

Disaster ADR: How Can We Help Next Time

By Melvin A. Rubin, Mediator / Attorney

mrubin@melrubin.com

www.melrubin.com

1-866-401-4LAW / 305-446-4630 / 305-446-4978 fax

I. NATURAL DISASTER MEDIATION PROGRAMS JOIN THE LONG LIST OF CLASS ACTION AND MASS TORT ADR APPROACHES

A. Differences Make The Difference

1. Little Warning Of A Natural Disaster
2. Requires An Immediate Multi-Level Response
3. Usually Requires Immediate Government Response
4. Usually Affects A Defined And Contained Geographical Location That Cuts Across Socio-Economic Classes
5. Involves Multiple Defendants That Can Rise To The Level Of 100's
6. Has Significant Political Overtones
7. Unquestionable Worthiness Of Unrestrained And Immediate Help
8. Media Coverage

B. Because Of The Above, In Place Plans Must Exist To Deal With The Disaster

C. Response Time Is Critical

D. Cooperation And Collaboration Must Be As Instant Or Quick As Possible

1. Requires Pre-Existing Alliances Within The Insurance Industry
 - a. Inspection Procedures In Place
 - b. Available Quality, Quantity And Mobile Inspectors And Adjustors Resource
2. Requires Pre-Existing Coordinated Programs With The Appropriate Governmental Agencies And Across Multi-Governmental Levels, Including Local, State, And Federal
3. Requires Existing Rules And Emergency Agency Rules For The Administration Of The Program Selected

E. Physical Infra-Structure Must Have Criteria To Be Quickly Installed

F. Administrative Infra-Structure Must Be Mobilized

1. Staffing And Support Staff
2. ADR Specialist Pool Available
3. Training, Protocols And Processing Ready For Effectuation

II. FUNDING

A. Governmental-Single Or Multiple

B. Insurance Industry Or Responsible Industry

C. User Participation

D. Combinations

III. PARTNERING OR COMPETING

IV. CRITERIA, EXIT STRATEGIES AND QUALITATIVE ANALYSIS

V. OUTSIDE FACTORS

A. Community Rebuilding

B. Community Alteration

C. Community Exits

D. Construction Industry

E. Trust, Responsiveness, Competency And Quality Control To Insure Continued Support And Investment By The Community, Leaders And Media.

VI. THE ADMINISTRATOR

A. Physical Infrastructure And Logistics

B. Creation Of The Appropriate ADR Model To Meet The Emergency

C. Partnering With The Appropriate Governmental Agency(ies)

1. Partnering In The Administration
2. Partnering In The Training
3. Partnering In The Actual ADR Program By Providing Substantive Knowledge And Regulatory Input

D. Emergency Rule Creation

E. Training Procedures, Criteria And Monitoring

1. Eligibility Criteria For The ADR Specialists
 - a. Existing Measurable Qualitative Criteria
 - Certifications-ADR
 - Experience
 - Relevant Knowledge- Construction, Engineering
 - b. Geographical Distribution
 - c. Economic Feasibility-Sufficiently Attractive
2. Initial Training Program-Sponsorship-Administrator In Place, Governmental Entities And Private Sector
 - a. Recruiting Appropriate Faculty
 - b. Obtaining Sufficient Available Information To Tailor The Initial Training To Both The Short And Long Run Of The Program-The Training Must Be Timed To Maximize Responsiveness And Yet Impart As Much Information To The ADR People As Possible
 - c. Coverage Of Substantive And Procedural Matters
 - d. A Work In Progress-Flexibility

- e. Attention To Other Governmental Related Or Involved Entities, Including FEMA, Housing Authorities And Relevant Local Governmental Construction Rules And Industry Guidelines
 - f. Awareness Of ' Price Gouging ' Possibilities
 - g. Realistic Delivery And Responsiveness Dates And Abilities—Inspection Time Lines And Delays In Serving The Community Due To Shortages In Inspectors, Available Materials And Construction Resources
 - h. Psychological Issues That Permeate The Global Picture And Particularly The Individual Mediation Or ADR Sessions With Natural Disaster Victim And Adjustor
3. The Model ADR Specialist
- a. Experienced In Mediation With The Ability To Process Rapidly
 - b. Attention To The Individual Claimants With Global Appreciation Of The Program
 - c. Excellent Communication Skills With Special Emphasis On Working With Post Trauma Stress Disorder (PTSD) And Emotional Situations
 - d. Experience With Both Insurance Contract Language And Construction Terminology
 - e. Able To Work With Governmental Counterpart Either Within The ADR Program Or Within The Individual Sessions Themselves
 - f. Mobile And Committed To The Goal