Experienced practitioners realize that objectives for a successful mediation session as well as underlying interests often differ for the client and the lawyer. Take, for example, a client frequently wanting to talk about estate transaction where the claim was knowledge of latent defects, and disrespectful in relation to the topic of how she was treated one party kept coming back to transfer of keys after the closing.

Every time she said the word “keys,” I could see the lawyer for the other side squirming with frustration that we were discussing something so irrelevant to the legal case. (Whether it is productive to discuss such matters is a topic for another column.) It is also no surprise that clients often care about things like apologies — something of limited interest to a lawyer who is working on a contingency case.

The results, however, of a recent survey documenting the gap between what clients want from mediation and arbitration processes in general and what lawyers, courts and ADR institutions prefer are staggering.

In October, more than 150 individuals participated in an international survey at the Convention on Shaping the Future of Dispute Resolution Parties if they are interested in mediation at the initial stage. The survey also found that while advisers for the most part disagreed, a large majority of users would like to use mediators in negotiation of contracts even where no dispute has arisen. The Cornell University Survey Research Institute administered a similar study of corporate counsel in Fortune 100 companies in 2011, following up on a 1997 study. Pepperdine University School of Law, and the International Institute for Conflict Prevention & Resolution co-sponsored the survey.

The 2011 study, summarized in an article by Pepperdine professor Thomas Stipanowich, was limited to corporate users of ADR, and the results regarding the reasons corporations use ADR were compared to the 2014 study. Saving time and money were the paramount concerns of corporate users. The ability of parties to resolve disputes themselves, limited discovery, confidentiality and preservation of relationships were highly ranked as well. The 2011 study also indicates user preferences in that it documents the great increase in use of mediation and decrease of arbitration since the 1997 study, except in the areas of consumer disputes and products liability cases.

Just as in the recent international survey, the 2011 study showed that corporate users like to use ADR processes early in the dispute cycle. Users are taking advantage of early neutral resolution process, while advisers felt that cost containment and focusing on key issues ranked at the top.

More than 90 percent of users believe that mediators and arbitrators should be certified and held accountable to transparent standards of conduct, but only a third of advisers agreed.

As to mandatory mediation (with an opt-out), 84 percent of users are in favor while only 27 percent of advisers agree. Contrary to most advisers’ views, more than two-thirds of users would like cooling-off periods in arbitration so parties can attempt to settle the case at mediation.

The survey also found that while advisers for the most part disagreed, a large majority of users would like to use mediators in negotiation of contracts even where no dispute has arisen. The Cornell University Survey Research Institute administered a similar study of corporate counsel in Fortune 100 companies in 2011, following up on a 1997 study. Pepperdine University School of Law, and the International Institute for Conflict Prevention & Resolution co-sponsored the survey.

The 2011 study, summarized in an article by Pepperdine professor Thomas Stipanowich, was limited to corporate users of ADR, and the results regarding the reasons corporations use ADR were compared to the 2014 study. Saving time and money were the paramount concerns of corporate users. The ability of parties to resolve disputes themselves, limited discovery, confidentiality and preservation of relationships were highly ranked as well. The 2011 study also indicates user preferences in that it documents the great increase in use of mediation and decrease of arbitration since the 1997 study, except in the areas of consumer disputes and products liability cases.

Just as in the recent international survey, the 2011 study showed that corporate users like to use ADR processes early in the dispute cycle. Users are taking advantage of early neutral resolution process, while advisers felt that cost containment and focusing on key issues ranked at the top.

More than 90 percent of users believe that mediators and arbitrators should be certified and held accountable to transparent standards of conduct, but only a third of advisers agreed.

As to mandatory mediation (with an opt-out), 54 percent of users are in favor while only 27 percent of advisers agree. Contrary to most advisers’ views, more than two-thirds of users would like cooling-off periods in arbitration so parties can attempt to settle the case at mediation.

The survey also found that while advisers for the most part disagreed, a large majority of users would like to use mediators in negotiation of contracts even where no dispute has arisen. The Cornell University Survey Research Institute administered a similar study of corporate counsel in Fortune 100 companies in 2011, following up on a 1997 study. Pepperdine University School of Law, and the International Institute for Conflict Prevention & Resolution co-sponsored the survey.

The 2011 study, summarized in an article by Pepperdine professor Thomas Stipanowich, was limited to corporate users of ADR, and the results regarding the reasons corporations use ADR were compared to the 2014 study. Saving time and money were the paramount concerns of corporate users. The ability of parties to resolve disputes themselves, limited discovery, confidentiality and preservation of relationships were highly ranked as well. The 2011 study also indicates user preferences in that it documents the great increase in use of mediation and decrease of arbitration since the 1997 study, except in the areas of consumer disputes and products liability cases.

Just as in the recent international survey, the 2011 study showed that corporate users like to use ADR processes early in the dispute cycle. Users are taking advantage of early neutral resolution process, while advisers felt that cost containment and focusing on key issues ranked at the top.

More than 90 percent of users believe that mediators and arbitrators should be certified and held accountable to transparent standards of conduct, but only a third of advisers agreed.

As to mandatory mediation (with an opt-out), 54 percent of users are in favor while only 27 percent of advisers agree. Contrary to most advisers’ views, more than two-thirds of users would like cooling-off periods in arbitration so parties can attempt to settle the case at mediation.

The survey also found that while advisers for the most part disagreed, a large majority of users would like to use mediators in negotiation of contracts even where no dispute has arisen. The Cornell University Survey Research Institute administered a similar study of corporate counsel in Fortune 100 companies in 2011, following up on a 1997 study. Pepperdine University School of Law, and the International Institute for Conflict Prevention & Resolution co-sponsored the survey.