

## MEDIATION IS ACCESSIBLE TO YOU!

To find a mediator, you can contact your local circuit court's mediation clerk to receive a roster of mediators, or contact the Community Dispute Resolution Program center nearest you. A list of the centers appears here: <http://courts.mi.gov/Administration/SCAO/OfficesPrograms/ODR/Pages/Find-a-Mediation-Center.aspx>

# MEDIATION

MICHIGAN SUPREME COURT  
STATE COURT ADMINISTRATIVE OFFICE



## Resolving Your Dispute *Without* Going to Trial

[http://courts.mi.gov/  
administration/scao/  
officesprograms/odr/pages/  
default.aspx](http://courts.mi.gov/administration/scao/officesprograms/odr/pages/default.aspx)

For additional information, contact:

Office of Dispute Resolution  
State Court Administrative Office  
P.O. Box 30048  
Lansing, MI 48909  
[http://courts.mi.gov/administration/  
scao/officesprograms/odr/pages/  
default.aspx](http://courts.mi.gov/administration/scao/officesprograms/odr/pages/default.aspx)

If you are in a conflict with someone, are thinking about suing someone, or are already involved in a lawsuit, it is increasingly likely that at some point someone will ask you if you would like to participate in mediation. Mediation is a process in which a neutral third party—a mediator—helps parties develop a solution to their problem.

Most people are familiar with the traditional legal process in which a lawsuit is filed, documents are exchanged, and motions may be heard. What most people don't know is that only approximately two percent of all civil cases filed actually go to trial. This means that around 98 percent of the cases filed are either dismissed by the court for various reasons, or in the majority of instances, are settled.

Of the small percentage of cases that go to trial, the result, a verdict, produces a winning party and a losing party. Through mediation, parties have a chance to reach a result that may not be everything they hoped they could achieve, but it's a result that they can live with and they can then put the lawsuit behind them.

Mediation typically involves parties meeting with the mediator and their attorneys, if they have them, in a comfortable

## WHAT IS MEDIATION?

setting. Each party tells their story, what they would like to achieve, and why, and the mediator helps everyone generate options that may lead to a resolution. Once parties agree on an acceptable option, the terms are written up into an agreement.

The Michigan Supreme Court recognizes the value of mediation and its demonstrated ability to help people resolve differences. Judges have implemented mediation in circuit, probate, and district courts, and through the State Court Administrative Office, local mediation centers are supported throughout the state.

Additional information about Community Dispute Resolution Program centers is available through the State Court Administrative Office website at <http://courts.mi.gov/administration/scao/officesprograms/odr/pages/default.aspx>.



People report benefiting from mediation in a number of ways. Here are just a few:

▶ **Mediation lets parties retain control of their own dispute.**

If parties go to trial, they are giving up total control of the outcome to a magistrate, judge, or jury. One party will win; the other will lose. In mediation, parties have a chance to propose, accept, and reject options that they feel will best resolve their dispute.

▶ **May be less costly than litigation.** If parties mediate early in their dispute, it is likely that they can avoid many costs associated with preparing their case for trial.

▶ **Mediation can take place at any point in a conflict**, for example, before filing a lawsuit, or in some instances, even after a trial. Most mediators advise persons to try mediation early in a dispute, before parties become firmly “locked” into their positions.

▶ **Mediation is more comfortable and private than the courtroom.** Mediation usually takes place in a neutral office setting, and the only parties present are the parties, their attorneys, if any, and the mediator. This is in contrast to the very public and adversarial environment of the courtroom.

▶ **Agreements are legally binding and are more likely to be fulfilled by the disputing parties**, because the agreement is created by the parties themselves.

## WHY MEDIATE?

▶ **Reaching an agreement is voluntary.**

While a judge may order parties to try mediation, they are under no obligation to reach an agreement. Whether or not to settle the dispute in mediation is entirely voluntary, and the court will not know what happened during mediation. If parties do not reach an agreement in mediation, their case will continue along toward trial.

▶ **Mediation is confidential.** Unlike court, where what happens there is open to the public, with a few exceptions, parties can agree that anything said or done in mediation remains completely confidential. The mediator also keeps all communications confidential, and will not willingly testify as to what was discussed in mediation.

▶ **Mediation helps some people restore an ongoing relationship.** Family members, business partners, employees, and students, who have ongoing contact with the person they are having a conflict with can restore their relationship by resolving their problem and agreeing how to avoid or effectively manage any conflict that may arise in the future.

▶ **Mediation can take place right away.** Mediation can usually take place as soon as the parties and their attorneys, if any, can agree on a date. Most sessions take just a few hours, but in complex cases and divorces, for example, it is not unusual for parties to meet over several sessions.

## ABOUT MEDIATORS

Mediators appearing on court rosters reflect a wide variety of backgrounds, have completed a 40-hour training program approved by the State Court Administrative Office (SCAO), and have met additional qualifications. A list of mediators who meet the SCAO criteria can be obtained by contacting a court’s mediation clerk.

Mediation is also available through Michigan’s network of 18 Community Dispute Resolution Program centers. The centers, financially supported in part by the Michigan Supreme Court, provide low cost mediation services throughout the state. The centers’ volunteer mediators have also met SCAO’s training requirements.

## LEGAL ADVICE AND ATTORNEYS

**Mediators do not provide legal advice to parties.** Parties are strongly encouraged to seek legal advice regarding their conflict prior to participating in mediation. Lawyers are encouraged to attend mediation, but it is common for parties to attend without their lawyer present and to have their attorney review a tentative agreement that parties reach through mediation. It is also common for parties to speak directly to each other during a mediation session rather than having their attorneys speak for them. In some instances, however, parties may prefer that their attorneys speak for them.



## DOMESTIC VIOLENCE

Mediation is not appropriate where one party uses fear, force, threats, violence, or intimidation against a party to get what they want. If you have been ordered to try mediation and feel that mediation is not appropriate for your matter, you must file a motion to set aside the court’s order to mediate within 14 days of the order. If you have an attorney, immediately bring concerns about negotiating with the other party and domestic violence to his or her attention.

## EXAMPLES OF CASES MEDIATED

Mediation has helped people solve a wide variety of problems. These are just a few examples of disputes successfully mediated:

- ▶ **Small Claims Court:** quality of workmanship, uncollected debt, neighborhood disputes, landlord/tenant problems
- ▶ **General Civil:** contract disagreements, personal injury, property disputes, employment matters, accident/insurance claims
- ▶ **Family Court:** divorce, postjudgment parenting time, custody modifications
- ▶ **Juvenile Court:** truancy petitions, parent/child problems, incorrigibility, juvenile restitution claims, juvenile diversion programs
- ▶ **Probate Court:** contested guardianship petitions, disputes over wills and trusts