Mediation

What is mediation?
Mediation is a different way to settle disputes. Unlike litigation, which is a lawsuit brought to court, mediation allows the parties who are disagreeing to create a solution. In mediation, the disputing parties use a neutral third person (called the mediator) to help with the following:

- Help the disagreeing parties apply their values to the fact situation
- Identify key issues
- Explain and make clear any misunderstandings
- Explore solutions
- Obtain a settlement developed by the disagreeing parties instead of a settlement imposed by the judicial system

What is the role of a mediator?
The mediator is not a judge and does not issue a decision or impose a solution on any party. The mediator helps those who are involved in the dispute talk to each other. This allows the parties to solve the dispute themselves. The mediator manages the mediation session and remains impartial and neutral.

How does mediation work?
At the mediation session, all parties present a summary of their points of view. Attorneys may be present. It depends on the type of dispute and the method of mediation used by the chosen mediator.

The mediator helps the parties examine their dispute in terms of their own needs and interests. Necessary information is presented by all parties which may include budgets, business records, tax returns, property valuations, and the needs of each child. Different settlement options are developed and discussed in an attempt to meet everyone’s goals fairly.

The decisions are made by the parties that are in disagreement. The decisions are not made by the attorneys or the mediator.

Who pays for the mediation?
Any expenses or cost of the mediation are generally shared equally by the parties unless they agree to different terms. Parties should know in advance what the mediator charges.

What are the benefits of mediation?
- Parties keep control over the outcome of their own problem. The final agreement is designed by the parties according to their own interests.
- Disputes can be settled quickly. A mediation session can be scheduled when both parties agree to use mediation, even before a lawsuit is filed.
- There is no winner or loser. Mediation promotes improved relationships through open communication and cooperative problem solving.
- Both legal facts and the real personal interests of the parties are considered throughout the mediation process.
- Mediation is private and confidential. This means that the mediator and the parties must maintain, to the extent required by law, the confidentiality of the information given during mediation.
- Mediation is voluntary. The mediation may be ended at any time by either party or the mediator. Settlement is also voluntary. If an agreement cannot be reached, the parties still maintain the right to take the dispute in front of a judge or jury.
- Mediation costs are significantly less than taking a case to trial.

What types of claims can be mediated?
- Business/Customer
- Divorce/Family
- Employer/Employee
- Juvenile
- Negligence
- Neighbor/Community
- Products Liability
- Small Claims
How do I find a mediator or find out more about mediation?
To find a mediator in your area or to find out more about mediation, ask your attorney. You can also contact the Arkansas Alternative Dispute Resolution Commission office. The Commission has a statewide roster of mediators and gives information on dispute resolution alternatives.

Hours:  Monday-Friday 8 a.m. – 4:30 p.m.
Address:  625 Marshall Street
           Justice Building
           Little Rock, AR 72201
Phone:    (501) 682-9400
Fax:       (501) 682-9410
Website:  https://courts.arkansas.gov/adr/index.cfm

Common Terms
Mediation is just one of several choices that you have to solve disputes. This glossary has many of the terms used in Alternative Dispute Resolution (ADR)

Court Annexed – Those alternative dispute resolution programs that are operated, funded, or sponsored by a court or receive referrals of disputes from a court.

Binding – An outcome of an alternative dispute resolution process that concludes a dispute. It is legally enforceable between the parties.

Non-Binding – An outcome of an alternative dispute resolution process that is not enforceable by either party

Arbitration – The resolution of a dispute by putting the matter in front of a neutral or a panel of neutral people for a decision called an award. Arbitration may be either binding or non-binding. Parties can be bound to accept the award by prior agreement or by law.

Med-Arb – A process in which the parties attempt to resolve their differences through mediation. The parties agree in advance that if mediation fails to reach an agreement, the mediator will become an arbitrator and give a binding decision.

Evaluation – The submission of a dispute to a neutral person in order to see the likely outcome of a trial. This is a non-binding setting, and the likely outcome is based on summaries presented by the parties and/or their attorneys.

Summary Jury Trial – An in-court process in which a dispute is presented to an advisory jury for the return of a non-binding verdict following the summarized factual and legal presentations by attorneys for the parties.

For more information, visit the Arkansas Alternative Dispute Resolution Commission at: https://courts.arkansas.gov/adr/index.cfm