

Transcontinental Mediation

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German Manufacturers, Foreign Suppliers and US Customers

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Å not me Æ unfortunately Å

US Style Mediation - a Generalization -

Is there a difference between German/European style and US style mediation?

- “ The mediator improves communication [õ], helps parties articulate their interests and understands those of the other party, probes the strength and weakness of each party’s legal position, and identifies areas of agreement and helps generate options for mutually agreeable resolutions to a dispute.+
- “ Mediation is a process [õ] in which a disinterested third party directs settlement discussions but does not evaluate the merits of either side’s position or render any judgment. [õ] By holding meetings, defining issues, diffusing emotions and suggesting possibilities of resolution, the mediator assists the parties in reaching their own negotiated settlement. [õ] it can produce creative solutions to complex disputes often unavailable in traditional litigation.+

Lunch



US Style Mediation - a Generalization -

“ Obligation to consider mediation

Each party shall consider the use of mediation and shall report to the assigned judge at the initial case management conference [ō].

“ Mandatory mediation (many States)

If case designated by the Court for inclusion in mediation program, attendance at one mediation session shall be mandatory.

Required Participation: primary responsible attorney

“ Typical procedure

“ Role of the mediator or: (trying to put) pressure on the parties

Case Study

Type of Litigation	US Class Action
Plaintiff	Rather typical US Plaintiff's Firm
Defendants	Manufacturer, Supplier Their European and Asian parent companies Some other Group companies
Issue	Probably some truth to it that is taken care of anyway . basically (disputed) responsibility of supplier
Battle Lines	Plaintiffs . Defendants Manufacturer . Supplier Supplier . Supplier NSC . Supplier Group companies

Mediation E

Benefits Inside and Outside the Box



Mediation È Inside the Box

Mediate to settle an existing dispute resource-efficient.

Mediation Æ

Inside and Outside the Box

- “ Prepare your case
- “ Get attention of stakeholders
- “ Evaluate your case realistically
- “ Evaluate interests of all parties and interested non-parties

Mediation

Inside and Outside the Box

- “ First step: Consider mediation
- “ Strategic decisions regarding YOUR mediation
 - . Scope
 - . Team
 - . Style
 - . Setting
 - . Timing
 - . Location
 - . Dealing with cultural differences
 - . Etc

Core Messages

- “ Know the different styles and chose the right one for the situation!
- “ Get the right team for the specific scenario on board as early as possible!
- “ Take advantage of the specific procedure!
- “ Educate and train your staff!
- “ Think %mediation+more often and outside the realm of solving an existing dispute:
 - intra-company conflict avoidance and solving tool;
 - standard tool for employment law related disputes;
 - handle customer disputes efficiently;
 - etcõ
- “ Create an environment that supports creative problem solving!

Thank You!

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