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Alternative Dispute Resolution (Academic)

ALTERNATIVE DISPUTE RESOLUTION		
OVERVIEW	12. AUTHORITY: FRCP, Rule 16. In alternative dispute resolution and delay	15. PRIVATE USE OF RELIEF OF VOLUNTARY WRITABLE TERMS
1. PRIVATE ENFORCEMENT	1. Advantages	1. Court filing parties in voluntary resolution rather than require submission to litigation
1. Advantages of litigation	2. court can compel good faith participation by each claimant party	2. Discretion is generally non-binding
2. Private ADR engaged as an alternative basis	3. Disadvantages	3. No guarantee of finality
1. PRIVATE STRATEGIC PLANNING	4. Dispute stages	4. Binding contract relationship between parties and under binding contract
1. Identify client's goals and objectives	1. Advisory Procedures	5. Neutral person design and manage negotiation process
a. Multi required parties binding and fact investigation	1. Relevant Federal and California Statutes	6. Generally enforceable with or without court
1. PRIVATE NEGOTIATING	1. <i>Federal Arbitration Act (9 U.S.C. § 1 et seq. (FAA))</i>	7. Mediation
1. Consent/ Collaborative Multi-Disputational Problem Solving	2. <i>Arbitration (9 U.S.C. § 1 et seq. (AAA))</i>	1. Neutral person meets with parties jointly or separately to examine communication requirements
a. Create options to satisfy individual needs of each party based on common interests	3. <i>California Mediation Act (9 U.S.C. § 401 et seq. (CMA))</i>	2. Negotiate individual interests
b. U.S. in personal injury case - ability to have multiple advisors available while continuing work	4. <i>California Mediation Act (9 U.S.C. § 401 et seq. (CMA))</i>	3. Suggest possible solutions
2. Mediation: One-Disputational Adversarial	5. <i>California Mediation Act (9 U.S.C. § 401 et seq. (CMA))</i>	4. Used in discovery cases, pre-filing
a. Allow parties to maximize individual outcomes with minimal input to opposing party's needs	6. Advisory Procedures	5. Parties meet jointly with their attorneys to resolve dispute
b. U.S. in personal injury case - claims for recovery compensation	1. Neutral Experts	6. Agree to use neutral experts
3. Resolution Panel	1. Appointed by court to examine factual issues and provide non-binding opinion on issues	7. Agree that attorneys and experts are disqualified from further representation if sufficient not reached
a. actual value beyond which party will not settle, i.e., lowest amount Plaintiff will take and highest amount Defendant will pay	2. Charter Fee, Rule 70	8. Parties and attorneys responsible for complete, voluntary disclosure and joint evaluation of issues
b. Dispute Resolution	1. Charter Fee, Rule 70	9. Non-Order
a. Establishing each party's , where each party gets a separate chair	1. Charter Fee, Rule 70	a. Resolves factual discovery
b. U.S. Manufacturer with new plant in Party A and both plant in Party B	2. Charter Fee, Rule 70	b. Neutral person mediates with, and hears provisions from, by, consultation of each party, then issues an advisory opinion
3. Integrative Negotiating	3. Charter Fee, Rule 70	3. Confidentiality
a. Creating options for benefit of both parties	4. Charter Fee, Rule 70	1. Facilitate an advisory within organization that deals with large number of people
b. U.S. Manufacturer business, new and both products in Party A and Party B	5. Charter Fee, Rule 70	2. Provides assistance to find a mutual compromise
3. Transactional Negotiating	6. Charter Fee, Rule 70	3. Neutral Order
a. Planning for future events, such as drafting a contract or lease	7. Charter Fee, Rule 70	1. Common generally in each side's best offer and advisory parties to resolve for each day use
b. Dispute Negotiating	8. Charter Fee, Rule 70	
a. Conflict over current agreement, such as breach of contract	9. Charter Fee, Rule 70	
4. Negotiating Notes	10. Charter Fee, Rule 70	
a. Comparative - Adversarial	11. Charter Fee, Rule 70	
1. maximize client's objectives	12. Charter Fee, Rule 70	
2. make concession demands	13. Charter Fee, Rule 70	
3. Comparative	14. Charter Fee, Rule 70	
1. maximize satisfaction	15. Charter Fee, Rule 70	
2. option for "win-win"	16. Charter Fee, Rule 70	
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Synopsis

This useful study guide to Alternative Dispute Resolution outlines the steps and procedure involved in settling disputes in an official fashion while preempting litigation.

Book Information

Series: Academic

Pamphlet: 4 pages

Publisher: QuickStudy; Lam Chrt edition (December 31, 2009)

Language: English

ISBN-10: 1423208773

ISBN-13: 978-1423208778

Product Dimensions: 8.5 x 11 x 0.1 inches

Shipping Weight: 1.6 ounces (View shipping rates and policies)

Average Customer Review: 4.0 out of 5 stars See all reviews (1 customer review)

Best Sellers Rank: #797,511 in Books (See Top 100 in Books) #62 in Books > Law > Rules & Procedures > Alternative Dispute Resolution #190347 in Books > Reference

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