

Week 4 The Common Driveway Case Assignment

After reading Chapter 7 in the text, address the following:

- a. Explain whether the dispute is at an impasse or not and if any party is experiencing any settlement pressures.
- b. Discuss the use of arbitration or mediation if the negotiation between the Wilsons and Greens reaches an impasse. Should they consider arbitration or mediation to resolve their differences? Why or why not?
- c. Analyze other hybrid forms of alternative dispute resolution (ADR) that are available and should be considered if negotiations fail to produce a settlement.

Your paper should be four full pages in length. Format your paper according to APA style and utilize three to four scholarly sources in addition to the textbook. Be sure to cite your sources within the body of your paper and on the reference page.

Textbook: Carrell, Michael R. and Heavrin, Christina (2008) – Negotiating Essentials: Theory, Skills and Practices.

6. Which of the primary methods of ADR discussed in this chapter do you believe should be included in the contract provision? Why?

7. Which of the following situations should be considered for inclusion in the contract provision?

Employment _____ Supplier _____ Commercial _____

Consumer _____ Patient _____ Vendor _____

Competitor _____ Acquisition _____ Other _____

8. What advantages and disadvantages would you expect from utilizing mediation and/or arbitration instead of the courts to resolve the dispute?

LEARNING EXERCISE: THE COMMON DRIVEWAY

For more than 30 years David and Shari Wilson lived and raised a family in their dream house that they purchased shortly after their marriage. Now in their retirement years, the Wilsons have encountered an unexpected problem—their new neighbors. Until six months ago the Wilsons' best friends, Edna and Hazen Vrooman, lived next door in a house they built shortly after the Wilsons moved into their home. Because the two lots were small, the Vroomans and Wilsons agreed to have a shared concrete driveway poured the year they both built detached garages in their backyards. The two families never had a problem sharing the driveway even during the years when their children became teenage drivers and both houses had more than two cars. Everyone parked in the back, inside or near the garage, or else on the street, thus leaving the driveway open for entering or leaving either garage.

Last year both of the Vroomans died and their house was sold to a younger couple, George and Amber Green. The Greens have three teenage children, all of whom have cars. On several occasions since the Greens moved in, one or another member of the Green family has left a car parked in the shared driveway, thus blocking it from use by the Wilsons. On Memorial Day the driveway was again blocked, causing Mr. Wilson to call Mr. Green, and the following conversation took place:

MR. WILSON: Mr. Green, one of your cars is blocking the driveway again, and we need to leave.

MR. GREEN: Sorry, I'll find out which one it is and move it.

- MR. GREEN: Sure, I'll be right over ... (The Wilsons meet Mr. Green on their front porch.)
- MR. WILSON: We want to be good neighbors, but we should be able to get in and out of our garage without waiting for you to move a car.
- MR. GREEN: I understand. I tell the kids to park on the street or in the back, but you know how kids are these days.
- MRS. WILSON: Well, when our kids and the Vrooman kids were young and drove cars, we never had this problem—they knew not to park in the driveway.
- MR. GREEN: I'll talk to our kids—they are not bad kids, just forgetful.
- MRS. WILSON: You've said that before, but the problem has only gotten worse.
- MR. GREEN: Well, as long as we're here together ... Your oak tree is well past its prime. Last week I had a tree surgeon look at it because several large limbs have fallen on our property. He said it needs a considerable trimming of the deadwood, which could cost \$3,000. He also said it needs to be done soon!
- MRS. WILSON: Edna Vrooman and I planted that tree together as a sign of our friendship the week they moved in. Whenever I look at it, I think of her—she was my best friend.
- MR. GREEN: Sorry, I didn't realize that—I'm sure you miss her—but some of the dead limbs reach out over our house and if they fell they could injure someone or do some real damage.
- MR. WILSON: Since you are bringing up other issues, can you ask your children not to hold their band practice in the garage so late in the evenings? They are good, but it keeps me awake.
- MR. GREEN: We could set a curfew for them, if you can have your tree trimmed.
- MRS. WILSON: But what about the driveway? We must be able to get in and out without calling you every day.
- MR. GREEN: Well, the driveway is right on the dividing line of our two properties, I had it checked out at the courthouse by my lawyer. She said we can do whatever we want on our half of the drive.
- MR. WILSON: But half a driveway is no good, you'd be driving on the grass and mud.
- MR. GREEN: Maybe we could look into widening it?
- MR. WILSON: That would be expensive! It's so long, and we live on Social Security and just don't have the money for something like that, or for trimming the tree.
- MR. GREEN: Well, we are not getting anywhere today. I need to talk with my wife and our lawyer ...

After reading this case of the common driveway, answer these skills questions:

Skill 7.1: Is this dispute at an *impasse*? Why or why not?

Skill 7.2: Is either party experiencing any *settlement pressure*?