



# Article Series

Brinkley Walser, PLLC

*Helping you stay current on today's legal topics*

## Nuts and Bolts of Mediation and Arbitration

*By R.B. Smith, Jr., Brinkley Walser, PLLC*

Mediation is a ladies' and gentlemen's way of settling a legal dispute. The parties to a lawsuit can select a certified Mediator of their choice to mediate their dispute, but if they cannot agree on a Mediator, then the court will appoint one for them. If the parties reach a settlement with the help of a Mediator, the agreement is reduced to writing and is enforceable by the court. Mediation can even occur prior to a legal action being filed in court thereby avoiding court costs and legal fees for bringing the lawsuit. When I first started practicing law in 1964, very little was known about mediation and it was not used often by the court system. Today, over 50% of all legal disputes end up in mediation and are settled prior to actually having a jury trial. If you are involved in a legal dispute, I suggest that you consider initiating mediation as an alternative means of dispute resolution as soon as possible.

By contrast, arbitration is a method of settling a legal dispute without the possibility of having the matter decided by a jury or a judge. Arbitration can be binding or non-binding on the parties who enter into arbitration proceedings. Our District Court system in North Carolina provides for non-binding arbitration which means either party can appeal the decision of the Arbitrator if they choose. Binding arbitration usually occurs when the parties have contractually agreed up front to settle any legal disputes by way of arbitration. These binding arbitration provisions in a contract usually occur in construction contracts, automobile purchase contracts, and broker agreements. I recommend avoiding arbitration if possible because it is usually as expensive as a jury trial and jury or even judge trials tend to be more favorable to certain parties than arbitration.

### About the Author

R. B. Smith, Jr. is a Certified Mediator in Superior and District Courts and an Arbitrator in District Court in Davidson and surrounding counties. He is an experienced Attorney and Of Counsel at Brinkley Walser, PLLC, in Lexington, North Carolina. He can be reached at (336) 249-2101 or via e-mail at [rbsmith@brinkleywalser.com](mailto:rbsmith@brinkleywalser.com). Brinkley Walser prides itself on providing new and cutting edge legal counsel built on a foundation of knowledge and integrity 125 years in the making. The firm has offices at 10 LSB Plaza in Lexington and in the Green Valley Building, 604 Green Valley Road, Suite 312, in Greensboro. Visit Brinkley Walser on the web at [www.brinkleywalser.com](http://www.brinkleywalser.com).



10 LSB Plaza • Lexington, NC 27292  
Mailing Address: PO Box 1657 • Lexington, NC 27293-1657 • Phone: 336.249.2101  
GREENSBORO: \_\_\_\_\_  
604 Green Valley Road, Suite 312 • Greensboro, NC 27408  
Phone: 336.235.2941 • [www.BrinkleyWalser.com](http://www.BrinkleyWalser.com)