



WHAT THE MEDIATOR DOES

Although many mediators are also lawyers, it is not a requirement for the role. Whatever his or her training and experience, the mediator is not permitted to give either party legal advice about their case. You may choose to be accompanied at mediation by your attorney, if you have one, but if not you should consider consulting with an attorney prior to mediation or if issues arise during the mediation about which you are unclear, you should request the opportunity to consult with an attorney during the mediation.

It is important to remember that the mediator is not a judge and does not have the power to tell either party what they must or even should do in order to settle a case. The mediator may make suggestions about possible alternatives to solve certain problem issues and the mediator may challenge both parties about preconceived positions they may have in an effort to encourage the parties to reevaluate their positions and keep an open mind to other possible outcomes. Ultimately, any settlement should be voluntary on the part of all parties, even though neither party should expect to get everything they want.

Finally, to avoid any appearance of having been influenced by either party, the mediator is ordinarily paid one-half of his or her fee by each party. Both parties should be prepared to pay the mediator at the conclusion of the mediation regardless of whether a settlement is reached.

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