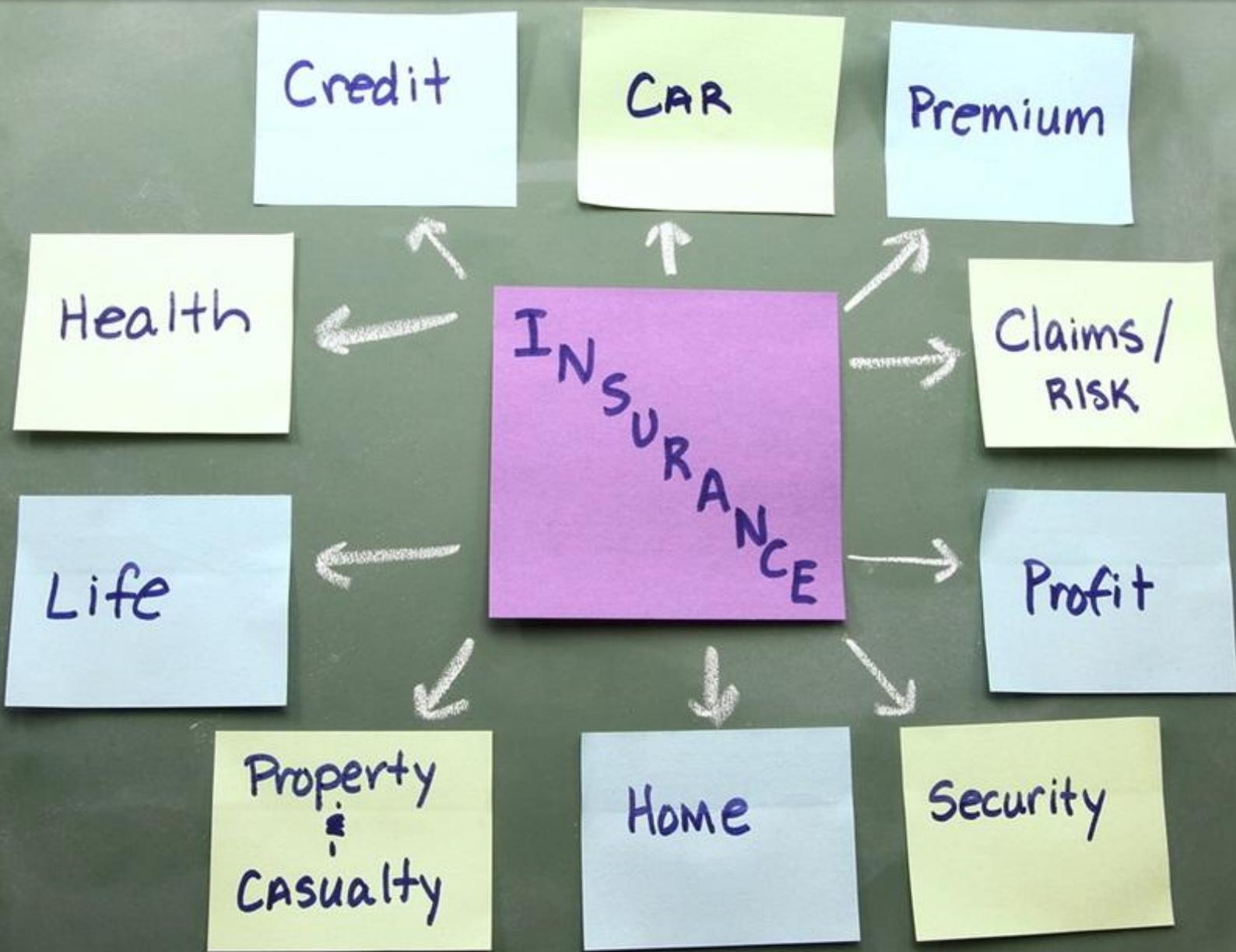


# Insurance Disputes Mediation



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# *WELCOME*

Thank you for visiting my eBook regarding mediation. If you are a lawyer, then you likely already know from first-hand experience the benefits that flow from mediation. If you are a litigant, or soon to be litigant, then you might be just starting to educate yourself about the process of mediation. Still, you have likely seen and read enough to know that mediation is a highly effective process for the successful resolution of all kinds of legal disputes and you are on the right path by visiting this site.

In more than thirty years of litigating almost every kind of tort and insurance dispute that you can think of, I have seen first-hand how the advent and proliferation of mediation has changed the American judicial system for the better. When I first started practicing law, mediation was almost unheard of. After all, lawyers are trained advocates and negotiators, right? The prevailing wisdom in those days was that cases would settle through lawyer to lawyer negotiations or the case would be tried to a judge or jury and an outcome imposed on all. Mediation seemed to many to be a kitschy gimmick – only suited for lawyers or parties who were so angry or intransigent that a third person was required to help the parties communicate with each-other toward a common goal of resolving the lawsuit. Now, mediation is the norm and is indeed required in many jurisdictions – and rightly so. No matter how skilled the parties' lawyers may be, the presence of truly neutral and objective third person who can quickly grasp and evaluate the dispute and effectively communicate the parties' positions is tremendously helpful to the settlement process. The sooner you get started down the road to mediation, the better. In this regard, I encourage you to read my article, "Too Early to Mediate – Think Again."

[http://www.myazbar.org/AZAttorney/PDF\\_Articles/1111Mediation.pdf](http://www.myazbar.org/AZAttorney/PDF_Articles/1111Mediation.pdf)

I welcome the opportunity to assist you in resolving your dispute.



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# Insurance Disputes Mediation

Clients want insurance disputes resolved in their favor, which often means avoiding the courtroom. Because, like many other commercial litigation disputes, the cost and ultimate outcome of insurance coverage and bad faith litigation is often difficult to predict. In addition to risking a reasonable settlement, clients who chose litigation over settlement are committing to a lengthy and costly discovery process, trial and potentially an appeal – not to mention the often immeasurable emotional toll or distraction that litigation takes on people and businesses. There is an alternative and it is becoming increasingly popular for settling complex insurance disputes. Mediation is often the best option for clients, but helping them to understand the benefits of mediation can sometimes be difficult.



## What Should Clients Know about Insurance Dispute Mediation?

Mediation is an effective tool for settling all types of insurance claims outside of the courtroom. It is a multi-step process that can include a single meeting or multiple meetings over several days or weeks. The process begins with an introduction of the dispute and concludes when a settlement is agreed to by all parties involved in the dispute. Mediators work with both sides of the dispute and their attorneys separately and together throughout the process. They attempt to uncover the reasons for wanting or not wanting to accept a settlement,

and they facilitate communication between disputing parties that is respectful and focused on resolving the issue outside of the courtroom.

Whether the dispute may involve personal or commercial lines, life, health or disability, professional liability, director and officer liability, or insurance broker malpractice, it is important to select a mediator who thoroughly understands insurance litigation and who can fairly and objectively consider both sides' positions.

Complex insurance disputes are ideal for mediation for a number of reasons. Mediation allows disputing parties to gain insight from a neutral experienced in insurance law and practice. Mediation makes it possible to identify the obstacles to settlement and address various issues that could make a case poorly suited for litigation.





# Insurance Disputes Mediation

## Benefits of Insurance Dispute Mediation

Using mediation to settle insurance disputes offers a number of benefits, including:

### **1** *Mediation is less expensive than litigation*

Clients sometimes fail to understand that a large settlement won't remain so once the court and attorney's fees are paid out of that settlement. At the end of a long drawn out lawsuit, the money that goes into the plaintiff's pocket might be the same – or even substantially less – than what they would receive following a successful mediation. The cost to the defendant may be far greater. By reducing the time and effort it takes to resolve an insurance dispute by using mediation, your clients have control over their own fate and will likely receive a settlement that they will consider to be fair as opposed to having a result forced upon them.



### **2** *Mediation is private*

This is beneficial for individual and corporate clients. Everything discussed in mediation remains private, even if a resolution is not reached and the case proceeds to court. Parties can speak openly and honestly without concern for exposing confidential information or sensitive personal details.

### **3** *Mediation is efficient*

Disputes are settled in less time when clients choose mediation. This can be especially attractive to individuals eager to receive their financial settlement and return to their “normal” life. It is also great news for insurance companies eager to settle a claim and move onto the next case.





# Insurance Disputes Mediation

**4**

## ***Mediation opens the door to a comprehensive solution***

Creative solutions that might not be possible in litigation are often the norm in mediation. The best mediators are able to use a variety of evaluative and facilitative communication approaches that allows both sides of the dispute to walk away satisfied with the outcome.

**5**

## ***Mediation preserves mutually beneficial relationships***

The process is less contentious than litigation. Successful resolutions include a compromise, so there is likely potential to preserve important business relationships. Insurers with active underwriting businesses do not want to alienate their policyholders. It can also be important for policyholders to preserve their relationship with an insurer, particularly when the dispute involves insurance issued by important insurers in hard insurance markets. Mediation increases the likelihood a relationship can continue once a dispute is resolved.



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# Insurance Disputes Mediation

## Is Mediation Right for Your Client?

*Is a client of yours involved in an insurance dispute? Is he or she reluctant to participate in a lengthy trial or do you believe the advantages of settling outside of court outweigh the possibility of a higher settlement awarded by a judge or jury? Mediation is the best option for settling an insurance dispute quickly and efficiently.*

***Steven Guy** has worked for more than three decades as an insurance, wrongful death, personal injury, and commercial litigation attorney. Steve's exceptional skills have been recognized by his peers throughout the state. Since 2009, he has been recognized as one of the Best Lawyers in America for insurance law, and, since 2011, as a Southwest Super Lawyer.*

*Steve routinely handles complex, high stakes litigation, working with clients ranging from individuals to some of the country's largest businesses. His work has resulted in some of the largest recoveries ever achieved in Arizona. Despite his success as a litigator, he understands the complexities of settling insurance disputes and knows the courtroom is not always the best place to resolve insurance issues.*

*Steve's experience and balanced blend of representation provide him with a neutral perspective on evaluating and handling cases. He frequently works as a neutral mediator to help parties resolve a variety of disputes. Steve completed a mediation skills program sponsored by the American Arbitration Association which included intensive training in conventional and advanced mediation and negotiation principles, tactics and skills, as well as specialized dispute resolution communication techniques. With his neutral perspective, formal mediation training, and extensive litigation and mediation experience, Steve has the background to serve as a third-party neutral and to facilitate effective dispute resolution.*

*If you would like to know more about the benefits of mediation or you would like to schedule a consultation with one of your clients, contact Steven at **480.767.3175**.*

## Share this eBook



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