

THE ADVANTAGES OF MEDIATION VERSUS LITIGATION

Donald G. Henslee, Attorney and Mediator

Mediation is a valued approach to the resolution of a conflict. Mediation utilizes a third party, who serves as an intermediary to assist disputants in the resolution of their conflict.

The true value of mediators is that they assist disputants in the resolution of their issues making litigation unnecessary. Mediators bring disputing parties together and assist them in better communicating their issues and concerns. Mediation has great value in helping others better explain their issues and negotiate their interests.

Successful mediation helps the parties formulate useful options instead of presenting only non-negotiable positions. Ideas are encouraged and developed during the mediation.

The true interests of the parties can be realized in the mediation process, primarily due to the mediator's encouragement and exchange of viewpoints and individual ideas. The needs of all parties can be satisfied simultaneously.

Mediators can assist disputants by quantifying their assets, merits and opinions and then drafting them into an agreement that meets the need of all concerned. Successful mediation is contingent upon all parties formulating an agreement that is acceptable to the parties involved in the conflict.

The decision to reach an agreement that considers each party's interests is completely up to the disputants, not the mediator. Costly litigation will have been averted as all parties are allowed an opportunity to challenge and articulate their interests without the constraints of a courtroom and its authority.

There are few instances, other than criminal cases, where mediation cannot be extremely beneficial and a value for all parties involved. Disputes involving real estate, construction, contracts, family law, employment and most other civil matters can be resolved through mediation.

Interpersonal disputes or conflicts have also benefited from the mediation process. Labor management issues or disputes, problems within neighborhoods or even co-workers can be resolved in the mediation environment.

There is usually a recognizable window of opportunity in which mediation can be most beneficial. Timing is important as it relates to a time to enter into the mediation process. There are other factors that can determine the success of mediation. The nature of the conflict, the parties involved and the skill of the mediator must all be considered when considering mediation.

There is significant value in having an impartial neutral party facilitate mediation. None of the disputants distrust the mediator due to the informal settings of the mediation process. Additionally, parties are less likely to be intimidated as with a formal court proceeding.

The value of mediation is not just the cost effectiveness of trying to reach an agreement that satisfies both parties. Mediation is an invaluable resource in preventing conflict from escalating to the detriment of all parties. Without mediation, litigation is the next logical step and should be avoided whenever possible.

There are few instances where disputing parties cannot benefit from mediation versus litigation. Mediation is an invaluable resource, not just because the process saves time and money. It can also save relationships.

For more information on the mediation process please see www.mediationplace.com. There you will find information on procedures and cost. To schedule a mediation, you may either contact Mr. Henslee or use the convenient online scheduling page.

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