



SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE  
[www.riverside.courts.ca.gov](http://www.riverside.courts.ca.gov)

**PROBATE MEDIATION**  
Information Sheet for Parties and Counsel

**WHAT IS PROBATE MEDIATION?**

In probate mediation, the parties work with a mediator to try to resolve their probate disputes without going through litigation and trial. Parties may go to mediation before or after filing a lawsuit.

Probate attorney-mediators usually:

- meet with all parties and counsel in a case;
- listen to each person's concerns;
- help all parties evaluate the strengths and weaknesses of their case;
- when appropriate, help the parties understand each other and communicate with each other;
- provide "reality checks" about the possible outcomes in court and in settlement;
- work with all parties and counsel to create a settlement agreement that is acceptable to everyone.

**WHAT TYPES OF PROBATE CASES SHOULD GO TO MEDIATION?**

Many probate disputes can be resolved using mediation. These include:

- Decedents' Estates
- Trusts
- Conservatorships
- Guardianships

**WHAT ARE THE PROS AND CONS OF PROBATE MEDIATION vs. TRIAL?**

Advantages:

- Faster: Mediation can often be completed in one day.
- Less expensive: Parties can save court costs, attorneys fees and witness fees.
- More control: Parties choose their mediator and decide whether or not to settle.
- More private: Mediation takes place in private offices, not public courtrooms. The mediator can meet with the parties in separate rooms or even on different dates.
- Less stressful: Mediation is an informal process. The parties can discuss special concerns about the mediation process with their mediator.
- Focus on family issues, relationships, and practical concerns: Mediation can focus on the key non-legal issues that may be at the heart of the dispute.
- Unique, case-by-case solutions: Mediators can help parties create a settlement agreement that fits their particular situation.

Disadvantages:

- No public trial: Parties do not get their “day in court” or a decision by a judge or jury.
- Costs: If the case doesn’t settle in mediation, parties may have to pay for both mediation and trial.

Mediation may be appropriate when the parties:

- Want to work out a solution but need help from a neutral person; or
- Have communication problems or strong emotions that interfere with resolution; or
- Have a continuing business or personal relationship.

Mediation may not be appropriate when the parties:

- Want their public “day in court” or a judicial determination on points of law or fact;
- Lack equal bargaining power or have a history of physical/emotional abuse.

## **HOW DO I ARRANGE FOR PROBATE MEDIATION?**

After a lawsuit is filed at court:

At any court hearing, all parties may inform the judge or commissioner that they wish to use probate mediation.

Request a referral to the DRS Probate Mediation Program

Eligible cases may be referred to the Dispute Resolution Service (DRS) of the Riverside County Bar. DRS provides three (3) hours of mediation at no cost to the parties in court-referred cases.

The DRS Probate Mediation Program is funded, in part, by the Dispute Resolution Program Act (DRPA) under which DRS mediators receive modest compensation for providing three (3) hours of mediation. DRS mediators may charge the parties for additional time.

If your case is referred to the DRS Probate Mediation Program, you will receive a Notice and instructions by mail.

Select a private mediator before or after a lawsuit is filed at court:

In private mediation, parties pay the mediator or mediation organization directly. The court is not involved in mediation fee arrangements in any way. In most cases, the parties split the mediation costs.

If your case was not referred to the DRS Probate Mediation Program, you may contact DRS to arrange for private probate mediation. Contact DRS for information about scheduling and rates: 951-682-2132.

Many private mediators and organizations offering mediation services have websites or advertise in various publications, including the yellow pages.

## **WHAT HAPPENS AFTER THE MEDIATION?**

### **If the case fully settles at the mediation or before the next hearing date:**

Petitioner must file a "Notice of Settlement" (Form CM-200) and serve it on all parties before the next scheduled hearing date.

In most situations, one or more of the parties must also file the documents necessary to carry out the settlement (e.g. "Request for Dismissal" of the petition (Form CIV-110), a Withdrawal of Objections or Opposition, and/or an Amendment to the Petition).

For some cases, the Probate Code requires parties to file a petition requesting a court order approving the settlement.

### **If the case did not settle:**

The parties must appear at their next scheduled hearing.