

VALLEY BUSINESS JOURNAL

A PUBLICATION OF THE VALLEY ECONOMIC DEVELOPMENT CENTER

Resolving disputes through arbitration has practical benefits

Arbitration, an alternative method of resolving disputes outside the traditional court system, has been receiving notoriety since the mid-1980s. At that time, it was hailed as the solution to our overcrowded court system. Retired judges, attorneys and just about anyone else who felt they could resolve disputes in a less formal setting called themselves arbitrators and began their new-found careers. Has this new system of justice worked? The answer is a qualified yes.

Parties involved in disputes now have resolution options that were not available to them 20 years ago. Arbitration and its less binding cousin, mediation have allowed parties to resolve disputes on their own terms without setting foot in a courtroom. While costs for arbitration can be high (both parties have to pay for the arbitration site, the arbitrator and legal representation, if there is to be any), the cost usually doesn't come close to that incurred during a civil trial. The time it takes to resolve the dispute is normally less than a civil trial. There is no waiting for a judge or courtroom to become available (which can take months). Many arbitrations do not require the same level of legal technicality for presenting evidence as is re-

quired in court, which saves attorney fees.

Nothing is perfect and therefore, arbitration and mediation also have their down sides. Because arbitration has proven to be such a financially lucrative business, many judges are opting to leave the bench early to pursue private arbitration careers. This means the courts are losing good judges. Another concern is the quality and experience of the arbitrators. During the early days, anyone could be an arbitrator. Now, qualifications need to be met before one can be a successful arbitrator. While the free enterprise system has eliminated a majority of the unqualified, one must still be cautious. Unskilled arbitrators are still out there lurking. The skill level and the ethical reputation of an arbitrator are critical because the arbitrator's decision is binding and will be enforced by a court of law in the vast majority of cases.

Critics have charged that with the widespread use of arbitration and mediation, we now have a two-tiered system of justice—one for the wealthy who can afford to pay an arbitrator up to \$500 an hour to hear a case and one for everyone else who must deal with the delays and frustrations of the traditional court system. Nevertheless, with mandatory arbitra-

tion clauses springing up in many consumer contracts, (car purchase contracts, contracts for professional fees and credit card applications, just to name a few) consumers with disputes are finding themselves in arbitration settings rather than in court. The end result is that grievances against large corporations are typically resolved quickly, often as a pleasant surprise to the consumer.

Arbitration and mediation will continue to grow in use, especially in business-to-business disputes. Businesses are beginning to better understand the arbitration and mediation process and the significance of arbitration clauses they once viewed as "boilerplate." With this knowledge will come a stronger alternative dispute resolution system that will benefit more and more businesses.

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