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Civil mediation arrives on Guam

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Recently, Guam's local and federal courts sponsored an extensive mediator-training program, entitled "Mediation 101." As a result, Guam and its neighbor Micronesian jurisdictions now have approximately 35 new court-certified mediators. So what, you ask? Actually, for businesses that regularly utilize the courts — and for any business that becomes embroiled in litigation — this is big news.

Mediation is commonly defined as, "a flexible, nonbinding, confidential process in which a neutral person facilitates settlement negotiations." For businesses, a more concise definition might be "a convenient way to manage the expense, risks and distractions of court litigation."

As any businessperson who has experienced it knows, civil litigation is expensive and slow. Moreover, the discovery process can burden businesses with seemingly endless document production and depositions. Litigation sometimes becomes an end itself. And yet, upwards of 95% of civil cases filed eventually settle out of court. Given these

facts, it generally makes sense to try to settle cases as soon as possible. That's where mediation comes in handy.

Mediation has a high success rate in settling cases. It affords both sides an early opportunity to tell their side of the story and to "test drive" litigation strategies to a neutral practitioner, usually a lawyer or judge. Mediation encourages parties to focus on their big-picture goals and objectives instead of the myopic day-to-day endeavor of winning the case. Essentially, mediation allows participants to make a more informed decision about whether to settle and for how much. The process is particularly helpful when, for business reasons, it is desirable to settle a case quickly and quietly.

The average civil case can take two to three years to go to judgment. Then, one or more of the parties might appeal the judgment, causing further delay. Thus, it can take five years or more for a civil case to run its



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course. Mediation, on the other hand, can result in a final settlement of the case within a matter of days, and without the risk of setting bad judicial precedent.

Nationwide, there's a growing trend towards utilizing mediation to settle even the most protracted civil disputes. Multimillion-dollar quagmires have been resolved expeditiously through the mediation process. Many Guam attorneys are already sold on the desirability of mediation. However, until now there has not been a sufficient stock of trained mediators on Guam to make the process a practical alternative in most cases.

In addition to the successful *Inafa' Maolek* program, a local company, Pacific Arbitration and Mediation Services has recently assembled a panel of Guam-based mediators available to help resolve most civil cases. If and when your company becomes involved in a lawsuit, you should talk to your lawyer about mediation and consider whether it might be desirable for your particular case.

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