

ARE THERE ADVANTAGES TO MEDIATING AT MEDIATION SERVICES OF MAUI?

Yes. Some advantages you should consider about mediating at Mediation Services of Maui (MSM) **before** filing a claim are:

- **Convenience.** Small Claims Court assigns you a date and time to appear. You must wait your turn until your case can be mediated and/or tried. At MSM there is flexibility in picking the time. MSM has mediators available in the day and evening, Monday through Friday, and Saturday morning.
- **Time.** Due to the large number of cases in court, court mediation is usually limited to thirty minutes or less. Mediating at MSM allows you to take the time you feel is necessary. You can come back and “fine tune” the agreement if everyone feels that changes would be helpful.
- **Cost.** MSM charges a nominal administrative fee. Small Claims requires payment of a filing fee, as well as a charge for having a sheriff “serve” the other party with the complaint (if a sheriff is used).

HOW DO I PREPARE FOR MEDIATION?

Effective mediation requires two-way communication. This means:

- **Honestly expressing your needs; and**
- **Listening to what the other party needs.**

The keys to a successful mediation are:

- **Cooperation; and**
- **Flexibility**

The following suggestions will help you reach a fair agreement:

- **Approach mediation with a positive attitude;**
- **Be open to new ideas or suggestions;**
- **Seek agreement, not blame or revenge;**
- **Look to the future, not the past;**
- **Express yourself and listen carefully to what others say;**
- **Help others understand you, and do your best to understand them; and**
- **Bring all relevant documents.**



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Going to Small Claims Court?

What you should know about mediation before you file your claim or go to Small Claims Court.

Mediation. It Works!

WHAT IS MEDIATION?

Mediation is an alternative method of resolving a dispute and has several advantages over the usual judicial process.

- **YOU DECIDE.** Once a judge makes a decision in a Small Claims case, at least one party (and sometimes both parties) leaves unhappy. There is no right of appeal. In mediation, you and the other party, with the help of a mediator, decide the solution. This way, you avoid the risk of “losing” in court or reaching an outcome that is not satisfactory.
- **CUSTOMIZED SOLUTIONS.** Even if you “win” your case, the court does not collect the money for you. A mediator can help you develop an agreement that meets the circumstances of your case (including a clear payment plan). The agreement may then become a court record and each party will receive a copy.
- **PRIVATE.** A court judgment may appear on your credit records, and courts are public places. Mediation offers more privacy.
- **NO COST.** There is no extra charge for cases mediated at the court.
- **A TRIAL IS STILL AN OPTION.** If you are not able to reach an agreement through mediation, you can return to court.

HOW DOES MEDIATION WORK?

Contested cases on the Small Claims calendar will be referred to mediation. This means that before you present your case to a judge, you must attend a mediation session.

Mediators are available at the court house. If you want to mediate **before** filing a claim, you may contact Mediation Services of Maui at 244-5744.

- **WHO ARE THE MEDIATORS?** Mediators are impartial; they help parties explore solutions. Mediators also help develop options. All Small Claims mediators are trained by Mediation Services of Maui.
- **MEDIATING AT COURT.** After you arrive at court, the judge will briefly explain the Small Claims process. Then the Court Clerk will call each case and instruct parties with contested cases to meet with a mediator. Generally, only the parties named as plaintiff or defendant attend the mediation session.

The mediator may ask you to exchange information (including documents, photographs and materials that support your claim). The mediator will help you work toward a resolution of the claim. The process takes about thirty minutes. Afterward, you return to court.



WHAT IS MEDIATION SERVICES OF MAUI?

Mediation Services of Maui (MSM) is a private non-profit organization that helps people resolve conflicts of all types. MSM uses trained mediators to work with the parties involved in the disputes. MSM has been serving the community since 1982 and has mediated thousands of cases.

The process for mediating a problem or potential small claims dispute at MSM is simple.

- Call **244-5744** and say you would like to mediate a dispute;
- You will need to provide some background information about yourself and the dispute, as well as the name and telephone number of others involved;
- A MSM case manager will contact the others and determine if they are willing to mediate (mediation at MSM is voluntary);
- If everyone agrees to mediation, then a meeting will be scheduled at the most convenient time, Monday through Friday (day or evening), or Saturday morning.

What is Mediation?

In mediation, an impartial person helps the parties explore solutions.

How can I learn more?

Call Mediation Services of Maui, Inc., (MSM) at (808) 244-5744, or visit the website:

www.mauimmediation.org

MSM was established in 1982 to provide creative and appropriate ways of resolving disputes. Its mission is to provide, teach, and facilitate appropriate dispute resolution for people of all ages. It handles a wide variety of conflicts involving families, neighbors, businesses, and government. MSM brings people together to find their own best solutions, a process that promotes respect, communication and peace.

Here are some comments from recent participants in mediation at MSM:

“The mediators did a very good job.”

“I’m glad the court system allows for this type of mediation.”

“It helps to settle problems outside of court.”

“Happy with the process and the results.”

“I feel we made real progress in resolving this.”

“Mediation services is a great asset to Maui’s justice system.”

“A positive outcome for both parties.”

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Before you file your claim in Small Claims Court, there's one thing you should know:

Mediation is mandatory.

One of the first questions the judge asks the parties in a dispute is, "Have you two had a chance to mediate?" If you have not, the judge will have you sit down with a mediator that day. You can save yourself a step by calling Mediation Services of Maui, Inc., (MSM) at 244-5744 before filing the claim. If the other party agrees to come in, you may be able to avoid court altogether.

What happens in court mediation?

- Small Claims Court assigns you a date and court starts at a set time. You may have to wait for your case to be called. You may have to wait again for your turn to mediate.
- Court mediations take place in a small room next to the courtroom and last approximately 20-30 minutes.
- When you are a party in a suit, your name and information are in the court records; these are public documents. Court judgments may appear on credit records. Agreements written in court mediations may be read aloud by the judge.
- If you do not reach an agreement, you may have to wait for your turn for trial.

What happens in mediation at the MSM office?

- MSM can schedule mediations during the day or evening, Monday through Friday, or on Saturday morning, whenever is convenient for the participants.
- A mediation session at the MSM office can last up to three hours, and you may have multiple sessions. This gives participants more time to explore options.
- Mediation offers more privacy. The parties decide whether anyone outside the mediation should get a copy of the agreement.
- If you do not reach an agreement, you can still file a claim with the court. When the judge asks if you have mediated, chances are you'll be able to go to trial without mediating again.

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