

Five Benefits to Using Civil Mediation to Settle Disputes

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WELCOME



Thank you for considering me for your mediation or arbitration needs. I would like to assist you in identifying each party's most important interests and creatively exploring mutually acceptable solutions. Together, we can resolve disputes in a timely fashion at reasonable costs, allowing you to focus on operating your business.

I received law and business degrees from Harvard University and have over 40 years experience in transactional law and business environments, as an attorney in highly respected law firms in Boston and Salt Lake City, as General Counsel for a large, independent oil and resort company in Denver and in private business. Throughout my career in aviation, business planning, mergers and acquisitions, securities, franchising, international business, labor and employment matters, oil and gas, real estate and securities, I have worked with my clients to not only build their businesses but to creatively resolve disputes and unexpected complications.

I can assist you in resolving your disputes in an informal, private and non-adversarial process in which the parties themselves control the outcome, in an efficient and confidential manner, saving you time, money and perhaps restoring relationships.

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Mediation can be used in place of litigation for a variety of disputes and has a high success rate of settlement. Mediation is used to resolve disagreements involving business, property, inheritance, partnership, professional liability, harassment, discrimination, etc. and allows the parties to remain in control of the outcome and settlement terms. No judge or jury will make a decision for you—your mediator will help you and the other party to settle the dispute on your own, under your own terms and timeline.

In fact, 93% of cases that go through process will settle in mediation or following mediation—that's how effective it is. Beyond its success rate, here are the other benefits mediation has to offer when resolving your civil dispute.

1 Saves Time and Money

The emotional toil a lawsuit can bring is costly enough. Further, it distracts you from the important things in your life and business, add to that the costs of lawyers' fees and court costs, and you're looking at a significant expense that will drain your time, energy and checkbook. Beyond that, the work days you miss to be in court add to the financial cost, making the average cost of a litigated case run in to tens of thousands of dollars or more after everything is said and done.

Mediation opens a path to settling your dispute quickly without court fees and lawyers' fees (unless you want your own attorney present). It doesn't break the bank and it can be conveniently scheduled around your work, making it the perfect option for resolving most disputes. Better still—mediation can be initiated, conducted and finalized within a matter of days. Why would you want to wait months or years for a judge?

2 Confidentiality

Going to court is a public experience and a lawsuit is a matter of public record. Whatever dispute you have—whether business, financial or something personal, such as sexual harassment, a dispute between family members, or some other private situation—will be resolved in public by complete strangers.

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Since civil disputes are often between co-workers, family members, neighbors or business partners, the confidentiality of a mediated civil dispute is one of the best benefits this form of Alternative Dispute Resolution (ADR) offers. In mediation, the only people who have to be present in the session are you, the other party and the mediator, although the parties may also bring legal counsel if desired. Whatever is said in the privacy of the meeting remains private—no need to “air your dirty laundry” for the world to see. All sessions are private and comments made or information exchanged in mediation cannot be used by either party outside of the mediation process, without the consent of the other party. The mediator cannot be required to later testify about anything said during mediation.

3 Facilitates Communication and Understanding

Many disputes occur due to a lack of communication. Let’s face it—we’re human, and humans are pros at misinterpretations and making assumptions in their judgments. When people are involved in a dispute, they tend to shut down and clam up, refusing to speak to the person with whom they’re having a dispute. When disputing parties do speak, it’s often by shouting, casting aspersions and making accusations in ways that really don’t qualify as “effective communication.”

Mediation is an informal, non-adversarial process. The process promotes effective and fair communication from the onset to make sure both parties understand where the other is coming from. In mediation, both sides will have the opportunity to present its “side” of the dispute. Both parties will be encouraged to try to understand the other party’s position in good faith and to come to recognize what is really important to each of the parties. The mediator will listen to the details involved in the case from the perspective of each of the parties. This can be done one-on-one with the mediator in a confidential “caucus” or in the presence of the other party. The mediator’s role is to assist the parties in finding a workable solution that will end the disagreement and ensure better future relations.

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You Maintain Control

Going to court can be an unsettling event. It's a situation that is completely out of your hands, as lawyers do most of the speaking for you and you're only able to wait for a verdict after it's over. The litigants have little control of the situation, and the outcome of the trial is legally binding, forcing you to do whatever a judge has demanded that you do.

At no point in the process of mediation will you be forced to do something you don't want to do. No judge will make a legally binding decision for you and you will remain in control of what you agree on (or don't agree on) in the settlement. Any final agreement will be voluntary and mutually acceptable. In addition, if the mediation is unsuccessful, or if the settlement reached during mediation is not honored, you can always take the dispute to court and litigate it at a future date.

5

Restores Relationships

Nothing can make enemies of friends faster than a lawsuit. It's a well-known fact that litigation is a damaging event for relationships, particularly when each side's lawyer is trying to "win" with hardball methods and questionable tactics. Even after the case has been closed, litigants are often left with bitter feelings toward each other.

Mediation takes a different approach and is a far less hostile environment. The process and the mediator encourage respectful communication to settle a dispute, so from the onset, mutual respect and empathy are emphasized. Particularly if your dispute involves a family member or business partner, preserving or restoring an ongoing relationship is crucial. Mediation aims to do this while helping each side find a reasonable resolution to their grievances. When the process is over, both sides will appreciate the fact that there were no hardball tactics or tricks being played—the dispute was settled, and life can go back to normal as if the dispute had never even occurred.



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