

ADR Processes

Mediation

Mediation is a process where a neutral third party, the mediator, facilitates settlement discussions between parties in conflict. The mediator has no authority to make a decision or impose a settlement upon the parties. The duty of the mediator is to facilitate communication and seek solutions so the parties may reach their own agreement. Any settlement is entirely voluntary.

In the absence of settlement, the parties retain the right to take their case before the court. However, even partial agreements can help the parties narrow the issues involved and limit the time and expense of going to court. The issues that cannot be resolved in mediation will be returned to the court and the assigned judge. Mediation is an alternative to court, in which YOU have control over the final outcome.

Benefits of Mediation

Promotes communication and cooperation. Benefits children by reducing conflict. Private and confidential, thus avoiding public disclosure of personal problems and the stress and strain of a traditional courtroom battle. May be completed in less time than litigation, saving you costly litigation expenses.

Cases Appropriate for Mediation

Mediation can be a beneficial alternative to trial in many different type cases and is especially so in cases where there are highly emotional issues involved or where there is a continuing business or personal relationship.

Domestic Cases

Mediation is beneficial to parties regarding disputes during and after divorce, particularly when children are involved. A mediator helps focus the parents on the needs of the children and make decisions that are in their best interest. Mediation facilitates solutions for the day to day care of children, division of property, and financial arrangements. However, if violence has occurred during a relationship, the case may not be appropriate for mediation, and the Office of Dispute Resolution should be contacted before considering mediation.

Civil Cases

Mediation can be beneficial in almost any type of civil case ranging from contracts to personal injuries. Cases where there is a continuing personal or business relationship or where there are highly emotional issues involved are particularly suitable. Mediation allow you to draft creative resolutions that better satisfy all parties.

Length of Mediation

The length of the mediation and the possibility of additional sessions will vary according to the case and number of issues involved. Plan to spend a minimum of two hours at your initial session.

Attendance

Mediation is not a substitute for legal advice and the mediator does not give legal or financial advice. The mediator focuses on helping participants reach their own agreements and does not represent either party. Lawyers advise their clients on the law and complete the legal process. If you are represented by counsel, generally counsel is required to be present for the mediation.

The mediation process will involve only the parties to the case and their attorneys. The presence of others may create animosity and ill feelings even before the mediation begins. **Children are not allowed in the mediation session and child care is not provided.**

Preparation

You can prepare for mediation by determining your specific interests that need to be addressed in order to develop a settlement plan. Outline the issues you would like to convey to the opposing party and the mediator. Bring any documents you find relevant to your position.

In domestic cases, a copy of your financial affidavit must be filed with the court and brought to the mediation session. You may also need to bring business records, tax returns, documents relating to property values, and account balances. What you need to bring will depend on the issues involved in the dispute. **Remember, a financial affidavit is always required.** The better prepared you are for the mediation session, the more likely the chance of success.

Issues Resolved in Mediation

If an agreement or partial agreement is reached, the mediator will prepare said agreement, and review same with the parties. If attorneys do not attend, the parties will have ten (10) days in which to have the agreement reviewed and approved by separate attorneys for each party. The Plaintiff is responsible for having the agreement drawn to present to the court. Any issues that are not resolved in mediation will be returned to the assigned judge.

Scheduling an ADR Session

If you have a case filed with the Forsyth County Courts and are interested in an ADR session, You may request to be assigned to mediation at the time you receive your court hearing notice, or request Mediation at the time of the hearing.

Questions

Please direct any questions to:

Forsyth County Magistrate Court
1090 Tribble Gap Road
Cumming, Georgia 30040
(770) 781-2211

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