Solving Disputes Without the Courtroom: The Power of Arbitration

Introduction With the impact of increasing global commerce, arbitration has become quite common on how human beings resolve controversies, in comparison to what was formerly performed in a Court of Law by way of litigation. Although Litigation will always be one of the major components of an organized system of providing justice, there are numerous compelling arguments to support why arbitration is a better choice to resolve differences in many cases.

Timelines and Efficiency

Timelines are the first reason why arbitrators work more quickly than any other means of dispute resolution. The increasing cases within the Court System due in large part to the increase in Volume of court filings, which has resulted in delays associated with hearing delays, procedural problems, appeals, etc., means that the time it takes for a case to be completed through the courts is significantly longer than through Arbitration. After a Party has made its selection of Arbitrators, there is also no longer any ambiguity about whether or not the difference between the parties will be resolved.

Party Autonomy and Flexibility

With arbitration comes the doctrine of Party Autonomy, which is different from the rigid nature of litigation, which follows strict procedure and legal requirements. Arbitration allows the parties to design the arbitration process in accordance with their own needs. In doing so, each party has the authority to choose the following:

- Number of Arbitrators
- Location and Venue of Arbitration
- Language of the Proceedings
- Procedural Rules to Follow

Parties also feel confident and at peace with this autonomy and flexibility in their hand, while fighting a case through arbitration procedure.

Qualified Arbitrators

During a Judicial Proceeding, Judges may not possess the deep requisite expertise in a Complex Commercial or Technical Dispute. Parties in a dispute during arbitration have the ability to select arbitrators with expertise specific to the industry or subject matter for which they are in dispute.

This will provide for greater clarity and accuracy in decision-making, as Arbitrators will be equipped with the Proper Knowledge, Skills, and Expertise in the relevant Subject Matter, which maximizes the potential for a both commercially viable and legally acceptable resolution to the dispute.

Confidentiality and Privacy

A court case is generally a public court proceeding, and the public has access to many types of information about the case including court filings, evidence and judgments of the court. This openness can be a challenge for a business that wants confidentiality about its business practices.

In comparison, arbitration is handled privately and is treated as a confidential process. The arbitration process is conducted away from any public attention, and the arbitration award is not available to the public until there is a request for enforcement of the award or there is a legal requirement to provide a copy of the award to the public.

Finality of Awards and Limited Appeals

One of the things that people often criticize about litigation is the lengthy appeal process. The decision could be appealed on multiple levels, leading to years of continuous litigation. Arbitral awards on the other hand are considered final and binding, and very limited circumstances can be raised against the award. Most arbitration statutes limit interference by courts, which helps in getting justice faster.

Enforceability Across Borders

Consider the advantages of arbitration compared to court cases for international transactions. The New York Convention of 1958 provides a framework for enforcing foreign arbitration awards that has been ratified by over 170 countries, which makes it easier to recognize and enforce foreign arbitration awards than to execute foreign court judgments through a complex and time-consuming process. For these reasons, arbitration is generally viewed as more reliable than litigation for cross-border transactions.

Cost Considerations

Arbitration has been criticized for high initial expenses; however, in the long run, it is less expensive than litigation. This is due to fewer procedural requirements (i.e., there are fewer evidentiary requirements for arbitration), and the lack of an appeals process, which makes it more economical than litigation.

Neutral Forum for Dispute Resolution

A party may refuse to accept the jurisdiction of a court from another state in the event of a dispute between the two parties. They may refuse for a number of reasons, including bias or lack of familiarity with the respective court systems, among other reasons. On the other hand, when parties use arbitration to resolve disputes, they can use the arbitration to have the process take place at a neutral location and with neutral arbitrators, in effect, eliminating bias against either party.

Conclusion

To sum up, while the traditional litigation process is still a critical part of the justice system, arbitration provides with a new progressive, efficient, affordable, and enterprise-friendly way of resolving disputes. The inherent advantages of arbitration enable speedy, flexible, confidential, expert, final, and enforceable resolutions.

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