAYED** pending completion of mediation, unless otherwise ordered. **Appendix H § 3(g)**.
 7. **Status Report**. Within **10 days** after mediation concludes, the parties shall file a **joint status report** stating whether settlement (full or partial) was achieved and proposing next steps. **Appendix H § 3(h)**.
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V. CITATIONS (AUTHORITIES & COURT RESOURCES)

1. **Rules of the United States Court of Federal Claims (RCFC) — Complete Rules**
https://www.uscfc.uscourts.gov/sites/cfc/files/rcfc_complete.pdf
2. **Appendix H — Procedure for Alternative Dispute Resolution**
https://www.uscfc.uscourts.gov/sites/cfc/files/rcfc_appendix_h.pdf
3. **Alternative Dispute Resolution (ADR) — U.S. Court of Federal Claims**
<https://www.uscfc.uscourts.gov/alternative-dispute-resolution>
4. **Order Revoking General Order No. 44 (ADR Automatic Referral Program)**
https://www.uscfc.uscourts.gov/sites/cfc/files/adr_order_revoking_general_order_44.pdf
5. **Standard ADR Confidentiality Agreement — U.S. Court of Federal Claims**
<https://www.uscfc.uscourts.gov/sites/cfc/files/RCFC%20Appendix%20H%20Standard%20Confidentiality%20Agreement.pdf>
6. **Fed. R. Evid. 408 — Compromise Offers and Negotiations**
<https://www.govinfo.gov/content/pkg/USCODE-2003-title28/pdf/USCODE-2003-title28-app-federalru-dup2-rule408.pdf>
7. **28 U.S.C. § 651 — Authorization of Alternative Dispute Resolution (U.S. Code)**
<https://www.govinfo.gov/link/uscode/28/651>
8. **Public Law 105–315 — Alternative Dispute Resolution Act of 1998**
<https://www.govinfo.gov/content/pkg/PLAW-105publ315/pdf/PLAW-105publ315.pdf>
9. **Marek v. Chesny, 473 U.S. 1 (1985) — U.S. Reports (Library of Congress)**
<https://tile.loc.gov/storage-services/service/ll/usrep/usrep473/usrep473001/usrep473001.pdf>
10. **United States v. United States Gypsum Co., 333 U.S. 364 (1948) — U.S. Reports**
<https://www.loc.gov/item/usrep333364/>

11. **Kothe v. Smith, 771 F.2d 667 (2d Cir. 1985) — Opinion**

<https://law.justia.com/cases/federal/appellate-courts/F2/771/667/379761/>

Hunt Building Co. v. United States, No. 04-505C (Fed. Cl. Nov. 24, 2004)

https://www.wifcon.com/cofc/04-505c_mod.pdf

V. CONCLUSION

Preventing disclosure of sealed, protected, and classified information needs to be prioritized. An alternative dispute resolution (ADR) is a tool the court has used to mitigate disclosure risk(s). In good faith for all parties involved, plaintiff, Theodore Haugland, respectfully requests an order referring this case to ADR mediation under RCFC 16 and Appendix H.

Respectfully submitted,

Dated: **September 9, 2025**

/s/ Theodore Haugland
Theodore Haugland (**Pro Se**)

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In the United States Court of Federal Claims

THEODORE HAUGLAND)	
)	
)	
Plaintiff(s),)	Case No. <u>1:25-cv-00710</u>
)	
v.)	Judge <u>Elaine D Kaplan</u>
)	
THE UNITED STATES,)	
)	
Defendant.)	
)	

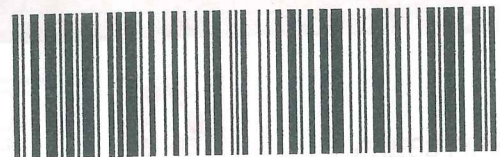
CERTIFICATE OF SERVICE

I hereby certify that on September, 9, a copy of Motion to refer case to
Alternative Dispute Resolution,
 was mailed via USPS Certified Mail, to Eric J. Smith,
 at PO Box 26, Washington, DC 20044.


 (Signature of Applicant)
Theodore Haugland
 (Printed Name)
55-706 Wahinepee St # B
 (Street Address)
Laie, HI 96762-1200
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(202)933-3332
 (Phone Number)

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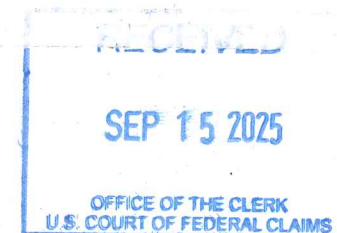
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