BENEFITS TO

USING MEDIATION

Instead of Litigation

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Thank you for your interest in mediation. In my experience mediation is effective and far more preferable than going to court. I appreciate your considering me as mediator for your case.

I have practiced law for 54 years. During that time I have tried all sorts of cases from bodily injury to medical malpractice to complicated commercial disputes. In these trials there were winners and losers. In contrast, successful mediation allows both parties to "win" by reaching a mutually satisfactory solution.

I have mediated matters involving a wide range of issues from personal injury to very difficult commercial disputes. In my experience, in mediation most of the time the parties and their counsel have been able to reach agreement and both parties leave the mediation feeling satisfied that their issues have been resolved in a way they believe is fair.

The time involved in a mediation is not drawn out, as it frequently is in court, but is over in much less time and with much less stress.

Thank you for considering me as your mediator. I look forward to helping you find a good solution to your dispute.

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Mediation has grown increasingly more popular over the past decade because of the many benefits it offers. Mediation is preferable to litigation in most circumstances. In this book we will show several reasons why mediation is better than litigation in settling disputes.

1. **Mediation costs less than litigation.**

   The rising cost of litigating a dispute is no laughing matter. For many people, the cost of filing a case in court after hiring a lawyer to resolve a dispute makes the process overwhelming, and in many cases, not worth it. With mediation, however, there are no court fees. The cost of hiring a mediator is typically much less than the cost of attorney’s fees for litigating a case. Thus, it is not surprising that many individuals and businesses turn to the process of mediation to help resolve conflict.

2. **Mediation is less formal.**

   Going to court is stressful and almost never a pleasant experience. In court the outcome is almost never in your hands. Instead, a judge or a jury will decide your case. The formal process of trial can be unsettling. In a trial the facts of your case will be brought out publically. In a trial it is very difficult to guess what the outcome may be. In contrast, mediation usually occurs in an informal setting such as a conference room that is more comfortable and less intimidating than a courtroom. In mediation, the parties involved in the dispute will be given opportunity to give their testimony and evidence as it relates to their position about the conflict. This is much less stressful.

3. **Mediation typically resolves the dispute more quickly than going to court.**

   When a claim is filed in court, it usually takes a good deal of time before it can come to trial. There are many other cases on the docket. While, in some instances, a case can be advanced, frequently the cases are disposed of in a roughly chronological order. This means long waits before a dispute is resolved. In mediation, however, a
conclusion can be reached much more quickly, usually in a matter of weeks rather than months or years. This means that you can get back to your life more quickly and put the dispute behind you. For many, this is one of the best benefits of mediation and the reason they would use mediation again if needed.

**Mediation is completely confidential and private.**

With mediation, you don't have to worry about your neighbors, family, co-workers and friends finding out about your dispute unless you want them to know. That is because it is a completely private and confidential process while going to court is public. When you file a claim in court, that claim is a matter of public record. Most courtrooms are open to the public even during hearings. In comparison, mediation allows your dispute to be handled discreetly with only the people involved and their attorneys, if attorneys are involved, knowing about the details and the outcome.

**Mediation is less contentious.**

As soon as you bring up the word "lawsuit", bitterness and resentment often ensue. Mediation helps alleviate this tension because it focuses on open communication and keeping the power to resolve the dispute in the hands of the disputants. In mediation, the disputants involved in a conflict will be given the opportunity to discuss the problem at length with a mediator facilitating their discussion. This mediator has been trained on how to keep hostility to a minimum by encouraging fair and open communication while discouraging emotional outbursts, one-sided viewpoints, the "blame game" and a host of other problems that keep people from resolving conflict.

**Mediation encourages continued relationships.**

Just as mediation keeps hostility and resentment to a minimum, it also encourages continued relationships in situations where the people involved in the dispute need to continue being business partners, neighbors, family members or workplace peers. In litigation, these relationships are extremely difficult to maintain, especially after multiple
lawyers become involved with the process and they are only focused on "winning" for their side. By encouraging open and honest communication in a non-threatening and professional environment, a mediator assists both sides in a dispute to reach a resolution without the hostile and confrontational attitudes which most people bring to court with them.

Mediation keeps the outcome in your hands.

During the process of litigation, a judge or a jury determine the outcome of your case. You have no control over the judge's ruling and must submit to it, regardless of how you feel about the fairness or objectivity used in reaching that ruling. You also have no control over how a jury may decide your case. In contrast, in mediation, the parties in a dispute are in control of the process. If mediation does not work in helping you reach a resolution, then you will still have the option of litigation afterward – but attempting mediation first is usually the wisest option.

Remember.

You do not go into mediation with the goal of winning the dispute. In a mediation, the best and fairest result is usually when each person who leaves the room is not completely happy. Why do I say that? My grandfather taught me when I was very young that in negotiating a contract the fairest conclusion is one with which neither party is completely happy, but in the end believes was fair. In mediation there must be some give and take if it is to succeed. No party will get everything desired. In mediation the goal is not to win, but to resolve a dispute quickly and without unnecessary expense. No party to a mediation is compelled to accept a result. Instead the parties usually find a result which they accept as fair. Then the matter is over and the parties move on with their lives. The people are generally satisfied with mediation because the whole process is within their control.

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