

# Case Management

## Case Management Mediation

This process offers parties the opportunity to engage a mediator at the beginning of a suit to serve as a ready resource for case management.

In certain cases, it is advantageous for parties to consider the advantages of working toward a resolution without surrendering control of their dispute to an outside agency, whether court, jury, arbitrator or special master. However, we are well aware that there are frequently contingencies, such as statutory limitations periods, that dictate the timing of filing of a suit, even in situations where the parties are in ongoing resolution mode. In such situations, or even in "first notice" or other situations when a dispute is reduced to suit before resolution efforts have had a chance to mature, case management mediation can offer the parties a valuable, efficient mechanism allowing the parties to retain to themselves as much control of their dispute as possible in the context of ongoing litigation.

## Case Management Process

In case management mediation, the mediator is confidentially available to both parties, or the parties together, to assist the parties with any number of early or ongoing issues, including:

- Negotiation of the scope of litigation holds;
- Negotiation of the scope of discovery, including e-discovery issues;
- Negotiation of discovery disputes;
- Negotiation of a case management plan, perhaps in explicit contemplation of case settlement mediation and the timing of same;
- Necessary renegotiation of any of the above.

In specific regard to federal court mediation, the parties' indication of their engagement of a case management mediator in their separate or joint Rule 26(f) reports will likely be well received by the court as an indication of the parties' commitment to proceed thoughtfully and efficiently and not to overburden the court with discovery and other interim disputes unless absolutely necessary.

## Is Case Management Right for Your Case?

While it may be true that from a cost standpoint case management mediation is more ideally appropriate for larger value litigated disputes, parties to such disputes of smaller value should consider whether even a modest investment in case management mediation may pay dividends in efficiency and speed of resolution.