

# The Benefits of Mediation in Commercial Disputes



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# WELCOME



**I recognize that choosing the right mediator can be as important as choosing whether to mediate in the first place. For that reason I appreciate your consideration of my selection.**

To state the obvious, each dispute has its own dynamics—sometimes purely economic, sometimes not. No single mediation procedure works in all situations. Having been involved in dispute resolution all my life, including 40 plus years with a national law firm, I have dealt with a wide variety of commercial disputes and negotiations. That experience allows me assist you and your adversary fashion and execute the best mediation strategy to resolve your dispute.

I understand how important each dispute is to the parties themselves. That is a given. My goal is to help the parties develop an understanding about the value of alternatives to a final judicial resolution of the matter, both in terms of the cost, the emotional and temporal investment and control of the result. Through that understanding often a negotiated resolution becomes possible.

After my decades of dispute resolution, I can categorically say that settlements generally are far preferable to judicially determined ones. Please feel free to contact me to discuss how I might help you take control of the process and resolve your controversy quickly and economically.

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Mediation can help to resolve a dispute. While commercial disputes arise from business conflicts or financial issues, there are still emotions involved. In business, the feeling of trust is important and when it erodes the relationship is damaged and trust erodes making a resolution difficult.

Mediation offers an option to litigation and trial. It allows the disputing parties to take control of the dispute, rather than allowing it to control them, and settle the matter in an efficient manner.

The benefits of mediation in a commercial dispute include:

1

## Bridging the Understanding Gap

At the root of almost every commercial dispute is a difference in perception of the underlying facts, complicated by the distrust that the dispute engenders. A skilled mediator can help the parties overcome these differences. The mediator can facilitate a dialogue with the parties through examination of the dispute from every angle and help them better appreciate the alternatives and the desirability of prompt resolution.

2

## Minimization of the Emotional Obstacles

Despite the dispute being a commercial one there are often emotional issues involved. It is nearly impossible for a dispute to be completely devoid of emotion. Unfortunately, when emotions arise during a dispute they can interfere with resolution and in the case of long a term relationship, the continuation of the relationship itself even though it has substantial business value.



Mediation considers the emotional aspects of disputes as well as the legal. It does not brush emotions aside or deal with only the financial or business issues. When parties feel as if their emotional needs are addressed, they are better able to negotiate and compromise, making a resolution much easier to reach. Mediation can address the human sides of a dispute by encouraging constructive dialogue between the parties, as well as those that are practical and financial.



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## More Efficient

There are few areas in which settling a dispute quickly and efficiently is more important than business. When commercial dispute drags on and goes unresolved, it eats into the bottom line of the business involved. Long-term, unsettled disputes also affect business morale. By moving toward a settlement quickly and efficiently, relationships can be repaired and those involved can move on toward a more certain, peaceful and successful future.

4

## Flexibility

When a dispute is litigated in the courtroom, the parties involved are at the mercy of the court system. They must respond to demands of the court and the adverse party. They are told where to be and when, and they have no control over how long the process lasts. Mediation puts control over the scheduling back into the hands of those most affected. Disputing parties are able to choose the times, the methodology and the dates of their meetings.

Those involved in the dispute also have control over the person or persons overseeing the events. In mediation the disputing parties choose the mediator together, so both parties are comfortable working with him or her. This is never the case in court, where disputes are overseen by whatever judge is assigned to hear a case.

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## Less Expensive

Mediation is by definition less expensive than litigation. The process is cheaper because it takes less time than litigation and requires fewer resources than litigation and trial.



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## Confidential

Unlike litigation, where everything said in a courtroom is a matter of public record, alternative dispute resolution is private. Nothing discussed during mediation ever becomes public knowledge, aside from the final resolution. Not only does this put disputing parties at ease when it comes to discussing matters, it also prevents sensitive or proprietary business information from becoming public knowledge.



Furthermore, discussions held during alternative dispute resolution meetings cannot be used should litigation be necessary. If the dispute is not settled and must be moved to the courtroom, the prior discussions are not permitted in court.

*Are you involved in a commercial dispute? Are you looking for a cost-effective, efficient way to settle the dispute?*

*Robert J. Kheel can help. After more than 40 years with the Willkie Farr & Gallagher firm, Robert's main work is now that of a mediator and arbitrator. His breadth of experience concerning a wide variety of commercial matters makes him particularly effective in helping parties reach a negotiated resolution.*

*If you would like to know more or you are ready to schedule a consultation, contact Robert at **212.799.0086** or by email at [robertkheel@outlook.com](mailto:robertkheel@outlook.com).*

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