



MEDIATIONSOPHILEX

MEDIATION

What is the role of attorneys in mediation?

In mediation, the attorney serves as his client's representative and advisor. The active role he plays throughout the process is key. It is he who assesses, with his client, whether or not to opt for mediation. He proposes the process, organizes it, and participates in the selection of the mediator. He prepares the file and the client for mediation. He presents the points of the case during the discussions and evaluates the file at every stage of mediation. He can also deal with delicate matters in caucus with his client, with or without the mediator. Finally, he negotiates for and with his client, and with him, decides whether or not to settle. The lawyers are also the ones who generally draft the agreement, which has been reached. **The lawyers and their clients are the ones who have a full grasp of the information, the facts of the dispute, the preferred solutions, and the negotiation strategies to bring about a resolution.**

Throughout the process, the lawyer and his client benefit from the dynamic, structured and respectful climate created by the presence of an impartial mediator. The mediator is master of the process. He structures the debate and ensures that all parties have to opportunity to express themselves in order to generate an in-depth understanding of every aspect of the conflict. During the caucuses, he addresses every dimension of the dispute, both material and human, helping the parties become more aware of their needs and priorities, in order to arrive at a satisfactory settlement.

While the lawyers and the parties focus on pressing their claims and moving forward with the negotiations, the mediator works to identify points of commonality, zero-in on priority interests, unblock impasses, objectify positions and help everyone move forward. It is the sum total of the interventions of all participants that makes mediation such a richly rewarding option.