

**EVOLUTION OF**  
**ADR PROCESSES**

**Gary A. Weissman**

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2011

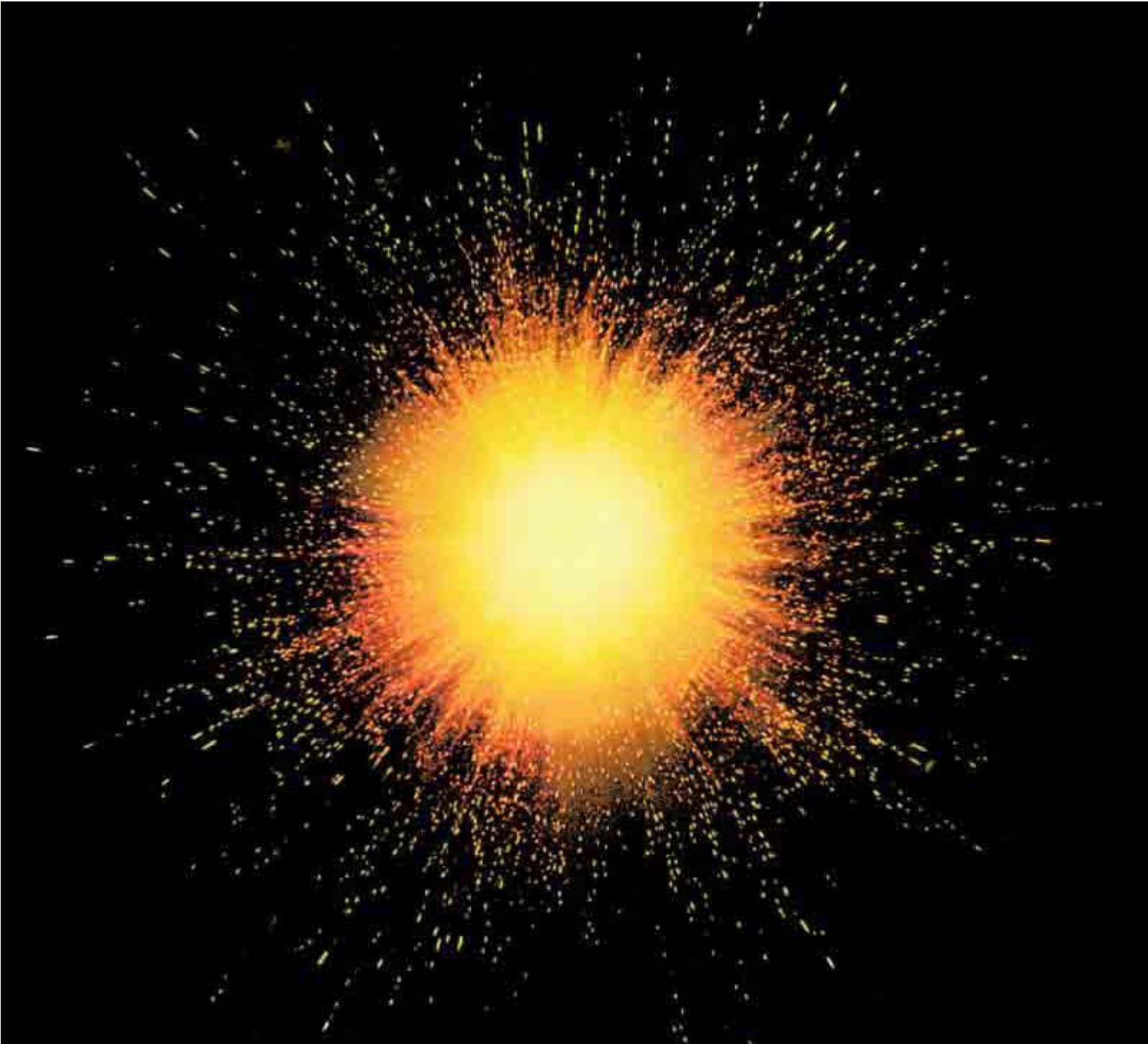


**HOW DO YOU RESOLVE  
CONFLICTS?**

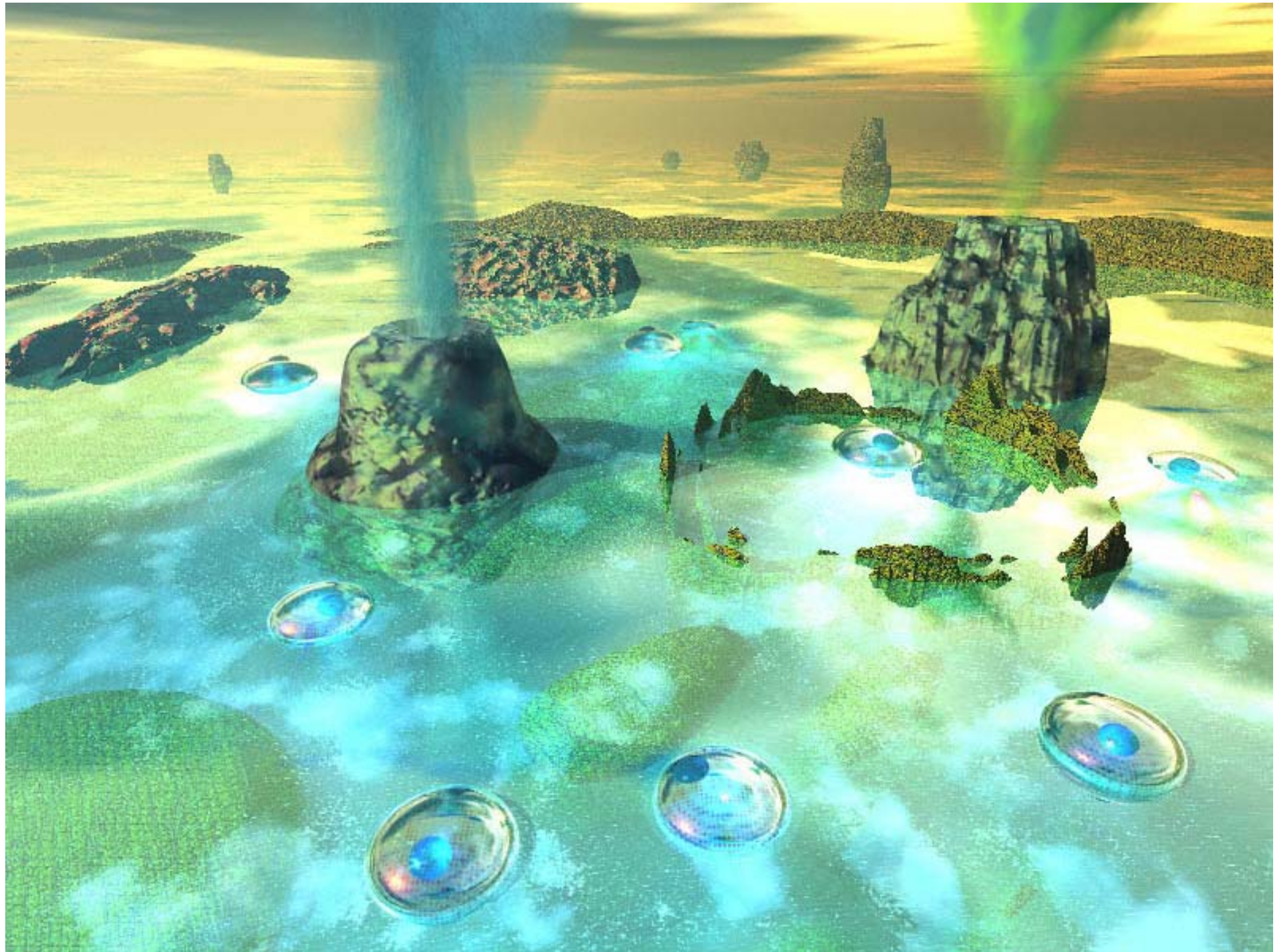


## HOW DO YOU RESOLVE CONFLICTS?

- 1) Flip a coin
- 2) Ballot box
- 3) Vote with your feet and your money
- 3) Draw a card
- 4) Avoid the conflict
- 5) Compromise
- 6) Negotiate
- 7) Go up a notch in the hierarchy
- 8) Protest
- 9) Write your Congressperson



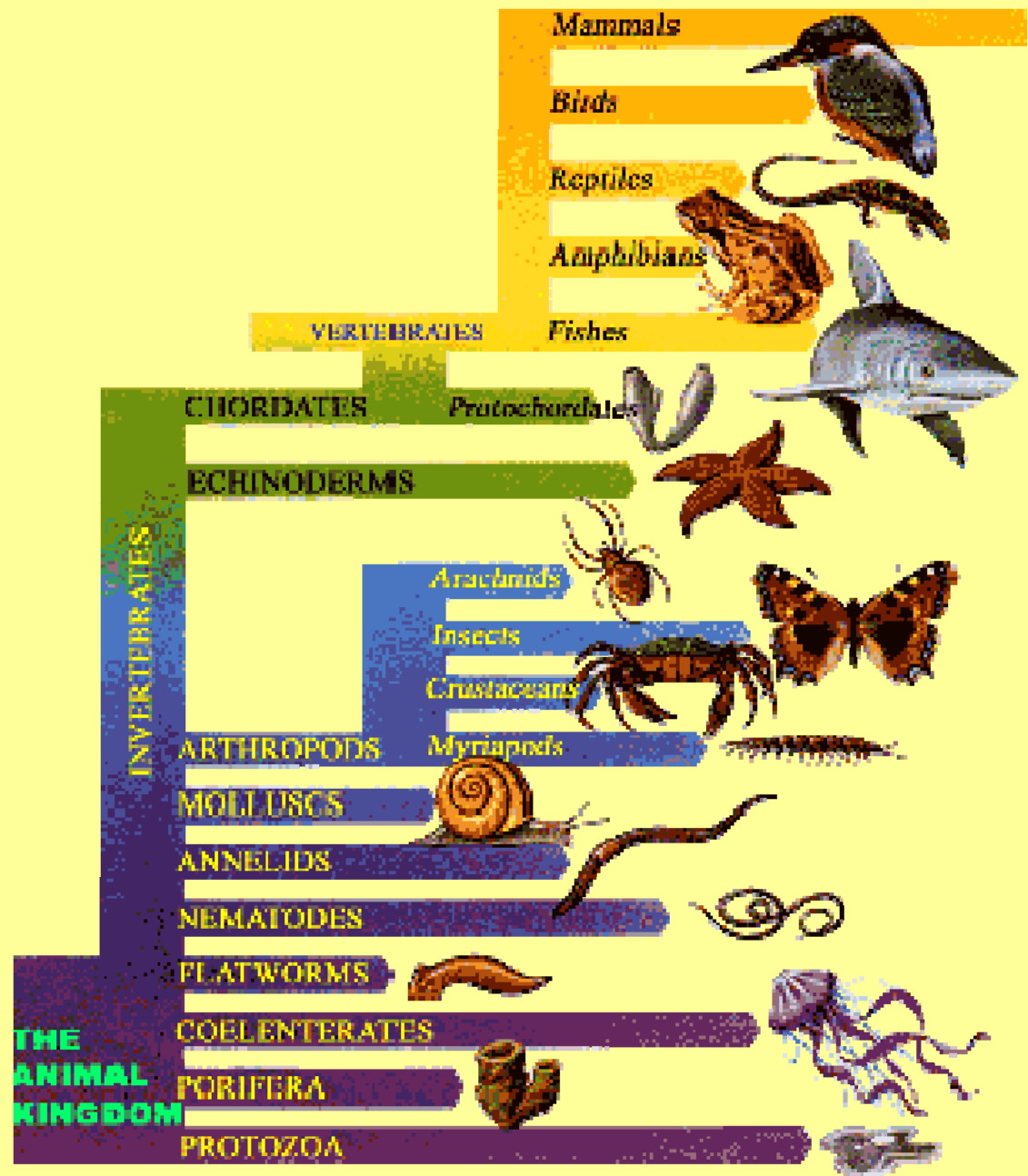




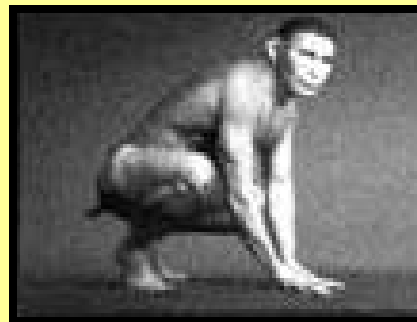
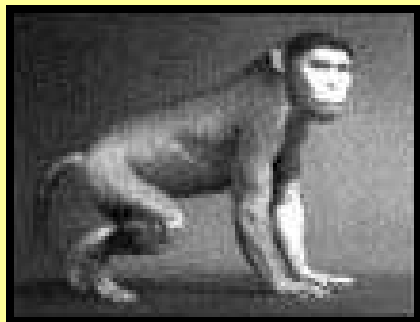
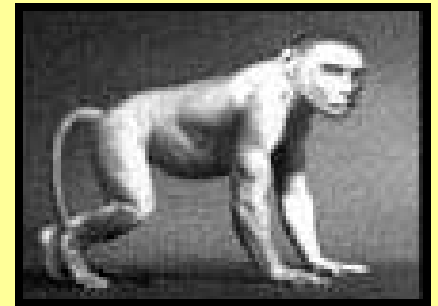
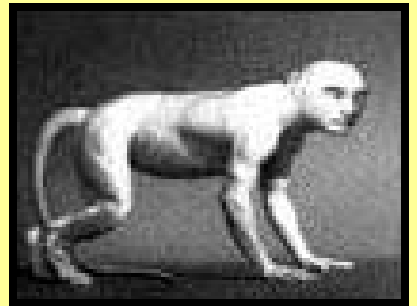
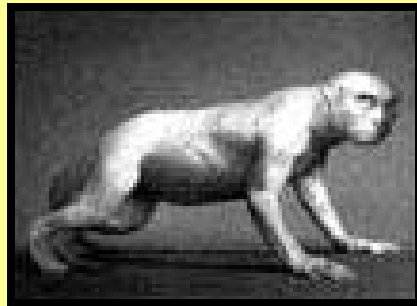
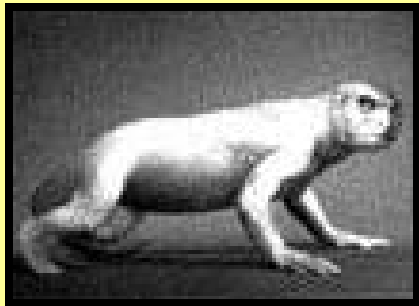
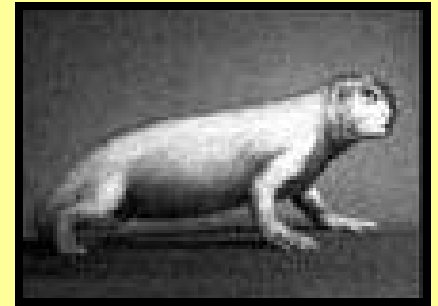
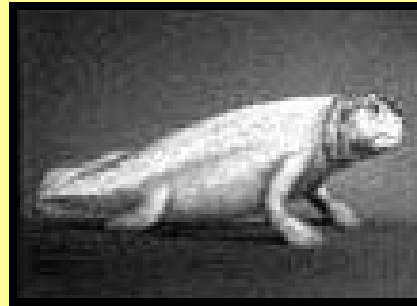
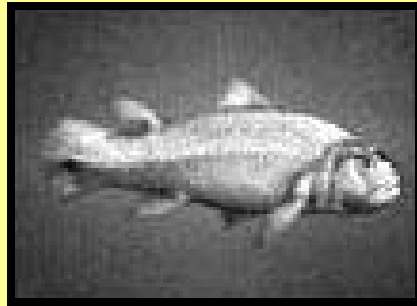
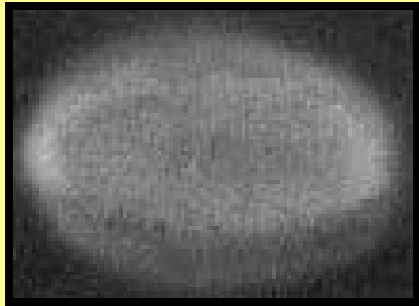






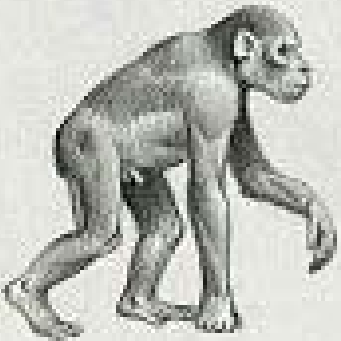


# Evolution of Dispute Resolution systems



# Early forms of dispute settlement:

**Violence & War**



# Early forms of dispute settlement:

**“An eye for an eye”**

**Violence & War**

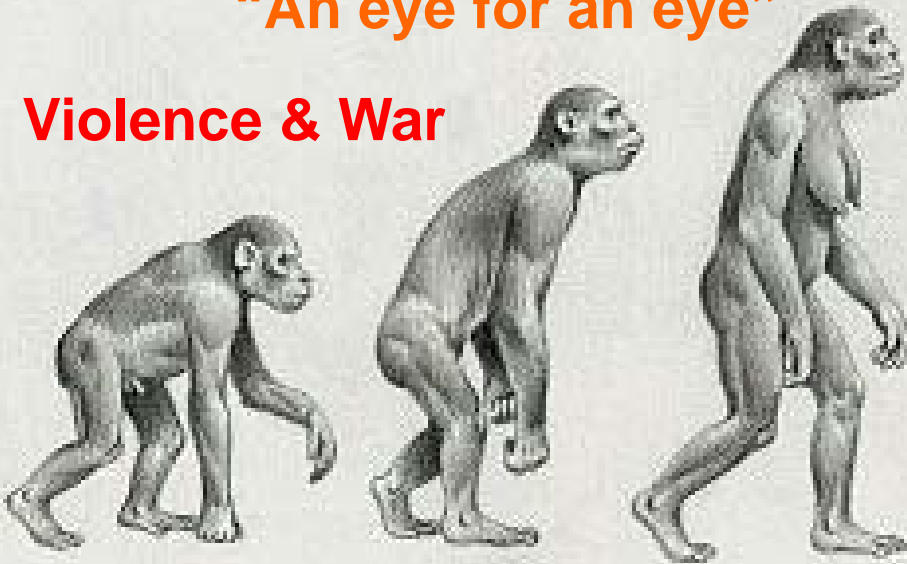


# Early forms of dispute settlement:

Early judicial system

“An eye for an eye”

Violence & War



# Early forms of dispute settlement:

Chancery courts

Early judicial system

“An eye for an eye”

Violence & War



# Early forms of dispute settlement:

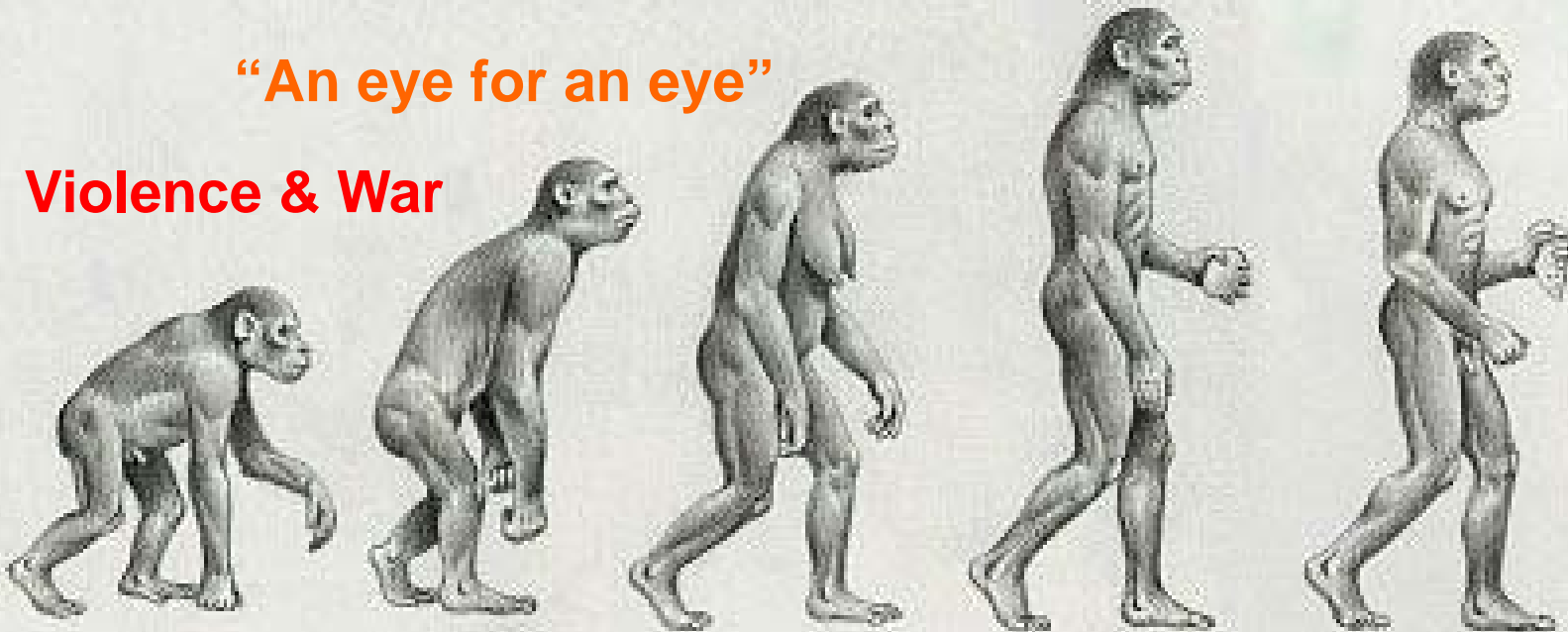
Article III courts

Chancery courts

Early judicial system

“An eye for an eye”

Violence & War



# Early forms of dispute settlement:

Mediation & Arbitration

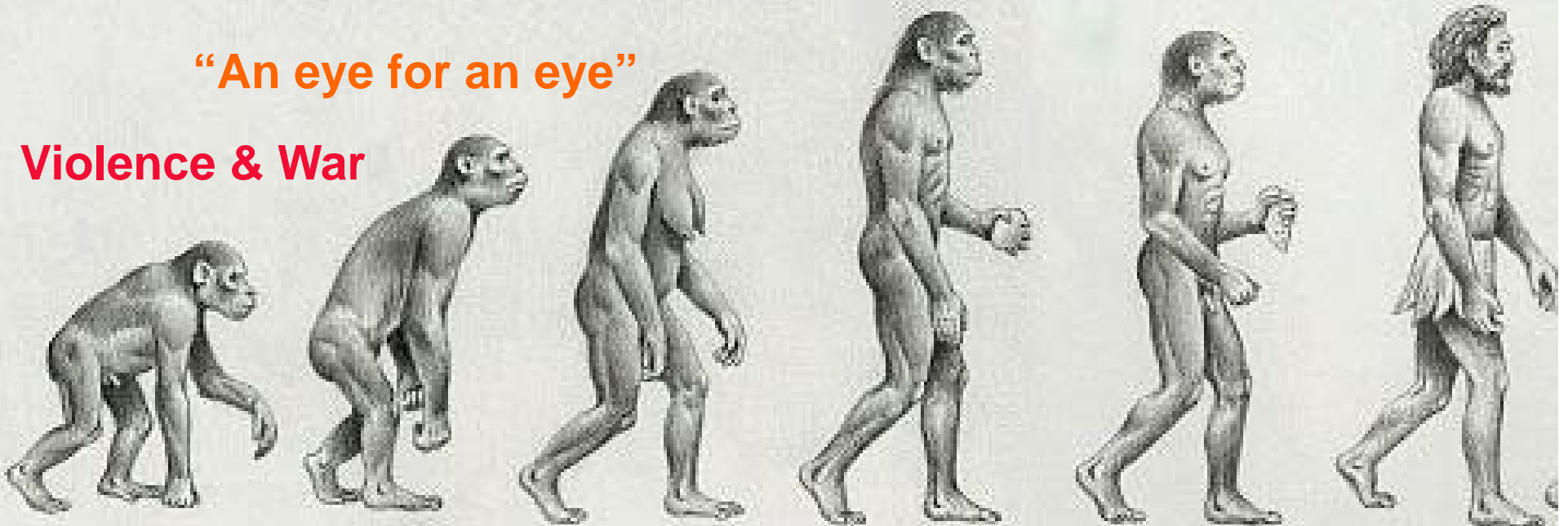
Article III courts

Chancery courts

Early judicial system

“An eye for an eye”

Violence & War





## WHAT EXACTLY IS ADR?

### COURT-ANNEXED

1. Mediation
2. ENE
3. NBAO
4. Non-binding arb.
5. Summary jury trial

### IN THE SHADOW OF THE COURTHOUSE

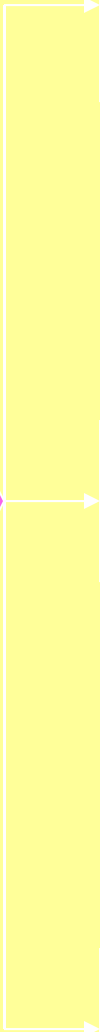
Arbitration

Non-judicial mediation

Mini-trial

Med-arb

**Article III  
courts**



**Article I  
courts**

**Mediation**

**Adjudicative  
process**

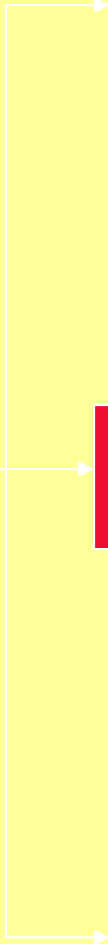


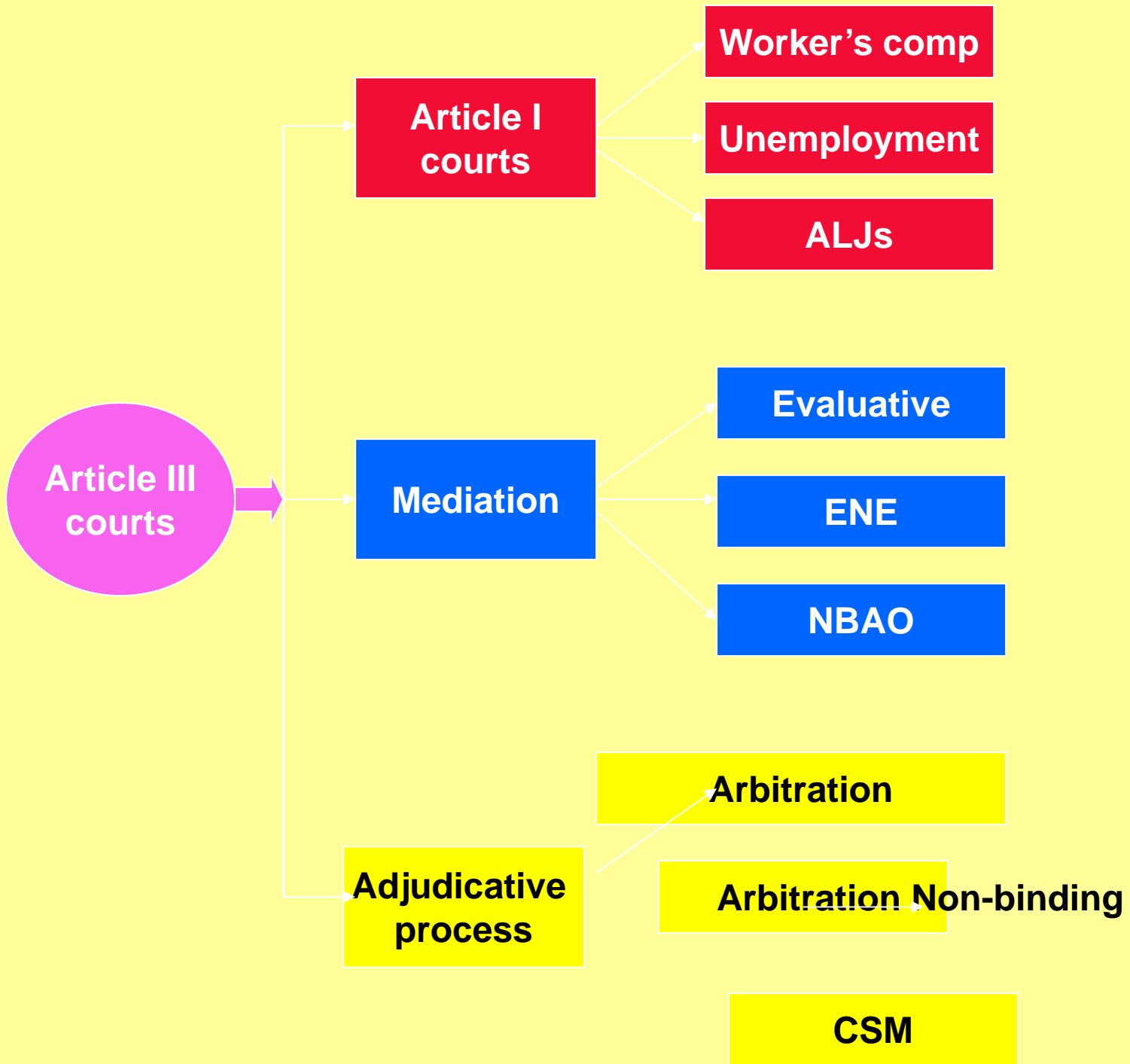
**Article I  
courts**

**Worker's comp**

**Unemployment**

**ALJs**





## MEDIATION STYLES

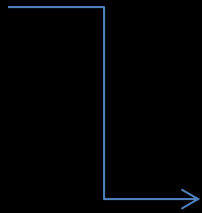
**FACILITATIVE**

**EVALUATIVE**

**TRANSFORMATIVE**

**NARRATIVE**

**ECLECTIC**





**Mediation**

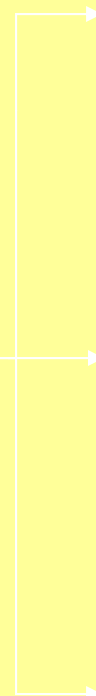
**Evaluative**

**Mediation  
Transformative**

**ENE**

**NBAO**

**Fact-finding**





**Adjudicative  
process**

**Arbitration  
binding**

**Conventional**

**Baseball**

**High-Low**

**Arbitration  
Non-binding**

**CSM**



# ADJUDICATIVE CONTINUUM



**Non-binding Arbitration**

**CSM**

**Arbitration**

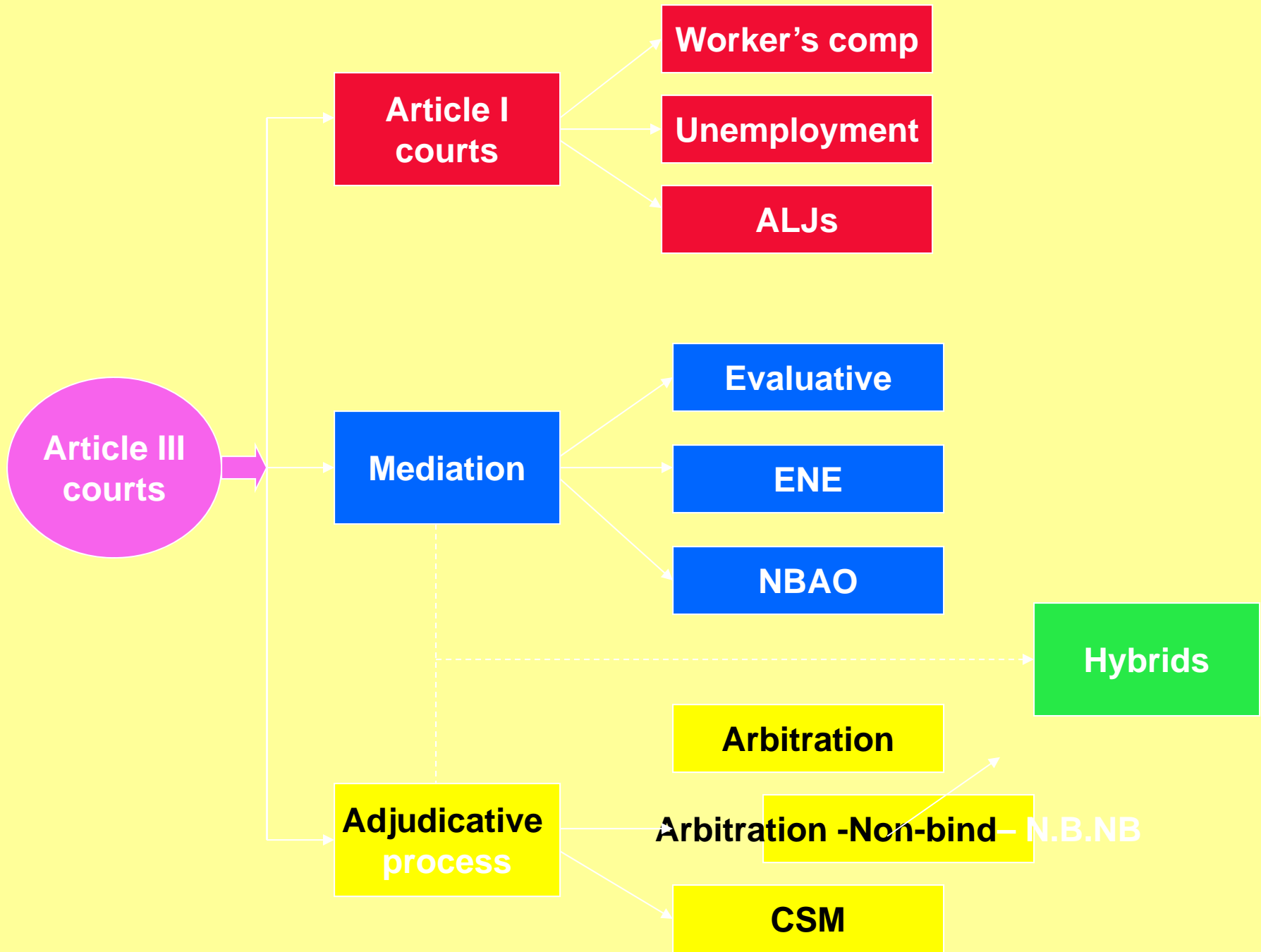


De Novo Trial

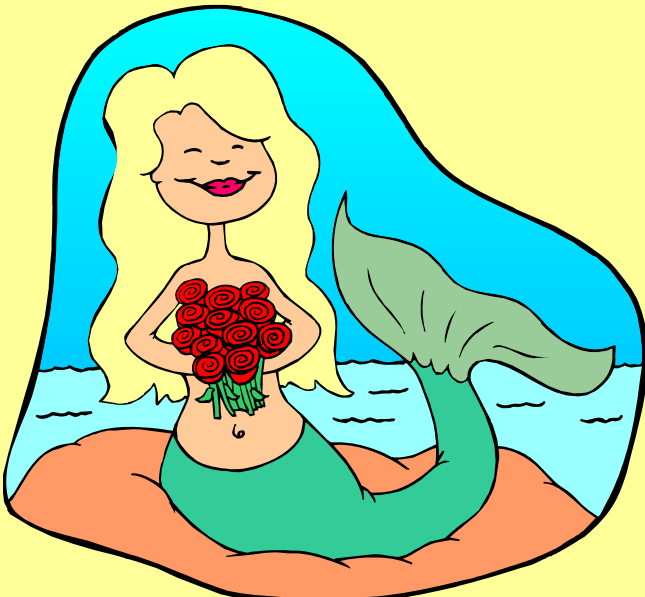
Appeal to the  
Court of Appeals

Vacate for  
Fraud



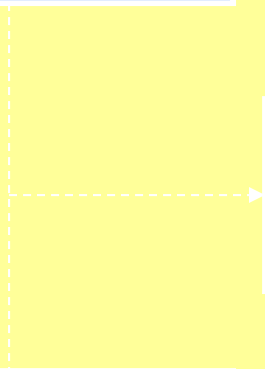


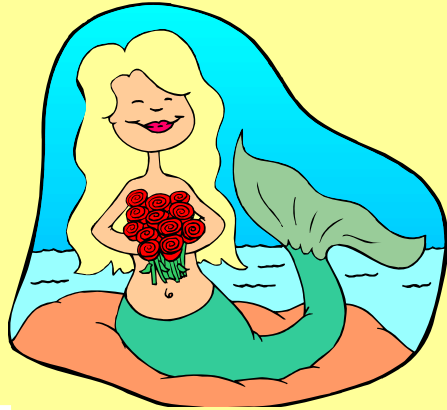
**Mediation**



**Hybrids**

**Adjudicative  
process**





**Mediation**

**Adjudicative process**

**Hybrids**

**Med-Arb**

**MedaLoa**

**Mini-Trial**

**Summary Jury Trial**

**Wild Card**

**Parenting Time Expeditors**

**Parenting Consultants**

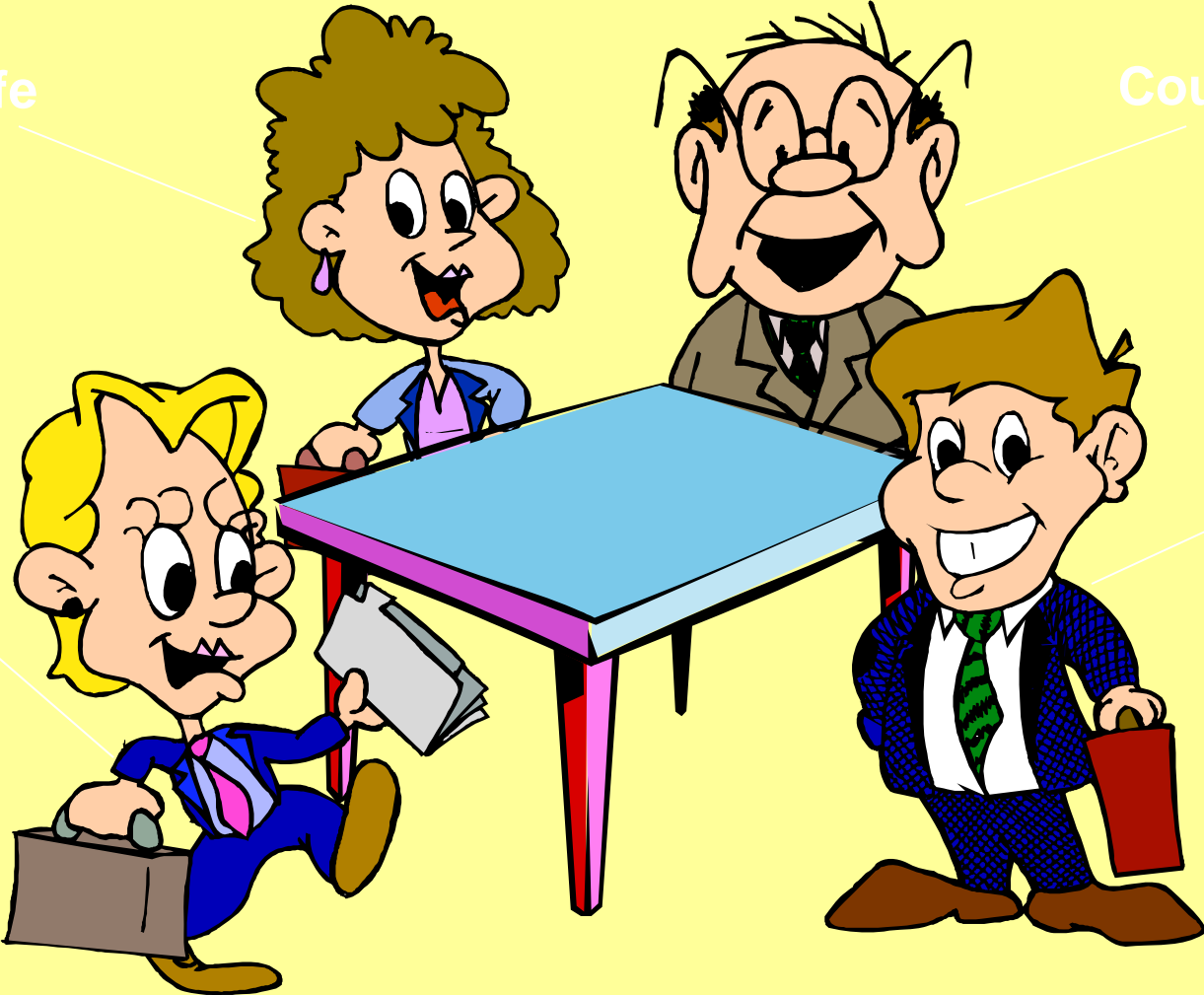
# Collaborative Law

Wife

Counsel

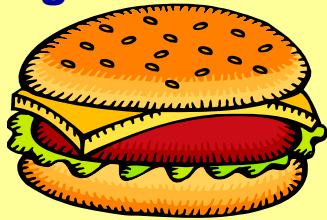
Counsel

Husband



# A smorgasbord of ADR processes

Non-binding  
Advisory  
Opinion

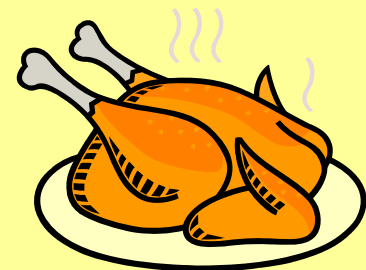


Arbitration



Collaborative  
Law

Mediation



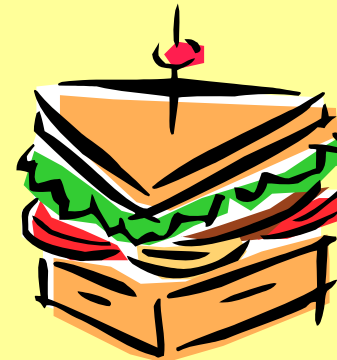
Designer  
ADR



Divorce with  
Dignity



CSM



Med-Arb

# VISITATION

He prefers to stay with his mother! That's where he needs to be at least 29 days out of every month!

No way! He should be with his father 4 weekends out of every month, plus 3 nights during the week, every holiday, and especially alternating Tuesday afternoons!

# Four-Party Conference

Um...  
Paragraph  
#28 needs  
to be  
reworded...



How does  
**RESPONDENT  
MAY HAVE  
VISITATION  
IN ODD-  
NUMBERED  
LEAP YEARS**  
grab you?