

Charles N. Castagna Mediation, Inc.
Mediation Services, Mediator Certification Classes, Continuing Mediator Education

MEDIATION TIPS: WHAT YOU SHOULD KNOW ABOUT MEDIATION

- Mediation is an opportunity for people, or businesses involved in a dispute, to work together with the assistance of a mediator, toward a resolution of the dispute. If there is any reason that the parties to a dispute cannot, or should not meet together, notify the mediator in advance and arrangements can be made for the entire mediation to take place with the parties kept separated. The mediation term for separate meetings with the mediator is “caucusing,” and any party may request a caucus at any time, including at the beginning of the mediation process.
- Mediation is an informal, non-adversarial process, designed to give disputing parties maximum control over the handling and outcome of their dispute. Mediation is consensual, meaning that even if court-ordered, the parties are still the ultimate decision makers about whether and how they resolve their dispute. Mediation is confidential, except as required or permitted under Florida law. If you have any questions about confidentiality in mediation, talk with your attorney, or, if unrepresented, take a look at Chapter 44, Florida Statutes, Mediation Alternatives to Judicial Action:
http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute HYPERLINK
"http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0000-0099/0044/0044.html" & HYPERLINK
"http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0000-0099/0044/0044.html" URL=0000-0099/0044/0044.html.
- Most disputes are resolved in, or as a result of mediation. Some are not, and that is the purpose of courts and judges. Parties to a dispute do not have to settle their differences in mediation, but the reason most mediated disputes are resolved, is because the parties control the time, risk, uncertainty and expense that inevitably go along with asking a judge to decide a dispute.
- The mediator is not a judge or an arbitrator. He or she is there to help you resolve your dispute. The mediator must be neutral, in other words, cannot take sides or help one party over another. The mediator must also be impartial, in other words, have no interest in the outcome of the dispute, or in how the parties choose to resolve their dispute. In addition, the mediator cannot give legal advice, or tell you how the judge in the matter, if the matter is in court, will rule or decide the dispute. You should know that mediators in Florida are governed by the Florida Rules for Certified and Court-Appointed Mediators, <http://flcourts.org/core/fileparse.php/550/urlt/RuleBookletJanuary2015.pdf> , and you should familiarize yourself with these rules before your mediation.
- Here is how an effective mediator can help: by defusing volatile situations and communications; by discussing privately with parties and counsel, the respective strengths and weaknesses of their positions, and the risks and uncertainties involved any time someone else (judge, jury or arbitrator) decides the outcome; by discussing the costs, both economic and emotional, of adversarial litigation; and by discussing how a mediated agreement can often result in a better result than a “win” in court. An effective mediator can keep people talking, even in difficult circumstances, and can offer creative suggestions and observations that can make resolution possible.
- Before the mediation, you should be provided with a confirmation letter setting forth the time, date, location and fee arrangements. Be sure you fully understand all aspects of mediation charges, including

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the mediator's hourly rate, minimum charges, cancelation charges and preparation charges. Upon arriving at mediation you should expect your mediator to welcome you to mediation, introduce him or herself, explain the process and what will happen during mediation, and conduct the mediation in accordance with the rules governing mediators referenced earlier. You always have the right to meet privately with counsel at any time during the mediation. Remember, mediation is your process, your opportunity to resolve your dispute if you so choose, and the mediator is there to assist all parties in the effort to reach an agreement.

Helping people resolve disputes since 1990

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