

Thinking of Going to Court? Try Mediation by Pete Desrochers

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MOST PEOPLE DREAD GOING TO COURT. Nobody wants to get sued. No company wants to lose business on allegations of poor quality of its products or services, and no one likes contract disputes. Still it happens. Billions of dollars and millions of lives are sucked in to litigation and the legal system each year. Wouldn't it be wonderful if there were only some way to avoid all that? Well, there is. Mediation is the key. It is an evolved, highly focused, and non-adversarial process to resolve even the most complicated disputes. It is a conciliatory and facilitative process that declares no winners or losers. Usually, neither party gets everything it wants; but both parties come away with something they can live with.

With the help of a mediator or mediators, you determine the outcome—not by courts, the media or any external third party. The most common personal disputes that can be resolved through mediation include divorces, problems with neighbors, landlord/tenant disagreements, family fights over wills, debt collection, and even disputes between parents and teenagers. Mediation is becoming popular among businesses and all levels of government. Increasingly, companies would rather mediate than litigate on issues such as labor relations, accusations of unfair hiring practices, contract negotiations, regulatory topics and quality complaints.

No issue is too big or too small for mediation. Mediation has been gaining credibility and serious recognition for over a decade. A survey conducted by Price Waterhouse and Cornell's PERC Institute on Conflict Resolution of over 530 corporations in the Fortune 1000 category revealed that 90% of respondents view mediation as a critical cost-control technique, 54% of respondents indicate that cost pressures were what made them try mediation, and 88% of respondents reported using mediation in the last three years. Any issue that is going to court can be mediated first, likely at a fifth of the cost and in about a tenth of the time.

Most parties over-estimate the strength of their own positions. But the biggest value is that you get to determine your own future. When you go to court, you've lost control. A judge or jury will determine your fate. But with mediation, you have one last chance to determine your own future, which will likely be far better. Courts generally accept mediated settlements. Usually, neither party gets everything it wants; but both parties come away with something they can live with. Major crises that were ended through the mediation process include the 1979-81 Iranian hostage crisis, the 1987 Atlanta federal prison riots, the Catholic Church crisis in Poland and the lowering of the Berlin Wall. Judges in many U.S. states refuse to hear civil or divorce cases until formal mediation has first been attempted.

If you have the courage and humility you can undo a lot of hurt and retrieve things of great value you thought were gone forever. Yet most people are still not familiar with mediation, something that a firm like The Negotiators, is trying to change. "The Negotiators" is a mediation firm that follows a strict code of confidentiality. Mediators understand that people want the fighting to stop. They want to prevent the downward

spiral of volatile situations and promote positive results. That isn't going to happen in court.



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