

October 2017

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Recommended Citation

Santiago Feliciano, Jr. (2017) "Alternative Dispute Resolution," *The Catholic Lawyer*: Vol. 33 : No. 1 , Article 10.
Available at: <http://scholarship.law.stjohns.edu/tcl/vol33/iss1/10>

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ALTERNATIVE DISPUTE RESOLUTION

SANTIAGO FELICIANO, JR., ESQ., MODERATOR DIOCESE OF CLEVELAND

We can either exert some leadership in this and move forward with the times or we can be dragged into it eventually. I am the Vice President of the Legal Aid Board, Legal Aid Society of Cleveland, the second oldest legal aid society in the United States, and at our recent annual meeting we as a society dedicated ourselves to alternative dispute resolution. The idea is that we are in such a litigious society that it takes incredibly long to work out problems which may not have worked out any differently than if someone had intervened prior to litigation and tried to bring parties together. We see that it is becoming more and more fruitless often-times to litigate, and so the idea is to bring people together as soon as possible to deal with their issues.

One of the things I do want to say is that, when Sister Donna comes forward and when Jessie comes forward, we are going to be talking about different modalities of ADR. I think what is important is that you internalize this as a conscious decision. Do we want to do this? Do we want this to be part of our diocese? How will it reflect the integrity and the reality of the episcopal style of our bishop, and how the diocese itself as a community of believers deals with issues? Sister Donna and I, from the Diocese of Cleveland, have worked on issues that encompass everything within the diocese, not only employment. Jessie's program currently, I believe, has started and has focused principally on employment, although they have used her talents for other things.

As I said before, the concept really is one of commitment to using alternative dispute resolutions, and our diocese, because we have house counsel, which include myself, another competent attorney, Tom Judge, who is here, and Sister who runs the office, is able to get into issues other than employment. Again that may not be where you are or where you want to be. You may just want to use it for employment purposes. I think it is important to note that that alternative dispute resolution really is nothing new for the church. In the late '60s, the bishops got together and I am sure that if you ferret through your archives you will see that there was a letter from the episcopal conference encouraging there to be a due process system set up within every diocese in the United States. We dili-

gently followed through on that and we set up an office. We then promulgated books that probably even the Sacred Congregation in Rome would not understand on how we were to work this process through. The frightening thing is that when we looked at our system and decided that we needed to revamp it, we sent questionnaires throughout the United States. It was curious, the number of dioceses that said they had alternative dispute resolution due process. The really frightening thing was, we ranked third or fourth in the United States in the use of this office and the cases that it handled. That was hilarious because the office, in all essence, had been dead for about five to seven years. So when I read that, it did frighten and concern me—what does that say about this process that was encouraged all these many years ago? It appears to exist in some dioceses but in reality does not exist.

The rationalization that I will explain for our diocese reestablishing this is that we have a very large diocese. We have a million Roman Catholics; we have the second largest school system in the State; we are the largest private employer in the State of Ohio; we have in excess of 20,000 people employed by the diocese, and there is continually this cluster of problems. And although there were different levels of places you could go to solve a problem, ultimately there were certain issues that people were reluctant to handle. As a result, often times lawsuits were filed against the parish or the diocese because of the unanswered questions: "Where can we go?" "Who will listen to us?" "Who will have some sense of moral persuasion?"

Now, in our diocese we have decided to go through mediation rather than arbitration. But it was important we felt, that as a community of believers, people had a place to go to be heard because the reality is the Church can be a poor employer. The reality is the Church can make some very capricious decisions, both out of parish and at an administrative level. Where do these people go to deal with those issues? On the other hand, we have decisions that have been made appropriately at a parochial or administrative level, and people, truly out of pastoral concern, want these people to have a third person say to them, "Yes, I hear what you are saying but there is still a problem here." And to validate their position. It was based upon those kinds of issues that we decided in our diocese that it was time to revisit the due process, arbitration and conciliation, to change the office to reflect the reality of our Bishop, of the Church as it exists in the Diocese of Cleveland, and to work cooperatively with pastors, administrators and the lay people so that we feel that they are being listened to.