



ADR NEWS

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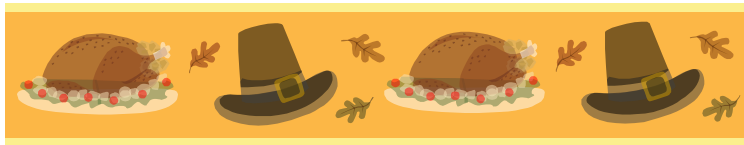
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IMPORTANT NEWS

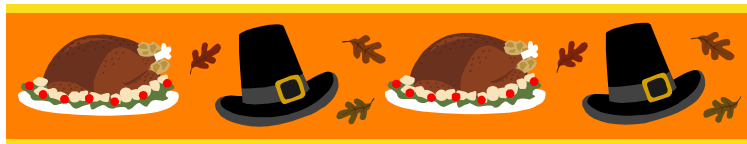
At the October 23, 2012 quarterly meeting of the Alternative Dispute Resolution Commission, the Commission adopted a new policy. Policy 15 states that "applicants applying for a training waiver for the 'specially trained in domestic violence issues' designation will pay \$50.00 to the ADRC for said training waiver." To see all of the ADRC policies, go to: <http://www.tncourts.gov/programs/mediation/re-sources-mediators/policies>



2013 Renewal Forms Due Soon!

The deadline for submission of your 2013 Renewal Form is December 31, 2012. If you have not received your 2013 Renewal Form, please contact Claudia Lewis, Programs Manager at 615-741-2687 or Claudia.Lewis@tncourts.gov immediately. If you need Continuing Mediation Education hours, please go to:

<http://www.tncourts.gov/programs/mediation/res-ources-mediators/continuing-meditation-education> for a list of approved CME courses.



The 2012 ADRC Workshop at Lipscomb University was a huge success, with over 150 mediators, speakers, ADRC Commission Members, and AOC staff in attendance. In addition, 56 mediators attended via live internet feed. The 2013 ADRC Workshop has already been scheduled for Friday, October 18, 2013 at Lipscomb University. We hope to see you there!

The Use of ADR by U.S. Corporations: Results from a 2010-2011 Survey of the Fortune 1000

Contributed by Mark C. Travis

In 1997, the Industrial and Labor Relations School of Cornell University conducted a comprehensive study of the use of alternative dispute resolution in the Fortune 1000. The results of that study were later published in a book, Emerging Systems for Managing Conflict: Lessons from American Corporations for Managers and Dispute Resolution Professionals. After the passage of more than 10 years, coupled with the environmental factors of increased litigation and budget crises in the courts, a new survey of the Fortune 1000 was conducted in 2010 and 2011. In addition to the Scheinman Institute on Conflict Resolution at Cornell, the survey was co-sponsored by the International Institute for Conflict Prevention and Resolution, and the Straus Institute for Dispute Resolution at the Pepperdine Law School.

The objectives of this study were to obtain information regarding mediation, arbitration, and other ADR techniques used by major U.S. corporations; to identify trends by comparing results from the two studies; to discover emerging policies and practices in the use of ADR by major corporations; and to understand the factors that explain the trends and patterns in the use of ADR. While the recent study has not been officially published, the results were presented in a session at the conference of the Dispute Resolution Section of the ABA in April in Washington. The following is a brief summary of that presentation.

Experience with Types of ADR

This component of the study measured the proportion of corporations that used each form of ADR at least once in the previous three years.

Process	1997	2011
Mediation	85%	90%
Fact-Finding	20%	28%
Arbitration	80%	83%
Peer Review	10%	13%
In-House Grievance	37%	36%
Ombudsman	10%	16%

This part of the study revealed that usage of all forms of ADR process has remained strong. Perhaps the most notable point from this component of the study shows a fairly strong increase in the use of internal dispute resolution mechanisms such as peer review and ombudsmen. Although the overall frequency of those two avenues of ADR are still relatively small, each had significant growth in percentage terms.

Principal Reasons Companies Use ADR – 2011

Saves Time	71%
Saves Money	69%
Preserves relationship	44%
More satisfactory settlements	26%
More satisfactory Process	38%
Court-Mandated	55%
Party control over outcome	52%

Change in Use of Mediation by Type of Dispute

This part of the survey looked at the proportion of corporations that used mediation at least once in each of the following type of dispute in the previous three years:

Dispute	1997	2011
Consumer	24%	26%
Employment	79%	81%
Commercial	78%	80%
Environmental	31%	28%
Intellectual Property	29%	41%
Personal Injury	57%	58%
Product Liability	39%	38%
Construction	39%	26%

Notably, the use of mediation has remained strong in employment, commercial and personal injury litigation, with its use in intellectual property showing a significant increase.

Change in Use of Arbitration by Type of Dispute

This segment of the study measured the proportion of corporations that used arbitration in the particular type of dispute at least once in the previous three years.

Dispute	1997	2011
Consumer	17%	12%
Employment	62%	36%
Commercial	85%	60%
Environmental	20%	9%
Intellectual Property	21%	14%
Personal Injury	32%	22%
Product Liability	23%	10%
Construction	40%	14%

This component of the study is noteworthy in two particular aspects. It is obvious that the use of arbitration in both commercial and employment cases has reduced significantly. Perhaps the reason (or reasons) can be discerned in the analysis of reasons below. Beyond that summary, respondent interviews revealed other explanations for the decline in the use of arbitration, such as the opinion that arbitration has increasingly become similar to litigation, and that external law has made arbitration more complex, costly, and time-consuming.

Principal Reasons Companies Did Not Use Arbitration by Type of Dispute

Reasons	Consumer	Commercial	Employment
Difficult to Appeal	41%	52%	41%
No legal rules	33%	44%	36%
Unwilling Opponent	53%	45%	43%
Compromise Outcomes	42%	47%	43%
Lack of confidence in neutral	29%	34%	24%
Lack of qualified neutrals	16%	11%	8%
Too costly	28%	23%	18%

The initial findings of the study concluded that about 50% of the respondents have adopted ADR as their principal approach to resolving consumer, commercial, and employment disputes. Additionally, while the use of mediation has remained essentially constant over the last 15 years, there is a trend toward the embrace of a wider array of ADR techniques, and many corporations seek to resolve disputes at the earliest possible stage through fact-finding, ombudsmen, and peer review. With an ever-increasing numbers of mediators in the market, this finding reveals the possibility of new opportunities.

On the other hand, the survey found that a significant proportion of major corporations – possibly 40% - continue to rely on traditional methods of resolving disputes. The survey also notes a substantial and possibly growing divide between companies that rely heavily on ADR and companies that do not. That is the biggest unanswered question from the study – why do those companies resist the use of ADR in any form?

About the Author:

Mark C. Travis, J.D., LL.M., is an independent mediator and arbitrator and also serves as the Director of the Tennessee Center for Workforce Relations. A past chair of the Dispute Resolution Section of the Tennessee Bar, he serves on the panels of the American Arbitration Association, the Federal Mediation and Conciliation Service, the National Mediation Board, and the Financial Industry Regulatory Authority. Mr. Travis is a Rule 31 Listed General Civil Mediator. He can be reached at mtravis@travisadr.com

Important ADRC Dates

December 4, 2012	Rule 31 Mediator Application Deadline for ADRC review on January 22, 2013
January 22, 2013	ADR Commission Meeting, Administrative Office of the Courts, Nashville
March 5, 2013	Rule 31 Mediator Application Deadline for ADRC review on April 23, 2013
April 23, 2013	ADR Commission Meeting, Administrative Office of the Courts, Nashville
June 4, 2013	Rule 31 Mediator Application Deadline for ADRC review on July 23, 2013
July 23, 2013	ADR Commission Meeting, Administrative Office of the Courts, Nashville
September 3, 2013	Rule 31 Mediator Application Deadline for ADRC review on October 17, 2013
October 17, 2013	ADR Commission Meeting at Lipscomb Institute for Conflict Management, Nashville, TN.
October 18, 2013	ADR Workshop at Lipscomb University, Nashville, TN.

~ Roll Call ~

Congratulations to the following Newly Listed Rule 31 Mediators!
These mediators were approved for listing at the ADRC Quarterly Meeting on October 23, 2012.

Ms. Cassandra H. Allen, General Civil
Ms. Sarah S. Ballard, Family
Ms. Caroline G. Beauchamp, Family
Mr. William L. Bomar, General Civil
Mr. Ernest N. Campbell, Family
Mrs. Sandie L. Carroll, General Civil
Mr. Andrew C. Clarke, General Civil
Ms. Denise E. Cole, General Civil
Ms. Alice K. Corker, General Civil/Family
Ms. Chessia A. Cox, General Civil
Mr. James R. Cumbee, General Civil
Ms. Kimkinyora F. Dale, General Civil/Family
Ms. Elizabeth C. Driver, General Civil
Ms. Lari L. Edwards, General Civil
Ms. Nathalie J. Essex, General Civil
Mrs. Lesley D. Farmer, General Civil
Ms. Jennifer F. Franks, Family
Ms. Heather L. Germain, General Civil
Ms. Bethany P. Glandorf, Family
Mr. Grant C. Glassford, Family
Mrs. Molly A. Glover, General Civil
Mr. Zachary S. Griffith, General Civil
Ms. Julia L. Hamlin, Family
Dr. Barbara V. Hessel, Family
Mr. Cameron S. Hill, General Civil
Ms. Tamara L. Hill, General Civil/Family
Ms. Barbara D. Holmes, General Civil
Mr. Christian S. Johnson, General Civil
Mr. Peter E. Johnson, General Civil
Mr. Phillip L. Johnson, General Civil
Mr. James S. King, General Civil

Mr. Rodney S. Klein, General Civil
Dr. Kenneth S. Letterman, Family
Ms. Virginia S. Manguno, Family
Mr. John R. Manson, Family/Domestic Violence
Cassie L. Martin, Domestic Violence
Ms. Sherry E. Martin, General Civil
Mr. Ronald K. Maye, Family
Mrs. Tammy J. Maye, Family
Ms. Patricia T. McCarter, Family
Mr. Robert N. Meeks, Family
Ms. Megan W. Miller, Family
Mr. Herman Morris, General Civil
Dr. Christine L. Newell Kwasigroch, Family
Ms. Regina M. Newman, General Civil
Natasha Paxton, General Civil
Mr. William B. Russell, General Civil
Mr. Clinton P. Sanko, General Civil
Mr. David L. Scott, Family
Mr. George C. Shifflett, II, General Civil
Ms. Paula M. Smith, General Civil
Ms. Lisa A. Spells, Family
Ms. Lynda A. Stamm, General Civil
Ms. Rosemary L. Thomas, Family
Mr. Christopher E. Thorsen, General Civil
Mr. C. Tim Tisher, Family
Mrs. Ivyia Turner-Echols, General Civil/Family
Ms. Sandra L. Weaver, Family
Mr. James L. Widrig, Family
Mrs. Leigh R. Willburn, Family
Mr. Rocky H. Young, General Civil
Mr. H. Fredrick Zimmermann, General Civil

We Would Like to Hear From You!

In an effort to encourage education and communication between and for Rule 31 listed mediators, the ADRC accepts proposed article submissions from Rule 31 listed mediators and others for publication in the *ADR News*. All submissions may or may not be published and are subject to editing according to the Program Manager's discretion. If you are interested in submitting an article for publication in the *ADR News*, please contact Claudia Lewis, AOC Programs Manager, at Claudia.Lewis@tncourts.gov.