

Everything You Know about Dispute Resolution is Wrong: Can You Handle the Truth?

Is your reaction to the following statements: (1) “true,” (2) “really?,” or (3) “no way!”? Would it make a difference if the statements are qualified with language like “generally”? What if these are presented as aspirations rather than statements of general fact?

Court

- nightmare
- parties lose control
- judges don’t understand many areas of law
- juries are unpredictable
- BUT of course we will beat them in court
- compliance rate is low
- difficulties of enforcement
- expensive

Arbitration

- informal
- fast and cheap
- confidential
- rely on arbitrator’s expertise
- the arbitrator is dedicated to our case
- can’t appeal

Mediation

- faster and cheaper
- high settlement rates
- parties get to talk to other side
- options for creative settlement other than money
- safe place
- confidential
- if we have caucus, I won’t share information
- mediation empowers the parties
- mediation levels the playing field
- mediator has no control
- mediator will not give a solution
- mediator is neutral and impartial
- the process is voluntary
- you can decide – it’s your own decision
- you can always walk out
- you have nothing to lose
- mediation produces win-win solutions
- always better to settle in mediation