

QUESTION 9: *[Answer this question if you responded answer to Question 7 that, given a choice between a judicial forum and an arbitration forum, you will recommend or select a judicial forum over arbitration 50% of the time or more.]* Another reason why I prefer a judicial forum over an arbitration forum is:

#### SELECTION OF ANSWERS TO QUESTION 9:

More procedural certainty/clarity (rules and procedure in court is generally more clear)

Desire for a jury

Courts usually observe rules of evidence

The evidence code is more strictly applied in a judicial forum.

I lost at arbitration

Less “baby splitting” and less “home town”; maybe because of appellate review

Discovery; jury trial; no arbitrator fee

Cheaper; allows for discovery; I know the rules

Rules of evidence and code of civil procedure protections are more uniformly enforced.

Rules of evidence apply.

Trial may provide a tactical advantage because it is more expensive.

A jury is more likely to award larger damages and punitives.

The AAA filing fee is outrageous.

Sometimes costs of arbitration are more than they should be because of the whim of a renegade arbitrator.

Judges and Arbitrators are uneven in quality; appeals help as a cross-check to wacky decisions at a lower level.

Arbitration results most often “split the baby.”

Arbitrators rarely award as much in damages as a jury will.

Arbitration is not faster or cheaper than the judicial route.

A Judge is expected to follow the law; an Arbitrator is not.

Judicial decisions are more consistent and better.

I have more confidence in a judicial officer who is required to follow rules of procedure.

There is a greater likelihood that the Judge will follow applicable law in making his / her decision.

There are less costs in litigation because there is no Arbitrator's fee.

In cases where I represent the plaintiff, the prospect of having a jury decide the matter adds value to the case.

I can recover more damages in a court trial if I am representing the plaintiff.

I prefer litigation because Judges are neutral.

The rules of evidence followed in litigation are clearer than those followed in arbitration.

Discovery rules apply in litigation.

I like the formality of litigating in the courts.

There's no splitting the baby in litigation.

Fast track in court is faster than the delays in arbitration.

The Judge's time is free; you pay for the Arbitrator.

There's an element of "randomness" in the selection of the Arbitrator.

Arbitration limits you to a single person's decision without any opportunity for redress.

There's legal precedent in litigation proceedings.

Even when my client prevails in an arbitration, the opposing party will take an appeal, thereby escalating the fees my client has to pay.

Often arbitrators do not understand the law or the evidence, or the ruling is simply wrong.

Arbitrators are more prone to split the baby – perception is that since they are paid by the parties they do not want to "p\_\_ \_ -off" anyone to lose business.

The right to discovery is broader in litigation.

Many arbitrators are biased in favor of "repeat clients" such as large corporations or law firms.

Stricter rules of evidence apply which may be advantageous if the other side is sloppy or not as prepared.

The procedural requirements in a judicial forum may provide a tactical advantage.

A judicial forum may provide greater predictability in law and procedure.

Judges in legal proceedings are more likely to decide the matter by ruling on the legal issues.

Summary judgment is easier to obtain in a litigation setting.

Litigation is not arbitrary.

The delays associated with getting to trial serve as a tactical advantage to the defendant.

It's difficult to constrain the Arbitrator to the arbitration agreement and limit his power.

Juries most often get it right, assess credibility better and don't split the baby.

I prefer the formality, the rules and guidelines and what I believe is greater attention by Judges versus Arbitrators in hearing the matter.

I prefer litigation because 1) there is a record; 2) rules of evidence matter; 3) the Judge has clerks and research staff; 4) I don't have to pay for the Judge's time; 5) the Judge has no profit incentive.

Litigation is predictable and efficient.

I don't like Arbitrators. They seem interested in prolonging hearings and the process. They get paid by the hour. Also, they apply the law wrong and under current CA law, that is not a ground to challenge an award.

I've been taken advantage of by Arbitrators.