

[LAW]

The Perfect Retirement Career

Using your construction knowledge to help the industry **By PETER G. MERRILL**

After spending many years in the construction field, you begin to consider your options as to what you will do when you retire to keep yourself occupied and to provide an income to supplement your retirement funds. Why not choose a retirement career that will benefit the industry that has supported you for so many years while utilizing your construction-related knowledge? Even better would be to find a career that was also enjoyable, lucrative and had a flexibility that would allow you to make your own hours that could accommodate all of your special retirement plans.

That career could be a new profession as a Construction ADR Specialist. Alternative Dispute Resolution is various processes that provide an alternative to litigation to settle disputes. Typically, mediation and binding arbitration are the two major ADR processes that we think of when we refer to ADR, but there are several others. In addition, there are support roles in the ADR profession such as serving as a construction expert in ADR processes or in litigations. Becoming a mediator, arbitrator or expert witness may sound challenging, but is actually easy to accomplish.

OPTION ONE: MEDIATION

Mediation is one of the simplest forms of ADR. Two parties who cannot settle a dispute by themselves look to a neutral third party—the mediator—to assist them in looking at the realities and reasonableness of their positions and help them to come to a resolution to their dispute that will be fair and equitable to both parties. If you have been involved in the construction industry for many years, whether you realize it or not, you have probably served as a mediator many times. Any time a customer, contractor, etc. had a problem making a decision or had a dispute develop with another individual and you gave them your opinion or assisted them with their decisions, you were

serving as a mediator. Although the mediation process is usually very effective and successful related to construction disputes, there is no guaranty that the mediation process will completely settle the dispute. If the parties do not come to a full agreement on all issues at the end of the mediation process, they must proceed on to a process that guarantees a final and binding decision such as binding arbitration or litigation.

OPTION TWO: ARBITRATION

Arbitration is a more formal process than mediation but far less formal than litigation. In arbitration, the parties present their case to an arbitrator, very similar to a presentation to a judge in court; only there are far fewer rules and procedures required in an arbitration hearing as opposed to a court hearing. Arbitration does not require the use of an attorney although the majority of the parties involved in arbitration usually hire attorneys to assist them in the process. One of the major advantages to the arbitration process is that in almost every case, the parties are involved in the selection of the arbitrator.

In construction-related disputes, it is critical to have a knowledgeable individual responsible for rendering the verdict or award that will be final and binding on the parties. As I see it, one of the major problems with the litigation

process related to construction disputes is that construction disputes very often end up in front of a judge or jury who has limited or no knowledge of the construction issues involved in the dispute. The prevailing party is not necessarily who is right but who had the best attorney representing them.

HOW TO BECOME QUALIFIED

To become a construction ADR Specialist, you will need to take basic courses in both mediation and arbitration. The basic mediation course usually is about 40 hours in length and the basic arbitration course is usually about 16 to 24 hours in length. After you have completed those basic training courses and you have had the opportunity to observe a few mediations and/or arbitrations, you are usually ready to do your own thing as a mediator or arbitrator. Please keep in mind that most construction ADR Specialists work into their new ADR career over a long period of time. I know several ADR Specialists who are still active in their current construction vocation and are slowly handling more and more cases until they reach the point where they will consider “hanging up the hammer” and turning to ADR as their full career. Some ADR Specialists are involved in both professions at the same time.

The total costs for the basic ADR training usually runs between \$2,500 and \$3,000, including travel. In addition to the basic ADR training programs, there are many advanced ADR and related training programs available, which I certainly recommend to any of our ADR Specialists. Our firm consistently turns down about 2/3 of the applicants who would like to join the “CDRS National Panel of Construction ADR Specialists” because they do not possess the construction knowledge that we require. As I mentioned before, a construction-knowledgeable individual can easily learn to be an effective construction ADR Specialist. An ADR Specialist without construction knowledge cannot easily learn the construction industry to where they would be an effective construction ADR Specialist. ☺



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