



Alternative Dispute Resolution. Letter

Assignment 1 DATE: March 13, 2012 FROM: Dani Prefontaine Marla, a client in Buffalo, New York calls and says, "as you know, I am a contractor who specializes in repair of problems that arise in commercial buildings. I'm thinking of inserting a provision in all of my contracts that requires any dispute to first be mediated and if that does not work, to be arbitrated by an arbitrator who is a member of the American Arbitration Association.

I am nervous as to whether the New York state courts will enforce these sorts of provisions, especially if they are part of my form contract. Do me a favor: Do some research from federal and state case law in New York and let me know what New York courts' attitudes have been to arbitration and mediation clauses, and in general what the courts have said about the desirability of using ADR methods to settle disputes. Dear Maria, As per your request, I did research New York case law on the attitudes of using arbitration and mediation clauses, and the enforceability of such. The two cases are relevant to your request in the matter of ADR clauses. Management Recruiters of Albany and Erikson v. Management Recruiters International , 643 F Sup.

750; (N. D. N. Y.

1986), Defendant franchiser moved to compel arbitration pursuant to the terms of an agreement and to stay trial pending arbitration in an action based on an alleged breach of a franchise agreement. The plaintiff's argue that defendant should be estopped from requesting arbitration because of their alleged breach of agreement. there is an assumption that the mediation arbitration process is an inferior method of resolving the present controversy. This assumption was belied by the strong federal policy favoring arbitration. Finally the plaintiff's argue the enforcement of the agreement will contravene New York's Franchise Law because the agreement calls for arbitration in Ohio and application of Ohio law.

This was also rejected by the court that considerations of state law or policy could defeat the effect of an arbitration clause in a contract involving interstate commerce. The court noted: "an agreement to arbitrate in New York does not pose unconscionable difficulties". The federal policy in favor of arbitration overrides any state policy proscribing arbitration of state law claims. Kuchinsky v.

Curry, U. S. Dist. (S.

D. N. Y. 2009), This case deals with an agreement which contains a broad arbitration clause that encompasses each of the claims asserted in the amended complaint.

It provides upon written request of any party to the agreement controversy or claim arising to or relating to the construction or terms is subject to arbitration. Kuchinsky resists arbitration with three arguments. He contends the agreement is unconscionable and therefore enforceable, he also attacks the fairness of the arbitration clause which requires him to arbitrate his claims in Chicago, although he lives in New York

Alternative Dispute Resolution Letter

E. Wendy Trachte-Huber



Alternative Dispute Resolution Letter:

The Enigmatic Realm of **Alternative Dispute Resolution Letter**: Unleashing the Language is Inner Magic

In a fast-paced digital era where connections and knowledge intertwine, the enigmatic realm of language reveals its inherent magic. Its capacity to stir emotions, ignite contemplation, and catalyze profound transformations is nothing in short supply of extraordinary. Within the captivating pages of **Alternative Dispute Resolution Letter** a literary masterpiece penned by way of a renowned author, readers set about a transformative journey, unlocking the secrets and untapped potential embedded within each word. In this evaluation, we shall explore the book's core themes, assess its distinct writing style, and delve into its lasting effect on the hearts and minds of those who partake in its reading experience.

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Table of Contents Alternative Dispute Resolution Letter

1. Understanding the eBook Alternative Dispute Resolution Letter
 - The Rise of Digital Reading Alternative Dispute Resolution Letter
 - Advantages of eBooks Over Traditional Books
2. Identifying Alternative Dispute Resolution Letter
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Alternative Dispute Resolution Letter
 - User-Friendly Interface
4. Exploring eBook Recommendations from Alternative Dispute Resolution Letter
 - Personalized Recommendations
 - Alternative Dispute Resolution Letter User Reviews and Ratings
 - Alternative Dispute Resolution Letter and Bestseller Lists

5. Accessing Alternative Dispute Resolution Letter Free and Paid eBooks
 - Alternative Dispute Resolution Letter Public Domain eBooks
 - Alternative Dispute Resolution Letter eBook Subscription Services
 - Alternative Dispute Resolution Letter Budget-Friendly Options
6. Navigating Alternative Dispute Resolution Letter eBook Formats
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 - Alternative Dispute Resolution Letter Enhanced eBook Features
7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Alternative Dispute Resolution Letter
 - Highlighting and Note-Taking Alternative Dispute Resolution Letter
 - Interactive Elements Alternative Dispute Resolution Letter
8. Staying Engaged with Alternative Dispute Resolution Letter
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Alternative Dispute Resolution Letter
9. Balancing eBooks and Physical Books Alternative Dispute Resolution Letter
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Alternative Dispute Resolution Letter
10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
11. Cultivating a Reading Routine Alternative Dispute Resolution Letter
 - Setting Reading Goals Alternative Dispute Resolution Letter
 - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Alternative Dispute Resolution Letter
 - Fact-Checking eBook Content of Alternative Dispute Resolution Letter
 - Distinguishing Credible Sources
13. Promoting Lifelong Learning

- Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
14. Embracing eBook Trends
- Integration of Multimedia Elements
 - Interactive and Gamified eBooks

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