

7 Benefits of Using Mediation When Resolving Disputes Arising Under Proceedings of the US Bankruptcy Code



M. DAVID GRAUBARD, ESQ.
(212) 681-1600 | www.keragraubard.com

WELCOME

David Graubard is part of the professional and dedicated team at Kera & Graubard, Attorneys at law. Our firm has built its practice on promptness, personal client attention, and providing answers when you need them. We handle bankruptcy, matters for reorganization and preference actions, construction law, real estate, tax, and landlord/tenant issues. Mr. Graubard specializes in Chapter 11, all aspects of bankruptcy law, and insolvency consultation.

We understand going to court can be a stressful experience, so we are sensitive to the emotional turmoil which often accompanies the need for legal services, especially when they are related to financial matters. We know this is not an easy time for you, but we will do whatever we can to make it less stressful. Our fees are reasonable, and we provide individual attention to each case so you never feel like just another client.

Mr. Graubard makes your case a priority right from the beginning. We take pride in exceeding the expectations of our clients and doing what we can to help them feel comfortable. You relax knowing Mr. Graubard and his team is accessible, supportive and capable of using their years of experience to benefit you.

Whether mediation is the best option for you, or you need experienced legal representation during the bankruptcy process or any other financial legal issue, we can help. If you would like to discuss your case further or you want more information on how mediation can help, contact David Graubard and the team at Kera & Graubard, Attorneys at Law. Thank you for your consideration.

M. DAVID GRAUBARD, ESQ.

Office: (212) 681-1600

Fax: (212) 681-1601

Cell: (646) 245-3978

E-mail: dgraubard@keragraubard.com

www.keragraubard.com

KERA & GRAUBARD
240 Madison Avenue, 7th floor
New York, NY 10016-2820



M. DAVID GRAUBARD, ESQ.
(212) 681-1600 | www.keragraubard.com

7 Benefits of Using Mediation When Resolving Disputes Arising Under Proceedings of the US Bankruptcy Code

Many bankruptcy courts have started mediation programs for parties involved in disputes relating to bankruptcy proceedings. The idea behind mediation is to enable a settlement, which can allow the bankruptcy case to be discharged more quickly, leading to decreased costs and less use of court and attorney resources. Mediation can be used for nearly every kind of bankruptcy dispute including those relating to preference and fraudulent conveyance actions, claims objections, asset recovery cases and other bankruptcy litigation. Mediation has many advantages. Some of the more obvious advantages are that mediation can save time and therefore lead to a faster discharge and less legal fees. Another upside to mediation is the ability of the parties to come to a resolution of their dispute together, rather than having a third party decide the issues. This allows the business relationship to be maintained. The mediation is confidential and non-binding unless a settlement is reached.

1 HELPS PRESERVE BUSINESS RELATIONSHIPS

There are many instances where preserving the business relationship is desirable, especially in commercial bankruptcy cases. Often a supplier and a customer will want to continue the business relationship even after the bankruptcy case is discharged or the Chapter 11 plan is confirmed. This will allow for a smoother operation of both businesses and will work to the advantage of everyone. In cases involving a preference by a debtor in possession, the parties may have an interest in not creating animosity between one another, despite the litigation.

2 CONFIDENTIALITY

Mediation is confidential, meaning that the parties can openly discuss the issues at hand and come up with a solution without having to be worried that it will later be used against them in court. The process is set up to encourage open communication as a way to facilitate a settlement between the disputing parties. Not only is a party precluded from using what transpired in mediation in a later court proceeding, but the mediator may not be called as witness either. This ensures that the mediator will be discreet and objective. This means that neither party has to worry about what was said by or against them during negotiations, or having to maintain a hard line negotiation stance because of worry about prejudice to their legal position.

7 Benefits of Using Mediation When Resolving Disputes Arising Under Proceedings of the US Bankruptcy Code

3 DECISION MADE BY PARTIES

When a bankruptcy dispute is litigated, it will be decided by a third party (either a judge or, in certain cases, an arbitrator). This means that the outcome that is desired by the respective parties may not come to fruition. With mediation, the parties agree on the terms of the settlement together resulting in all concerns being addressed. Many times a party misunderstands what the purpose of the mediator is. The mediator is not a decision maker. The mediator is there to help the parties make a decision on their own, without the intervention of a judge. When the parties decide the outcome of their dispute through a settlement on their own, there is a greater likelihood that an agreement which meets all their concerns will be achieved.

4 NOT BINDING UNLESS SETTLEMENT REACHED

Just because the parties agree to mediation does not mean that they must arrive at a settlement. Mediation is meant to help the parties achieve a resolution that works for everyone, not force the parties to a settlement that they do not want. If mediation is not working because the parties have animosity towards one another or are otherwise not communicating well, the mediation will reach an impasse and the matter will then return to the court for the normal litigation route. This leaves control over the proceedings with the parties.

5 LESS COSTLY

If a bankruptcy dispute is mediated early in the case, and a settlement is reached; then it can be a very effective cost savings procedure. When the dispute is settled, the parties will avoid costly discovery and the trauma of a trial, both of which can be expensive and take a toll on the parties' business operations, as well as personal anxiety associated with litigation. A successful mediation can save the expense of full blown litigation which includes discovery and trial costs. For example, witness preparation, document review, exhibit compilation and general trial preparation can be avoided.

7 Benefits of Using Mediation When Resolving Disputes Arising Under Proceedings of the US Bankruptcy Code

6 CAN BE USED IN MANY STAGES OF LITIGATION

While effective mediation early in the bankruptcy dispute can save time and money, it is available to be used at any stage of the proceedings. This makes it possible to achieve a settlement even if a dispute is close to trial. In fact, many bankruptcy courts have begun to institute a mediation program, with the hope of ending these disputes early on to save costs, expense and resources. Mediation can be used for many types of disputes including, without limitation, collection, asset ownership and objections to claims, amongst others.

7 TIME-SAVING

Mediation can help the parties come to a resolution much more quickly. As a result, creditors can obtain earlier payment and debtors can get on with their economic lives. Mediation is an advantage to all the parties, not only because it can be a cost saving factor, but early resolution will allow the parties to attend to their normal business without the cloud of litigation hanging over their respective heads. In commercial bankruptcy cases, the parties may seek to confirm a plan in order to enable the parties to continue their business relationship and foster their own economic growth. In personal bankruptcy cases, mediation will help individual debtors achieve faster resolution to allow discharge of the bankruptcy case and the individual to proceed with the colloquially termed “fresh start.”

DOWNLOAD EBOOK

<https://toi.infusionsoft.com/app/form/david-graubard-ebook>