

## Opinion

### BASIC DIFFERENCES IN ALTERNATIVE DISPUTE RESOLUTION METHODS.

Mediation and arbitration are both forms of Alternative Dispute Resolution (ADR), designed to resolve conflicts outside of traditional court proceedings. While they share the goal of settling disputes more efficiently and cost-effectively, they differ significantly in process and outcome.

In Summary:

Mediation is a voluntary, facilitated negotiation process where the parties control the outcome. Arbitration is a more formal process resulting in a binding decision made by an arbitrator.

#### 1. Role of the Third Party

Mediation: A neutral third party, the mediator, facilitates communication and negotiation between the disputing parties. The mediator does not impose a decision but assists the parties in reaching a mutually acceptable resolution.

Arbitration: A neutral third party, the arbitrator, acts similarly to a judge. After hearing both sides and reviewing evidence, the arbitrator issues a decision that is typically binding on both parties.

#### 2. Decision-Making Authority

Mediation: The outcome is determined by the parties themselves. The mediator guides the process but does not render a decision.

Arbitration: The arbitrator renders a decision based on the evidence and arguments presented. This decision is usually final and binding.

#### 3. Formality of the Process

Mediation: Generally informal and flexible, focusing on open dialogue and collaborative problem-solving.

Arbitration: More formal, resembling a private trial. It often includes legal representation, presentation of evidence, and structured procedures.

#### 4. Binding Nature

Mediation: The result is non-binding unless the parties formalize the agreement into a legally enforceable contract.

Arbitration: The decision is legally binding and enforceable in court, with limited grounds for appeal.

#### 5. Mediation-Arbitration (Med-Arb)

This hybrid approach begins with mediation. If the parties cannot reach an agreement, the process shifts to arbitration, and the mediator may become the arbitrator to issue a binding decision.