

## **MEDIATION – A Win-Win Alternative**

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Legal Hotline for Michigan Seniors

Is a dispute worrying you? Is the time and money needed for a lawsuit making you feel uneasy? Not all disputes need to wind up in court. In Michigan, as in many other states, there is an alternative that is quicker, less costly, less stressful, and oftentimes more appropriate. This alternative is called “mediation” and with our court system’s bulging dockets and lengthy delays the technique holds special appeal for courts and citizens alike. Mediation is an option you should consider.

Mediation is a process in which the parties to a dispute agree to meet with a trained mediator—acting as a neutral party— assists the parties in creating their own resolution to a problem. Participation is voluntary. Every year more than 10,000 Michigan citizens opt for this form of dispute resolution over court involvement. It is effective. In Michigan 80% of those disputes that go to mediation reach a resolution and at least 80% of those agreements are honored. It is efficient. Mediation can begin within two weeks of contacting a mediator. Sessions resulting in satisfactory resolution generally last about 2 hours. Also figuring prominently among mediation’s many virtues is its cost which represents a significant savings as compared to litigation. The cost of mediation ranges from free or nominal—at state sponsored programs—to \$100 to \$300 per hour for private mediators.

There are many benefits which are less tangible but still important to using mediation as a means of settling arguments. Generally, it is a process that encourages people to work together to create solutions to their problems. Because of its conciliatory, “we can work it out” nature, it is intended to result in a “win- win” situation for all parties. Litigation on the other hand is an adversarial process which results in a winner . . . and a loser. It is definitely not a “feel good” process and often results in irreversible damage to important relationships. For this reason in particular, experts

encourage families, and those with any kind of a relationship they wish to continue, to seek mediation if possible. Mediation can preserve relationships and in some cases even improve them by providing a model for resolving future disputes.

Mediation is flexible and creative. It is not constricted by rules of legal procedure. Parties may bring any topic to the table in an attempt to come up with workable solutions to their problem.

Mediation participants control their destiny unlike those in court or arbitration who have placed ultimate resolution of their dispute in the hands of the arbitrator or judge. The mediation process also provides a non-threatening, informal forum for parties to work out their differences. Sometimes this is all that is needed to come to an agreement. When it is not, the parties can still pursue their legal remedies. Thus, mediation is a process in which parties have nothing to lose . . . and much to gain.

Many types of disputes are well-suited to mediation—merchant/consumer, landlord/tenant, professional/client, and neighborhood issues are all examples. Family disputes in particular, where the decision making process may be as important as the outcome, lend themselves well to mediation. Frequently these disputes revolve around issues associated with older relatives. They can be more complex and fraught with emotion than many more straightforward disagreements. Guardianship, grandparents' rights, healthcare, housing, property disposition, and financial issues are common topics of discussion when mediation involves a family dispute. Where families may be concerned about airing "dirty laundry" associated with these sensitive topics in public, mediation is especially compelling as all proceedings are confidential and not a matter of public record.

Elder mediation is a new field which is growing quickly because it works so well. It can be a great resource for those seeking a quick, efficient, and cost-effective resolution to a dispute. Because it is a relatively new field, however, it is not well regulated. So, those considering mediation should be sure to choose their mediator wisely. There are many such professionals to choose from. Following is a

suggested check-list to use in finding a mediator who possesses the skills, experience, and chemistry which will work best for you:

- Check credentials. Anyone can hang out a shingle proclaiming them a “mediator.” There is specific training available to individuals who wish to practice in this field.
- Consider an individual’s past mediation experience and professional track record. Do they have the demonstrated knowledge requisite to understanding issues affecting your dispute?
- Does the individual instill confidence in you and the others involved that he/she can effectively guide you to a satisfactory solution to your problem? Confidence and trust are crucial to the success of this process. The best mediators are skilled at ensuring that all parties are included in the conversation and the solution.
- For assistance in choosing a mediator locate the Community Mediation Center nearest you by calling 800-8RESOLVE. To learn more about Michigan’s Community Dispute Resolution Program contact the State court Administrative Office at 517-373-4839.

The Legal Hotline for Michigan Seniors receives many calls from individuals seeking to resolve disputes concerning a great variety of issues. Lawyers at the Hotline are available to provide legal advice to Michigan seniors, age 60 and older, free of charge. Those interested in speaking with an attorney can call the Hotline at 800-347-5297 Monday through Friday—9 to 5—to arrange for a telephone conference.