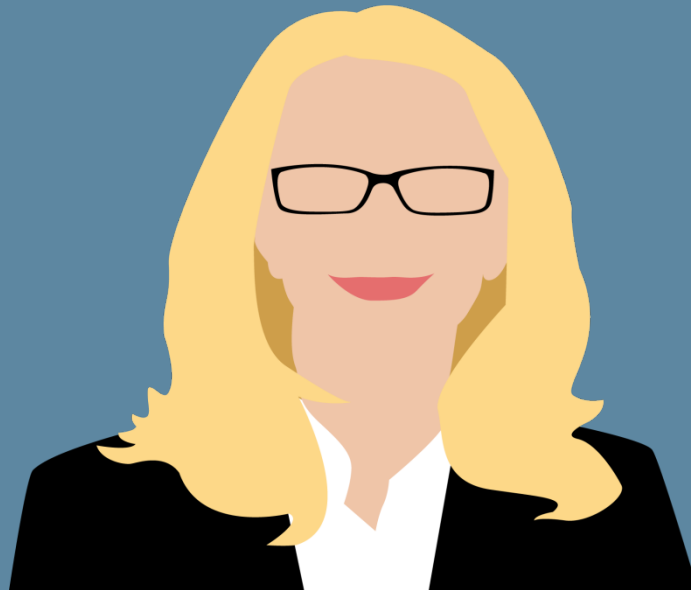


Legal Lunch with Laura



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Future Lunch Dates

Tuesday, July 16, 2013

**Oh No! I've Been Sued! What to Do
Next: The Anatomy of a Lawsuit**

*Webinars are held on the third Tuesday of every other month from
12:00 – 1:00 p.m.

TO MEDIATE OR NOT TO MEDIATE: BENEFITS OF A WORKPLACE MEDIATION PROGRAM

**Presentation by
Laura L. Rubenstein, Esq.**

Objectives for Today's Webinar

- What is ADR?
- Different forms of ADR
- Why choose mediation?
- Issues that can be resolved through mediation
- Steps in the mediation process

Disclaimer: This webinar is provided for informational purposes only and is not deemed legal advice. Participation in this webinar does not create an attorney-client relationship with Attorney Laura Rubenstein or Offit Kurman. The opinions expressed throughout this webinar are the opinions of Attorney Rubenstein and may not necessarily reflect the opinions of Offit Kurman.

What is Alternate Dispute Resolution

Processes and techniques that act as a means for disagreeing parties to come to an agreement short of litigation.

Negotiation

Negotiation is a process where each party involved in negotiating tries to gain an advantage for themselves by the end of the process. Negotiation is intended to aim at compromise.

What is arbitration?

A technique for the resolution of disputes outside of court where the parties to a dispute refer a dispute or a grievance to an arbitrator. The arbitrator reviews the evidence in the case and imposes a decision that is legally binding for both sides and enforceable.

What is mediation?

A confidential, usually voluntary, process of shared decision making in which one or more impartial persons (i.e., mediators) assist people, companies and organizations in conflict to work toward a variety of goals.

The Many Benefits of Mediation

- Recognition and Understanding
- Self-Empowerment
- Timely/efficient
- Cost effectiveness
- Confidentiality
- Flexibility of the mediation agreement

Workplace Issues that Benefit from the use of Mediation

Employee Disputes

Employers that provide mediation as an avenue that employees can use to resolve their disputes in a confidential, impartial and nonjudgmental way serves to empower employees to positively change their workplace interactions.

Performance Issues

Mediation can offer an alternative, and likely more productive, forum in which to discuss these difficult issues outside of the standard performance review process.

Harassment Complaints

Mediation can serve to open communication between the parties, help clarify what is acceptable workplace behavior, and foster a healthier understanding between co-workers.

Termination

Mediation can help the employee feel they have fully shared their feelings and concerns regarding the termination in a circumstance in which the power lies ultimately with the employer. Mediation can offer an opportunity for a “peaceful parting” and allay employers’ worries of potential litigation.

Six Steps In The Mediation Process

Step 1

The Mediator's Opening Statement.

- Explanation of mediation & mediator's role
- Ground rules for the mediation
- The use of caucuses
- The importance of confidentiality in the process

Step 2

Identify the Problem.

Each party is to be given the opportunity to explain the nature of the dispute and how the dispute has affected them

Step 3

Identify the Issues.

The mediator's role is to help the parties identify the issues and the core problems surrounding the dispute; frame the issues and gain consensus on what the parties want and need to solve; and help set the agenda for the mediation.

Step 4

Brainstorm Solutions.

Step by step, the parties work through the agenda items and brainstorm solutions. Throughout this process the parties define what each would like the other to do (or not do) differently in the future.

Step 5

Caucus (Optional).

Confidential break-out sessions between the mediator and one of the parties.

Step 6

The Agreement.

The Agreement should detail each point negotiated, and the promise related to that point. It should be fair, balanced, and reviewed by each party before it is finalized and signed by the parties

Choosing the Right Mediator

- The most effective workplace mediator is a certified mediator who completed mediation training through a recognized mediation training program.
- Certified mediators are trained in the essential skills of impartiality and neutrality, and have a thorough understanding of the mediation process.

Ineffective Mediations

- When the mediator imposes his opinion.
- When the mediator has no experience in the area of the law.
- When the mediator's style does not fit.

What consumers of mediation are seeking

- Mediators be engaged in the process.
- Mediators give their analysis of the case, including strengths and weaknesses.
- Mediators recommend a settlement.
- Make predictions about the likeliness of court results
- Apply pressure on all parties to settle.

Source: ABA Section of Dispute Resolution, *Task Force on Improving Mediation Quality: Final Report*, Feb. 2008.

Benefits of Mediation for Internal Business Disputes

Mediation allows parties to craft their own solutions, whereas litigation is limited to traditional remedies available under the law.

It preserves workplace, business and family relationships.

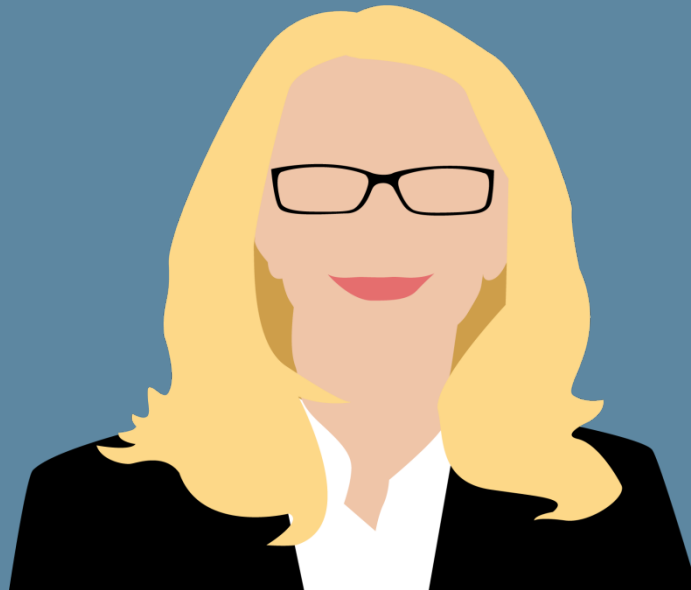
How can we help?

- Offit Kurman strives to service our clients -
- whether by providing legal or business advice, representation in litigation or offering mediation services.
- We have several attorneys here at the firm who are experienced mediators who have handled a variety of cases.

Questions?



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