

REALTORS®

who are committed to high standards of conduct occasionally have honest business disputes with other professionals, clients, or customers. There is an ongoing need for efficient and economical mechanisms to resolve such disputes. Arbitration is valuable, but mediation can be quicker and easier.

me-di-a-tion n., *"The act or process of mediating; intervention between conflicting parties to promote reconciliation, settlement, or compromise."*

-Webster's Ninth New Collegiate Dictionary

Arbitration and mediation are valuable in resolving business disputes. Both mediation and arbitration are private and involve an experienced neutral third party. Mediation is an attractive alternative to arbitration.

MEDIATION FEES

- UAR MEDIATORS: Charge a filing fee in addition to an hourly fee. These fees are typically split by the parties.
- Other Mediator fees vary. Contact the mediation provider directly to ascertain their particular fees.

MEDIATION VS. ARBITRATION

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| <ul style="list-style-type: none">• Little delay• Win/win outcome• Collaborative• Maximum range of solutions• Improves relationships | <ul style="list-style-type: none">• Moderate delay• Win/lose/split• Adversarial• Result limited to monetary award• May damage relationships |
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KEY FEATURES

Voluntary/Private Process

- Parties decide to enter the mediation process.
- Parties can leave the mediation process at any time.
- Parties have complete control over the outcome.

Neutral/Impartial Mediator

- Has received extensive training and understands issues quickly because he/she is familiar with real estate practices and customs.
- Mediates only matters in which he/she remains neutral and impartial.
- Discloses conflicts of interest (parties may agree to continue following disclosure or terminate session).
- Facilitates and assists with negotiations - controls the process, not the substance.
- Honors the concepts of self-determination, respect, and civility.

- Enhances the parties' abilities to understand their own and each other's needs.
- Helps parties understand the alternatives to settling.

Confidential Process

- Mediation is a confidential settlement process.
- Neither the mediator nor the parties disclose the communications or conduct of the mediation, unless all parties agree (with limited exceptions, such as risk of harm).
- Ethical violations discovered as a result of participation in the mediation are not reported.
- Settlements discussed in mediation are not admissible in arbitration.
- A mediator cannot be a witness in arbitration or court (cannot be subpoenaed).
- Information gathered and exchanged may be used in arbitration only to the extent that it was obtained independently from the mediation process.

MEDIATION WORKS BECAUSE:

- It brings about closure quickly
- It is informal and flexible
- It maintains/improves relationships
- It discovers and addresses the true interests of the parties
- It isn't based on stringent legal guidelines and rules of evidence
- It leads to creative win/win solutions
- It encompasses respect and civility
- It produces a binding and enforceable solution/settlement

WHEN IT WILL NOT WORK:

- When there is no relationship and it is cheaper to contest the claim
- When vindication/punishment remains the main objective
- When the "jackpot syndrome" is involved (maximize/minimize recovery)
- When the other party is not willing to participate

“Mediation is purely voluntary. No one has to use it, but it can be quicker, easier, and more amicable for resolving business disputes than arbitration.”