

How to initiate a mediation?

- Mediation is primarily a voluntary process which can be initiated by the parties agreeing that mediation is an appropriate way to resolve their dispute and they can jointly appoint a mediator.
- Alternatively, mediation may be provided for under the terms of a mediation clause in an existing agreement where the parties have agreed to attempt mediation before proceeding with any other form of dispute resolution. Where there is a mediation clause in a contract, the parties will be required to attempt mediation first.
- Although there is, as yet, no mandatory mediation in The Bahamas, it is possible that in the future, mediation may become mandatory or may be encouraged under new rules of court which could require parties to litigation to attend mediation with a view to resolving some or all of the issues raised in the court proceedings.



Mediator: M. Margaret Gonsalves-Sabola
T: +1 (242) 326-6400
E: Margaret@gschambers.com

Civil and commercial mediations including contracts/business agreements, family law, trusts and estates, insurance/personal injury and employment/workplace disputes.

Call or email us today for more information!

Hours of Operation

Day	Hours
Monday	9:00am - 5:00pm
Tuesday	9:00am - 5:00pm
Wednesday	9:00am - 5:00pm
Thursday	9:00am - 5:00pm
Friday	9:00am - 5:00pm
Saturday	Closed
Sunday	Closed



MEDIATION

An effective method of dispute resolution.

What is mediation?

Mediation is a private, dispute resolution process, by which an impartial person called a mediator assists the parties to a dispute to negotiate a mutually acceptable solution to their dispute.

Unlike the position with litigation or an arbitration, the mediator does not decide the dispute or give the parties his/her view of the dispute. The mediator, even if legally trained, does not advise the parties on the legalities of the dispute. Instead, the mediator's role is to facilitate dialogue between the parties in order to help them to understand the dispute in a way that will increase their chances of reaching a mutually acceptable and lasting solution.

The mediator does this by helping the parties to develop potential solutions, and analyze whether those solutions are a better, or a worse, alternative for each of them to continuing with the dispute or litigation. The goal of mediation is to help the disputing parties reach an agreement, if they think that the agreement is better for them than continuing with the dispute.

Why use mediation?

Mediation is a **faster** and **less expensive** option when compared with either litigation or arbitration. It **empowers** the parties by allowing them to control the outcome of their dispute rather than having a judge or arbitrator impose a decision on them. This means that mediation can produce **more tailored outcomes** since the parties are free to select solutions to their dispute which a court may not be able to order.

Mediation is less destructive of relationships as it provides a non-adversarial opportunity to solve a dispute so that **important relationships can be repaired and preserved**. In litigation and arbitration, there is always a risk of an unsatisfactory outcome for one or both parties. In mediation, if a party does not like the proposed solution, they are free to reject it.

Mediation is **informal and flexible** and, unlike litigation, which is usually carried on in a public arena, mediation is **private** and the parties must agree to keep the proceedings of the mediation **confidential**.

The mediation process.

Only the parties, their attorneys, if any, the mediator, and anyone the parties agree on, should be present at the mediation. The mediator will set the rules for the mediation and will review the confidentiality agreement and ensure that everyone present has signed it. If the parties do not sign the confidentiality agreement, the mediation cannot proceed.

Each of the parties will be given the opportunity to explain the situation from their perspective without interruption. The mediator will then work with both parties, together or separately if the parties wish, to identify their interests, seek common ground and explore possible solutions to the conflict.

If an agreement is reached, one or other of the parties, or their legal representatives, will write up an agreement for both parties to sign. Not every mediation ends in an agreement. You should not feel forced to sign something you are not comfortable with, but keep in mind it will be your role to define what you want.

Know that virtually all mediations require some level of compromise on either side and that a cooperative attitude on both sides is the cornerstone of a successful mediation.