

An Introduction to Mediation

As you may know, mediation is simply a process in which the parties to a dispute attempt to resolve the matter amicably, with the assistance of a mediator. The mediator serves as a neutral, impartial facilitator of settlement discussion between the parties. The mediator does not decide how the dispute should be resolved. In fact, *mediators are prohibited from stating their opinion as to who should “win” or what a case is worth.* Instead, the parties, with the assistance of their attorneys (if any), decide whether the matter should be resolved, and, if so, on what terms.

The Florida Mediation Confidentiality and Privilege Act, Fla. Stat. §§ 44.401 – 44.406, applies to almost every mediation conducted by Florida Supreme Court certified mediators. *Communications at mediation are confidential* – with only very limited exceptions provided by law, including some communications which must be reported to appropriate law enforcement authorities (e.g., child abuse or neglect, or disabled/elder abuse). Without the parties’ consent or a legal exception, no one attending mediation (including you or the mediator) may disclose what is discussed at mediation.

The flow of discussions normally follows this format:

1. The mediator gives a brief opening statement, explaining the process.
2. Each party (directly or through an attorney) gives a brief opening statement, explaining the party’s understanding of the events and positions related to their legal claims, as well as an initial explanation of what the party seeks to resolve the matter.
3. The mediator may ask questions of one or more parties, to gain a further understanding of the matter and to attempt to narrow the scope of the dispute.
4. Either in joint session with all parties or, eventually, in separate meetings with each party, the mediator will attempt to facilitate resolution of the dispute, by presenting offers and counteroffers from the parties, inquiring into the parties’ interests in resolution (rather than relying simply on the parties’ stated positions), helping the parties engage in creative problem-solving, ensuring that the parties understand each other’s interests, probing relative weaknesses and strengths in each party’s case, and, finally, suggesting negotiation methods and strategies.
5. Hopefully, the parties choose to resolve the dispute by agreement; if they do not, then the mediator declares impasse, ending the mediation.

As mediator, I am a neutral third party. While I am an attorney, I do not represent any party in this matter and cannot give any legal advice to any unrepresented parties. If you are not currently represented by an attorney but you have legal questions about your case (including what your case may be worth or what to accept as a “good” settlement), I suggest you contact an attorney *before* the mediation, so you may make an informed decision about settling your case.

I look forward to working with you.



Christopher M. Shulman, Mediator