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Getting Schooled on Mediation

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In Texas, as well as across the nation, alternative dispute resolution (ADR) has proven to be a cost-effective way to avoid litigation in a wide range of instances. Courts are continuing to deal with significant backlogs of cases. For example, the Harris County District Courts recently reported having more than 39,000 active cases pending, with 32% of them being more than a year old. ADR is an effective means for addressing the overloaded court docket, providing a way for disputes to be resolved more expeditiously.

To gain insights into ADR and how neutrals approach mediation, we spoke to Angela Downes, Esq., JAMS mediator, arbitrator and facilitator, and professor of practice and assistant director of experiential education at the University of North Texas at Dallas College of Law. Professor Downes developed and manages the law school's clinical mediation programs, connecting students with underserved clients throughout the city.

Professor Downes, when did you start your career as a mediator?

I have been mediating cases since I was in law school. I was attracted to ADR because I saw that it afforded a way for parties to work with a trained facilitator who would help them think strategically about their issues by bringing parties together and solving disputes. Mediation spoke to me as a law student.

How has your experience as a professor influenced your approach to ADR?

As a professor, I have to have a solid foundation in what I teach. I am able to combine my academic expertise with practical experience from having been both an attorney and a prosecutor to take legal concepts and bring them to life for my students.

This skill translates quite nicely when working with parties in mediation and arbitration. The ability to distill concepts down and explain

extremely complex issues in a language that parties can understand is crucial to bringing people together in order to help them reach a resolution. The communication skills needed to make this happen are absolutely vital in ADR.

As a mediator in Texas, what types of disputes do you most commonly see?

One of my areas of focus is insurance. Here in Texas, as well as in other states, rules are in place to bring in mediators to help with disputes between health care providers and patients. Mediation ensures there is a healthy conversation that lends itself to a positive resolution. Another area I see quite a bit in my practice involves schools and education. This might involve disputes between parents and school districts. There are some school districts in Texas that have implemented ADR as a mechanism to handle special education and student assessment cases. In fact, I have conducted training with boards to help shape those conversations and to ensure they have the tools necessary to provide the best possible outcomes for young people. ADR is quite useful for a wide range of disputes—everything from issues with homeowners' associations to business and commercial disputes to wrongful termination.

You're a recognized authority and subject matter expert on interpersonal violence issues—domestic violence, human trafficking and child protection—which is a complex and sensitive area. How does your experience in this field inform your approach to ADR, particularly when dealing with cases involving domestic violence or other forms of interpersonal harm?

Interpersonal violence issues are typically found within family law cases. These can involve dissolution of marriage, marriage disputes, domestic violence, child abuse, elder abuse, human trafficking, etc.



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These all fall under the umbrella of interpersonal violence. Over the years, I've developed the ability to detect subtle signs of interpersonal violence, which someone without that skill might not recognize. Picking up on those indicators helps inform the approach I take in an ADR setting. Outside of ADR, I have used my subject matter expertise in interpersonal violence issues to provide training, policy advice and technical assistance to nonprofit agencies and state and local government officials.

Does being an attorney as well as a former prosecutor provide unique insights that are useful for the role of mediator?

I personally feel my experience as a prosecutor for the Dallas County District Attorney's Office, my many years as a practicing attorney and my roles as assistant director of experiential education and a law professor have definitely influenced my ability to look at all sides of an issue, particularly when it comes to mediation. As a neutral, I can fully understand how all parties to a dispute feel, which allows me to encourage a greater degree of empathy between the parties. That is key to reaching a resolution.

As a longtime Dallas resident, what does the city mean to you?

I absolutely have deep roots in Dallas. I believe it is one of the fastest-growing cities in the country, and that's because it is truly a great place to live. Not only do I love Dallas, but I also love the entire state of Texas. That's why I try to give back to the community where I live and work. I am very committed to making the city a better place. I do that through service on various boards. I strongly believe in the power of giving your time to organizations and causes that you care about.

What attracted you to JAMS after being a successful mediator for much of your professional life?

JAMS seemed like a natural progression and fit for me in mediation and arbitration. I was impressed by the standard of excellence that JAMS has established through the mission, vision and values of the organization. Things like integrity, diversity, innovation and collaboration are important to me. They are qualities deeply embedded in the culture at JAMS. I felt joining JAMS as a neutral was a way to take my mediation work to the next level and grow professionally.

We understand you've been focused lately on the subject of vicarious trauma and compassion fatigue. Can you explain how these issues might affect ADR?

I have been doing a lot of research and some scholarly research and work on vicarious trauma and compassion fatigue. Part of this has involved working with the Office for Victims of Crime, where we are creating together training materials. Vicarious trauma is an occupational challenge for people working and volunteering in legal fields.

Lawyers are one of the top occupations impacted by vicarious trauma. Most of the time it is relegated to victim services, lawyers, law enforcement and emergency medical workers. It involves work-related trauma or exposure that can occur from experiences such as listening to individual clients recount their victimization, looking at videos, reviewing case files and hearing about or responding to the aftermath of violence.

In the context of ADR, some of the disputes are very personal, involving personal injury and/or family incidents. Some of the difficult emotions involved in these cases may be transferred to the handling attorneys, and even the mediator, in a way that affects them personally. It is an area that calls for more attention and a greater focus on self-care and developing coping strategies for all the participants—lawyers, mediators, arbitrators, and parties.

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