

Mediation is a great alternative to trial. But you must be prepared and willing to compromise. You save litigation costs and the uncertainty of trial.

1 What is mediation?

Mediation is a non binding confidential proceeding where the parties agree to allow a neutral 3rd person or persons assist them in attempting to resolve their case. The neutral tries to bring both sides to a compromise settlement of the case. The parties can be separated into separate rooms with the mediator going from room to room or there can be a joint session. If the case does not settle at mediation, nothing discussed at the mediation can be used at trial.

2 How to prepare for mediation

If your case involves a personal injury where an insurance company is involved, it is very important to make sure the insurance adjuster has all information needed to properly evaluate your case. This includes all medical bills and records, verification of any loss of earnings and any other information that helps increase the value of your case. A settlement demand should be included in a mediation brief presented at least one to two weeks before the mediation.

3 Choose the correct mediator

There are hundreds of mediators to select from. Make sure the mediator you or your attorney selects is experienced in the area of law that your case involves. Have your attorney explain to you how he selected the mediator that will be hearing your case. Have your attorney check around with other lawyers if he or she is not familiar with the mediator proposed by the opposing side to make sure the mediator will be fair, impartial and a good fit for your case. There are several mediation services that you can select your mediator from. Your author is a neutral at Judicate West and Judicial Dispute resolution.

4 Settlement issues

Be prepared to settle your case for less than you hoped for. Weigh the uncertainty of trial against the certainty of settlement. Weigh the costs of proceeding to trial such as expert witness fees against the savings of those costs in settlement. Make sure that you leave no settlement money on the table and you have made sure the opposing side has no more money to offer. You don't have to settle at the mediation and can think about the offer but it is sometimes better to conclude the matter and move on with your life. Consider using a structured settlement to receive your money over time rather than a lump sum.