



Melissa Gayton
Research Assistant
Austin 009
1515 Massachusetts Avenue
Cambridge, MA 02138
(617) 496-0917
melissagayton@college.harvard.edu

To: Jim Greiner
From: Melissa Gayton
RE: Marvin Mandell & Andrea Marshall, *The Effects of Court-Ordered Mediation in Workers' Compensation Cases Filed in Circuit Court: Results From an Experiment Conducted in the Circuit Court for Baltimore City*, Maryland Institute for Policy Analysis and Research, UMBC (2002),
<https://courts.state.md.us/sites/default/files/import/macro/reports/baltcityworkercmpreportfinal.pdf>
Date: August 10, 2018

Title: The Effects of Court-Ordered Mediation in Workers' Compensation Cases Filed in Circuit Court: Results From an Experiment Conducted in the Circuit Court for Baltimore City

Authors: Marvin Mandell and Andrea Marshall

Location: Baltimore City Circuit Court, Baltimore, MD

Sample: N = 400

Timeline: April 1, 2000 to June 11, 2001

Target group: Workers' Compensation cases

Intervention type: Court-ordered mediation

Research papers:

https://courts.state.md.us/sites/default/files/import/macro/reports/baltcityworkercomporepo_baltcit.pdf

Partners: The Maryland Judiciary's Mediation and Conflict Resolution Office, The Honorable Ellen M. Heller, Administrative Judge, Circuit Court for Baltimore City

Abstract

Mediation, a form of alternative dispute resolution (ADR) had potential tangible and intangible benefits, but these potential benefits had not undergone rigorous evaluation. This study assessed the tangible effects of mediation in non-family civil court cases. The study found that court ordered mediation resulted in statistically significant increases in the percentage of cases resolved prior to the discovery deadline, settlement conference, and scheduled trial date and a statistically significant decrease in the number of filed notices of discovery.

I. Policy Issue

Mediation, a form of alternative dispute resolution (ADR) had potential tangible benefits, such as reducing the percentage of cases that went to trial and costs to participants, as well as intangible benefits, such as participant satisfaction and minimizing adverse effects on relationships. However, whether or not ADR actually exhibited these potential benefits was unclear, particularly in contexts outside of family law. What effect did an order for mediation have on the time to disposition, how courts resolved cases, and the number of formal litigation activities involved?

II. Context of Evaluation

In 2001, 400 of the over 450 Workers' Compensation cases filed in the Circuit Court for Baltimore City participated in this study. These cases are not typical of civil cases filed in Circuit Court. Workers' Compensation cases could only face trial in Civil Court after workers filed them with the Workers Compensation Commission and received a denial from the Commission even after reconsideration. Civil Court treated these appeals as *de novo* – as if they were being heard for the first time – in Civil Court, but often relied on discovery conducted during the Workers' Compensation Commission proceedings. Because of this, Workers' Compensation cases generally require less discovery than other civil cases.

III. Details

In order to be eligible for the study, the case had to be a Workers' Compensation case “at issue” between April 1, 2000 and June 11, 2001 that had requested jury trial and with both parties represented by counsel. In total, 400 Worker's Compensation cases filed in the Circuit Court for Baltimore City were randomly assigned to two groups through a computer-generated randomized sequence.

Researchers assigned both conditions to the “Standard Short Track,” with a discovery deadline 120 days following the date the case became “at issue,” a trial date seven months from that date, and a mandatory settlement conference one month before the trial date. In the experimental condition (n =202), the Court also ordered the parties to participate in at least two hours of mediation within three months of the scheduling order. In the control condition (n =198), the judge did not order the parties to participate in mediation, though the court allowed them to participate voluntarily in mediation. Researchers obtained Judicial Information Systems (JIS) records for 380 of the 400 participating cases with similar rates of attrition for the treatment and control group (4.95 percent and 5.05 percent respectively, $p = 0.96$). JIS data included variables such as the scheduled trial date, scheduled date of the settlement conference, disposition date, and the various motions and hearings held for each case. The results included in this study were current as of July 1, 2001.

IV. Results and Policy Lessons

For the 288 cases with their discovery date set prior to July 1, 2001, significantly more participants in the treatment group resolved their cases before the discovery deadline (24.1 percent vs. 11.2 percent, $p < 0.01$).

For the 236 cases with settlement conferences scheduled prior to July 1, 2001, significantly more participants in the treatment group resolved their cases before the settlement conference (42.5 percent vs. 28.5 percent, $p < 0.05$).

For the 197 cases with a trial date scheduled prior to July 1, 2001, significantly more participants in the treatment group resolved their cases before the scheduled trial date (82.5 percent vs. 70.2 percent, $p < 0.05$).

In assessing effect of mediation on time to disposition, the researchers used “survival curves” showing the percentage of cases in each group that remained unresolved at various points. Using a log-rank test, the researchers found that the treatment group’s cases resolved only marginally faster than the control group ($p < 0.10$).

The researchers calculated the cumulative frequency distributions of the number of notices of service of discovery filed for each group through June 30, 2001. Significantly more treatment group cases had two or more notices of service of discovery as of June 30, 2001 (37 percent vs. 56.4 percent, $p < 0.01$).

V. Quality of the Study

One limit of the study is that it tests only for the tangible benefits of mediation rather than intangible ones such as participants’ satisfaction or reducing adverse impacts on the parties’ relationships. Additionally, the researchers do not calculate whether or not court ordered mediation actually saved the court any costs overall. It is possible that the mediation program created administrative or other costs that merit consideration.

Additionally, because Workers’ Compensation cases are atypical among the other types of civil cases filed in Circuit Court, the results found in this study is not generalizable to other types of civil litigation.