



My interest in mediation developed out of my experience as a litigation attorney. While some disputes are well suited for and may require litigation, it has been my experience that in many instances the parties can achieve a better outcome, for everyone involved, by working together through an experienced mediator to come to an agreed solution. It is too often the case that by the time a litigated matter is resolved through the courts even the winning party, having factored in the costs in terms of time, money, lost opportunity, emotional wear and tear and destroyed relationships, is dissatisfied with the result.

Mediation offers the parties an opportunity to quickly and economically craft creative solutions to their disputes. It is often the case that the best solution is not even available through the courts. It is rewarding when I can assist people and businesses in reaching a truly positive outcome.

Lauren M. Terk

Lauren M. Terk received her Juris Doctorate degree from the University of California, Hastings College of the Law in 1988. Since that time she has served as a litigation attorney, a court appointed mediator and discovery master, a settlement conference judge and a private mediator. Her clients have included Fortune 500 Companies involved in national litigation and individuals in need of resolving private disputes. The matters she has litigated and mediated have ranged from complex medical device class actions and multi-million dollar commercial disputes to conflicts between neighbors, co-workers and business partners. Uniquely, Ms. Terk is one of the very few attorneys in the United State with a substantial amount of experience in equine (horse) law.

Ms. Terk is a member of the California State Bar Association. Admitted to all courts of the State of California, all U.S. District Courts for the Districts of California and the U.S. Court of Appeals for the 9th Circuit, Ms. Terk has also been admitted *pro hac vice* to several state bar associations in her role as National Coordinating Counsel.

She has spoken on product liability, litigation strategy and mass torts at the Defense Research Institute's Product Liability seminars, and has also spoken on mediation and equine law. Ms. Terk has been published on product liability, litigation strategy, mass torts, equine law, the impact of legislation on the national firearms litigation and the admissibility of expert testimony in Federal Courts.

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MEDIATION

Disputes are inevitable. Resolving them well requires commitment, communication, creativity and experience. For many people the successful resolution of a dispute also requires the assistance of an experienced mediator.

- Lauren M. Terk, 2006



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IS YOUR DISPUTE APPROPRIATE FOR MEDIATION?

Mediation is a semi-informal, non-binding process in which (unlike litigation) the parties exert control over the outcome of their dispute and are free to craft creative solutions that take into account their particular needs and interests. The costs of mediation are typically a fraction of the costs of litigation in terms of dollars, time, anxiety and damage to ongoing personal and professional relationships. In most cases the parties are able to reach a resolution that is agreeable to all parties.

An added benefit of mediation is that everything said or disclosed in mediation is confidential. In contrast, in the course of litigation the dispute itself, and frequently the facts involved in the dispute, become a matter of public record.

While some disputes are well suited for and may require litigation, mediation is an alternative that should be considered before, during or even after litigation. If you want to exert control over the outcome of your dispute and have an interest in resolving your dispute quickly and efficiently, with minimal damage to your personal or business relationships, mediation is probably the right process for you.

MATTERS THAT ARE PARTICULARLY WELL SUITED TO MEDIATION:

BUSINESS AND PROFESSIONAL DISPUTES:

- Interpreting / renegotiating contracts
- Developing, maintaining or dissolving partnerships
- Employment contracts and disputes

REAL ESTATE:

- Sufficiency of disclosures upon sale
- Commission disputes
- Division / sale of joint interest property
- Landlord / tenant disputes
- Easements and property lines

NEIGHBOR TO NEIGHBOR DISPUTES:

- New construction, common wall or maintenance disputes
- Erosion and water intrusion
- Trees and view lines
- Pet issues, noise and nuisances

CIVIL LITIGATION:

- Property damage
- Personal injury
- Warranty disputes
- Commercial contract disputes
- Insurance coverage disputes

EQUINE LAW:

- Injured horses and/or riders
- Representations made about a sale horse
- Consignment sale and training agreement disputes
- Ownership and breeding disputes
- Lien enforcement disputes

FAMILY ISSUES:

- Divorce and separation, including support, child custody and division of property
- Pre-marital agreements
- Probate and will contests

HOW MEDIATION WORKS:

Prior to the mediation the parties or their attorneys exchange information and documents and provide copies to the mediator. Additional confidential information can be provided to the mediator before or during the mediation.

During the mediation the parties meet with the mediator in a combination of joint and separate sessions. This facilitates the consideration of private / privileged matters and communication between the parties.

The parties communicate with each other through the assistance of the mediator. A mediator will not give legal advice. However, as an evaluative mediator Ms. Terk will, as appropriate, express opinions and advise the parties regarding opportunities for resolution (and the potential consequences of no resolution). Creativity is the key to effective mediation.

The goal of mediation is to have the parties themselves agree on how to resolve the matter. If they cannot come to an agreement, they are free to pursue other means of resolution.

If the parties reach agreement, a binding or non-binding memorandum of that agreement may be prepared, as appropriate and as agreed upon by the parties.

Who pays? The parties typically split the cost of the mediator's services equally. However, they are free to reallocate the expense in any way they see fit.