

Alternative dispute resolution

Business



Alternative Dispute Resolution In real world situations, conflicts of interest arise every now and then. There are official procedures to be followed when conflicts arise. One of the ways is to follow the normal court and judicial procedures of dispute settlement. However, some conflicts supersede these procedures due to their magnitude and nature. Alternative dispute resolution becomes a viable alternative. Particularly, business conflicts may be resolved through arbitration, mediation, and mini-trials. This paper discusses these three types of alternative dispute resolution by giving practical examples of how each has been applied.

Many major business conflicts have been solved through arbitration. This method is most applicable when the parties involved in the conflict agree that a third party seek a solution. The method is almost similar to court adjudication. Arbitrator panel act as judges and offer a solution after listening to both parties. However, the decision may or may not be legally binding. World International Property Organization (WIPO) is one of the best arbitration companies. One case involved a publishing house that had a contractual agreement with a software development company. The publishing house was not fully satisfied with the service after one and a half years and therefore the two parties decided to have the dispute arbitrated. By use of a practicing judge as the sole arbitrator, the two parties presented their interest in case settlement and the arbitrator found a common ground of settlement. The two parties agreed to the arbitrator's proposal and therefore consented to the settlement terms. The two parties finally went public with their newfound settlement and the case was solved (WIPO web).

Mediation is one of the best alternative dispute resolution options. The mediator purposely assists the two parties to come up with their own

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solution to the dispute. A good example was a business dispute that was mediated by an Auckland lawyer and Maria Dew. The case involved a family business whereby civil issues arose due to personal interests in the family business. The son, wanted to buy the business from his parents but they declined the offer but the two parties continued to run the business together. After the mother got ill, the son relocated the business to another location and took some of the staff with him. The two parties sought for mediation over court procedures. The mediation process took a day to resolve. The two parties came to an agreement that they would have independent valuation of the business premise after which the son would buy the business at a mutually agreed price. The parents agreed to sell the business to him based on good faith and long-standing family relationship and cooperation. Other procedures would have been more expensive and time-consuming (LEADR 1).

It is also possible to solve disputes through mini-trials. In this process, there are no arbitrators or mediators. Attorneys are employed to find a viable solution to the conflict after listening to the case from both parties. The work of the attorneys is to review the conflict and find a viable solution, which is then given to the parties involved. The party representatives are mandated with the authority to evaluate the applicability of the solutions provided by the attorneys. This is one of the widely used alternative dispute resolution in businesses. Particularly, mini-trials are most applicable when the parties have a business future together. For instance, many merger and acquisition companies will seek the assistance of mini-trials during merger, acquisitions, patent issues, or dissolution conflicts. The consultants will advise them on pros and cons of each course of action and therefore assist the two parties to

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chart the best way forward. Each method is used depending on the situation. However, it is also possible to use one process before proceeding to another one (Creighton and Scott 9-13).

Works Cited

Creighton, Susan and Sher, Scott. “ Resolving Patent Disputes through Merger: A Comparison of Three Potential Approaches”. Web 01, February 2012. Antitrust Law Journal. 3. (75). 2009. Pdf.

LEADR. “ Family business dispute”. 2009. Web 01, February 2012. WIPO. “ WIPO Arbitration Case Examples”. 2011. Web 01, February 2012.