

Choosing Mediation to Protect Families and Legacies

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Why Mediation?

Blood and money make for a tough mix. As an attorney with a decades-long trusts and estates practice, I've seen it all: siblings clinging to childhood grievances, children from a first marriage resenting a stepparent, new spouses competing with adult children, and half-siblings emerging after a parent's death.

Estate litigation is not only lengthy and emotionally exhausting, it's also extremely expensive. By the time the legal dust settles, the parties have often spent more on attorney fees than they'll receive from the estate. Worse yet, already strained family relationships are often left permanently fractured.

Seeing the damage these disputes inflict on families is what led me to seek certification as a mediator.

What Is Mediation?

Mediation is a voluntary form of alternative dispute resolution where parties work together to resolve conflict with the help of a neutral third party—the mediator. The mediator doesn't make decisions like a judge or jury. Instead, their role is to guide the parties toward a mutually acceptable agreement crafted on their own terms. Because the outcome is collaboratively reached, mediation often leads to less bitterness, fewer hard feelings, and more durable resolutions.

How Does Mediation Work?

The process begins with an initial meeting between the mediator and the parties. If attorneys are involved, the mediator may speak with them beforehand to gather background information. During the joint session, the mediator explains the process and invites each party to share a brief summary of the situation from their perspective. An agenda is then established.

Each party is encouraged to listen respectfully to the other's point of view. Following this, the mediator typically meets privately with each side to delve deeper into the issues, explore underlying tensions, and identify opportunities for resolution. This approach allows for creative settlements that courts may not be able to impose.

Importantly, mediation is fully confidential. Nothing disclosed during the process is admissible in court should the mediation not result in a settlement.

Why Choose Mediation?

- **Cost-Effective:** Mediation is significantly less expensive than litigation. While parties may still retain legal counsel, the process usually requires fewer billable hours and avoids extensive court procedures. Mediator fees are typically shared equally by the parties.
- **Efficient:** Court cases can drag on for months or even years. Mediation often resolves disputes in a matter of hours or days.
- **Private:** Unlike court proceedings, which generate public records, mediation is confidential and discreet.
- **Flexible:** The parties—not a judge or jury—control the outcome. This allows for creative, personalized solutions that reflect the unique dynamics of the family.
- **Relationship-Preserving:** By encouraging open communication and cooperation, mediation can help mend strained relationships and preserve family ties.

Mediation offers a path forward that is more cost-effective, efficient, and humane than litigation. In the emotionally charged arena of estate disputes, it provides families with an opportunity not only to resolve their legal issues but also to do so in a way that promotes healing, dignity, and when possible, reconciliation.