



Why Consider Mediation?

Compared to a lawsuit, mediation is swift, confidential, fair, and low cost. Here's a full explanation of its advantages.

If you've given up on negotiating a settlement of your dispute directly with the other party, mediation may be the most painless and efficient way to solve it. Mediation is quick, private, fair, and inexpensive compared to a lawsuit. Mediation sessions are usually scheduled within a few weeks or, at most, a couple of months from the time of a request - and most sessions last only a few hours or a day, depending on the type of case. In contrast, lawsuits often take many months, or even years, to resolve.

Mediation is particularly valuable when your dispute involves another person with whom - either by choice or circumstance - you need to remain on good terms. This may include family members, co-workers, business partners, your landlord, neighbors, or others with whom you have a continuing personal or business relationship. Lawsuits polarize and ultimately ruin relationships, so a huge advantage of mediation is its ability to get a dispute resolved without destroying a relationship.

Another advantage of mediation is confidentiality. With very few exceptions (for example, where a criminal act or child abuse is involved), what you say during mediation cannot legally be revealed outside the mediation proceedings or used later in a court of law. By contrast, one of the drawbacks of going to court is that, by and large, everything said or submitted in connection with a lawsuit becomes available to the public. Only by a special order of a judge can information be "sealed" from public exposure. So whether your desire is to protect your trade secrets or just to avoid airing your dirty laundry in public, your privacy will be substantially greater with mediation than with litigation.

In addition, mediation will nearly always save you money. In many parts of the country, nonprofit community mediation centers handle relatively minor consumer, neighborhood, workplace, and similar disputes for free or for a nominal charge. Private dispute resolution companies tackle more complex cases for a fraction of the cost of bringing a lawsuit. A half-day mediation of a personal injury claim, for example, may cost each side about \$500. By comparison, a full-scale court battle could cost \$50,000 or more, sometimes much more.

If you're already involved in a lawsuit, mediation offers a huge benefit: It gives you a way to resolve the dispute and leave the court system behind. Believe it or not, mediation often works even if the parties have hired lawyers and the dispute has progressed to all-out litigation warfare. Because parties can speak for themselves in mediation, they can bring up creative ideas, personal feelings, and practical solutions that litigation might discourage. And mediation allows the parties to escape the full force of the lawyers' approach to the lawsuit. Sometimes, lawyers are so focused on winning a case that they lose sight of opportunities for resolution that could include repairing the parties' relationship. The mediator can point out, in different terms than lawyers would use, the strengths and weaknesses of each side's position - which may, in turn, change each party's view of the prospects of winning (or losing) at trial, and open the door to a mutually acceptable settlement.

Finally, agreements reached through mediation are more likely to be carried out than those imposed by a judge. When folks go to court, the losing party is almost always angry and often prone to look for ways to violate the letter or spirit of any judgment. In contrast, a number of studies show that people who have freely arrived at their own solutions through mediation are significantly more likely to follow through on them.