Facilitative Mediation

Whether you are an attorney talking with your client or corporation about entering into alternate dispute resolution (ADR), an administrator looking to create a mediation clause, or someone involved in a current dispute, this information will help you understand and discuss the benefits of facilitative mediation.

What is facilitative mediation?

Facilitative mediation is a non-binding process in which a third party, called a mediator or neutral, facilitates the negotiation process between two or more parties. The mediator works with the disputants to establish ground rules and helps maintain those ground rules throughout the process. The mediator may work with each side individually to uncover issues and potential opportunities for consensus. Individuals maintain control over the outcome and are personally involved in the result. Mediation agreements are enforced as contracts.

Mediation is more confidential than a public court proceeding. Varnum mediators are required to maintain confidentiality and, by contract, cannot be called to testify about any statement made by either party during the mediation process.

Why should I use mediation?

The process of litigation is a pricey one. Beyond the cost of quality attorney representation and trial preparation, litigation often costs opposing parties their business and personal relationships and even their public reputation. Mediation costs little compared to litigation, preserves relationships, finds mutually acceptable solutions, offers confidentiality, and provides for flexibility and creativity in the dispute resolution process.

The value of an experienced mediator

Because you choose your mediator, it is possible to select a neutral with special knowledge in an area, limiting the amount of background education required for the mediator to effectively facilitate discussions. For example, an environmental attorney understands the laws, processes and business decisions surrounding the sale of contaminated land and can offer insightful, cooperative options beyond what the parties may have discussed.
A less formal setting promotes communication

Sometimes the impetus for litigation is a plaintiff's wanting their "day in court." Facilitative mediation provides the opportunity for both parties to present their sides of the dispute in a less intimidating environment. Facilitative mediation can provide an open atmosphere for individuals to talk face-to-face about how an incident or the dispute has affected them individually, professionally, and personally. Open communication often leads to an understanding of another party's actions and ultimately preserves relationships. Mediation is not about attorneys winning cases for clients or juries deciding on financial compensation, it is about parties working through differences and miscommunication toward a common goal.

News

Post Discusses Mediation on WJRW's Sound Off! Segment
January 27, 2017

Retired Judge Edward R. Post Joins Varnum Grand Haven Office
January 6, 2017

Publications

Video: Dick Hooker on Facilitative Mediation
April 28, 2014