



OFFICE LOCATION

Ankin Law Office
162 W Grand Ave
Chicago, IL 60654

Tel: 312-346-8780
Fax: 312-346-8781

JANUARY 28, 2010

E-Newsletter

PRACTICE AREAS

Workers Compensation

Personal Injury

Motor Vehicle Accidents

Wrongful Death

Understanding Mediation

Mediation, which can be described as “assisted negotiation,” is the fastest growing Alternative Dispute Resolution (ADR) method. Many courts now require that disputes be mediated before they are heard in court. Mediation is different from arbitration in that in mediation, the parties create their own settlement terms with the assistance of a neutral mediator. The mediator’s job is to keep the parties talking and to move them toward compromise. To accomplish that, the mediator engages in discussions with both parties to identify the core issues, while obtaining agreement on minor issues. The mediator then proposes various settlement options. Lawyers are essential to this process, because they can point out the risks of the various settlement proposals and help the parties focus their energies on solutions that best meet their legal needs. Because mediation is not binding unless the parties reach an agreement, the only risks are the time spent and the possibility of disclosing to the other side potentially damaging facts.

The key qualities of the mediation process are its voluntary nature (the parties can leave at any time for any reason), collaborative approach, element of control (no decision can be imposed without the parties’ consent), confidentiality, and impartiality. Based on having resolved their own conflict, the parties achieve greater satisfaction, which in turn leads to a greater likelihood of compliance with the decision.

The choice of a particular mediator will depend on the dispute and the parties’ personalities. A mediator must be a good listener and a creative problem-solver. A good mediator can identify and clearly articulate the parties’ fundamental underlying interests and help the parties over the emotional roadblocks to resolution. The mediator should also have



OFFICE LOCATION

Ankin Law Office
162 W Grand Ave
Chicago, IL 60654

Tel: 312-346-8780
Fax: 312-346-8781

PRACTICE AREAS

Workers Compensation

Personal Injury

Motor Vehicle Accidents

Wrongful Death

sufficient experience to command the respect of the parties and their lawyers.

The success of mediation will depend on the attitudes of the participants. If the parties think of mediation as a means to achieve a tactical advantage, such as causing delay in the resolution process, agreement will be unlikely. On the other hand, for parties that enter into mediation in a good-faith attempt to air their grievances and reach a compromise, the process holds great promise. It is essential, however, that the parties move beyond the personalities and emotions involved if mediation is to be successful.

If parties have attempted to negotiate a settlement with each other but have failed, mediation may be the most efficient next step in the resolution process. It is particularly appropriate when the parties wish to remain on good terms with each other, since mediation avoids much of the acrimony of traditional litigation. Mediation is often fast and economical, and it can be customized to meet individual needs.

Mediation is not a panacea, however, and it may be inappropriate in some cases. If one party has a clear right to "win," for instance, there is no point in mediation since its underlying purpose is compromise.

Worksheet: Mediation

To read and printout the Worksheet please click below.

[Mediation](#)

[Disclaimer](#)

This publication and the information included in it are not intended to serve as a substitute for consultation with an attorney. Specific legal issues, concerns and conditions always require the advice of appropriate legal professionals.