



THE BASSETT FIRM
WWW.THEBASSETTFIRM.COM

Passion. Preparation. Persistence.

Volume 2, Issue 5

THE BASSETT BULLETIN™

WHAT IS ARBITRATION?

In our last edition, we discussed a recent Texas Supreme Court case that upheld an arbitration agreement. In this edition, we will explore what arbitration is, and the pros and cons of arbitration.

Arbitration is a form of alternative dispute resolution. Specifically, it is a legal alternative to litigation where the parties to a dispute agree to submit their respective positions (through submission or hearing) to a neutral third party (the arbitrator) for resolution. The arbitrator acts as a private judge in a closed and private court. The arbitrator's decision is based on the evidence and testimony of all parties provided at the hearing convened by the arbitrator.

Arbitration is usually pursued when the parties agreed in a contract to arbitrate before a dispute even arose. However, arbitration can also be pursued by agreement of the parties after a dispute arises.

Many of you have probably seen an arbitration on television, but did not realize it. The "judge shows" that have become so popular, are actually binding arbitration. The most famous example is the People's Court. However, in the real world, most arbitrations don't have the comedy or the audience. Listed below are some of the benefits and disadvantages of arbitration.

BENEFITS OF ARBITRATION

- It is a private process with no public record of the proceedings.
- Intensive discovery can be substituted in favor of limited exchange of documents, witness lists, and depositions appropriate to the particular dispute.
- There's no back log, as hearings are scheduled as soon as the parties and the arbitrator are available.
- An arbitrator with expertise and training specific to the dispute's subject matter may be selected.
- Because of limited discovery, informal hearing procedures, and the expedited nature of the process, parties save on legal fees.
- Arbitration is less adversarial and more informal than litigation.

DISADVANTAGES OF ARBITRATION

- There is limited discovery.
- There may be limited cross-examination of witnesses.
- Arbitration fees may be substantial, particularly in complex cases.
- Arbitrators typically make awards without written opinions or explanatory documents.
- An arbitrator may "split the difference" when making an award, which may not be a desirable solution.

- It is almost impossible to appeal an arbitration decision.
- Punitive damages are usually unlikely to be granted.
- Arbitrators tend to allow most evidence to be heard whereas a Judge, under the rules governing the admissibility of evidence, would keep a lot of the same evidence out.

IS IT RIGHT FOR YOU?

To determine if arbitration is right for you, evaluate your case/situation, weigh the benefits and disadvantages, and make an informed decision. If you have any questions, you should consult an attorney.

ATTORNEYS

The Bassett Firm

*Two Turtle Creek Village
3838 Oak Lawn Avenue
Suite 1600
Dallas, Texas 75219
(214) 219-9900 Telephone
(214) 219-9456 Facsimile
Toll Free: 1-800-310-9769*

- **MIKE H. BASSETT**
- **STACI Q. CASSIDY**
- **JENNIFER R. ELDRIDGE**
- **MICHAEL J. NOORDSY**
- **MATHEW SAMUEL**



Information regarding *The Bassett Bulletin* TM is available from **Shari Scaife** (sscaife@thebassettfirm.com) at (214) 219-9900. ©2004 The Bassett Firm. All rights reserved.

The Bassett Bulletin TM is published twenty-six times a year, and is a complimentary publication of The Bassett Firm.
