

MEDIATION – BIGGER SOLUTIONS
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It's not news that business and employment disputes are turning more and more frequently to litigation for resolution. Even where a party and his or her counsel feel confident about the ultimate result of the court process, litigation creates its own problems and may leave critical issues unresolved. Mediation creates the potential for more comprehensive solutions by employing a constructive rather than determinative process.

Mediation addresses the emotional fuel of the conflict. Mediation provides a safe environment for the parties to bring forward all their issues. These issues may lie outside the scope of any controlling law, and would remain long after litigation ends. Mediation gives the parties the option and opportunity for a face-to-face discussion of all the issues. Lowering the emotional level can create a window of opportunity for the parties to work toward solutions.

Mediation is confidential. The litigation process requires that everyone involved will have to deal publicly with difficult factual allegations over and over. In mediation there is no record created and no need to involve outside parties. The participants work privately under an agreement of confidentiality to create their own resolution with the mediator's help.

Mediation is prompt. The length of time to trial may mean that parties and other witnesses will have to face one another at work or in the business community, day after day, for months or perhaps years until the matter is resolved. Even where the participants had no prior relationship, or no longer have any relationship, the existence of the litigation burdens the parties by uncertainty. The discovery process burdens the operations of business participants. For the individuals named in a lawsuit "getting on with life" may be almost impossible.

Mediation saves money. The cost of a day of mediation is not insignificant, but generally it is borne equally by the parties to insure everyone has a stake in the process. The full cost of mediation is considerably less than the amount necessarily incurred during the pre-trial process. A successful mediation also eliminates the risk of a judgment for costs and any potential attorney's fees awards.

Mediation is creative. Mediation can resolve all the issues: those that are part of the suit and those that underlie the complaint. Mediation is not limited to monetary resolutions. Where the participants have an ongoing relationship, agreed changes in the way the parties will interact in the future may have great value. In instances where simply too much water has gone under the bridge, the mediation process can help the parties find the means to part ways constructively. The participants' goal of avoiding future lawsuits may also be assisted by the information gained in the mediation process.

The research indicates that over 85 percent of all mediations are successful. By turning to a process that is constructive and informative rather than determinative, participants can more quickly, economically and confidentially create solutions to the issues and return their attention to their businesses and their lives.