

Mediation Essay Contest:
Why Choose Mediation?

Submitted by: Courtney White

South Peace Secondary School District 59
10808 - 15 Street
Dawson Creek, BC V1G 3Z3
phone 250-782-5585 fax 250-782-7221
26 March 2008

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Mediation is a method of dispute resolution in which the parties try to resolve a dispute and reach an agreeable settlement with the assistance of a mediator. Mediation is private, flexible and overall an informal process where a mediator and disputing parties work together to find a solution that is acceptable and agreeable with each person. The people that have chosen to use the mediation process make the decisions about the terms of their agreement and overall settlements, not the mediator.

Mediation is not just a one step process. There are carefully followed steps in which people go through before and during mediation. First and foremost, both parties must agree on using a mediator. Once both parties have agreed on using the mediation process, the parties will have a pre-mediation discussion with the chosen mediator. This discussion phase will include topics of: Why the parties wish to mediate, and the core issues that require a mediated outcome. In addition, this discussion will also include basic background information (e.g. addresses, and phone numbers). The mediator will also give their clients information on the mediation process and fees. Second, the mediator will meet with you and decide whether the mediation will be open, partially open, or closed. Also, the clients and the mediator will clearly identify the issues that are to be mediated. Once that is done the participants will review and sign the retainer contract and/or Mediation Participation Agreement. This will also provide an opportunity for legal representatives to summarize significant issues and details in the case, also noting any legal steps that may have been taken. Thirdly, the mediator will explain his or her role as

an objective, impartial professional. Then, the mediator will work with both parties to establish some ground rules in hopes of reaching a resolution to the issue or issues in dispute. The mediator may also inform one or both parties regarding the importance of independent legal advice to review final agreements.

During mediation, the mediator will provide assistance, observe, evaluate options for satisfying interests, and try to improve the overall communication between both disputing parties. Once the mediator has met both parties he/she will meet with each

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party individually and discuss the participants needs, interests, concerns and most of all goals during the mediation process. The mediator will explore and find the best alternative to a negotiated agreement. Lastly, the mediator will help to prepare a Memorandum of Understanding and/or Mediation report. In this final process the mediator will define the agreement reached and may advise parties to take a short period of time to review the agreement. If a settlement is reached, both parties then discuss how to formally address the terms of the settlement, usually by a written agreement or a consent order.

By agreeing to use the mediation process people have found many benefits from it. From personal experience of my parents using a mediator for their divorce, I can explain some of these benefits in detail. I think one of the most important benefits of mediation if settled is that it always results in a win-win scenario, which means both parties have come out of the process with what they wanted or have agreed to terms that

are suitable for them. Another thing that I noticed when my parents went to a mediator is that there is a non-confrontational atmosphere, which is good because it reduces tension, stress, and increases communication between both parties. Also, my parents did not have to spend, as much money using a mediator because going to court is more expensive.

They also saved time, and preserved a relationship that could have been torn further apart by using the adversarial system. I noticed that using a mediator did not just resolve their issues and disputes, but it changed the way they deal with each other, talk to each other, and overall maintain their relationship out of the mediator's office. The single most

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rewarding benefit of mediation is that it does not just settle arguments; it changes people's differences and relationships.

Some of the negative aspects of mediation need to be discussed in fairness to the process. Using my parents as an example, I can explain some of the things that change or happen after the mediation process is finished. Although my parents may have been happy with their agreements, decisions, and overall settlements with the help of the mediator further down the road they found that not all disputes were settled or new ones had been discovered. Maybe, if they try mediation for their recent disputes it will start a new chapter of communication and agreement in their lives. Another problem with using mediation is that some people just do not know what it is, or how it works. So, they end up using the adversarial system instead. Overall, mediation may not always end perfectly or the way the participants, like my parents, want it to.

Overall, mediation is a thoughtful process that not only keeps relationships between people, but changes them. Many people who have gone through the mediation process have come out of it with a good experience and an agreement that all parties have wanted. Mediation gives you a greater degree of control and a predictability of an outcome that you and the other parties want. From my person and family mediation experiences I think that some people will come out of it with a feeling of personal empowerment because they have negotiated their own settlement and did not have to use surrogate advocates such as, a lawyer to represent them.