

# ***ABA Unanimously Adopts Policy Encouraging Early Dispute Resolution***

*By Felicia Harris Hoss, FCI Arb and Ellie K. Vilendrer*

At its recent Mid-Year Meeting in February, the American Bar Association (ABA) House of Delegates (House) unanimously approved Resolution 500 urging lawyers and all interested parties to increase the informed and voluntary use of Early Dispute Resolution (EDR). The Resolution is a significant and timely policy statement that simultaneously highlights the benefits non-adjudicative dispute resolution processes afford parties and the importance of preserving the jury trial.

The Resolution was researched, backed by statistics, and thoughtfully worded. Data reveals staggering backlogs at courthouses that not only slow down the speed at which lawsuits progress through court systems, but also increase the costs. Between 2019 and 2023, the backlog in federal civil trial courts grew more than 80%, from 359,472 to 656,689 cases at year-end 2023. Many state courts also saw growing backlogs on their civil dockets. In California state courts, for example, the civil case backlog grew by over 885,000 cases in the last three years.

Studies reveal that civil litigants most often resolve disputes through non-adjudicative processes, which have the potential for greater satisfaction with the dispute resolution process and outcome than with traditional litigation, but that use of such processes is often delayed or employed only upon court-order. Resolution 500 encourages disputants and their counsel to proactively consider the benefits of EDR – party self-determination, time efficiency, cost-effectiveness, relationship preservation, and non-binary and creative solutions – early in the life cycle of the dispute and at a time when their value to the parties is greatest.

Notably, Resolution 500 acknowledges that EDR is not right for every civil dispute, and that the right to a jury trial is important and to be protected. In those disputes for which judicial resources are a necessity, the Resolution seeks to reduce the growing backlogs at the courthouse so that valuable limited judicial resources may be reallocated to enable more expeditious and less costly judicial decisions.

The Resolution was spearheaded and drafted by ABA Section of Dispute Resolution EDR Committee Co-Chairs Ellie Vilendrer (California), Felicia Harris Hoss (Texas), and Mary Cullen (Minnesota) and Co-Chair of the Ombud's Committee Meg Willoughby (Pennsylvania). Underscoring the importance and value of early dispute resolution intervention, before the Resolution was presented to the House for a vote, several ABA sections and divisions co-sponsored the Resolution, including the ABA Section of State and Local Government and the ABA Senior Lawyers Division. The Resolution also received support from the ABA Business Law

Section, the ABA Section of Labor and Employment Law, the ABA Young Lawyers Division, and the ABA Section of Government and Public Sector Lawyers.

In celebration of the passage of this resolution, the Dispute Resolution and Tort Trial and Insurance Practice Sections of the ABA are co-sponsoring two webinars, free of charge and open to the public, to educate lawyers, advocates, interested parties and the public on important EDR tools: [Risk Assessment and Case Evaluation](#) on May 14, 2024 and [Mastering Early Mediation: Strategies for Success](#) on June 4, 2024.

To access Resolution 500, its supporting documents, and video of the presentations made at the Mid-Year Meeting, visit the ABA website's House of Delegates Resolution 500.



*Felicia Harris Hoss, FCI Arb, is an independent mediator and arbitrator on the AAA Commercial, Energy, and Consumer panels. She is a former trial partner in international and national law firms with offices in Houston, Texas, and is recognized by her peers for inclusion among The Best Lawyers® in America in commercial litigation (2021-2024). For over 26 years, Felicia has helped parties avoid and resolve complex commercial and contractual disputes in various industries including energy, healthcare, construction, financial services, insurance, managed cloud services, commercial leasing, manufacturing, and employment. Felicia is Co-Chair of the ABA Early Dispute Resolution Committee, Chair-Elect for the Houston Bar Association ADR Council, and the Association of Attorney-Mediators representative on the Board of the Texas Mediator Credentialing Association.*  
[Felicia@HarrisHossPLLC.com](mailto:Felicia@HarrisHossPLLC.com). [www.HarrisHossPLLC.com](http://www.HarrisHossPLLC.com).



*Ellie K. Vilendrer is an arbitrator, mediator, and Southern California Super Lawyer serving on panels including the Academy of Court-Appointed Neutrals, AAA's Commercial, Technology, Healthcare, Employment, and Consumer Arbitration panels, National Arbitration and Mediation, the FINRA Arbitration Panel, and the mediation panels of the United States District Court, Central District of California, the Orange County Superior Court, AAA, and the Minnesota Dept of Human Rights. She has extensive experience serving healthcare, software, and technology companies, ranging from start-up to publicly traded, in roles including outside general counsel, intellectual property counsel, and privacy counsel. She is Co-Chair of the ABA Early Dispute Resolution Committee and Vice Chair of the Orange County Bar Association's Legislative Resolutions Committee.*  
[Ellie@Vilendrerlaw.com](mailto:Ellie@Vilendrerlaw.com). [www.VilendrerLaw.com](http://www.VilendrerLaw.com)