

# Mediation and Arbitration, Resolving Legal Disputes Outside the Courtroom

Traditionally, lawsuits that take place in civil court as well as civil trials are the standard method for resolving personal injury cases. Unfortunately using a civil court to resolve disputes can often take much longer, become costlier, and become tied up with continuances and delays. The emotional component of going to trial can also take its toll on the victims of serious injury, and on those who lost a loved one.

## Your board certified civil trial attorney knows best

It's in everyone's best interest to hire a board certified civil trial attorney and heed their legal advice carefully. Your civil trial attorney will know the ins and outs of the legal system and is the best one to explain the nuances of your case, as no two personal injury claims are exactly alike.

### **Alternative Dispute Resolution: Arbitration vs. Mediation**

Thusly, "mediation" and "arbitration" come into play when avoiding a lengthy, expensive lawsuit is of utmost importance. In this article we will break down each method of Alternative Dispute Resolution ("ADR") and how each works for what your attorney is retained to accomplish on your behalf.

### **Arbitration: formal, efficient, less expensive**

When one's personal injury attorney seeks to use the Arbitration method of "ADR", they are seeking a more efficient and cost-effective process to resolve your case out of court. Reaching a settlement with the opposing party (the "defendant") is in everyone's best interest and can save you many months or even years of stress, financial losses, and emotional anguish.

## Traditional Arbitration process

### **With traditional arbitration, the parties voluntarily agree to the process.**

This may be due to a preexisting contract and or if not, it could simply be due to an agreement made after the accident or injury has occurred.

With traditional arbitration:

- A third party sends one of the parties a written demand of arbitration
- The opposing party will respond in writing and their legal counsel will indicate whether they believe the matter should go to arbitration, if so, they proceed.
- Parties select a single arbitrator or in certain instances, a panel

### **The arbitration process: like a trial, but not quite!**

In most states the arbitration method is like a trial, but it's not quite there. While the parties make opening and closing statements and present testimony as well as witnesses, the evidentiary rules are different and the ability to cross-examine is staunchly limited.

### **Mediation: structured and with a purpose, but short-term**

Now we'll look at the "ADR" method of Mediation and the ins and outs of what happens when this alternative dispute resolution is utilized in your case.

There are times when stress is high, emotions are volatile, and parties are unwilling or simply unable to resolve their dispute. This happens quite often and that's where mediation can be employed by your board certified civil trial attorney. Besides being highly experienced in the former method of "arbitration", they are the experts in the method of "mediation" and can advise you every step of the way.

Within mediation the opposing parties work with a neutral third party. This person is called a mediator and they can mitigate the dispute between parties by mediating the exchange of information between the parties. Unlike arbitration, the mediator does not have the final say in the dispute.

### **Why mediate a case, and when?**

When it comes to mediation, there are many reasons your personal injury attorney will use this route. It's important to listen to your attorney when they advise you of what you may be asked within a mediation, and to go over any questions you may have before the mediation begins. Remember, a board certified civil trial attorney exceeds the experience and know-how of an attorney that's not board certified and will be your best option for your personal injury case.

### **Some things to consider when it comes to mediation:**

- The parties and the mediator have control of where and when the mediation takes place, who is present during the mediation, and how the mediation is to be paid for
- Mediation is usually voluntary; however occasionally statutes or court orders may require participation in mediation
- Mediation is quite common in personal injury cases and can speed up the process to obtaining compensation on your behalf

### **What happens after? The last piece of the "ADR" puzzle**

When the parties reach a resolution via mediation, it may be oral or written depending on the parties' legal counsel and the purpose of said mediation. Whether or not the mediation is binding depends on the state in which the mediation took place. Most mediation agreements, however, are considered contracts and can be legally enforced when need be.

The process of mediation is usually considered to be prompt, less financially detrimental, and more simplified from a legal standpoint than formal litigation or arbitration. It allows for a resolution of the circumstances that initially allowed for the dispute instead of getting tied up in legal issues that can drag a case out for an extended time.

## Shaked Law Firm, experts in alternative dispute resolution

When you're injured in an accident or have lost a loved one due to someone else's irresponsible actions, you deserve the best. Shaked Law Firm's board certified civil trial attorneys are highly regarded as the best personal injury lawyers in South Florida. With years of experience in everything from slip and fall to catastrophic car accidents, Shaked Law Firm puts clients first, always.

Shaked Law Firm provides a relaxed, stress free atmosphere in which to discuss your accident or injury case. When you've been injured or a loved one has passed away due to someone else's careless actions, you have rights.

Contact us for your complimentary consultation to take the first step. There's no obligation. Call us today: (877) 529-0080.

© Sagi Shaked Esq.