

Why Should I Consider Mediation?

You have every right as a citizen to seek a fair trial in Court. However, there are many good reasons to consider settlement of a lawsuit:

- The risk of losing in court is eliminated by reaching a settlement that both sides approve.
- 95% of cases filed in court never go to trial. If you choose mediation, additional delays, expense, and possible appeals that may result if the case continues can be avoided.
- Both sides can construct a resolution of the lawsuit that meets their needs, rather than having someone else decide for them.

Mediation Department

330-365-3269

For more information
about mediation



Southeastern Ohio Legal Services

330-339-3998

To see if you qualify for
free legal help

Foreclosure Mediation Program



**Tuscarawas County,
Ohio**

**Court of Common Pleas
General Trial Division**

**Edward Emmett O'Farrell
Elizabeth Lehigh Thomakos
Judges**

**Andrea Fischer-Immke, Esq.
Mediator**

What is Mediation and how does it work in foreclosure cases?

Mediation is a process of guided negotiations. A mediator works with the parties to a mortgage and discusses the issues that led to the foreclosure. Effort is taken to resolve the problem with the mortgage by mutual agreement before it reaches a final court hearing, default judgment or foreclosure sale. The mediator has no authority to make a final decision. The mediator serves as a discussion leader to help the participants negotiate more efficiently and, hopefully, reach an agreement sooner than they could on their own.

Can the mediator tell me how to handle my case?

No. The mediator is not there as a judge, jury, or arbitrator of the case, or as an advocate or advisor for either side. It is important that you analyze and reasonably evaluate your own financial situation and the benefits of working out possible new terms for a mortgage. The mediator may point out certain problems to each side, but this is just part of looking at the case objectively. The mediator, the attorneys, and the parties will also discuss the costs and drawbacks of going forward with foreclosure litigation as compared to the benefits of settlement.

Is Mediation confidential?

Unlike a trial, mediation is conducted in a private setting. Ohio law protects mediation communications from disclosures in court proceedings. Certain legal exceptions to this protection exist, such as threats of harm, admission of crimes and abuse. Generally, no one who participates in the mediation may reveal mediation communications to any court unless both the speaker and all parties agree. The Mediator will not discuss your case with anyone, including the judge, except to say that you met and whether an agreement was reached.

Mediation communications may be discussed with third parties outside the court proceedings. If the parties want to be sure that no one reveals mediation communications outside the court setting they may enter into a confidentiality agreement before mediation.

Possible Benefits of Mediation

Homeowners:

- **Avoid the cost of litigation:** Mediation may enable you to avoid the costs of litigating your case.
- **Avoid Foreclosure:** Through mediation, you may avoid losing your home if an agreement is reached with your lender.
- **Avoid Bankruptcy:** You may avoid filing for bankruptcy

- **Avoid a Judgment Lien**

Lenders:

- **Enable the Parties to Restructure Loans:** If restructuring is agreed upon at mediation, the lender can receive the money owed and avoid foreclosure expenses.
- **Avoid the cost of litigation:** Mediation may enable the lender to avoid legal fees. Lenders involved in mediation are able to learn more about their borrower's circumstances and can then work toward a mutual agreement to avoid the burden of litigation.
- **Improve Lending Policies:** This may be a long term benefit of mediation.

Am I required to reach a settlement of my case at Mediation?

No, you are not required to settle your case at mediation. All that is asked of you in mediation is that you be willing to discuss the possibilities of settlement with the other side. If both sides are satisfied with the proposed terms of an agreement to resolve the case, the case can be settled. Otherwise, the mediation will be terminated without settlement and the case will proceed to trial.