

## Mediation in Small Claims Cases

---

### **What is Mediation?**

Mediation is an informal and confidential way to resolve disagreements. Mediation is a process that can help parties reach a mutually acceptable agreement through the use of a neutral person trained in problem solving instead of going to trial.

### **What is a Mediator?**

The mediator is a neutral third-party who helps the parties discuss their conflict. Mediators do not tell people what to do, or decide who “wins” or “loses.” Decision making power stays with the parties. Mediators may not give legal advice to either party. Mediation is not a substitution for legal advice. **You should contact an attorney before your scheduled mediation if you have questions about your legal rights. Attorneys are not permitted in small claims mediation.**

### **When does Mediation occur in a small claims case?**

Cases are usually scheduled for mediation 2-4 weeks after a defendant files a response denying the claim or makes a counterclaim. If the parties are unable to reach an agreement either party may request a trial.

### **What happens in Mediation?**

The Mediation process will vary depending on the mediator. Generally, the mediator will start by describing how the process will work. Then each party will tell the mediator a short story about why they are in mediation. The mediator will help identify issues, discuss each party's needs, and assists the parties explore options for settlement. It is helpful if you bring any relevant documentation to the mediation, such as a contract or proof of payment.

### **What is the cost of Mediation?**

Free mediation is available in small claims, FED (eviction), domestic relations and parenting time cases.

### **Is Mediation Confidential?**

Anything that is said in mediation is confidential, so if the case goes to trial, the judge will not hear about anything that occurred in the mediation. The mediator cannot be called as a witness. There are a few exceptions to the confidentiality of mediation, including: mediator shall report allegations of child abuse, elder abuse, or threats of bodily harm.

### **What happens if a Mediation Agreement is reached?**

A mediation agreement is signed by the judge and documented as a court order.

### **What happens if a Mediation Agreement is not followed?**

If a party does not follow a term of the agreement, the other party may file an affidavit of noncompliance and a judgment will be entered against the party who does not comply.