



Superior Court of California, County of Tuolumne

NEW: SMALL CLAIMS MEDIATION PROGRAM

It is well established that conflict, and litigation in particular, can be very costly and time-consuming. The Court is now offering an alternative approach to traditional litigation that is more cost effective, accessible, and ultimately better equipped to meet the needs of disputants.

NEW TRIAL PROCEDURES

*On the day of your trial, it is very likely the court will refer your case to **MEDIATION** prior to your presentation of your case to the court.* The court has found referring parties to mediation often results in the parties reaching an agreement, with results being better for the parties than what the court may have imposed. Immediately following mediation, the court will review, and likely accept, any mediated agreement. If an agreement was not reached, your case will then be heard in its entirety by the court. All of this will occur on your trial date.

NEW PRE-TRIAL PROCEDURES

The court encourages you to participate in mediation prior to your trial date, on a voluntary basis. Mediation services are provided by the court, free of charge. If you wish to avail yourself of these free services, contact the Self Help clerk at 209-533-6565. Before you contact the court, make sure you have successfully served the Plaintiff's Claim on the defendant. Then, the court will contact the defendant and inquire about their willingness to mediate the dispute. If the defendant is agreeable, the court will arrange a mediation date that is convenient for all parties. You do not waive or give up any of your rights to a trial if you participate in mediation.

WHAT IS MEDIATION

Mediation is a confidential process where a neutral third party helps disputants resolve their conflict. The mediator (a neutral), assists the parties in reaching a mutually acceptable resolution of their dispute. The mediator does not give legal or professional advice, nor decide how the dispute is to be resolved. The parties decide the outcome. It is a cooperative process in which the parties work together toward a resolution that tries to meet everyone's interests, instead of working against each other.

Mediation often leads to better communication between the parties and lasting resolutions. It is particularly effective when parties have a continuing relationship, such as neighbors or businesses. It also is very effective where personal feelings are getting in the way of a resolution.

Plaintiffs find that settlements reached in mediation are far more likely to be honored, and are easier to collect than formal enforcement of a court judgment, because the agreements are determined by mutual consent, and not imposed by the court.

Advantages of mediation:

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| Often quicker than going to trial. | A dispute may be resolved in a matter of days or weeks instead of months or years. |
| Often less expensive. | Saves litigants court costs, attorney's fees, and expert fees. |
| Permits more participation and empowerment. | Allows parties the opportunity to tell their side of the story, and have more control over the outcome. |
| Allows for flexibility. | Choice of ADR processes, and resolution of the dispute. |
| Fosters cooperation. | Allows parties to work together with the neutral to resolve the dispute, and mutually agree to a remedy. |
| Often less stressful than litigation. | Most participants have reported a high degree of satisfaction with the ADR process. |

Because of these advantages, many parties choose mediation to resolve disputes instead of filing a lawsuit. Even after a lawsuit has been filed, the court can refer the dispute to a neutral. Mediation has been used to resolve disputes even after trial, when the trial result is appealed.

AGREEMENTS

Agreements reached through mediation are normally written and can become binding contracts that can be enforced by the court if the parties agree. Parties may choose to seek the advice of an attorney as to legal rights and other matters relating to the dispute before finalizing any agreement.

CONFIDENTIALITY

In general, mediation communications are confidential.

Mediation provides the opportunity to talk openly and explore the full range of ideas for resolving a conflict. To encourage this, the information discussed in the mediation cannot be used as evidence in court, and the mediator cannot be forced to testify about what happened or what was said in the mediation. The mediator will only report to the court on whether or not an agreement was reached.

Any agreement that the parties intend to make legally binding releases the confidentiality protection of the agreement.

WHO ATTENDS THE MEDIATION

All parties necessary to commit to and implement the details of an agreement must be present at the mediation.

**FOR MORE INFORMATION,
CONTACT THE SELF HELP CLERK AT 209-533-5656**