

SUMMARY OF SELECTED STUDIES OF ADR EFFECTIVENESS

1. COLORADO

1.1 Denver City Attorney's Office — Mediation Program in the Alternative Resolution Program

Of 101 cases from November 1998 to November 1999, ninety (90) resulted in a mediated agreement or resolution. This is an 89.1% success rate.

1.2 First Judicial District, Small Claims Court, Mediation Services Program

Quarter	# Mediated	# Settled	Success Rate
4Qtr, 1999	83	50	60%
3Qtr, 1999	84	54	64%
2Qtr, 1999	97	50	52%
4Qtr, 1998	83	48	58%

Previous quarters show similar results.

1.3 Jefferson County Mediation Services

The caseload of the JCMS has grown from 69 cases in 1994 to 858 cases in 1999.

The average settlement rate for two major clients of JCMS, the Animal Control and District Attorney's offices, is 98.5%. Overall, results show that when parties do agree to come to the table and mediate, the success rate ranges from 78% to 100%, depending on the type of case.

It is estimated that mediation saves the County costs by:

- reducing the need for repeated dispute resolution trips by county personnel
- resolving cases prior to trial, and
- raising productivity among co-workers in conflict

1.4 Colorado Judicial Branch — Office of Dispute Resolution, Annual Report FY1998

ODR has mediated over 10,000 cases over the last 5 years. The number of cases has increased 128% over the last 5 years.

The resolution rate for mediations in FY98 was 78%. An additional 10% of cases appropriate for mediation settled after mediation or left with a proposal for settlement.

Experience has shown that a wide variety of cases and disputes settle in mediation.

Mediation can provide cost avoidance of avoided trials, expert witnesses and evaluations, and trial preparation.

Mediation appears to help avoid time delays between key events and hearings.

2. OTHER STATES

2.1 New York

In the decade between 1989 and 1998, the New York Community Dispute Resolution Centers Program handled over 400,000 cases, showing:

- 48% of cases conclude in agreement
- 36% of cases reach a formal mediation session
- 80% of mediated cases conclude in an agreement
- 86% of cases that went through ADR concluded in some sort of

agreement

Source: "The Community Mediator" (National Association for Community Mediation) Summer 1999.

2.2 Texas

Statistics in mediation from the early 1990's, from the Fifth Annual ADR Institute of the State Bar of Texas:

Dallas, Texas, 1992: 3136 cases settled (78.4%), 59 partly settled, 804 impasse (20.1%).

1993: 1144 cases settled (76.5%), 32 partly settled, 319 impasse (21.3%).

2.3 North Carolina

Stevens Clarke conducted studies at the Institute of Government, UNC, Chapel Hill, NC. Results show:

Court-Ordered Arbitration: A program in 8 counties where all civil cases excluding family matters with less than \$15,000 at issue, were referred to a 1_hour arbitration hearing. The study found very high disposition rates, savings of time and satisfaction.

Mediation of Interpersonal Disputes: Mediation in community justice center settings in 3 counties produced high satisfaction rates but inconclusive results, except for a significant reduction in trial rates in programs with high utilization.

Court-Ordered Mediation: A Superior Court program in 10 counties, using random assignment, resulted in disposition time being cut by 2 months, high satisfaction, and a 70% settlement rate that reduced the trial rate by about 33%.

Mediated Settlement Conferences in Worker's Compensation Cases: Very high settlement rates with significant impact on trial rates.

2.3 California

In 1995, pursuant to California's mandatory mediation program for cases under \$50,000, full agreement was reached by all or some parties in 32% of Los Angeles cases, and 41% of San Diego cases. More than 90% of all respondents stated they would use the same ADR procedures again.

Mediation: Did We Get It Wrong?, 33 Willamette L. Rev. 649 (Summer 1997)

3. FEDERAL

3.1 U.S. EEOC — Denver District Office

According to Darlene Deitschweiler of the EEOC, here are some statistics from the EEOC's mediation programs:

	Local	Nationwide
Total Mediation:	225	7,415
Successful:	150	4,818
Benefits:	\$583,377	\$58,628,175
Success rate:	65.8%	65%

3.2 U.S. Court of Appeals for the Tenth Circuit

According to David Aemmer, the Director of the Circuit Mediation Office, the settlement rate on telephone-mediated cases is about 40%, saving valuable court time.

3.3 1996 ADR and Settlement in the Federal District Courts, a sourcebook for judges and lawyers

This joint project of the Federal Judicial Center and the CPR Institute for Dispute Resolution found:

- Mediation has emerged as the primary ADR process in Federal district courts. Over half of the 94 districts in 1996 offer or require mediation.
- Arbitration is the second most frequently authorized ADR program.
- Early neutral evaluation is used in 14 courts.
- Settlement week and case valuation were offered least of all ADR programs.
- Federal courts are moving towards the "multi-door" ADR concept.
- Mandatory ADR causes the most use of ADR procedures, followed by opt-out procedures. However, mandatory referral is not essential for success if other opt-in procedures are well designed and utilized by the courts.
- Close examination of referral processes, local attitudes for ADR, the nature of the caseload, and other variables need to be considered when designing ADR procedures for success.

3.4 1997 Mediation & Conference Programs in the Federal Courts of Appeals: A Sourcebook for Judges and Lawyers

This publication of the Federal Judicial Center points out:

- All thirteen Federal courts of appeals have implemented programs that help parties resolve issues on appeal. The focus in most is to encourage or require parties to discuss settlement at a conference facilitated by a non-judicial court employee or other third-party neutral.
- Objectives of the program include conserving judicial resources, improving case management, and confidentiality.

4. PRIVATE

4.1 United States Postal Service — EEO Program

According to the July 8, 1999 Exit Survey Analysis Report for the Colorado/Wyoming Performance Cluster, 84% of Complainants and 85% of Respondents were very or somewhat satisfied with the Redress Program. According to Brenda Hilton of the Postal Service Program for Western States, in a little over one year, approximately 300 cases avoided the formal EEO process, saving the USPS an estimated \$10,000 per case (\$3 million).

4.2 Construction Industry

According to a 1994 construction industry survey of 2,300 ADR users, 84% of the ADR experiences involve mediation, while one-third were court-initiated. Two-thirds of these mediations were the result of agreements between the parties. Mediation resulted in resolution of some or all of the

issues in 67% of cases, while full settlement was reached in 59.1% of the matters mediated. By and large, construction companies have embraced ADR. Mediation: Did We Get It Wrong?, 33 Willamette L. Rev. 649 (Summer 1997).

4.3 Miscellaneous Corporate and Other Programs

According to a 1997 article by Keith W. Hunter for the Hawaii State Bar Association entitled: "Alternatives to Litigation: The Case for ADR:"

-A 1994 survey of corporate law departments by Price Waterhouse indicates that 45 responding companies enjoyed an annual cost savings of \$100,000 using ADR, and 10% reported saving over \$1 million per year.

-The FDIC reported savings of \$325,000, \$4,200,000, and \$9,300,000 in 1991, 1992, and 1993 from using ADR.

-The Florida Department of Environmental Regulation reported saving more than \$325,000 per contested case when using mediation.

-In a Deloitte Touche survey of law firms and corporate counsel, 67% reported saving 15-50% of the cost of litigation.

-The CPR Institute for Dispute Resolution resolved disputes involving more than 440 companies with over \$6.8 billion in controversy, resulting in savings in excess of \$187 million.