



## Mediate Your Small Claims Case

**Learn the basics of settling your small claims case through mediation.**

Increasingly, small claims courts are encouraging - and in some areas requiring - people with disputes to attempt to settle them through court-sponsored mediation. Whether you are suing or being sued in small claims, ask if your court sponsors or makes referrals to a mediation program.

### How It Works

In mediation, you and the other party meet with a neutral third person who helps you try to arrive at your own solution. Mediation is now mandatory in some small claims courts and optional in many others. The goal is to give you an opportunity to craft your own compromise, before the case is heard by a judge. If mediation works, you can save time and money - and the court can clear a case off its backlog.

When you file a small claims case, the clerk of the court may assign you to mediation or strongly suggest that you look into it. Mediators may be available right in the courthouse, or you may be referred to a local mediation service.

Some mediators work for free; others are paid a modest fee by the court. You won't have to pay for mediators required or provided by the court. They are trained to help people talk about their disputes and come up with reasonable solutions. (Most mediators aren't lawyers, in case you were worried about being trapped in a room with both your opponent and a statute-spouting attorney.)

Mediators, unlike judges, have no power to impose a solution, so mediation sessions tend to be much more relaxed than a court proceeding. They may last anywhere from 30 minutes to three hours.

Mediation also allows you to bring up other issues that may be poisoning your relationship and would not be considered relevant in court. For example, a dispute over a neighbor's tree may really have its roots in a perceived slur about the neighbor's race, religion, or taste in motorcycles.

### Why Mediate?

If you're convinced that your opponent is totally unreasonable, you may wonder why you should waste time mediating. But experience shows that when the parties to a small claims court case voluntarily agree to mediate, the overwhelming majority of disputes are settled. Mediation often gets results even when people who don't want to mediate are forced to go through the process.

Settlement is especially likely when, deep down, one or both parties want to arrive at a solution that is at least minimally acceptable to the other party. This is particularly common in disputes between neighbors or small business people who work in the same area and really don't want the dispute to fester.

Mediation has other benefits, too. According to a study by the National Center for State Courts, people who agree to mediate their cases are more likely to be satisfied with the outcome than small claims litigants who go directly to court. One big reason for this is that people who agree to a mediated settlement are more likely to pay up than people who lose at trial.

Mediation isn't a good idea in every case. If you are determined to get every penny you are asking for, and you don't have an ongoing relationship with the other party, it can make more sense to bypass

**mediation and go directly to small claims court (except in places where mediation is mandatory).**

**For example, let's say you moved out of your apartment and left it undamaged and spotless, but the manager made up a bogus reason to avoid refunding your \$1,500 deposit. You could well decide that proposing mediation is a waste of time, because you are pretty sure that in court you'll win the entire \$1,500, plus a \$500 penalty, as provided by your state's rental deposit law.**

**If you do want to mediate, how can you get a reluctant opponent to the table if mediation isn't mandatory? Mediators can help with that, too. Typically, as soon as you notify a local court-sponsored or community mediation program that you would like to try mediation, someone from the mediation program will contact the other party and try to arrange a mediation session. They have lots of practice at convincing reluctant people to sit down at the bargaining table.**

**If you're the one being sued, or you've received a letter threatening suit, should you ask for mediation? The answer is almost always a resounding yes, particularly if you have a defense to all or part of the plaintiff's claim, or you believe that the plaintiff is asking for too much. You really don't have anything to lose.**