CARLTON FIELDS

As Good as It Gets: The Rise of Mediation Options

Publication

10.22.03

Alternatives to litigation, as well as alternative ways to resolve pending litigation, have come to include the widespread use of mediation. The past ten years have seen an increase both in private mediation services and court-sponsored mediation programs. Spurred by statutory authorization and sometimes exercising inherent judicial power, a growing number of judicial systems have even begun to mandate that parties participate in court-supervised mediation before drawing upon the court resources required for discovery, dispositive motions, trials and even appeals. Franchise disputes, like other business disputes, are likely to be resolved short of trial on the merits, either by dispositive motion or settlement. Far more disputes are settled than decided by motion. Increasingly, mediation is utilized to achieve settlement. This workshop explores current issues in mediation, summarizes research on effective design of mediation programs and use of mediation resources, and provides practical tips for optimizing the effectiveness of mediation in the franchise setting.

"As Good As It Gets: The Rise of Mediation Options," (co-author with Nancy G. Gourley) was originally presented to the American Bar Association Forum on Franchising, 2003 annual Forum on Franchising meeting.