



# New Mexico Mediation Association

[ A professional organization of mediators and those interested in dispute resolution and mediation ]

## **HEADLINE: “Jury trial backlog could take years to overcome”**

### ***IT DOES NOT HAVE TO BE THIS WAY !!!***

This recent headline in a local newspaper reminded me of the dismissal, once again, by the legal profession of a long-time method of Dispute Resolution: Alternative Dispute Resolution or ADR.

ADR is exactly that; an Alternative Dispute Resolution system approved by the Courts Nationally and implemented by Federal and many State and local courts to reach mutually beneficial agreements between parties without the expense, time, the emotional stress, and the confusions of working through the court system. This less costly (stress, money, time, and convenience) system is available to parties who are willing to let a third-party neutral assist them with a solution that they develop and commit to. With the exception of serious Criminal cases, New Mexicans can ask for the ADR process, with or without an attorney before proceeding in the court system.

Let’s face it, attorneys are trained in law schools to create, enhance, and encourage adversarial climates to reach resolutions. Someone wins and someone loses. It is how they earn an income, nothing wrong with that. In the 70’s through the 90’s that’s how they marketed themselves. The world has changed, and the mindsets of its citizenry has changed as well. ADR seeks “mutual party” agreed to solutions.

Let me share a few facts from some recent Louisiana Law Review Study (December 2020). The Study was designed to investigate how legal professionals who have first-hand experience with decisions that lead toward or away from jury trials explained the reduction in jury trials in recent years. (A major ABA concern). 1. Jury trials are less predictable, slower and less cost effective than Alternative Dispute Resolution. 2. Jury trials were ranked second only to Mediation (the most common form of ADR) for resolution of Civil disputes. 3. Respondents viewed litigant preference toward settlement (the goal of ADR programs) rather than trial and adversarial positions as key. 4. The dominant perceived sources of decline in civil trials were damage caps and mandatory binding arbitration, with increased summary judgement (lawyer negotiation without much client input) having a more moderate effect. 5. Mediation ranked significantly higher than arbitration, jury trial and bench trial (in order) in preferred method of resolution. 6. Civil Judge consensus was that Mediation is more predictable and jury trials less predictable. 7. Mediation was ranked the “fairest” resolution method by all groups.

The most recent economic survey by the ABA found that Alternative legal service providers continue to make significant inroad to the legal industry growing their global share by \$3.2 billion since 2017. “Why” may you ask? Read the paragraph above again.

New Mexico has many Non-Attorney, Trained, Experienced, Competent ADR professional who stand ready, willing, and able to serve the needs of the Courts, Attorneys, and those that choose to resolve disputes with or without the assistance of legal professionals. Not all attorneys are trained ADR professionals yet all Non-Attorney, Experienced, Trained, ADR professionals have specific training in ADR

skills that complement the areas they feel proficient in providing ADR services and continue to update their skills in the practice of ADR annually. Many come from professional backgrounds that lend credence to the ADR services they offer.

As President of the New Mexico Mediation Association, I invite you to find and utilize an ADR Professional member of our Association who participates in continuing education credits, stays current in issues, and contributes time and effort to better serve the needs of New Mexico.

[www.newmexicomediationassociation.org](http://www.newmexicomediationassociation.org) – “Find a Mediator.”

***DON'T WAIT – MEDIATE!***

Ted Ramirez, President  
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