

ALTERNATIVE DISPUTE RESOLUTION

ALERT

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The Benefits of Alternative Dispute Resolution for Coronavirus-Related Business Claims

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As the world recovers from the Covid-19 crisis, many pressing business disputes – whether local, national, or international – must be resolved in a fair and timely manner outside of traditional court-based litigation. Courts will be overwhelmed, increasing the expense and length of time for handling cases. Alternative dispute resolution, especially structured mediation, is a valuable tool to help businesses overcome their differences while preserving relationships and allowing their operations to start returning to normalcy.

In the wake of the economic disruption caused by the coronavirus, there will be an overflow of unavoidable commercial disputes. Companies will have a wide range of claims involving contract, lease, labor, and other issues. These disputes will affect nearly all industries, but especially retail, manufacturing, and other sectors most disrupted by government-ordered business shutdowns and trade restrictions.

Alternative dispute resolution can meet the pressing needs of companies facing claims, and thus play a crucial role in restoring stability to our economy. Creative and collaborative approaches are important to prevent business failures, save jobs, and get everyone back to work.

Traditionally, alternative dispute resolution has involved straightforward arbitration and mediation approaches and techniques designed to efficiently resolve business disputes.

Alternative dispute resolution can address coronavirus-related commercial disputes by applying innovative ideas and fee structures to accommodate the volume of matters that have arisen.

When assessing the prospect of alternative dispute resolution, businesses with coronavirus-related disputes may find it useful to consider several options. For example, mediation may be an ideal approach if the dispute is between parties that will have an ongoing business relationship and wish to avoid delay and the risk of a litigation outcome. In addition, a business should consider the confidentiality of mediation as an important business incentive. Arbitration could be useful when there is no likely outcome in sight but the parties still seek an efficient, confidential resolution.

Finally, companies may want to seek mediators or arbitrators who have the experience needed to understand the interests of the parties, their contractual agreements, and the impact of Covid-19 on their operations and the broader economy. An effective neutral can guide the parties through the process, reducing their uncertainty and stress while responding to their needs. And dispute resolution can be conducted using remote discussions by video, where appropriate.

In short, alternative dispute resolution can avoid the need for litigation and help many businesses to participate in our country's economic recovery. ♦

For more detailed analysis on a wide range of legal issues, please see Schnader's Covid-19 Resource Center at www.schnader.com/blog/covid-19-coronavirus-resource-center.

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