



Mediation vs Arbitration

Description

by Patty MacDonald, September 20, 2019

[Mediation vs Arbitration – the difference](#)

I am writing as a Villager who has dealt with a situation similar to the one that Ms. Nalley has forced upon two POA Board members, Diana Podawiltz and Dick Garrison. As one of the plaintiffs in [Barker v Frank](#), an Amendment 59 property tax case, I may be able to shed light on this issue. The circumstances have similarities, but also differences. I am not an attorney, but I studied at CHK [the College of Hard Knocks].

After protracted jurisdictional disputes and 13 years of pleadings and delays, both sides were exhausted and needed resolution. We decided to ask for mediation, which took place in 2007, settling the case. The significant difference in our situations is that the outcome of mediation is not legally binding, while the Nalley/HSVPOA Contract* ties dissenters to “arbitration.” This is a more onerous legal proceeding in which the verdict can be entered in a court of law. Mediation is collegial, while arbitration (preferred by unions) is adversarial.

The mediator in our case was a respected retired Arkansas judge, not an attorney whose specialty is reported to be medical malpractice and school law. Our mediation was held in Little Rock in a large law office that was empty over the week-end. The interests of every stakeholder (such as bondholders) were represented by their attorneys, present but not at the tables. The energetic and knowledgeable judge had great empathy for both sides in our case. It was a fair resolution. If reports are accurate, [Diana and Dick’s treatment smacks of retribution and intimidation](#).

***Lesley Nalley’s employment contract with HSVPOA states: “Any controversy, dispute or disagreement... shall be settled by arbitration, which shall be conducted in Central Arkansas and judgment on the award rendered by the arbitrator may be entered in any court have[sic.] jurisdiction thereof.” Section 4, paragraph 10 of Nalley/HSVPOA contract, dated 3/19/2019. (Emphasis added)**

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