

# The Benefits of Using Mediation When Involved in Workplace Disputes



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# Welcome



I specialize in offering conflict resolution that resolves destructive disputes or grievances for workplace or business disputes. My clients come from commercial printing, consumer products, food processing, healthcare, heavy engineering construction, government, utilities, entertainment, defense and tribal businesses.

As a mediator I am dedicated to helping people resolve conflicts, improve relationships marred by conflict and move forward by providing caring, competent, thorough and creative mediation services.

People have doubts and fears and can get discouraged about any dispute they are experiencing. I understand that. The word “conflict” raises all sorts of emotions and feelings. For some, conflict provides excitement and stimulation, while for others conflict causes discomfort and anxiety. Whatever the reaction, understanding and managing conflict successfully is a key personal and organizational competence.

The objective of mediation is to help parties negotiate a mutually agreeable settlement to a particular conflict. All efforts are directed toward bringing parties in dispute together and encouraging them to construct solutions that will satisfy their needs and bring an end to controversy. Both sides are encouraged to discuss their particular problems while guiding them through the process. I ensure that the parties work to solve their issues and concerns in an atmosphere of shared information and decision-making.

My main task is to help you reach a mutually satisfying agreement through respectful communication and treating each other with dignity and consideration. This process is accomplished by applying the following core values of my mediation practice:



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## Valid information

- People share all relevant information
- People share information in a way that others understand it
- People share information in a way that others can independently validate it
- People continually seek new information to determine whether previous decisions should be changed

## Free & Informed Choice

- People define their own objectives and methods for improving them
- People are not coerced or manipulated
- People base their choices on valid information

## Internal Commitment to the Choice

- People feel personally responsible for their decisions
- People find their choices intrinsically compelling and satisfying

Mediation and facilitated conflict resolution can work spectacularly well. People resolve problems, let go their sense of grievance, and mend broken relationships. People find answers to at least some of their concerns and walk away emotionally relieved, with an agreement they are committed to and will uphold.

If you are ready to resolve your dispute and move forward I can help.

I also provide and assist organizations in creating positive work environments through conflict management and mediation training, and design and implementation of ADR policies for your organization.



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Workplace disputes have the potential to wreak havoc on businesses of all sizes, whether individually owned organizations or multimillion-dollar corporations. Disputes may stem from a multitude of incidents, including claims of discrimination, disagreement on business decisions, incidents of fraud, and countless other quarrels.

Litigating workplace disputes can take years and cost tens of thousands of dollars. Court dockets nationwide are backlogged, and by the time a trial is finally scheduled, witnesses may be unavailable, evidence may be misplaced, and those involved may not clearly remember the facts of what occurred.

Fortunately, for attorneys, business owners, and executives, mediation is an excellent alternative to traditional courtroom litigation. During mediation, the parties involved in a dispute meet with a third party neutral, called the mediator, to work together and resolve their dispute. The goal of mediation is a mutually agreeable settlement.

Participation in mediation is voluntary. Although fact-finding to determine the origin of the dispute is an integral part of the process, mediation tends to focus on moving forward. The future orientation of mediation helps in constructing a foundation for any future relationship between the parties.

All parties participate in the mediation session. The mediator assists the parties in clearly defining the issues in dispute. The mediator guides the communication process, helps participant resolve misunderstandings, promotes the exploration of options, and facilitates an outcome, which meets the specific interests of the parties involved. People are given the power to articulate their expectations, interests, and craft a solution, which directly meets these interests.



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All efforts are directed toward bringing parties in dispute together and encouraging them to construct solutions that will satisfy their needs and bring an end to controversy. Both sides are encouraged to discuss their particular problems while guided through the process by a professional mediator. The mediator ensures that the parties work to solve their issues and concerns in an atmosphere of shared information and decision-making.

A major benefit of mediation, for business owners especially, is that it maintains privacy. Many businesses have had their reputations irreparably harmed simply by being involved in a court dispute—even if the business was eventually cleared of any wrongdoing. Since trials are public events, private business information may be unveiled, which may cause additional damage to a business. However, mediation is a private process, which is a relief to many business executives. The negotiations and discussions that occur during mediation remain confidential. The mediator cannot be called to testify at a later trial. The mediator will not even reveal facts to the opposing parties if asked not to. Often, mediation can resolve these disputes before litigation is necessary, keeping the incident and its resolution private.



Trials are adversarial by nature, with the focus being on a “winner” and a “loser.” When parties begin pointing their fingers at each other before and during trial, any personal or professional relationship they had is usually permanently destroyed. The destruction of these relationships causes damage to a business, since the parties are often no longer able to work together. Since the goal of mediation is to work together to reach settlement, the parties often leave feeling little animosity toward each other, and they are more likely to continue their relationship. Mediation should be considered when certain relationships are vital to the running of a business.



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Mediation can be scheduled with just a phone call, and costs a mere fraction of what litigation costs. Waiting for a trial to resolve a dispute may take years. This can significantly affect a business, since often its activities are in limbo while awaiting trial. Assets may be frozen or the business may be prohibited from entering any major deals. Resolving a dispute sooner rather than later will save businesses from additional headache. Further, where the costs of litigation are a concern, particularly in businesses whose budgets are already suffering, the cheaper cost of mediation will also contribute to the survival of those businesses.

A sometimes forgotten benefit of mediation for attorneys and business executives is that it is beneficial even if a full settlement is not reached. Settling part of the case will reduce the number of issues that must be resolved at a trial. A mediated agreement is usually expressed in a written document outlining the solution crafted by the parties. For this reason, performance under mediated agreements is generally high. If the parties choose, they can include a statement making this agreement enforceable at law.



Mediation also allows the attorneys the opportunity to get creative with their settlements. Most judges, at the end of a trial, are limited in the solutions that they may offer the parties. This may be due to time constraints, judicial preferences, or a variety of other elements. In addition, a jury will not be nearly as familiar with business law disputes as the attorneys and their clients. However, in mediation, the parties and their attorneys may be as creative as they like in their solutions to resolve the dispute. Since the parties and their

attorneys are the most experienced with the facts of the case, it makes sense for them to choose how to finalize the issues instead of turning the case over to a judge or jury. When the parties remain in control of their case, they feel greater satisfaction after it has been resolved. Further, when the parties have a hand in creating their settlement, they are more likely to follow its terms, which prevent further legal trouble, and increases satisfaction with the attorneys.



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Attorneys often put a great deal of time into preparing their clients for trial, including what to expect during trial and afterward. Although attorneys warn their clients that the case may not be resolved in their favor, many clients are still very optimistic that they will “win” at trial. Unfortunately, when these clients do not win, they are angry with their attorneys, which may harm the business of the attorney. Since mediation encourages the parties to create their own settlement, each party knows the terms of the agreement at the end of mediation. There are no unpleasant surprises with mediation, since, for an agreement to be reached, all parties must agree to the terms.

## **Mediation:**

1. Provides an opportunity for the parties to explore options and choose a solution that meets their basic needs and is consistent with their sense of fairness.
2. Protects the parties’ interests and legal rights. In order to encourage the free exchange of information, all mediation is confidential.
3. Allows people and organizations to maintain control of the decisions that affect their future.
4. Is a voluntary process.
5. Promotes communication, cooperation, and restoration of relationships by negotiating peaceful settlements.
6. Costs are lower than either arbitration or litigation.

*A mediator experienced in business disputes makes settlement much more likely. Orlando Blake, PhD CPT has been a mediator since 1994, and, prior to becoming a certified mediator, he held senior executive positions with several multimillion-dollar corporations. To contact Orlando to discuss scheduling a mediation session, call him at 520-455-9393 or email him at [oeb@blake-group.com](mailto:oeb@blake-group.com).*

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