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APRIL 3, 2020

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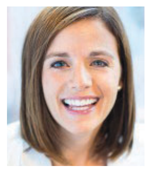
RESOLUTION THROUGH MEDIATION

Settling a dispute can be one of the most frustrating experiences of a person's life. Whether the dispute is related to a family or civil lawsuit, taking the matter to court can be an expensive, time consuming and ultimately unsatisfactory experience. Mediation helps resolve disputes by working with all sides to reach an agreement that meets everyone's needs. It is a positive alternative to litigation.

There are many benefits to mediation. In addition to the financial benefits, mediation is positive and collaborative, leading to far less contentious outcomes as well as a positive model for communication should new issues need to be resolved at a later date.

Mediation is Cost and Time Effective
One of the main benefits of mediation is its cost effectiveness. Since disputing parties have more control over the outcome than they do in litigation, they are also better able to control the costs. Mediation often



ALYSON B. MILLER AND EIMEAR BAHNSON
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takes less time and requires less negative energy from those involved. In some cases, mediation makes it possible to resolve an issue in just a matter of hours. Therefore, unlike the litigation process, mediations are often completed within a few sessions, potentially saving tens of thousands of dollars. By including a neutral third party, such as a mediator, disputes can be resolved in a more effective, timely, productive and civil manner.

Mediation begins with "Me" - Mediation Puts Control in the Hands of the Disputing Parties
An extremely appealing benefit of mediation is the control it gives to the disputing parties to resolve their issues. When a dispute is argued in a courtroom, the fate of all participants is decided by strangers – a magistrate, judge or a jury. Often, this means unsatisfactory, upsetting outcomes for both parties. Mediation makes it possible to craft unique and mutually agreeable outcomes for all involved. In fact, mediation is only considered successful when all parties accept and commit to final resolutions. Ensuring that everyone is satisfied with an outcome increases the probability that those involved will abide by their agreed-to obligations and resolutions.

Mediation Makes it Possible to Continue a Relationship
Litigation often destroys the relationship of those involved in a dispute. Disputes typically arise from an existing relationship that at one time was mutually beneficial (e.g., a spouse and their spouse, an insurance provider and the insured party, a business owner and a vendor or client, etc.). There were many aspects of the original relationship that eroded due to a dispute. Mediation is a problem-solving process that attempts to bring out the best in everyone involved. The participants are able to resolve issues because of what they learn during the mediation process. In many cases, mediation settles the dispute at hand and allows the participants to continue their relationship. This is particularly important in family disputes when children are involved and parents must learn to work together.

EDUCATION & EVENTS

Webinar: Microsoft Powerpoint Tips for Legal Users
Thursday, April 16 • 2 – 3 p.m.
Free and exclusive to CBA members

All classes listed are offered at the Columbus Bar Association offices, 175 S. Third St. Ste. 1100. To register, call 614-221-4112 or enroll online at **www.cbalaw.org.**

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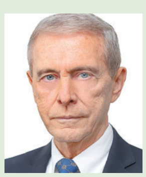
THE BUSINESS SUCCESSION MATRIX



TIM JOCHIM
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Business succession is a complex interplay of perceived feasible alternatives and the perceived costs and benefits of each alternative. After hundreds of transactions and even more presentations to company owners, one of the most effective decision making tools seems to be an interactive business succession matrix, both as an information device and to facilitate informed self-selection by business owners. The Matrix is variable and flexible in terms of transaction alternatives including, but not limited to, third party sales (stock or asset and financial or strategic), internal buyouts (management or cross purchase), employee stock ownership plans (ESOPs) and transfers by trusts (family or charitable).

In turn, each transaction alternative is assessed by the perceived benefits and costs by the user on a "Scorecard" spreadsheet, subject to certain market parameters. By way of example, a company owner may seek a strategic buyer because of the perceived high level of price and liquidity and a relatively low need to manage the business or maintain the company culture after the transaction. In this instance, perceived costs would include loss of control and company culture as well as transaction costs associated with retaining qualified sell-side advisors. The company owner has the ability to weight each benefit and cost within the parameters of known market data. For example, given known market information, it would not be realistic to expect a profitable mid-market commodity widget company to be sold with no tax consequences at 10 times EBITDA and with less than one percent in total transaction costs.

Again, subject to known market parameters, the company owner can weigh the relative importance of each perceived cost and benefit resulting in numerical scores. Most of the perceived costs, as noted above, are known, but, as to ESOP transactions, a regulatory risk factor has been introduced.

Over the past 10 years, the U.S. Department of Labor has initiated numerous complaints against ESOP trustees and selling company owners alleging overstated and defective valuations and unfair insider benefits at the expense of the ESOP and its participants. Nearly all of these complaints involved leveraged ESOP transactions structured by investment banking firms—which have no liability for the transactions. The Matrix provides guidance on minimizing this regulator risk and on solving the business succession enigma.