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Brian Cohen explains how to resolve legal disputes through arbitration and mediation

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Brian E. Cohen

More legal disputes are being resolved through alternative dispute resolution — arbitration and mediation— to sidestep the high cost and long timeline of traditional litigation.

“Arbitration and mediation both rely on a neutral third party to assist the parties,” Brian E. Cohen told *Smart Business* Chicago in January. [Link](#). “Both proceedings are usually confidential, and the record and resolution do not become a matter for the public. But the similarities end there.”

Arbitration is similar to a typical litigation proceeding except an arbitrator, or arbitration panel, takes the place of a judge. “An arbitrator’s ruling is a final, binding resolution,” Brian adds.

Mediation is a less formal process through which the parties try to settle their dispute by mutually agreeing on the outcome. A mediator facilitates the conversation, but does not deliver a judgment — “he or she does not have the authority to compel the parties to do anything,” he says.

“As with a trial, the goal of arbitration is to win,” Brian says. “Preparing for mediation is different, however, because the goal of mediation is not the same as the goal of arbitration.” He explains that attorneys and clients need to agree on the goals or desired outcome of mediation, as well as how the mediation will be conducted.

“In either case,” Brian says, “clients should be sure to talk to their lawyers about what to expect from the process and how to best prepare for whichever form of ADR they are using.”

For more information on commercial litigation or alternative dispute resolution, contact Brian E. Cohen at (312) 419-6900 or bcohen@novackmacey.com.