

Mediation, arbitration grow as alternatives to court

■ MARYBETH MATZEK, FREELANCE EDITOR

Mediation has grown in popularity as more people seek alternative ways to solve civil disputes.

“There’s a lot of reasons parties opt for mediation or arbitration — it costs less, it’s more efficient and there’s more certainty,” said Elizabeth Carter, Senior Vice President Operations of JAMS. “Some people don’t like to leave their future up to a judge and want to have a say in the final outcome.”

Mediation can be ordered by the court or parties can decide to choose that route on their own — some even before a lawsuit is filed. With courts having lengthy dockets, some parties appreciate their cases can be resolved more quickly by using a mediator.

“Clients expect that their attorneys understand the mediation process,” Carter said.

A graduate of the University of Wisconsin Law School, Carter oversees operations for JAMS in the central and eastern United States and focused on creating new business opportunities. She began her career practicing law in Wisconsin. When she moved to a new state, Carter began thinking about how else she could use her legal degree.

“I loved the law — if I don’t have to practice it,” she said.

JAMS was founded by a judge in the 1970s who thought he could help disputes move faster and reach conclusion versus going through the court process. Today, the organization has about 500 mediators. JAMS provides neutral spaces where mediators and clients can meet. Each client is put in their own room and the mediator goes back and forth, talking with the different parties about the case.

Carter said mediation has “exploded” in the past 40 years as more cases pursue that route.

“Building a mediation practice takes a lot of work. You need to understand the case and understand the process,” she said. “It’s not like anyone can do it. You need to have the right skills, be persistent and patient.”

And while JAMS has 29 physical locations across the country, it also can work with clients virtually if they don’t live close to a mediation center. “We want to be available to clients where they need us,” said Carter, that sometimes mediators will also travel to a location.

Mediators can be used in a variety of cases from family disputes to complicated cases involving multiple parties. It may take a half

day to solve a personal injury case or several visits with the mediator to decide a more complex case.

“Even if it takes a few visits with the mediator, the case moves along more quickly than if it had gone through the courts,” Carter said. “People want to move on with their lives and their businesses and this can be an efficient way to do that.”

Some parties may approach another one and suggest a dispute go to mediation rather than filing an official lawsuit. Carter said that provides privacy since there’s not an official court record.

“The mediation process can help prevent bad feelings or harm a business relationship,” she said.

Carter said mediators see every kind of case. “Some you think won’t settle do and some you think will settle don’t — you’re never quite sure what will happen,” she said. “It’s definitely a dance between all the parties involved.”

JAMS also provides arbitration services. Those cases end in a binding agreement since it involves a contract. “Going through arbitration is a lot faster and less expensive than going to court, which is why more parties are moving in that direction,” Carter said.