

DeVarga Newsletter – April 2006
A FAST SPORTS CAR AND BLACK HAIR
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UNIVERSITY

In the 1990's Lord Wolfe produced his paper "Access to Justice". One of its central themes was adopted by the Government. It was a simple idea. Governments should do all they can to encourage parties who have disputes to settle outside the Courts. Then in 1996 there was a revolution in alternative dispute means. It is called the Arbitration Act 1996. Lord Wolfe's report highlighted to me times are a changing. And in the dispute resolution field there is an accelerating change. Coming up fast and into first place in the "Dispute Resolution Sweepstakes 2006" is Arbitration followed closely by Mediation.

Not wanting to miss out on the movement I decided at the age of 48 to do something about it. My heart strings told me to go out and buy a fast sports car. My daughters, not unreasonably in my view, suggested I dye my hair black. As much as these ideas appealed to me, I decided to go back to University. So some 4 years ago I found myself back in the student bar. As some of you know, in January 2004 I obtained a Post Graduate Diplomas in Arbitration. In the intervening years I have been undertaking pupillage at The Chartered Institute of Arbitrators. Today, I stand before you the proud holder of the title Chartered Arbitrator and entitled to use the letters FCIARB (Fellow of The Chartered Institute of Arbitrators). The hair is still grey and the sports car brochure is gathering dust. So this newsletter adopts the theme of Arbitration. That is why, if you check out our website, you will notice our latest tip is "I ain't going to litigate, I'm going to Arbitrate".

So why is it better to Arbitrate than litigate? Cast your mind back to John Lennon. Remember his song "Imagine" and the line "imagine if you can"? Let us enter into his world for a moment.

Imagine if you can a platform where it is the parties who decide how their disputes are to be settled. Imagine a settlement basis where it is the parties who decide on the rules. Imagine if that platform is cheaper and faster than the Courts. Imagine the Arbitrator being entirely impartial, permitting both sides to put their view without unfair advantage. Imagine the proceedings and the results of the dispute being held in total privacy hence protecting trade secrets.

Now I am sure when Mr Lennon wrote his song he did not have Arbitration in his mind. I believe I had black hair then. But as much as his words required a great leap of faith on behalf of mankind, to me it does not take a great leap of faith for parties to a dispute to settle their differences earlier, faster, cheaper and in private. Imagine that and you have the essential ingredients of Arbitration.

This step is all part of the process of offering a cross section of professional services for our clients. Arbitration can be used to settle any type of dispute except criminal matters, divorce proceedings and custody of children. So next time you are faced with a dispute, be it a consumer matter, a professional matter (property or otherwise), non performance of whole or part of a Contract, non payment of a bill, rectification, setting aside or cancellation of a Deed, think of Arbitration. Don't litigate – Arbitrate.

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