

MedALOA

MedALOA (Mediation And Last Offer Arbitration) is a special dispute settlement process that combines the flexibility of mediation with the control, efficiency and finality of “last offer” binding arbitration. It is extremely effective when correctly applied, typically in limited situations or for sophisticated litigants.

Last Offer Arbitration is often used in the resolution of money claims or in the resolution of salary disputes. During arbitration, the parties each submit their last offer of settlement to the arbitrator. The arbitrator must then choose one offer or the other, and the parties agree to be bound by that decision. Thus, the parties set the limits of the arbitrator's award. Last Offer Arbitration may be less likely to freeze negotiations between the parties before they reach the arbitration phase, since mutuality is aided by the fact that the neutral will decide between one party's offer or the other. Therefore, it is in the parties' best interest to be as realistic as possible in submitting their offers.

MEDALOA combines mediation with Last Offer Arbitration. The parties agree to proceed to mediation. They also agree that, if mediation produces no settlement, they will then submit their last offer (if any) made during mediation to the neutral, who chooses one or the other and renders a decision. Since the neutral is limited to the last offer of the parties, once again the parties have some degree of control over the arbitration process. Thus, they are less likely to complain about the outcome. As with Last Offer Arbitration, the parties are encouraged to make a realistic settlement offer, anticipating that the neutral will choose between one of the offers. Therefore, the openness of mediation between the parties is not thwarted by the fact that the parties have agreed to submit the matter to arbitration should they fail to reach a settlement.