

Farm Management

Resolve tough conflicts without going to court

REGARDLESS of the type or size of a farming operation or agribusiness, conflicts will eventually arise. Whether it's a drainage issue with a neighbor, a contract dispute with a vendor, a problem with an employee or a family squabble, even small disputes can escalate into big problems costing time and money.

When faced with a dispute that cannot be resolved with the other party, consider asking an unbiased third party to help resolve the issue. This process is commonly known as dispute resolution.

Avoid litigation

When an issue of any significance cannot be resolved with the other party, the first thought may be to file a lawsuit. Litigation should always be the last resort to resolve a dispute, as it is expensive, time-consuming and very stressful. Also, the judge or jury may see the facts differently, interpret the law differently or just be plain wrong. The point is, a lot of time and resources can be spent on litigation with no guarantee of a favorable result.

Dispute resolution attempts to allow parties to work through their differences



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outside of court. One form of resolution is mediation, in which the parties retain a neutral party called a mediator. The mediator helps the parties sort out their differences. It is important that the mediator guides the parties to their own solutions and does not attempt to assert his or her own solutions. The parties must develop and buy into the agreed-upon resolution.

Mediation is commonly used either before litigation is initiated or after a lawsuit has been filed but before going to trial. The mediator must keep all communications confidential, and any offers of compromise cannot be later used as evidence should the mediation not succeed.

Another form of dispute resolution is facilitation, which is more informal than mediation. In this process, the facilitator focuses more on helping the parties un-



derstand each other's concern and issues, as well as assisting with communication. Facilitation is used more when the issues are not so much legal as they are personal.

For example, a farm family that is having difficulties with transferring ownership and management to the next generation may find that facilitation allows for better understanding and communication among the family members. Facilitation is also helpful when one or some families' members are more dominant than others. The facilitator can ensure that all family members have the opportunity to express their concerns and ideas.

No licensing or certification is required for mediators or facilitators. Many mediators are attorneys and retired judges, but having a law license is not required for being good at dispute resolution. Perhaps

the most important traits for a mediator or facilitator are to be a good listener and genuinely caring about resolving issues for the affected parties. A good understanding of the subject matter can also be helpful.

For example, a mediator who understands soil and agronomics is more likely to be of help to neighboring landowners with a subsurface tile dispute.

Find mediators and facilitators with an understanding of rural and agricultural issues at www.ruralmediation.com.

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