



Top 10 Persuasions to Mediate Disputes

By Amy L. Lieberman

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If you are faced with a reluctant client, who is wondering why they should consider mediation as opposed to seeking their day in court, consider providing these Top 10 Persuasive Reasons (also known as *Persuasions*) to mediate:

1. PROACTIVE

Mediation gives the client a proactive handle on the costs of conflict, before legal claims are filed, lawyers get involved and costs spin out of control.

2. PERSPECTIVE

Mediation allows clients to gain the other person's perspective. Typically, we know our own views, and we think we know the other person's, but what we know is the other person's *position*, not their total perspective. Positions often are motivated by several different perspectives – legal, financial and emotional, to name a few.

3. PROGRESS

Mediation allows a client to make progress toward uncovering the problem, the underlying needs and interests, and the key evidence the other party has. Even if immediate resolution does not occur, new analysis can be brought to bear and the success of later resolution increases.

4. PRIVACY

Mediation allows a client to talk with the involved persons in a private setting, without broadcasting all the issues in the public eye, and provides a confidential resolution.

5. PRODUCTIVITY

Successful mediation allows everyone to return to their personal and professional lives, and go back to doing the jobs they were hired to do!

6. PERCEPTION OF FAIRNESS

When a client agrees to mediation with a neutral mediator – who has no skin in the game – it indicates they're willing to have both sides express their views, to listen, to be open to new information and options for resolution, and to accept guidance or facilitation from someone with experience in assisting others to resolve conflict. Setting the stage in this way allows for a greater perception of fairness, which in turn de-escalates conflict and increases the likelihood of resolution.

7. PROFESSIONAL

The experienced mediator knows how to structure the process so as to foster progress and resolution. Outbursts of emotion caused by anger, frustration and adrenaline can tend to derail the process, and the professional mediator can shepherd the discussions to reduce or eliminate the likelihood of impasse due to a breakdown in communication.

8. PRICE

The cost savings cannot be overstated. Most matters resolve in a half-day to full-day session. A few thousand dollars spent on the frontend can save tens to hundreds of thousands of dollars in long run. In this mediator's experience, 90 percent of conflicts are resolved through mediation. With those odds, why wouldn't you make such an investment?

9. POSITIVE

Mediation allows discussion of conflicting positions, underlying interests, and the generation of options and problem-solving to occur in a respectful environment. With the mediator's assistance, the focus can remain on the positive opportunities that come with resolution.

10. PEACE

Successful mediation allows both sides to finally achieve the peace that comes with resolution of conflict. As one spouse said to her plaintiff-husband at the end of a successful mediation, "*Maybe now you can sleep at night.*"