

Probate Mediation

The distribution of an estate's assets and property, including decisions involving the appointment and performance of the estate's personal representative, can cause conflict and disagreements, especially in light of the emotions following the death of a family member or friend. Pursuing such disputes through litigation in an adversarial format is an option, but it is often time consuming, expensive, and it may not be able to address or resolve many of the root causes of the underlying problem. Fortunately, there is another option— mediation.



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PROBATE MEDIATION



Save Time and Money

Preserve Relationships

Take Control of Your
Outcome

What is Mediation?



Mediation is an effective way of trying to resolve disputes without having to go to trial. It is a voluntary and confidential process in which a knowledgeable and neutral third party (the mediator) meets with the parties and helps them discuss their concerns and various ways which their disagreements might be resolved. Generally speaking, the mediator's role is to facilitate constructive communication, to assist in identifying the real issues and interests of the parties and to help generate creative options for settlement. The mediator does not provide legal advice to the parties or render decisions. The parties remain in control of the decision-making process at all times.

The goal of mediation is to reach a complete resolution to the dispute. If an agreement is not reached, the parties have not waived any of their legal rights and may still proceed to a trial if they so choose.

What are the Benefits of Mediation?

Mediation is a valuable and powerful tool, especially when it is used early in the probate process. When utilized appropriately, mediation is highly effective and can offer the parties a number of potential benefits, including the following:

- **Saves Time and Money.** Litigation can often be very time-consuming and expensive. In contrast, mediation can offer a way to resolve conflict in a faster and more economical manner.
- **Confidentiality.** Unlike going to court, mediation allows parties to discuss their issues and problems in a private and confidential setting.
- **Control.** Going to trial means the parties relinquish their control over the outcome and turn that power over to the court. On the other hand, mediation puts the parties in control of the decision-making process and allows them to play the pivotal role in crafting solutions to the dispute. An agreement



reached by the parties is more likely to be a lasting solution.

- **Creativity.** Courts are limited by the law in the types of decisions they can order. Mediation allows parties to discuss creative and alternative ways to solve their disputes.

- **Full Discussion of Issues/Concerns.** Parties often expect to be able to air all of their views and grievances during a trial or court hearing, but time constraints and the rules of evidence in court can limit that presentation. In contrast, mediation is more flexible and allows the parties to present a fuller picture of their perspectives and interests, even those that are simply personal and non-legal.
- **Helps to Preserve Relationships.** Litigation is adversarial and often strains family relationships. Mediation can help families avoid some of the emotional costs of litigation and preserve, or even improve, those relationships going forward.

What Does Mediation Cost?

A Mediator generally charges an hourly rate for his or her services, which is often split among the parties. The mediation fee can also be paid for directly out of the estate, thereby reducing any out-of-pocket costs.

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