

GLOSSARY

ARBITRATION

A mini-trial, which may be for a lawsuit ready to go to trial, held in an attempt to avoid a court trial and conducted by a person or a panel of people who are not judges. The arbitration may be agreed to by the parties, may be required by a provision in a contract for settling disputes, or may be provided for under statute. To avoid clogged court calendars the parties often agree to have the matter determined by a panel such as one provided by the American Arbitration Association (which has a specific set of rules), a retired judge, some other respected lawyer, or some organization that provides these services. Usually contract-required arbitration may be converted into a legal judgment on petition to the court, unless some party has protested that there has been a gross injustice, collusion or fraud. Many states provide for mandatory arbitration of cases on a non-binding basis in the hope that these "mini-trials" (proceedings) conducted by experienced attorneys will give the parties a clearer picture of the probable result and lead to acceptance of the arbitrator's decision.

ARBITRATOR

One who conducts an arbitration, and serves as a judge who conducts a "mini-trial," somewhat less formally than a court trial. In most cases the arbitrator is an attorney, either alone or as part of a panel. Most court jurisdictions now have lists of attorneys who serve as arbitrators. Other arbitrators come from arbitration services which provide lists from which the parties can agree on an arbitrator (many of whom are retired judges-even "People's Court" Judge Wapner is on such a panel in Los Angeles County). There is also the American Arbitration Association which usually has a panel of attorneys chosen by the association. Professional arbitration services are paid well to move cases along. There are also arbitrators who are experts on everything from construction to maritime damage. In some contracts there is a provision for such an expert-type arbitrator named by each side with a third chosen by the other two.

DISCOVERY

DISCOVERY - Part of the pre-trial litigation process during which each party requests relevant information and documents from the other side in an attempt to "discover" pertinent facts. Generally discovery devices include depositions, interrogatories, requests for admissions, document production requests and requests for inspection.

The formal procedures used by parties to a lawsuit to obtain information before a trial is called discovery. Discovery helps a party find out the other side's version of the facts, what witnesses know, and other evidence. Rules dictating the allowable methods of discovery have been set up by Congress (for federal courts) and by state legislatures (for state courts). Common discovery devices include:

* Deposition--a proceeding in which a witness or party is asked to answer questions orally under oath before a court reporter.

* Interrogatories--written questions sent by one party to the other party for the latter to answer in

writing under oath.

* Request for admission--a request to a party that he admit certain facts. One party sends the other a request for admission so that basic issues the parties agree upon can be resolved and not have to be proven if the parties go to trial.

* Request for physical examination--a request to a party that he be examined by a doctor if his health is at issue.

* Request for production of documents--a request to a party to hand over certain defined documents. In family law cases, parties often request from each other bank statements, pay stubs and other documents showing earnings, assets and debts.

* Request for inspection--a request by a party to look at tangible items (other than writings) in the possession or control of the other party. Items to be inspected include houses, cars, appliances and virtually any other physical item.

* Subpoena--an order telling a witness to appear in court or at a deposition. A subpoena is issued by the court, and if the witness fails to comply, he can be held in contempt of court.

* Subpoena duces tecum--an order telling a witness to turn over certain documents to a specific party or to bring them to a scheduled deposition. A subpoena duces tecum is issued by the court, and if the witness fails to comply, he can be held in contempt.

The scope of information obtainable through discovery is quite broad and not limited to what can be used in a trial. Federal courts and most state courts allow a party to discover any information 'reasonably calculated to lead to the discovery of admissible evidence.' Because of this broad standard, parties often disagree about what information must be exchanged and what may be kept confidential. These disputes are resolved through court rulings on discovery motions.

Intern. Law. The act of finding an unknown country.

The nations of Europe adopted the principle, that the discovery of any part of America gave title to the government by whose subjects, or by whose authority it was made, against all European governments. This title was to be consummated by possession.

Rights. The patent laws of the United States use this word as synonymous with invention or improvement.

MEDITATION

Meditation is a type of replacement / substitute for prayer.

Meditation is a prayer with effort.

Meditation is an awareness of inner silence.

Prayer with technique is meditation.

Basic goal of meditation is : Spiritual renewal or the feeling of oneness with a higher source of

life.

Meditation is a scientific tool developed thousands of years ago by Yogis to awaken higher consciousness.

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PUBLIC DOMAIN

In copyright law, the right of anyone to use literature, music or other previously copyrighted materials after the copyright period has expired. Although the copyright laws have been changed several times, a rule of thumb would be that the last possible date for copyright protection would be 50 years after the death of the author. Thus, the works of William Shakespeare, Mark Twain, Jack London and other classic writers are in the public domain and may be published by anyone without payment of a royalty.

TRADEMARK

A distinctive design, picture, emblem, logo or wording (or combination) affixed to goods for sale to identify the manufacturer as the source of the product. Words that merely name the maker (but without particular lettering) or a generic name for the product are not trademarks. Trademarks may be registered with the U.S. Patent Office to prove use and ownership. Use of another's trademark (or one that is confusingly similar) is infringement and the basis for a lawsuit for damages for unfair competition and/or a petition for an injunction against the use of the infringing trademark.

TRUST

An entity created to hold assets for the benefit of certain persons or entities, with a trustee managing the trust (and often holding title on behalf of the trust). Most trusts are founded by the persons (called trustors, settlors and/or donors) who execute a written declaration of trust which establishes the trust and spells out the terms and conditions upon which it will be conducted. The declaration also names the original trustee or trustees, successor trustees or means to choose future trustees. The assets of the trust are usually given to the trust by the creators, although assets may be added by others. During the life of the trust, profits and, sometimes, a portion of the principal (called "corpus") may be distributed to the beneficiaries, and at some time in the future (such as the death of the last trustor or settlor) the remaining assets will be distributed to beneficiaries. A trust may take the place of a will and avoid probate (management of an estate with court supervision) by providing for distribution of all assets originally owned by the trustors or settlors upon their death. There are numerous types of trusts, including "revocable trusts" created to handle the trustors' assets (with the trustor acting as initial trustee), often called a "living trust" or "inter vivos trust" which only becomes irrevocable on the death of the first trustor; "irrevocable trust," which cannot be changed at any time; "charitable remainder unitrust," which provides for eventual guaranteed distribution of the corpus (assets) to charity, thus gaining a substantial tax benefit. There are also court-decreed "constructive" and "resulting" trusts over property held by someone for its owner. A "testamentary trust" can be created by a will to manage assets given to beneficiaries

MEDIATION

Mediation is a process by which an independent, neutral third party assists two parties to negotiate a settlement of a dispute between them.