

Mediation and arbitration are alternatives to filing suit

Q. My neighbor just built a stone wall and I think it's partly on my property. Should I file a lawsuit or are there other alternatives?

A. There are many factors you should consider before deciding to file a lawsuit. First, you need to determine if you have a legal basis, or "cause of action," against your neighbor. You should also consider the expense of a lawsuit, the time involved, and your emotions. It could become extremely unpleasant for your entire family once you file suit.

Mediation and arbitration are two alternative ways to resolve disputes without resorting to the court system. In mediation, an impartial person helps the parties determine their desires and resolve actual differences.

However, unlike a judge, the mediator cannot render a final decision or judgment. The mediator also cannot force the parties to reach an agreement.



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Arbitration, on the other hand, is more similar to a court proceeding. The arbitrator acts like a judge, hears evidence, and then makes a decision. The proceedings are less formal than those in court and can often be determined quickly.

Q. What types of cases are best suited to arbitration or mediation?

A. Almost any civil case can be mediated or arbitrated. Business disputes, family matters involving custody disputes, landlord-tenant disputes, and neighborhood problems have been mediated or arbitrated.



Q. My neighbor and I have decided to resolve a dispute through arbitration or mediation. Where shall we go and how much will it cost?

A. The Neighborhood Justice Center has trained mediators providing mediation services. A one-time \$10 fee is charged. The address and telephone number of the center is 200 N. Vineyard Blvd., 521-8787. The American Arbitration Association has trained arbitrators available. Those requesting the association's services must pay a minimum filing fee of \$300. The address and telephone number of the association is 810 Richards St., Suite 641, 531-0541.

Q. My friend and I are putting a business venture together and want to ensure that any future disputes are handled through mediation or arbitration. What can we do?

A. The American Arbitration Association has a new service providing business people with sample arbitration/mediation clauses to use in their contract or business policy statements. It is free.

Q. My house was robbed by a juvenile several years ago. I was subpoenaed to go to Family Court, and from there had appointments with the Neighborhood Justice Center. We worked out an agreement for restitution, which both par-

ties signed. So far, I haven't received any. I have tried everything, but they won't answer my calls.

A. Your remedy depends on the way the matter was initially referred to the Neighborhood Justice Center. Basically, there are two ways your case may have come before the center. If Family court ordered the juvenile to make restitution, with the center simply determining the amount, it might be possible to go back to Family Court for a further review. You might want to contact the probation officer to determine the status of the case.

If Family Court did not order the juvenile to make restitution, but the parties nonetheless voluntarily agreed to mediate the matter, your recourse may now be filing a claim for restitution in the courts. If the amount under question is under \$2,500, you may wish to contact the Small

Claims Division of District Court with respect to your claim.

Unfortunately, even with a mediated agreement as a court judgment, there is simply no guarantee that the person will pay.

What's the Law? is sponsored by the Hawaii State Bar Association Young Lawyers Division. State District Court Judge Leslie Ann Hayashi answered this week's questions. Hayashi is a past president of both Hawaii Women Lawyers and the Young Lawyers Division of the Hawaii State Bar Association. Do you have questions about any area of the law? Write to: What's the Law?, Honolulu Advertiser, P.O. Box 3110, Honolulu HI 96802. Your letter may be selected for publication in a future column. This column is not intended to provide legal advice. You should consult your own lawyer for advice on your own circumstances.

What cases go to small claims court

Q: What is small claims court?

A: Small claims court is a division of the state district court in which a judge hears certain types of claims in a simple and informal matter.

Q: May I file any type of claim in small claims court?

A: No. The small claims courts only hears the following types of cases:

- Recovery of not more than \$3,500, not including any interests or costs that may be awarded by the court.

- Security deposits in residential landlord and tenant relationships.

- Return of leased or rented personal property worth \$3,500 or less.

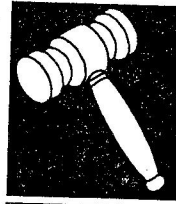
- Recovery of damages related to — or for repossession of — unauthorized removal of shopping carts, shopping baskets or similar devices from the premises of any business establishment.

Q: What if I don't like the judge's decision?

A: You have to abide by it. There is no right to appeal in small claims court, it is final.

Q: I let my friend borrow \$1,000 to pay his rent. He said he would repay me as soon as he found a job. He found a job three months ago, but he hasn't returned my \$1,000. What can I do?

A: You must complete a "Statement of Claim" form and file it with the small claims court in the division where the defendant lives — usually the island where he lives. There is a \$10 filing fee.



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The clerk of the court will help you prepare the Statement of the Claim. Once the claim is filed, the clerk will prepare a notice stating the time and place at which the defendant must appear to answer your claim. You must then serve a copy of the statement and hearing notice on the defendant either by certified or registered mail, return receipt requested or by

using the Special Services Division, State of Hawaii.

Q: Where is the small claim court located?

A: On Oahu, at 1111 Alakea St., 3rd floor, Honolulu; Maui, at 2145 Main St., Wailuku; Molokai, in Kaunakakai; Lanai, in Lanai City. On the Big Island, there are three locations: In Hilo, the state building, Room 205, 75 Aupuni St.; in Kona, Keakealani Building, Room 219, Kealakekua; and in Waimea,

the Waimea Civic Center. On Kauai, at 3059 Umi St., Lihue.

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Car towed — driver wonders why

After 24 hours, city considers the vehicle abandoned

Q: I ran out of gas on Kam Highway and was picked up by a friend. When I returned two days later to pick it up the car was gone. I then received a notice in the mail that my car was towed away as an abandoned vehicle. Why was my car considered abandoned?

A: Any vehicle left unattended for more than 24 hours on a public highway is considered an abandoned vehicle that may be removed from the highway at the expense of the registered owner. The owner is also subject to a fine, which varies by county. The fine for an abandoned vehicle in the City and County of Honolulu is a minimum of \$150.

Q: I received a ticket for not parking in a stall even though the curb wasn't painted and there weren't any "No Parking" signs. Why?

A: The street you parked on must have had marked or metered stalls. If



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you park on a street with marked or metered stalls, and you park somewhere other than in a stall, you will be cited for not parking in a stall.

Q: I had to deliver something downtown. I parked in a loading zone and received a ticket. Why?

A: The answer depends on whether you parked in a freight loading zone or a passenger loading zone. To park in a freight loading zone, you must have a "loading zone" permit. This permit allows you to park and leave the vehicle unattended for a maximum of 30 minutes. If you parked in a freight loading zone, you probably received a



ticket for not having a permit.

You may park in a passenger loading zone for a maximum of three minutes. Although no permit is required for parking in a passenger loading zone, the vehicle must be occupied at all times. If you parked in a passenger loading zone, you probably received a ticket for parking there for longer than three minutes.

Q: The other day I received a ticket for blocking a driveway even though my car was a couple of feet from the nearest driveway. What is the law on blocking driveways?

A: You may not park within four feet of a driveway. You should also know that you may not park within ten feet of a fire hydrant, within twenty feet of a crosswalk, or within thirty feet of a stop sign. Parking is also prohibited on sidewalks,

and on, or under, bridges.

Q: I parked my car in a metered stall and fed the meter but I still received a ticket for "improper use of meter." Why?

A: You may have failed to turn the handle of the parking meter completely. The handle must be turned completely to make sure the meter is operable and running. If the meter you are using is jammed or defective, please call the City & County of Honolulu Department of Transportation, Parking Division at 524-4513.

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