

Contractually Mandated Pre-Litigation Dispute Resolution Mechanisms Are Fraught With Peril

A post in the Burns Levinson **In-House Advisor** blog takes a look at the use of multi-tiered pre-litigation dispute resolution clauses in contracts.

Author Shepard Davidson writes that the theory behind such mechanisms “is straight-forward and quite laudable: if the parties can resolve a dispute without resorting to litigation or arbitration, they likely will save themselves a lot of pain, anxiety and, most of all, money. In reality, however, forcing people to engage in settlement discussions may actually cause one party or the other to lose substantive rights.”

He concludes that forcing parties to engage in a process that only can work if all of them want to participate seems unlikely to result in anything other than delay and added expense.

Read the article.