



Seasons Greetings

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“Tip of the Month”

Mediation: A Non-Adversarial Approach to Conflict Resolution

If you’ve ever been involved in litigation, you’ve probably also experienced mediation, a non-adversarial form of alternative dispute resolution (ADR). It is a process in which a third-party neutral assists two or more disputing parties in an attempt to reach a mutually agreeable compromise. The role of the mediator is to facilitate communication between the parties, assist them in focusing on the real issues of the dispute, and generate options that meet the needs of the parties to settle the case. If you’ve never been involved in mediation, these are some things you can expect:

- The mediator will be neutral and impartial. The mediator has no stake in the outcome of the case and therefore does not take sides.
- The mediator is responsible for facilitating discussion between the parties.
- The mediator does not make substantive decisions. Unlike arbitration, where the arbitrator listens to the arguments of both sides and makes a ruling like a judge would, a mediator helps the parties design their own solution. Although mediators offer ideas, suggestions, and perhaps even formal proposals for settlement, the mediator is not the judge or decision-maker. In mediation, the parties make the decisions.
- The mediator may provide information relevant to the subject matter of the dispute, including information about the relevant law. However, the mediator is a lawyer for neither party and will not give legal advice.
- The mediator will ensure that all participants are permitted to voice their concerns and to respond to the concerns of other participants.
- The mediator will work to ensure that all discussions and negotiations remain civil. The mediator may pause or terminate mediation in appropriate circumstances. Similarly, because mediation is voluntary, either party may pause or terminate mediation at any time.
- Mediation is confidential. What is discussed in mediation will not be revealed by the mediator at any time thereafter.
- The mediator’s primary objectives are to help the parties define an agenda, identify and reframe the issues, communicate more effectively, and find areas of common ground. The mediator helps to ensure that the parties negotiate fairly and attempts to steer negotiations in the direction of reaching an agreement.

Mediation is widely used in a variety of disputes, ranging from civil lawsuits to divorce proceedings to international conflicts. Mediation has proven to be a very useful tool in assisting parties to achieve efficient and cost effective resolution of their disputes.

If you wish to mediate a dispute or have questions about the process, do not hesitate to the attorneys at Mesmer & Deleault, PLLC by giving us a call at 603-668-1971 or contact us by email at *mailbox @ biz-patlaw.com*.

Happy Holidays!

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