

Lorain County Court of Common Pleas Civil Mediation Office

Frequently Asked Questions about Mediation

Office Location and Contact Information

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What is mediation?

Mediation is an informal process in which an impartial person (the mediator) works with the parties and their attorneys to attempt to resolve the lawsuit in a manner acceptable to both the Plaintiff and the Defendant.

What is the process for mediation?

The mediator meets with everyone in an opening discussion, which is called a joint session. During that meeting, everyone has an opportunity to say what they believe are the important points of the dispute. Each side then has an opportunity to add additional information in response to what was said earlier in the joint session. As the mediation continues, the mediator may have discussions with everyone or with each side (attorney and client) privately. The private meetings are called private caucuses. The parties may explore possible solutions together or privately. The clients with their attorneys will assess the options available to resolve the dispute and will negotiate solutions with the other parties.

What does the mediator do?

The mediator will listen to all perspectives, clarify communications between the parties, help both sides understand the other side's perspective and help the parties explore options to resolve the case. Sometimes these discussions will be with everyone in the same room. At other times, the mediator will speak with each side (attorney and client) alone.

Unlike the judge and jury, the mediator **does not** decide the outcome of the case. The mediator is an attorney, but will not give you advice or opinions about your case. Your attorney will give you such advice and opinions.

Do I have to do anything in the mediation?

The goal of mediation is to allow the parties and their counsel (rather than a judge or a jury) decide the outcome of the case. The parties are actively involved in the process. They will listen with their attorney to the other side's perspective. They will work through the analysis of both the case and the options to settle with their attorney. The clients on both sides, with the assistance of their attorney, ultimately decide whether to settle the case and the terms of that settlement. If the

parties come to an agreement, the parties and their attorney write a summary of that agreement before they leave the mediation. A copy of that summary is given to each of the parties. The summary remains private. It is not filed in the public court file. The mediator will advise the Court who attended the mediation, whether a settlement was reached and if it did not settle, whether the case will continue in mediation or be returned to Court for further proceedings. The mediator does **not** communicate any other information to the Court. ***If you do not presently have an attorney, you are urged to consult with an attorney.*** (Clients who are representing themselves should also review the [Information for Attorneys.](#))

What happens to my case if we do not settle?

You are not required to settle your case, but you should come to the mediation willing to discuss the possibilities of settlement. Your case remains on the Court's schedule as it had been before the case was referred to mediation. If you do not settle your case, then the case will continue on the schedule defined for it by the Court.

Who must attend?

All parties or their insurance company representatives (if any) and their attorneys are ordered by the Court to attend the mediation. An attorney or other individual chosen by a party may participate in the mediation.

Can the other side reveal in Court what we say during the mediation?

Unlike a trial, mediation is conducted in a private setting. Ohio law protects mediation communications from disclosure in court proceedings. Certain legal exceptions to this protection exist, such as threats of harm, admissions of crimes, or admissions of abuse. Generally, no one who participates in the mediation may reveal mediation communications in any court proceeding unless both the speaker and all parties agree.

If the parties want to be sure that no one reveals mediation communications outside of the court setting, they may enter into a confidentiality agreement before the mediation.

The mediator will not discuss your case with anyone, including the judge, except to say that you met and whether an agreement was reached.

Duty to Disclose

If you are or have been a victim of domestic violence with any other party to the case, your attorney must advise the mediator. If you do not have an attorney, please call the Mediation Office prior to the mediation.

Why should I consider mediation?

In mediation, your attorney and you will help define ***more possible solutions***. Both sides work to construct a resolution that more effectively meets the needs of both sides. If you do settle, then you ***eliminate the risk*** of losing your case or getting a judgment that is less acceptable than an agreement negotiated by your attorney with your input. If you settle your case, you ***save money and time*** that would be necessary for a trial. Mediation discussions are ***less confrontational*** than a trial.

If you choose to go to trial, then you must accept the judge or jury's decision, unless your attorney advises you that an appeal would be appropriate.

How Do I Get My Case to Mediation?

All civil cases may be referred to mediation at any time after the Answer has been filed. The Court may issue the referral order on its own motion, upon the motion of counsel (See [Attorney Referral to Mediation Instructions](#)) or upon referral by the mediator. Before the initial pre-trial conference in a case, counsel may discuss the appropriateness of mediation with their clients and with opposing counsel. At the initial pre-trial and subsequent conferences, the Court may explore with the parties and counsel the possibility of using mediation. The case is referred to mediation by order of the Court. Cases are scheduled for a time convenient to everyone involved.

How should I prepare?

Before the date of the mediation, talk to your attorney. Together, you should think about what your goals are; what has kept you from settling; what criteria you will use to evaluate offers presented at the mediation; and what the other side is likely to need to resolve the case. You should also evaluate the strengths and weaknesses of your case, the costs of going to trial, and the potential risks of going to trial. A [Client Mediation Preparation Guide](#) is available on this website to help you prepare for that discussion with your counsel.

How much time should I plan for the mediation?

You should plan to meet your attorney at the Mediation Office fifteen minutes prior to your mediation. You should plan approximately three hours for the mediation. If your case is a worker's compensation case, you should plan about two hours for the mediation.