



## 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

**S Ben Porath**



**Alternative Dispute Resolution Letter:**

The book delves into Alternative Dispute Resolution Letter. Alternative Dispute Resolution Letter is an essential topic that needs to be grasped by everyone, ranging from students and scholars to the general public. This book will furnish comprehensive and in-depth insights into Alternative Dispute Resolution Letter, encompassing both the fundamentals and more intricate discussions.

1. This book is structured into several chapters, namely:
    - Chapter 1: Introduction to Alternative Dispute Resolution Letter
    - Chapter 2: Essential Elements of Alternative Dispute Resolution Letter
    - Chapter 3: Alternative Dispute Resolution Letter in Everyday Life
    - Chapter 4: Alternative Dispute Resolution Letter in Specific Contexts
    - Chapter 5: Conclusion
  2. In chapter 1, the author will provide an overview of Alternative Dispute Resolution Letter. This chapter will explore what Alternative Dispute Resolution Letter is, why Alternative Dispute Resolution Letter is vital, and how to effectively learn about Alternative Dispute Resolution Letter.
  3. In chapter 2, the author will delve into the foundational concepts of Alternative Dispute Resolution Letter. The second chapter will elucidate the essential principles that need to be understood to grasp Alternative Dispute Resolution Letter in its entirety.
  4. In chapter 3, this book will examine the practical applications of Alternative Dispute Resolution Letter in daily life. The third chapter will showcase real-world examples of how Alternative Dispute Resolution Letter can be effectively utilized in everyday scenarios.
  5. In chapter 4, the author will scrutinize the relevance of Alternative Dispute Resolution Letter in specific contexts. This chapter will explore how Alternative Dispute Resolution Letter is applied in specialized fields, such as education, business, and technology.
  6. In chapter 5, the author will draw a conclusion about Alternative Dispute Resolution Letter. The final chapter will summarize the key points that have been discussed throughout the book.
- This book is crafted in an easy-to-understand language and is complemented by engaging illustrations. It is highly recommended for anyone seeking to gain a comprehensive understanding of Alternative Dispute Resolution Letter.

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