



# Mediation Tips

We asked some of our esteemed panel of retired judges and veteran mediators a variety of questions:

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## Mediation Tips

### What do you recommend prior to mediation?

Do not be afraid to submit materials and reports ahead of time as it is very helpful for not only the Attorneys to be well prepared but it seems to make the mediation flow easier. This lets the Mediator also have deeper knowledge of the case in question. In fact, just recently [panel member] received over 700 pages of materials and evidence in a case from just one side and also received a substantial amount of documentation from the opposing counsel as well.

### How is a Mediation different from a mandated Judicial Settlement Conference?

Mediation is a facilitated process by nature, where parties are participating and all parties are in control. Judicial Settlement Conferences are more of an evaluation process by nature, and the session is controlled by the Judge. Judicial Settlement Conferences are also limited in the amount of documentation that counsel is allowed to submit, unlike Mediation where there is no limit to amount of documentation that may be submitted. The more that an Attorney is prepared going into a mediation, the more likely they will get the result that they are looking for. As an aside; parties should not become discouraged at the onset of the Mediation Session, because after a very short while they will find that all parties are there with the same desire which is the settlement of their case.

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Phone: 804-763-3600  
Fax: 804-768-3700  
E-mail: [Debbie@Arbitration-Associates.com](mailto:Debbie@Arbitration-Associates.com)  
Website: [www.Arbitration-Associates.com](http://www.Arbitration-Associates.com)



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## What is the best way to move forwards with a Mediation?

The simplest way is to let a mediation company, such as Arbitration Associates, coordinate the schedules, issues, date, time and location. The mediation company then prepares a Mediation Agreement that is sent to all Attorneys involved. In the Agreement each party has up to 10 days prior to the actual mediation to submit their package along with the executed agreement. At this point all documents are forwarded directly to the agreed upon mediator. The mediation company helps me to maintain neutrality by being the intermediary - managing the contract and forwarding all documentation, without having the mediator contact either Attorney prior to the mediation date.

## Do you have suggestions for the day of the Mediation?

At the beginning of the mediation both parties may have an opportunity to do their opening statement. After opening statements are complete parties will be breaking into caucuses to speak with the Mediator independently. In speaking with any experienced mediator, please do not be apprehensive in letting him or her know your expectations. Please know that it is a must to have full settlement authority from both plaintiff as well as defense. Be prepared to stay a minimum of one hour, however as you well know most mediations can take a bit longer. Do not become discouraged in the beginning as everyone there is a bit anxious but everyone has the same Big Picture of Settling the case that day.

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Phone: 804-763-3600  
Fax: 804-768-3700  
E-mail: [Debbie@Arbitration-Associates.com](mailto:Debbie@Arbitration-Associates.com)  
Website: [www.Arbitration-Associates.com](http://www.Arbitration-Associates.com)



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## How can you tell if a case is appropriate for Mediation?

It is [panel member's] opinion that many cases are completely appropriate for mediation. Mediation is a tool that works well on many types of cases not just personal injury. Be open minded about the types of cases that you have setting on your desk. As mediation is a wonderful tool for numerous types of cases which also include several parties as well as very complex cases. I [Panel member] am part of the Arbitration Associates panel of mediators, and in 1993 when **they opened their doors, very few Attorneys weren't skeptical of mediation. Today mediation is a well known and common practice.** Mediation is a valuable tool in the settling of cases.



## ADDITIONAL INFORMATION FROM ARBITRATION ASSOCIATES:

With Arbitration Associates only one Attorney needs to call our office and then we gladly contact opposing Attorney(s) to coordinate the Mediation.

With Arbitration Associates we have about a 95% settlement rate. If you are too busy or not comfortable in suggesting mediation to opposing attorney let Arbitration Associates do that for you. We will gladly work with you at no cost to coordinate your case. If you have a case that you would like to mediate please know that we can coordinate it and have it scheduled within 24 hours.

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11902 Markey Circle  
Midlothian, VA 23112

Phone: 804-763-3600  
Fax: 804-768-3700  
E-mail: [Debbie@Arbitration-Associates.com](mailto:Debbie@Arbitration-Associates.com)  
Website: [www.Arbitration-Associates.com](http://www.Arbitration-Associates.com)



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