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## **Why Mediation Might Be Best for Business Partner Breakups**

By David Mielach

Breaking up is always hard to do, but it is very possible that it is hardest when you're breaking up with your business partner. Although it may seem simple to just hire lawyers and allow them to handle the proceedings, that is often not the case. Just ask any business owner who has had to deal with a breakup in the business world.

Often business partners looking to split head directly to their lawyers and to court. But, Silvana Raso, a partner at the New Jersey-based law firm Schepisi & McLaughlin, contends that mediation might be the better route. Raso has the following warnings to businesses that may be headed to a proverbial "divorce court."

- The business owners cede control of their business to strangers – the lawyers and judges who likely have little or no practical experience running a business, and have limited knowledge of the business that is now the subject of the lawsuit.
- Often, the owners lose the right to make any financial decisions and must seek the court's approval before making any decisions which might affect the business.
- Through litigation, the business owners may have unwittingly made their lawyers new partners in the business: Lawyers are often paid for their work from the profits once shared only by the owners, and those lawyers will be paid before the business owners share in those profits.

To avoid those problems, Raso recommends both parties turn to mediation.

"For those looking to save money, and perhaps a business, mediation can be the answer to those going through a divorce of the business kind," Raso said.

Other benefits of mediation include:

- Parties can choose to participate without lawyers, which means the only person they pay is the mediator and any other experts, such as accountants or consultants, who may have input in the process. Even if the parties hire lawyers in a mediation settlement, the time spent by those lawyers – and billed back to the parties involved – is considerably less than the time spent preparing a case for trial before a judge.

- Mediation also allows the business owners to control the pace at which the negotiation moves, rather than a court-imposed schedule.
- The mediation process is confidential and nothing discussed by the parties is admissible in court. This confidentiality can result in a willingness of the parties to be more open in resolving their dispute.

"When differences can't be resolved, business owners invariably turn to lawyers to help resolve the dispute in court, but that approach needs to be weighed carefully as there may be immediate consequences versus mediation," Raso said. "Mediation is a way to bring parties involved in a dispute to a quick, painless resolution. While there is no doubt that some disputes will need to be settled in a courtroom, some people can resolve their differences without going to war."