



**CONTRA COSTA COUNTY SUPERIOR COURT  
ALTERNATIVE DISPUTE RESOLUTION (ADR)**

[adrweb@contracosta.courts.ca.gov](mailto:adrweb@contracosta.courts.ca.gov) or Fax (925) 608-2109

## Preparing for Your Mediation

Your case has been referred to mediation. Mediation can be a very good thing. Mediation is less formal than going to trial and can be easier to understand, but it does have some rules and it requires that you prepare and do some creative thinking. If you do have an attorney it will still be helpful for you to understand the process and be actively involved. Many mediators prefer to work directly with you and have your attorney there for support and advice.

The judge directed you to contact the Alternative Dispute Resolution (ADR) Program. The ADR Program will give you a brief outline of the process, timelines, and a list of mediators. You can email [adrweb@contracosta.courts.ca.gov](mailto:adrweb@contracosta.courts.ca.gov) or fax 925-608-2109 the ADR office and we will send the information to you.

### The Basics

Mediation is assisted negotiation. The mediator helps you and the other person find ways to resolve the dispute.

When your case was referred to mediation, the judge also set a date for you to return to court. If you cannot find a resolution that makes sense to you, there is a date set for you to continue working through the court process to get a decision. If you do settle the dispute you can cancel this court appearance.

Mediators in this program donate two hours of mediation time and 30 minutes of preparation time. Many mediations go beyond the donated two hours. If you are making progress, it is probably worth the money to continue and resolve the dispute. You will need to pay the mediator's hourly fee for any time beyond the initial two hours. Mediator's fees are typically split between the parties, you pay half and the other party pays half. Good preparation can help you find a good resolution in less time.

Mediation is voluntary. This means that you do not have to accept a resolution that does not make sense to you. It is also confidential, which means that what you say in mediation cannot be used later in a court proceeding. You can lay your cards on the table.

Mediators conduct a neutral process. Since they do not make decisions for you, you do not need to convince the mediator of anything. They will refuse to take sides. If you feel they are taking sides, talk to them about your perceptions. If they cannot help you see otherwise, they will step aside and allow you to choose another mediator. Your objective

is to convince the other party that the resolutions you offer are worth considering and eventually accepting.

Mediators are trained. They have learned about conflict, and ways to help you express yourself and to present your side of the dispute in ways that are likely to get the results that will work. They are also trained to explore options and arrive at mutually acceptable resolutions. Mediators are experienced and have a sense of how things may work out if your case continues to court. Different mediators have different styles, and you will want to know something about the mediator's style.

## Selecting a Mediator

The list of mediators you received from the ADR office is limited to those who indicate they have expertise in your case type. The list also indicates the mediator's hourly rate. You can find out more information about a mediator by calling the mediators office to ask about his or her background and experience, or you can request that their application that was submitted to the court's ADR Program be emailed to you.

## Know What to Expect

Knowing what will take place at the mediation will help you feel more comfortable. Ask the mediator how they conduct mediation. Know where the mediation will take place, when it will start, how long it might last, Give it time, avoid scheduling events right after the mediation. If it is working, you do not want to be rushed. You can schedule a second session if you tire, want more time to think, or simply do not have the time for a longer meeting.

## Know When you Need Help

Because making decisions that will end a lawsuit can have a big impact on you and your legal rights, consider hiring a lawyer to help with all or part of your case. Often, people find they need expert help to understand legal issues or to follow court procedures. The CCCBA Lawyers Referral Service (925) 825-5700, can help you find lawyers willing to help you with all or part of your case. For example, a lawyer may only help you draft a document, or represent you at the mediation conference. This type of limited representation is called "unbundling". It can make working with a lawyer more affordable.

## Consider Strengths and Weaknesses in the Case

You will be better prepared for mediation if you have thought about the strengths and weaknesses in your arguments as well as the other parties' arguments, and plan for how you might answer questions about your weaker arguments or respond to the other parties' stronger arguments.

## Know What is Important

**To You:** Spend some time thinking about what you might need in order to settle this dispute. What do you care most about? What is a little less important to you? This list might be different than what you have asked for in the court papers. Try to think about all the different ways this case could be settled-including ways that don't involve money. Apologies given or received are often valuable in negotiations.

**To the Other Side:** Now list what you think the other side needs to settle the dispute. What do you think is most important to the other side? What might be a little less important? Consider ways the other person's needs could be met, or ways that the other person could get some or all of what they want without you losing things that you want.

## **Use the Mediation Preparation Worksheet**

This worksheet will help you clarify the most important parts of your case. It will also clarify what is most important for the other side so you are able to make better decisions at the mediation. Bring your completed or even partially completed worksheet to the mediation; it can help you keep on track.

## **Consider Mediation Outcome**

Write out possible ways this case could be settled. Include things that both you and the other side could do to settle the case. Remember that only the people involved in a dispute can agree to solve it (the mediator will not tell you how to settle the case). People often settle cases because there is something in the agreement that they want. List the reasons why settling this dispute is important to you and why it may be important for the other side. Be prepared to compromise.

## **Reasons Why it Can Make Sense to Resolve Your Case in Mediation**

Sometimes people think that it makes sense to settle their case - even if they do not get everything they want in the agreement. When thinking about whether you will accept an agreement, consider whether you might be worse off if the dispute continues and you have to go to trial. Often, the cost of hiring experts, getting lots of documents from the other side, and interviewing people (taking depositions) is expensive. Consider all your options, and learn about what the next steps in managing your case will be if you do not reach an agreement in mediation (or soon after).

## **Write Your Mediation Statement**

Your mediation statement must be short (not longer than 5 pages) and clear. The statement must tell who is involved, and list the facts of the dispute in the order that they happened. The statement must also list what you want and why. Attach only the documents that will give the mediator the information he or she needs to help you and the other parties talk about the issues in your case. Send your mediation summary to the mediator and to the other side at least 1 week before the mediation conference date.

## **Rehearse**

If you think it may be difficult to express yourself in the mediation session, try practicing with others or writing down key points. If you think that you may not be able to make the best argument for your position, consider bringing someone (such as an attorney or family member) to the mediation session.

## **Be Positive and Optimistic**