



## ONLINE DISPUTE RESOLUTION IN THE WAKE OF COVID-19 – AND BEYOND

The COVID-19 pandemic has resulted in closure of courts to the general public and the “virtual” conduct of court hearings and business, except in certain emergency matters. Skeletal court staffing, limited resources and technological constraints have impacted the courts’ ability to process, address and resolve matters in a timely way and within established time standards. The Supreme Judicial Court has ordered that, except with agreement of the parties and the court that a particular case be conducted virtually, criminal and civil jury trials scheduled to commence in Massachusetts state courts between March 13, 2020 and July 1, 2020, have been continued to dates no earlier than July 1st, and criminal and civil trials (and, presumably, evidentiary hearings) scheduled to commence between March 13, 2020 and June 1, 2020, have been continued to dates no earlier than June 1st. In all likelihood, attorneys and parties will experience significant trial delays resulting from congestion in courts upon fully re-opening and from a backlog of cases continued by these orders. Furthermore, in recognition of the constitutional right to a speedy trial, courts will give priority to criminal trials, especially those in which the accused is in custody awaiting trial.

Like all aspects of working amid a pandemic, Alternative Dispute Resolution (“ADR”) providers are adapting.

Online Dispute Resolution (“ODR”) has proven to be a creative solution, using advanced technology and secure online environments to facilitate the resolution of disputes between parties.

Attorneys and parties with pending civil trials should give serious consideration to the benefits of ODR, whether through arbitration, mediation, case evaluation or other ADR procedures. Secure telephonic and virtual teleconference technology as methods of conducting ADR are available and may be a practical means of resolving a civil dispute in an expeditious and less costly way. Attorneys and parties can participate from safe and risk-free locations and may limit their expenses by being able to attend from remote locations.

With improved technology and software, parties, attorneys and ADR providers are able to successfully negotiate settlements and to conduct arbitration proceedings and other ADR procedures “virtually.” Experienced arbitrators and mediators who have become adept at utilizing this technology in a professional and secure manner will make this an increasingly attractive means of case resolution, not only during and in the immediate aftermath of this pandemic, but also in the future.

Bulkley Richardson has a keen understanding of the technology and experience to successfully implement ODR, and highly skilled counsel experienced in ADR methods in all types of civil disputes. Contact a member of the firm’s ADR group for more information.



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