



Quiz

Avoiding the Pitfalls of Litigation through Alternative Dispute Resolution

1. What does s 56 of the *Civil Procedure Act 2005* (NSW) provide?
 - a. For compulsory mediation of disputes before trial
 - b. That judges have the power to refer disputes to mediation where appropriate
 - c. That practitioners and parties have an obligation to seek the just, quick and cheap resolution of matters
 - d. That parties must make good faith efforts to reach a negotiated settlement prior to trial
2. When are parties "mediation ready"?
 - a. At the outset of a dispute
 - b. Once parties know where the other side is coming from and have had the opportunity to lay out their real positions, supported by evidence
 - c. At any stage at which the court considers mediation would be beneficial
 - d. Immediately prior to trial when all evidence has been filed
3. Which of the following is a true statement about arbitral awards?
 - a. Under Australian law, arbitral awards are enforceable as judgments
 - b. Arbitral awards are enforceable if the parties agree to such a term prior to the start of arbitration

- c. Arbitral awards are enforceable if specified as such in the original contractual clause
 - d. Arbitral awards are not enforceable in Australia
- 4. What are the benefits for companies of engaging in early dispute resolution?
 - a. Saving time and expense
 - b. Maintaining commercial relationships for future transactions
 - c. Being able to continue the day-to-day business of the company instead of focusing on dispute resolution
 - d. All of the above
- 5. What is the argument against a legislative requirement for alternative dispute resolution that Mr Wilson mentions?
 - a. It is important to maintain the voluntariness of attending alternative dispute resolution in order to ensure that the parties approach mediation or negotiation in good faith
 - b. Such a clause would be complex, and it would be difficult to reach consensus on the circumstances in which it would be appropriate for the clause apply
 - c. Inequalities between the parties could mean that one side is in a stronger position in mediation or conciliation
 - d. It is preferable to leave questions of alternative dispute resolution to the discretion of the Court

Answers:

1. c 2. b 3. a 4. d 5. a