



# 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 You Need To Know About Mediation


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

Cases filed in Small Claims Court must be mediated before trial. This means that before you present your case to a judge, you must first try to settle your case in mediation.

If you want to try to settle your dispute through mediation before filing a claim, you may contact The Mediation Center of the Pacific at 521-6767. Parties are encouraged to try to settle their dispute through mediation before filing a claim.

### Why Should I Mediate?

- **You Decide.** Once a judge makes a decision in a Small Claims case, at least one party (and sometimes all) leaves unhappy. There is no right of appeal. In mediation, the parties, with the help of a mediator, decide the solution. Mediation offers an opportunity to be creative.
- **Customized Solutions.** Even if you “win” your case, the court does not collect the money for you. The collection process can be time consuming.



A mediator can help you develop an agreement that meets the circumstances of your case (including a clear payment plan).


- **Private.** A court judgment may appear on your credit records, and courts are public places. Mediation offers more privacy.
- **No Cost.** There is no 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 At Small Claims Court Work?

The judge will briefly explain the Small Claims process. Then the Court Clerk will call each case and instruct the parties in contested cases to go with a mediator.

The mediator and parties meet together and parties have an opportunity to express their point of view. The mediator helps the parties work out an agreement. Mediators do not judge or tell parties what to do; the parties create the agreement.

All Small Claims mediators are trained by The Mediation Center of the Pacific.

- **What Happens If We Reach An Agreement?** The mediator will help put the agreement in writing. The parties receive copies of the agreement, and return to the court room where it is presented to the judge. The agreement can become a court record.
  - **What Happens If We Don't Reach An Agreement?** The case will go to trial, usually that same day.
- 



## What is The Mediation Center of the Pacific?

**The Mediation Center of the Pacific (MCP)** is a non-profit organization that helps people resolve all types of conflicts. MCP uses trained mediators to work with the parties involved in the disputes. MCP has served the community since 1979 and has mediated thousands of cases.

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

- Call **521-6767** 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 names and telephone numbers of others involved;
- A MCP case manager will contact the others and determine if they are willing to mediate (mediation at MCP is voluntary unless ordered by a judge);
- 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.



## Are There Advantages to Mediating at The Mediation Center of the Pacific?

**Yes.** Some advantages you should consider 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 The Mediation Center of the Pacific (MCP), there is flexibility in picking the time. MCP has mediators available Monday through Friday, day and evening, and Saturday morning.
- **Time.** Due to the large number of cases in court and the set time period for Small Claims cases, mediation at court is usually limited to approximately 15 to 20 minutes. Mediating at MCP allows you to take the time you feel is necessary to work out an agreement. You can come back and “fine tune” the agreement if everyone feels that changes would be helpful. (If you tried mediating at MCP, you do not have to mediate again at Court.)
- **Cost.** MCP charges a nominal administration fee. Small Claims Court 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 and 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.



**The Mediation Center of the Pacific, Inc.**  
245 North Kukui Street, Suite 206  
Honolulu, Hawai'i 96817  
Phone: (808) 521-6767  
Fax: (808) 538-1454



Prepared by:  
**The Center for Alternative Dispute Resolution**  
Hawai'i State Judiciary  
417 South King Street, Room 207  
Honolulu, Hawai'i 96813  
Phone: (808) 539-4ADR (4237)  
Fax: (808) 539-4416

Visit the Center's Homepage for other publications and information: [www.courts.state.hi.us/cadr](http://www.courts.state.hi.us/cadr)