

Mediation - Arbitration - Litigation

Issue	Arbitration	Litigation
Knowledgeable decision maker	Potential for expertise	Unlikely
Statutory Compliance (Claim of Lien, etc.)	Lawsuit required	Can easily include
Resolution of Third Party Disputes	Unlikely	Yes
Attorney Fees	Possible	Yes
Time to Complete Process	Can be shorter	Variable
Mediation	May not be required	Required
Enforcement	Must file lawsuit to enforce	Built-in
Expense	High Up-front costs	Variable
Appeal	Very Limited	Available
Privacy	Private	Public
Discovery - types & extent	Limited Discovery	Full Discovery
Predictability of outcome	Poor - Arbitrator not bound by prior court decisions	Binding precedent

Mediation

1. Early mediation can be opportunity for early resolution.
2. But, only limited information is available at early mediation.
3. Mediation can be way for each party to learn about the other party's case.
4. May not have all responsible parties at the table (e.g., subcontractors, insurance adjusters, etc.).
5. Voluntary vs. required.
6. Late mediation may fail because parties have too much invested in case.