

# 7 Benefits to Using Mediation when Involved in a Construction Dispute



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# Welcome

## Welcome to the Law Offices of

### RAYMOND C. KERR

Welcome to our website. We look forward to the opportunity to help you resolve your legal disputes, both through mediation and arbitration.

Raymond C. Kerr has performed mediation and arbitration services, not only in the Greater Houston and Texas area, but all over the country, including international cases that have been handled, both in New York City and in Houston, Texas.

Raymond C. Kerr has been practicing law throughout the Greater Houston area for over 45 years. He has extensive experience advising and representing individuals and all size of business entities from sole proprietorships to Fortune 500 public companies. He has handled all types of civil disputes in state and federal courts and been peer rated "av" (highest rating for legal ability and ethical standards) by Martindale-Hubbe for over 40 years. Our firm is service oriented. We value relationships and seek to build relationships with our clients and mediation and arbitration participants.

In his extensive career, Raymond Kerr has handled virtually every kind of contractual, commercial, real estate, and business dispute. He has served as general counsel, litigation counsel and outside counsel for many businesses in a variety of fields, and has successfully worked with various governmental and administrative agencies.

Raymond Kerr welcomes the opportunity to discuss your legal problems.

*Raymond C. Kerr*

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Mediation can be used to resolve a variety of legal disputes, but it is especially helpful when it comes to construction disputes. Litigation is expensive and time consuming, two of the last things with which people involved in construction projects would want to deal. Mediation provides an effective and efficient alternative to lengthy courtroom battles that often end with nobody feeling satisfied.

Mediation is effective for settling a variety of disputes in the construction industry,

including:

- Builder and homeowner disputes
- General contractor and sub-contractor disputes
- Complex multi-party disputes
- Differing site condition disputes
- Insurance coverage disputes

## Benefits of Mediation

Mediation offers a number of benefits. Though it is occasionally mandated by the court before disputing parties can attempt litigation, many people choose mediation voluntarily. They want to settle their dispute as efficiently as possible and mediation makes this possible.

What are some of the specific benefits of mediation?

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## 1. Reduces Delays

Mediation can resolve a dispute in just days or weeks, allowing everyone to return to the project or move on. Unfortunately, when a dispute takes too long to resolve, a construction project can fall through completely. Choosing mediation ensures this does not happen and protects parties from losing their valuable investments by getting things back on track as quickly as possible.



## 2. Provides an Opportunity for Open Communication

Mediation provides an opportunity for everyone to put their cards on the table early in the process. This is often what it takes to break the standstill and get parties negotiating. Too often people stick to their guns only because they do not feel as if they have had the opportunity to share their thoughts openly and directly.

## 3. Promotes Expression of Feelings without Damaging Negotiations

Unfortunately, when disputing parties share their feelings about a dispute too openly and without control, it can damage the negotiation process. Mediators speak with each party privately and allow each to express his or her feelings completely. They are then able to join negotiations feeling as if someone understands them and they no longer feel the need to overindulge in expression. With a calm, clear mind, everyone can examine the issue practically and determine the best way to proceed.

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This one-on-one time with the mediator beforehand also provides an opportunity for the mediator to do a case analysis and help parties understand why litigation might not be the best choice for them. Often, this is what makes them willing to negotiate.

## 4. Provides Flexibility

Mediation is known for its flexibility and it provides an opportunity to examine all possible resolutions – not just those that would be possible in a courtroom. Right from the very beginning, mediation makes it easier on those involved. They have the ability to choose the time and place for mediation, and they can consider the specific circumstances of their dispute when designing an ideal settlement.

## 5. Saves Money

Since mediation takes less time than litigation and the court is not directly involved, the cost is much lower. This can be especially helpful in construction disputes when parties are already investing a great deal of money into the project.



## 6. Protects Privacy

Mediation is a private process, so no one needs to worry about any of the issues being exposed to the public. The process itself is private and nobody attends other than those directly involved in resolving the dispute. The details of the settlement can also be private when necessary. Should mediation prove unsuccessful, neither party must be concerned about anything said during the confidential mediation process being held against them, which allows them to speak openly and honestly without negative consequences down the road.

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## 7. Ensures Control Remains with the Appropriate Parties

Perhaps best of all, mediation puts control of the outcome into the hands of those most affected – the disputing parties. Mediation is not considered successful until everyone agrees on a solution. Not only does this mean people walk away from mediation happier with the results, it also increases the likelihood there will be no further legal action down the road. Both parties have shown good faith in negotiations and they are more likely to stick with the resolution because they played a role in designing it. It truly is a win-win scenario for everyone involved.

### Finding the Right Mediator

The key to a successful mediation is finding an experienced mediator who understands the construction industry. It is also a good idea to find someone who has:

- Good personal skills
- Patience
- Ability to get “caught up” quickly on the issues involved
- Diplomacy
- Creativity
- Commitment to the process
- Diligence

The bottom line is you need to invest some time into finding the right mediator for your case, in order for your results to be positive. Raymond Kerr can help.

Raymond emphasizes Alternative Dispute Resolution in his practice and has worked as a mediator since 1991. He has conducted over 1,000 mediations of all types and also serves as a mediation trainer. He has also arbitrated more than 160 cases, many of which have been construction cases.

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In addition to his mediation experience, Raymond also has more than 40 years of experience as a civil attorney in a litigation practice emphasizing complex construction, commercial and employment disputes in courts of every jurisdiction, both State and Federal, including specialized Federal Courts such as Bankruptcy Courts, Federal Procurement Courts, Federal Tax Courts, and practice before the Controller of Currency.

If you would like to learn more about using mediation in construction disputes or you are ready to schedule a consultation to discuss your issue, contact Raymond at 713.783.3110 or by email at [raymondckerr@raymondckerr.com](mailto:raymondckerr@raymondckerr.com).

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