

Max Factor III

ARC · Alternative Resolution Centers
and American Arbitration Association

Los Angeles

Specialties: real estate, employment,
business

Boom times are here for the alternative dispute resolution industry, Factor said.

“It provides an opportunity for litigants and counsel to be productive in the teeth of anticipated court delays for both substantive hearings and a trial on the merits,” he said.

This is especially true, Factor added, for those who are concerned about time passing and its possible effect on the availability of witnesses and their ability to recall events.

“Those who seek to game the system by delay will probably enjoy a degree of success, given the difficulty of getting cases to trial with limited court personnel and the reduced staff of civil judges, too,” Factor said.

But, he added, “Those folks who seek delay simply to avoid an adverse outcome are more likely to have this tactic recognized by the finders of fact, who will then treat a party seeking extraordinary delays as someone running from the scene of a crime with a money bag or two. So justice delayed is not necessarily justice denied.”

Unlike many neutrals, who prefer to keep warring parties in separate rooms for the entire negotiation, Factor said he prefers a more interactive approach.



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In that way, he added, “Both sides gain a better understanding of the case and each other’s motives, needs and interests.”

Legal counsel have become increasingly sophisticated in the exchange of information in recent years, Factor said, adding, “Tactical use of information with appropriate amounts of money, far more than money alone, is the currency of effective negotiations.”

Another trend Factor has spotted is the increasing use of high-tech tools to do independent research, such as Google, Facebook and LinkedIn.

“Everybody looks up everybody,” he said. “It helps us be better grounded. The better informed I am about people’s interests and needs, the more likely they are to make healthy choices and not look back with regret.”

— Pat Broderick