



## Benefits of Early Mediation

The vast majority of civil cases settle before trial. Most settlements are reached through mediation. So, why not try early mediation? Here are some considerations of the benefits of early dispute resolution.

1. **Minimize expense.** Mediation can be scheduled before significant discovery costs are incurred. If the parties agree to an exchange of information needed for each side to evaluate the case and realistically assess their risks, expensive and time-consuming depositions and written discovery may be able to be avoided.
2. **Preserve relationships.** If the parties have ongoing relationships, they will increase the chance of preserving those relationships through early dispute resolution. Litigation can increase the risk of hurtful comments and exacerbate differences in perspective. Mediation can help the parties acknowledge points of agreement while protecting and defending points of disagreement, and then help build an understanding of the differences and a resolution all parties can accept. Resolving the legal dispute before the parties make the relationship worse can preserve what foundation is left of the relationship and allow building it back up, sometimes as part of the mediation process, and sometimes in it's own course over time once the legal dispute is resolved.
3. **Address immediate, real needs.** Litigation is time consuming and slow. Business, public, organizational, family and personal needs often require immediate attention. Early mediation can provide an opportunity to address immediate needs. Even if a legal dispute cannot be completely resolved early, addressing immediate needs shows concern and acknowledgement, two significant good faith steps toward an ultimate full resolution, and helps minimize the conflict and focus the parties' and attorneys' energy and attention.

4. **Avoid exacerbation of the conflict.** The adversarial system, in spite of its many strengths, tends to polarize the parties, narrow points of view and exacerbate conflict. The sooner the parties sit down with the help of a neutral, experienced mediator to evaluate their legal dispute and consider the risks of litigation, the sooner they will shift into a broader, problem-solving approach. Ongoing discovery and litigation takes a financial and emotional toll on the litigants, and points them toward defending and protecting their own point of view without addressing the other side's point of view. Early mediation provides the parties an opportunity to acknowledge what it is they do agree with from the other party's point of view while still advancing and protecting their own needs and perspectives. Rather than exacerbate the conflict, the mediation gives the conflict room to breathe and the parties' room to work out a settlement.
5. **Preserve privacy.** Business, organization, family and personal needs are often best addressed privately. Even public policy concerns can benefit by avoiding precedent and addressing a particular case confidentially. Early mediation can best preserve these needs.
6. **Increase chance of durable solution.** Court remedies are limited and with the passage of time, private, creative solutions may be less likely. When the parties sit down early, they can get a more complete understanding of the competing needs and desires and look for opportunities to creatively and thoroughly address those differences. Exchanging information and collaborating on a solution increases the chance of a durable solution.

If any of these benefits may apply to your case, your case may benefit from a confidential, complimentary inquiry with Kathleen Wareham. She can help you evaluate the risks and benefits of proposing early mediation, and help customize the process to fit the needs of the case.