

# The Power Of Mediation

By Mediator Daniel Ben-Zvi

**M**ediation as a means of settling disputes is booming. And for good reason. It works -- and without the time, expense, uncertainty and personal stress of a trial or arbitration.

So why do so many people still elect to settle their disputes through lengthy, expensive, and often painful litigation? One reason is that people are generally not aware of mediation as a meaningful, effective alternative dispute resolution process.

Let's say you and your spouse have an important issue which you can't resolve. You may seek the help of a counselor to help you work through the problem together, but you don't give the counselor the power to make the decision for you. You want to play a role in determining your destiny, rather than be forced to submit to the will of an authority figure. But when you take a dispute to a jury, judge or arbitrator, that is exactly what you're doing. You're turning over your right to reach a decision on your own, giving it to a third party.

Certain disputes may not be able to be resolved amicably through mediation. In those instances, handing the decision over to a court or arbitrator is the logical next step. But this handing over should be taken only after attempts at resolution through mediation have failed. In practically every case, mediation should be the first step in resolving a dispute, before heading to trial or arbitration.

Assume that your Doctor informs you that you have a medical problem which unless addressed could become critical. He offers you two choices. You can try first taking medication and changing your diet, or you can simply skip that and go right to the final option -- surgery. For most of us that's a no-brainer. We would choose surgery only after the less drastic alternatives have been exhausted.

Resolving a dispute should not be any different. Just as medication should be tried before resorting to surgery, mediation should precede court or arbitration.

In both examples, the decision as

to how to proceed comes down to a question of control.

In mediation, the parties control if and how the problem is resolved. In the court or arbitration system, the parties submit to the decision of a third party. Given the option, most of us would choose to participate as fully as we can and save the more drastic measures as backup options.

Mediation is a confidential session where a mediator meets with all parties to a dispute and their counsel (although representation by counsel is not necessary) outside the courthouse. Professional mediators are succeeding in helping the majority of parties settle their differences, often in sessions lasting no more than one day.

A professional mediator deals with the strengths and weaknesses of positions, analyzes likelihood of outcomes in litigation or arbitration and seeks to bridge the gap in the manner called for by the dynamics of the case. With the help of a professional mediator, people can simply and relatively inexpensively resolve any civil dispute -- in any area whatsoever including divorce, contract claims and real estate disputes -- without a third party imposing a solution.

The benefits of resolving your dispute in mediation are enormous. There is the savings of legal fees, costs and time. Litigation can drag on as well as take you away from valuable and productive work time. And there is the stress of a protracted dispute, the resolution of which ultimately lies in the hands of some other party or parties, be it a jury, judge or arbitrator.

Therein lies perhaps the most overlooked benefit -- control. In mediation, you retain absolute control over whether or not and how to resolve your dispute.

Mediation is gaining recognition as fast, inexpensive, and effective. It should be the first step in attempting to resolve your dispute.

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Los Angeles City Hall: [Left to Right] Mediator Daniel Ben-Zvi, being presented with the annual Los Angeles Mediation Day Resolution to promote public awareness of mediation; Paul Kiesel, lifetime board member of LA's association of Plaintiffs' trial lawyers - CAALA; Councilwoman Wendy Greuel; and Harry Chamberlain, President of Southern California's association of Defense lawyers - ASCDC.