As a civil litigation attorney in California required to go to arbitration from time to time, I much prefers to use mediations to settle personal injury, business, real estate and construction cases that go into litigation. In fact, I try to avoid arbitrations at every opportunity because of their much more limited chance of resolving a case.

If you need legal assistance for a mediation or arbitration in California visit our law firm website at http://www.sebastiangibsonlaw.com for more information and call us at any of the numbers easily found on our website.

There are four types of arbitrations. None of them compare favorably with mediations, but here are the choices, and here's what you can do to get through one without having your client taken advantage of.

The courts push the cases toward arbitration with much less effort directed toward mediation. While some courts have mediation programs set up with volunteer attorneys, the availability of these is limited as is the time given by the volunteer attorneys. If your client can afford it, in this writer's opinion, mediation is a much better way to go than arbitration. But to understand why, you must first understand how arbitration works.

First, there are judicial arbitrations. These are non-binding which means if the arbitrator makes a bad decision, you can reject it by filing a trial de novo and proceed toward trial. The parties select the arbitrator they want. And as soon as either party doesn't like the award that he or she had little involvement in the thought-making process by the arbitrator, a trial de novo is filed and the case heads toward trial.

If the time is taken to choose the arbitrator well, this type of arbitration can help to settle a case. However, because both parties know they can reject the arbitration award and neither party plays a part in the arbitrator's thought process of how he makes his or her determination, there is a propensity for one side or the other to reject the award. At least in this type of arbitration, a client is not bound by the award of an arbitrator that turns out to be a moron.

A non-judicial arbitration is an arbitration that takes place not in the course of litigation, but rather because a contract or agreement, for instance, requires arbitration. This type of arbitration is almost always binding. One or both parties may not have realized when they signed the agreement that binding arbitration means they accept the possibility if not likelihood that the arbitrator will make a decision that is idiotic and any review of the award will be limited basically to evident miscalculations of math. California law allows very little opportunity to have a bad decision reviewed, modified or corrected.

If the contract or agreement calling for arbitration also provides that the losing party pays the prevailing party's attorney fees as well as his or her own, a bad decision by an arbitrator can wind up costing the losing client $100,000 in a medium complex case or more. In this scenario, the attorneys should spend as much time to find a knowledgeable, and evenhanded arbitrator as they do preparing a thorough arbitration brief and preparing the witnesses and the evidence.

A voluntary arbitration can be binding or not. The question that should pop into anyone's head is why have an arbitration when you can have a mediation where the first and foremost goal of both parties and the mediator is to see that the case settles for an amount both parties can accept? In a mediation, the parties can informally argue the matter out, the mediator can use his or her mediation skills to twist the parties' arms and none of the parties are stuck with formal evidence rules in their discussions. Witnesses do not have to be brought in and the mediator can look at documents without having to consider as many evidentiary objections. Best of all, if the case does not settle, there is no binding award and the parties can either return to have another go, or continue their settlement discussions on their own through their attorneys.

We invite you to visit our law firm website at http://www.sebastiangibsonlaw.com and call us if you need help with a mediation or arbitration in California.