

A man in a dark suit stands with his back to the camera on a rooftop, looking out over a city skyline. A large, stylized circular graphic, resembling a stylized 'C' or a path, is overlaid on the image, framing the man and the city. The text is in a bold, white, sans-serif font, positioned in the lower half of the image.

**THE FUTURE OF
RESOLUTION IS
ALREADY HERE —
AND IT'S RIGHT
ON TRACK**



John Miles, Chief Executive Officer and founder of Miles Mediation & Arbitration Services, knows you can't speak about ADR's "future" without talking about COVID-19. The response and measures to curb the spread of COVID-19 have, in many ways, accelerated ADR's maturation and spotlight moment.

Even during the ongoing turbulence of 2020, the future of mediation looks a lot like the present. While it's human nature to predict industry, behavior, and economies will either "bounce back" or, in another extreme, "never return to pre-pandemic levels," John knows neither prediction is accurate.

2020 - ADR to the Rescue

Like 9/11, COVID-19 has transformed the world as we know it. In the beginning, most were certain any interruption to our daily lives would be temporary. The word shutdown was a new addition to our collective vocabularies, and no one could have foretold how we'd have to adapt. John admits that he, himself, was only expecting a two-week shutdown. That it would go on to last months — and that the pandemic continues to affect lives in cities and states — is something that no one could have predicted. The minutiae continue to surprise us, but the broad strokes — the general sentiment of insecurity, selective fear, and uncertainty — are familiar. All you need to do is travel back in time 20 years to see this is true.

In the shadow of a post-9/11 world, the consciousness of the country shifted irrevocably. America was no longer the impregnable fortress we thought it was. The event re-shaped our thinking in the immediate aftermath — tourists were scarce in Manhattan, and real estate dipped. Pundits predicted we'd never get on a plane again.

But if you fast-forward just five years later, the number of people buying Manhattan real estate or boarding flights gradually increased — and then surpassed previous levels. In other words, life didn't just "return to normal" — life returned to the trajectory it was on. John ruminates that this is true of many watershed moments in history.

He sees the same for the future of ADR.

John reflects that in instances of seeming doom and undeniable change — such as the financial crisis of 2008 — we collectively expand our concept of what's possible. We adopt innovative processes, shift delivery methods, and try to see our way forward. However, our fundamental needs don't change. The need to interact with each other, be a part of a community and contribute — these are tantamount to our very existence. People need to "get back to normal even if normal looks a little different," says John. People need connection, the kind of connection ADR provided pre-pandemic, is providing during the ongoing crisis and will continue to provide post-pandemic.

ADR Asserts Its Superiority to Litigation

When courts shut down in the face of the call to "curb the curve" (i.e., the spread and number of cases of COVID-19), parties to disputes turned to mediation as a solution they could rely on right now.

Confined to our homes and obligated to deal with one another, conflict resolution has become much more prevalent — and ordinary — a task. John knows why ADR is logically superior: "It's certainly more economical. And it can be done in a shorter time frame, allowing for significant cost and time savings. But the true power of mediation and alternative dispute resolution is that it most closely resembles how people resolve disputes in their own lives."



To emphasize the significance of this “edge,” John illustrates his point with an ordinary conflict.

Imagine there’s a couple, and they have two small children. The family lives in Atlanta, and the wife’s career is taking off. She gets an opportunity to move across the country for more money and prestige. But the husband says that he likes it here, the kids love their school and that he doesn’t want to leave.

Now, there’s a conflict.

And, if litigation had its way, the “resolution” to this conflict might go something like this:

- Both husband and wife would get lawyers.
- Once they retained legal counsel, they wouldn’t be able to talk to each other. Their attorneys would control communication between the parties.
- All communications from that point forward are either written questions-and-answers or procured as testimony under oath.
- The rules of evidence would apply. If the husband suspected that the wife “places her career and money above him and the children’s interests” or the wife feels that her husband has always “been jealous of my professional success,” a judge might rule that irrelevant and inadmissible for what a jury needs to make a decision.
- Once that’s done, the “dispute” will go before 12 people who are unfamiliar with the husband and wife’s intimate lives. Whatever the decision of these 12 individuals, the family will have to agree.

Faced with this alienating and, at times, arbitrary process, John reasons, mediation is the better option. The couple would choose to forgo litigation in favor of a process where “they control the outcome for their family, even though it’s going to be uncomfortable and messy. Everyone has coping mechanisms, ways they deal with conflict. Some are good, some are bad. But they’re ours, and we are more comfortable when we make those decisions within the context of our decision-making,” observes John.

And that’s not happening in the future — it’s always been happening in ADR.

The Medium is the Message

There are nuances to communication like subtle gestures or interacting with others in a room. Just as the process of mediation is part of its power, so too is the medium of communication. Virtual and electronic communications platforms, while flexible and versatile, have their limitations. Undoubtedly, virtual ADR is the new-kid-on-the-block, but the novelty of broadcasting a mediation from the comfort of your own home, for some, can’t be an adequate substitute for the efficacy of in-person communication.

“That’s because there are ways we’ve been conditioned to interact. While there will be a certain percentage of the population that may NEVER go back ‘” to the way it was before,” the vast majority of people will NOT live their lives in fear. This includes in-person ADR because that was the trajectory we were on anyway,” John remarks.

In the aftermath of COVID-19 shutdowns, however, virtual ADR through platforms like Zoom demonstrated their utility. John was one of the first to see it, rapidly seize the moment, and introduce an entirely new way to offer resolution services.



Zoom, Zoom, Zoom

"There's no question that Zoom saved the day," John concedes. Jake, his son and CFO of Miles Mediation, first introduced him to Zoom early in January 2020. John was instantly hooked. "We were in the process of setting up Zoom rooms. Without Zoom, there was no way to conduct mediations and arbitrations."

He doesn't see it becoming the "new normal," but there is now a definite use for it — and it goes beyond the pale of a simple stop-gap solution to shutdowns. Less complicated matters have translated well on Zoom, allowing attorneys and parties to collaborate without having to leave their office or home, and decide, in a relatively short period, whether resolution is possible.

John has seen first hand how using Zoom, and virtual ADR, in general, reduced cancellations. He cites situations in which parties are spread across the country, and one is grounded, unable to travel due to the weather. In a "pre-Zoom" world, you may have had to cancel. Now, however, the party would connect virtually and move forward.

For cases that are larger and more complex, there is a decided preference for in-person mediations. However, transporting expert Neutrals across the country to be physically present at a mediation may be cost-prohibitive. Ordinarily, the parties and attorneys have had to move on to other options. But with the "hybrid" model of Zoom, John says, "we now have Neutrals on our panel who are very talented participating in matters where they were previously geographically prohibited."

The Future of ADR - The New Normal?

As for the future of ADR, John's position is simple: It was always here to stay. We just got here, to a place where ADR is the first option, a lot faster. Thank our resilience — or our need to simply return to "normal." When it comes to the fundamentals of communication and conflict resolution, the new normal looks a lot like the old one.