



A Professional Corporation

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FREQUENTLY ASKED QUESTIONS ABOUT PRE-SUIT MEDIATION

1. What is Pre-Suit Mediation?

Pre-suit mediation is a way to avoid the costs of litigation. The parties attempt to resolve a conflict by agreeing to voluntarily participate in mediation with each other.

It is important for the participants in any pre-suit mediation to discuss the statute of limitations on any claim they feel they may have with an attorney before agreeing to use pre-suit mediation.

In pre-suit mediation, the disputing parties agree to have a neutral third party assist them in trying to come to a settlement regarding their dispute prior to each of them incurring expensive legal fees to file or continue with a lawsuit.

2. Why Should I consider Pre-suit Mediation?

Most people like pre-suit mediation because it can save both time and money. If you can settle a dispute with a few hours' worth of a mediator's time, it can be much less expensive than both parties hiring counsel to represent them in a lawsuit. In addition, pre-suit mediation can save a lot of time for the individuals involved. Mediation usually takes hours rather than months or years. It also can be much less stressful as you are in an environment where you know that you will help control the outcome instead of relying on a judge or jury to decide the resolution.

3. Who Pays for Pre-suit Mediation and How Much Does it Cost.

Usually the parties split the cost of the mediator and the actual mediation is held at the mediator's office. The mediator will charge an hourly rate usually with a minimum four (4) hour

charge. Prepayment of half the expected fee is expected at the beginning of the mediation. The remaining payment is due when the mediation ends.

4. Is pre-suit mediation always the best way to solve a dispute?

No. Pre-suit mediation is best suited for disputes between owners, family members or other individuals or companies who want to try to settle their disagreement before expending legal fees and an extended length of time. Often times where the parties want to preserve a relationship with each other for the long term pre-suit mediation is a good fit. However when key facts about the situation are not known or the parties are simply not willing to try to resolve their dispute without court action, the issue may not be ready for a pre-suit mediation.

5. How Does a Successful Mediation End?

With the parties controlling the outcome, in a successful mediation, a binding written settlement agreement is signed by all parties to the dispute. This settlement agreement is written to be binding in any court of law.

If the parties cannot agree to a resolution and the mediator feels that continued mediation will not result in an agreement between the parties, everyone is free to go their separate ways and pursue litigation if they desire.

6. How Do I Start a Pre-suit Mediation?

At Adinamis & Saunders, P.C., a mediation begins when the parties have agreed to mediate the dispute. An engagement letter is signed by all the parties acknowledging that the mediator will not be giving any legal advice during the mediation and setting out the payment terms. Then a mediation date is set. At least two weeks prior to the mediation date each party may provide a written summary of what they consider to be the important facts relevant to the dispute. Each can set out their arguments in writing so the mediator has a better idea of what the dispute is about.

7. Can I Bring My Advisors to the Mediation?

Yes, if you have an attorney you should bring them to the mediation. If you feel it would be helpful to have your accountant or other advisor at the mediation, you just need to let the mediator know they will be attending.

8. How Does a Mediation Work?

Often the parties start by sitting in one room together and making a statement about the dispute from their point of view. Then the parties are led to different rooms and the mediator goes back and forth between the parties to try to come to a successful resolution. While the mediator will not give legal advice, they will make suggestions to parties about alternative ways to resolve the dispute.