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# LIGHTS, CAMERA, MEDIATION: WHY PUBLIC FIGURES IN THE ENTERTAINMENT INDUSTRY ARE TURNING TO ADR PROCESSES TO RESOLVE THEIR DISPUTES

*Halle Jaffe*

Imagine walking up the cold, stone stairs leading into a courthouse: your heart is pounding, your palms are sweaty, and you are fearful as to what the judge or jury who patiently await your arrival may decide. To make matters worse, you are surrounded by dozens of flashing lights, reporters are firing questions left and right, and your face will appear on every news outlet in the country within seconds.

Unfortunately, when a lawsuit is filed against a public figure, the record becomes public, meaning that the press can access the court documents.<sup>1</sup> Likewise, if a case reaches trial, anyone can observe it due to its public nature.<sup>2</sup> As a result, celebrities in the entertainment industry who enter the courtroom to resolve a legal dispute often fall subject to a journalist's dream – the utmost publicity – and the parties typically face the risk of unwanted attention and media coverage.<sup>3</sup> So, how can public figures avoid this unwanted publicity? Alternative Dispute Resolution (ADR). ADR refers to the different ways that people can resolve disputes without going to court, and these processes include mediation, arbitration, and neutral evaluation.<sup>4</sup> ADR processes are generally confidential and take place in a more casual, less stressful environment.<sup>5</sup>

Rather than ruining a public figure's reputation by having the details of his or her life, medical conditions, or intimate family details revealed in a public trial, ADR allows for privacy. ADR is favored by celebrities in the entertainment industry, as it is an unprejudiced, confidential, and private alternative dispute resolution process that takes place without the presence of bias, paparazzi, or any public documents.<sup>6</sup> Likewise, entertainers "generally want to maintain as much privacy as possible. Television shows, concerts, album, and movie releases require cost-effectiveness...finally, it is wise for people in the entertainment industry not to destroy working relationships with other industry personnel."<sup>7</sup>

Mediation, specifically, is a particularly auspicious choice for entertainers, as the mediation process is more efficient, less expensive, and the parties are more likely to reach agreement through a mediated, unbiased discussion.<sup>8</sup> Likewise, the conversations, the circumstances, and the overall

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<sup>1</sup> Bianca Motley Broom, *When Privacy Matters: Why ADR is a Smart Option for Public Figures*, JD SUPRA (Dec. 7, 2022), <https://www.jdsupra.com/legalnews/when-privacy-matters-why-adr-is-a-smart-8025965/> [<https://perma.cc/N92G-EWZP>].

<sup>2</sup> *Id.*

<sup>3</sup> Charlotte Bradley, *Mediation, Celebrity Culture and Avoiding the Spotlight*, KINGSLEY NAPLEY (Jan. 21, 2022), <https://www.kingsleynapley.co.uk/insights/blogs/family-law-blog/mediation-celebrity-culture-and-avoiding-the-spotlight> [<https://perma.cc/LN55-PQXF>].

<sup>4</sup> *What is ADR?*, NYCOURTS.GOV, [https://ww2.nycourts.gov/ip/adr/What\\_Is\\_ADR.shtml](https://ww2.nycourts.gov/ip/adr/What_Is_ADR.shtml) [<https://perma.cc/Z5A2-Y3EE>].

<sup>5</sup> *Id.*

<sup>6</sup> Connie Atkinson, *Celebrity Confidential! Why Mediation Can Be The Answer For High-Profile Couples*, KINGSLEY NAPLEY, <https://www.lexology.com/library/detail.aspx?g=bf85c198-9582-42e8-b9fe-6a430207ac88> [<https://perma.cc/9LNQ-YH96>].

<sup>7</sup> Toni L. Wortherly, *There's No Business Like Show Business: Alternative Dispute Resolution in the Entertainment Industry*, 2 VA. SPORTS AND ENTERTAINMENT L.J. 162.

<sup>8</sup> Atkinson, *supra* note 6.

settlement – if formed – can be kept completely private.<sup>9</sup> The parties meet with a mutually selected neutral and impartial mediator who guides the discussion and negotiation of their dispute.<sup>10</sup> The press does not know what the parties in mediation speak about, who the mediator is, and if an agreement was formed.<sup>11</sup> Mediation is proven to be a favorable option for public figures in the entertainment industry, as forty-three percent of entertainment companies generally favor the use of mediation, sixty-six percent reported that their disputes were resolved when mediation was employed, and ninety percent of entertainment lawyers stated that they are in favor of mediation.<sup>12</sup>

Take Amy Robach, T.J. Holmes, and ABC News, for instance. When the well-known and highly regarded hosts of Good Morning America’s romantic relationship went public in November 2022, the two went from reporting the news to being the ones reported.<sup>13</sup> Every major news outlet was breaking the story and the two were temporarily taken off air until the million-dollar question – will ABC news fire them and take legal action against the pair – was answered. However, after several weeks of being the talk of the town, the speculation subsided as Robach and Holmes awaited their fate. On January 26, 2023, news broke that the two entered mediation with ABC News.<sup>14</sup> Although the mediation did not end in their favor as they were let go from ABC, the details of the mediation itself are completely confidential, unknown to the public, and the settlement remains private.<sup>15</sup> There were no cameras, no public reports, and no account of what was discussed in the mediation room. Rather, the public simply knows that the mediation between ABC and the news anchors occurred and was “extremely contentious.”<sup>16</sup>

All in all, the use of ADR processes in the entertainment industry protects the time, money, and most importantly, the privacy of public figures. Through arbitration, negotiation, mediation, and other ADR processes, celebrities in the entertainment industry can keep the details of their quarrels confidential while maintaining business relationships.<sup>17</sup> The entertainment industry should continue with its use of ADR to resolve disputes, slowly making mediation, arbitration, and negotiation the leading means of resolving entertainment disputes in order to protect the privacy of the parties at stake.

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<sup>9</sup> *Id.*

<sup>10</sup> *Mediation Defined: What is Mediation?* JAMS ADR, <https://www.jamsadr.com/mediation-defined/> [<https://perma.cc/ZPJ6-UX8U>].

<sup>11</sup> *Id.*

<sup>12</sup> Wortherly, *supra* note 7.

<sup>13</sup> John Koblin and Michael M. Grynbaum, *ABC News Pulls Daytime Co-Anchors After Revealings of a Romance*, N.Y. TIMES (Dec. 5, 2022), <https://www.nytimes.com/2022/12/05/business/media/abc-news-holmes-robach.html> [<https://perma.cc/P5JX-T2RV>].

<sup>14</sup> Dan Clarendon, *ABC Drops T.J. Holmes, Amy Robach After Extremely Contentious’ Mediation: Report*, NY DAILY NEWS ((Jan. 27, 2023), <https://www.nydailynews.com/snyde/ny-amy-robach-tj-holmes-out-after-abc-mediation-20230127-3yiojano3vbernokl5z3dlnawu-story.html> [<https://perma.cc/436T-7LPE>].

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> Wortherly, *supra* note 7.