

Banishing Long, Expensive Litigation

Revolutionizing the game, Michael Hawash offers an alternative to lengthy, costly court battles.

Don't read this if you like spending hundreds of thousands of dollars on endless litigation that keeps your company's focus on lawsuits rather than on your business.

Texas attorney-mediator Michael Hawash, founder of Hawash Houston Mediation, knows the frustrations that arise with traditional litigation: It's time consuming, costly, and generally results in wasted effort preparing for trials that statistically never happen.

In 2019, over 1.6 million lawsuits were filed in Texas courts. Of the over 553,000 civil cases that concluded that year, only 608 were tried by jury. The rest were resolved by other means, the most important being settlement. This startling revelation prompts the question: How many hundreds of millions of dollars were spent on those cases before they were finally resolved? Whatever the answer, Hawash will argue most of it is wasted money.

According to Hawash, "Within a few weeks of learning of a dispute, good lawyers should know roughly where the case should resolve. Their judgment is as good then as it will be after nine months of court battles, motions, and discovery."

Hawash is out to transform the way parties approach lawsuits. Using a new form of dynamic mediation called early dispute resolution (EDR), Hawash has enabled numerous companies to get disputes resolved quickly, fairly, and economically while avoiding the cost and expense of "litigation as usual."

"EDR seeks to short-circuit the traditional litigation model and provide parties with methods—using the services of a trained neutral—to resolve most disputes within 30 to 60 days and at a fraction of the cost," he explains.

A Beneficial Practice

How does EDR work? "When a dispute arises, the parties engage a specially trained mediator to act as a neutral," Hawash says. "The neutral will meet with the parties to explain the EDR procedure and guide the parties in the implementation of the EDR Protocols, a process specifically designed to enable the resolution of even the most complex disputes."



The EDR process itself involves four steps: gathering known information by each party, requesting limited information from the opposing party, evaluating the information with a trained neutral to develop a risk-adjusted value of the case, and negotiating a resolution based on the information presented. Each step is crucial to developing a satisfactory settlement position, as is the presence of a neutral mediator.

"When done correctly, the parties should reach roughly the same resolution they would have reached after protracted discovery and motion practice," Hawash says.

A Valued Neutral

A skilled litigator with three decades of experience, Hawash routinely serves as a mediator, arbitrator, and EDR neutral. He also serves on the Early Dispute Resolution Committee of the American Bar Association and is a co-trustee of the Early Dispute Resolution Institute, a nonprofit corporation organized to promote the fair, effective, and ethical use of EDR principles and to educate lawyers, judges, neutrals, businesses, and the general public about EDR's benefits.

"Litigation is too damn long and too damn expensive," he says. "EDR is a forward-thinking alternative that all businesses should adopt."

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