



## ADR: An Option for Civil Cases Impacted by Budget Cuts

By **Terrence Lee Croft**  
*JAMS*

[tcroft@jamsadr.com](mailto:tcroft@jamsadr.com)

The Georgia Legislature has eliminated nearly \$11 million from the state judicial budget for the coming year. Though lawmakers did make some concessions, such as approving \$610,000 for the use of senior judges – a figure far below the \$2 million requested – the cuts are still likely to have a significant impact.

Attorneys and clients in civil cases, for example, will be directly affected by the budget cuts and their resulting mandated furloughs and reductions in courthouse staff. Civil cases are already placed at the back of the line on some court dockets, behind criminal matters and family law proceedings. They will now face even longer delays, having to wait years before they are heard. Such delays do not involve just the low-budget matters; many cases involving millions of dollars will also face delays. Parties will be “on hold,” unable to plan or resume normal business operations or personal affairs while they wait for their day in court.

These delays are not something that most parties, or their counsel, wish to endure. Today’s business environment simply does not allow for litigants to wait years for a case to be decided. This is one of the factors behind the already robust growth in the use of alternative dispute resolution (ADR) services in Georgia. Now, due to the judicial budget cuts, ADR will play an even greater role in resolving disputes promptly and easing the burden carried by the court system.

As delays grow and litigation costs increase, wise lawyers are raising ADR options earlier in their conversations with clients. Counsel realize that the “wait times” and costs involved in seeing a matter through the courts can be reduced through the use of ADR. Likewise, many judges are referring matters to mediation or suggesting arbitration or another form of ADR as increasingly viable alternatives to lengthening civil dockets.

Thankfully, Georgia is blessed with a number of talented and experienced ADR practitioners who are ready to partner with attorneys and the courts to resolve disputes. Many have already spent decades as litigators and understand the pressures counsel face to secure resolutions for their clients. Others have served long careers on the bench, managing their own dockets and seeing, first-hand, the impact of delay on civil litigants. Whatever his or her background, a talented ADR practitioner is dedicated, first-and-foremost, to resolving the disputes fairly, efficiently and in a timely manner.

As lawyers confront the frustration and expense that delays impose on their clients, they need to be aware of the variety of ADR processes that can be utilized to fit the needs of a particular dispute. Mediation and arbitration, of course, are the most familiar processes. Indeed, many more cases are being brought to mediation even before a lawsuit has been filed or at least in advance of most of the tedious and expensive discovery procedures. Other ADR procedures are also available during the course of litigation. Some ADR procedures are specifically designed to address a complex or time-consuming aspect of a dispute. For example, a discovery referee can expedite the resolution of contentious discovery disputes. Similarly, courts often appoint special masters to work with the parties to resolve various procedural and substantive matters. The special master may also prepare findings of fact and conclusions of law. Some insurance policies permit the use of an umpire or referee for disputes over the amount of damages to be paid.

In this current era of budget deficits and cuts, it is likely that the Georgia judicial system will be called upon to do more with less for years to come. The expanded use of ADR will help alleviate some of the consequences of budget cutbacks, particularly with respect to civil litigation. ■