

Alternative Dispute Resolution 101

A 2007 article in the New York Times discussed the dramatic drop in the number of trials in recent years. According to the article, only 1.3% of all civil cases in the federal court system ended in trials in 2006. That means that a whopping 98.7% of all federal civil cases were resolved in some other fashion. If not at trial, how were these cases resolved? Although some of these cases were abandoned or resolved through summary judgment, most of these cases were resolved through alternative dispute resolution, or ADR.

As the figures from the New York Times article attest, ADR is a common method for resolving disputes. In today's world, and especially when faced with a dispute, businesses should understand the basics of ADR and how it can help them manage the risks associated with disputes.

ADR is a broad term that covers three main subtypes of dispute resolution: negotiation, mediation and arbitration. Negotiation is any attempt to resolve a dispute that does not involve the aid of a neutral third party. Mediation is like negotiation, except that a neutral third party, the mediator, attempts to facilitate a resolution between the disputing parties. A mediator cannot, however, impose a resolution on the parties. Arbitration, like mediation, involves a neutral third party; but unlike mediation, that third party imposes a resolution on the disputing parties. In arbitration, the parties agree to be bound by the resolution of the third party. All of these subtypes of dispute resolution are voluntary.

ADR has four primary benefits over litigation. These benefits likely explain the dramatic drop in the number of cases resolved at trial.

- ADR is almost always much less expensive than litigation. Litigation, mainly in the form of attorneys' fees, can be very expensive. In some cases, the cost of litigating a matter can exceed the amount in controversy.
- ADR is often faster than litigation, saving not only time, but money as well.
- ADR is private, which allows the parties to keep the existence of their dispute and its details to themselves. In contrast, litigation is open to the public.
- ADR allows the parties to select the person who will resolve, or help to resolve, the dispute. In litigation, the parties have very little control over the judge or jurors who will hear and decide the case, which introduces another element of risk in the process.

The attorneys at Tuesley Hall Konopa have over 60 years of trial experience combined with mediation skills acquired from formal training, experience and negotiators' instincts. We approach each situation with the understanding that time, money and our clients' reputations are at issue. Whether it is a dispute over goods and services, enforcement of contract rights, real estate challenges, recovering debts, or human resources issues, we look at ADR, as a first attempt to resolving issues.

In cases where litigation becomes the necessary course of action, we devise appropriate legal strategies to minimize liability, exposure and expense for our clients. Call **Tuesley Hall Konopa at**

574-232-3538 for a free consultation if you think we can help you resolve a dispute without going to trial.

Disclaimer

This publication is provided as a service to our clients. It is merely a summary of the law and is not intended to provide legal advice. In no case does the published material constitute an exhaustive legal study, and applicability to a particular situation depends upon investigation of specific facts.