MEDIATION SHOULD BE THE FIRST OPTION TO RESOLVE ANY DISPUTE

BY JIM BASTIAN

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We have disputes in our lives every day. How we resolve those disputes in many respects has a greater impact on us than the dispute itself. The best example of a dispute gone wrong is in Gaza, the latest chapter in a dispute that has been the subject of many wars, but also mediated resolutions. Indeed, the most lasting peace in the Middle East has been the result of mediated settlements. We may have a dispute with a competitor, neighbor, or spouse, which often leads us to hire a lawyer to pursue our rights in court – the legal equivalent of war. While litigation will produce a result, the most efficient result is often achieved consensually through a settlement, and the most common way you will get there is through mediation.

Mediation has a 70-80% success rate with resolutions reached on average within 45 days. Litigation produces a result on average within 18 months and can cost thousands or even millions of dollars. If Apple is taking on Qualcomm over some billion-dollar technology, litigation may make sense, but even those types of disputes settle after mediation.

Mediation should be the first option as the mediation process provides control over the outcome and costs. As I've told my clients for nearly 30 years in the profession, you never want to leave your fate in the hands of a stranger in a black robe or 12 strangers in a jury box. Further, the costs of litigation include lost opportunity costs and mental costs that are often immeasurable. By committing to mediation, you control your costs and the outcome. Through mediation, settlement is a voluntary choice, and if you select a good mediator, the mediator will guide the parties to reach a solution that is fair for both sides.

Just as war is expensive and risky, so too is litigation, leaving mediation as the best option. While it is always wise to hire a lawyer if you have a legal dispute, you should direct your lawyer to pursue mediation as it is often the most efficient means to resolve your dispute in less time and for less cost.

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